

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

S. 4610--A

A. 6721--A

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

March 31, 2015

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

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

AN ACT to amend chapter 41 of the laws of 1985 relating to providing for the construction of a civic center in Albany and making appropriations relating to the construction of such facility, in relation to the repayment of such appropriation (Part A); to amend the economic development law, in relation to START-UP NY airport facilities (Part B); to amend the education law, in relation to transportation aid (Part C); to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part D); establishing a commission on legislative, judicial and executive compensation, and providing for the powers and duties of the commission and for the dissolution of the commission and repealing chapter 567 of the laws of 2010 relating to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers (Part E); to permit authorized state entities to utilize the design-build method for infrastructure projects; and providing for the repeal of such provisions upon expiration thereof (Part F); establishing the New York State water infrastructure improvement act of 2015 (Part G); to amend the state finance law, in relation to the creation of a new dedicated infrastructure investment fund (Part H); and to provide for the administration of certain funds and accounts related to the 2015-16 budget, authorizing certain payments and transfers; to amend the state finance law, in relation to the rainy day reserve fund and the school tax relief fund; to amend the state finance law, in relation to payments, transfers and deposits; to amend the state finance law, in relation to the issuance of bonds and notes; to amend the New York state urban development

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

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corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the dormitory authority; to amend chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to funding project costs for the Binghamton university school of pharmacy, New York power electronic manufacturing consortium and the nonprofit infrastructure capital investment program; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend the New York state urban development corporation act, in relation to authorizing the urban development corporation to issue bonds to fund project costs for the implementation of a NY-CUNY challenge grant program; to amend chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the public authorities law, in relation to authorization for the issuance of bonds for the capital restructuring bond finance program and the health care facility transformation program; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend the New York state urban development corporation act, in relation to the aggregate amount of and issuance of certain bonds; and to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the New York state urban development corporation act, in relation to the issuance of bonds or notes for the purpose of funding project costs associated with capital projects; to amend the public authorities law, in relation to financing of the metropolitan transportation authority transportation facilities; and providing for the repeal of certain provisions upon expiration thereof (Part I); and to amend the public health law, in relation to establishing the health care facility transformation program in Kings and Oneida counties; in relation to establishing the essential health care provider support program; in relation to the capital restructuring financing program; and in relation to establishing the community health care revolving capital fund (Part J)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through J. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Section 20 of chapter 41 of the laws of 1985 relating to
14 providing for the construction of a civic center in Albany and making
15 appropriations relating to the construction of such facility, is amended
16 to read as follows:

17 S 20. The state comptroller is hereby authorized to receive from the
18 county, repayment of money disbursed from this appropriation and any
19 income or increment related thereto due to the investment thereof, and
20 to deposit the same to the credit of the capital projects fund;
21 PROVIDED, HOWEVER THAT ANY AND ALL MONEYS RECEIVED BY THE STATE COMP-
22 TROLLER FROM THE COUNTY OF ALBANY ON OR BEFORE APRIL 30, 2015, SHALL BE
23 DEEMED TO BE FULL REPAYMENT OF THE MONEY DISBURSED FROM THE APPROPRI-
24 ATION MADE IN SECTION ELEVEN OF THIS ACT AND ANY INCOME OR INCREMENT
25 RELATED THERETO DUE TO THE INVESTMENT THEREOF.

26 S 2. This act shall take effect immediately.

27 PART B

28 Section 1. Section 431 of the economic development law is amended by
29 adding a new subdivision 15 to read as follows:

30 15. "START-UP NY AIRPORT FACILITY" MEANS VACANT LAND OR SPACE OWNED BY
31 THE STATE OF NEW YORK ON THE PREMISES OF STEWART AIRPORT OR REPUBLIC
32 AIRPORT.

33 S 2. Subdivision 4 of section 435 of the economic development law, as
34 amended by section 2 of part BB of chapter 55 of the laws of 2014, is
35 amended to read as follows:

36 4. The START-UP NY approval board, by majority vote, shall designate
37 correctional facilities described in subdivision fourteen of section
38 four hundred thirty-one of this article, START-UP NY AIRPORT FACILITIES
39 DESCRIBED IN SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED THIRTY-ONE OF
40 THIS ARTICLE and up to twenty strategic state assets as tax-free NY
41 areas. Each shall be affiliated with a state university campus, city
42 university campus, community college, or private college or university
43 and such designation shall require the support of the affiliated campus,
44 college or university. Each strategic state asset AND START-UP NY
45 AIRPORT FACILITY, other than a correctional facility, may not exceed a
46 maximum of two hundred thousand square feet of vacant land or vacant
47 building space designated as a tax-free NY area. Designation of strate-
48 gic state assets [and], correctional facilities described in subdivision
49 fourteen of section four hundred thirty-one of this article, AND START-

UP NY AIRPORT FACILITIES DESCRIBED IN SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED THIRTY-ONE OF THIS ARTICLE as tax-free NY areas shall not count against any square footage limitations in section four hundred thirty-two of this article.

S 3. This act shall take effect immediately.

PART C

Section 1. Subdivision 4 of section 3627 of the education law, as amended by section 7-b of part A of a chapter of the laws of 2015, amending the education law, relating to contracts for excellence, apportionment of school aid, total foundation aid and the gap elimination adjustment restoration, the teachers of tomorrow teacher recruitment and retention program and waivers from certain duties, as proposed in legislative bill numbers S.2006-B and A.3006-B, is amended to read as follows:

4. Notwithstanding any other provision of law to the contrary, any expenditures for transportation provided pursuant to this section in the two thousand thirteen--two thousand fourteen and two thousand fourteen--two thousand fifteen school year and thereafter and otherwise eligible for transportation aid pursuant to subdivision seven of section thirty-six hundred two of this article shall be considered approved transportation expenses eligible for transportation aid, provided further that for the two thousand thirteen--two thousand fourteen [and two thousand fourteen--two thousand fifteen] school year such aid shall be limited to eight million one hundred thousand dollars and for the two thousand FOURTEEN--TWO THOUSAND fifteen[--two thousand sixteen] school year and thereafter such aid shall be limited to twelve million six hundred thousand dollars. And provided further that such expenditures eligible for aid under this section shall supplement not supplant local expenditures for such transportation in the two thousand twelve--two thousand thirteen school year.

S 2. This act shall take effect on the same date and in the same manner as section 7-b of part A of a chapter of the laws of 2015, amending the education law, relating to contracts for excellence, apportionment of school aid, total foundation aid and the gap elimination adjustment restoration, the teachers of tomorrow teacher recruitment and retention program and waivers from certain duties, as proposed in legislative bill numbers S.2006-B and A.3006-B, takes effect.

PART D

Section 1. Chapter 6 of title 11 of the administrative code of the city of New York is amended by adding a new subchapter 3-A to read as follows:

SUBCHAPTER 3-A CORPORATE TAX OF 2015

SECTION 11-651 APPLICABILITY.
11-652 DEFINITIONS.
11-653 IMPOSITION OF TAX; EXEMPTIONS.
11-654 COMPUTATION OF TAX.
11-654.1 NET OPERATING LOSS.
11-654.2 RECEIPTS ALLOCATION.
11-654.3 COMBINED REPORTS.
11-655 REPORTS.
11-656 PAYMENT AND LIEN OF TAX.

11-657 DECLARATION OF ESTIMATED TAX.
11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX.
11-659 COLLECTION OF TAXES.
11-660 LIMITATIONS OF TIME.

S 11-651 APPLICABILITY. 1. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS CHAPTER, THIS SUBCHAPTER SHALL APPLY TO CORPORATIONS FOR TAX YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT THAT IT SHALL NOT APPLY TO ANY CORPORATION THAT (A) HAS AN ELECTION IN EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (B) IS A QUALIFIED SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, IN ANY TAX YEAR COMMENCING ON OR AFTER SUCH DATE. SUBCHAPTERS TWO AND THREE OF THIS CHAPTER SHALL NOT APPLY TO CORPORATIONS TO WHICH THIS SUBCHAPTER APPLIES FOR TAX YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT TO THE EXTENT PROVIDED IN THIS SUBCHAPTER AND TO THE EXTENT THAT THE EFFECT OF THE APPLICATION OF SUBCHAPTERS TWO AND THREE TO TAX YEARS COMMENCING PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN CARRIES OVER TO TAX YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

2. EACH REFERENCE IN THIS CODE TO SUBCHAPTERS TWO OR THREE OF THIS CHAPTER, OR ANY OF THE PROVISIONS THEREOF, SHALL BE DEEMED A REFERENCE ALSO TO THIS SUBCHAPTER, AND ANY OF THE APPLICABLE PROVISIONS THEREOF, WHERE APPROPRIATE AND WITH ALL NECESSARY MODIFICATIONS.

S 11-652 DEFINITIONS. 1. (A) THE TERM "CORPORATION" INCLUDES (1) AN ASSOCIATION WITHIN THE MEANING OF PARAGRAPH THREE OF SUBSECTION (A) OF SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE (INCLUDING, WHEN APPLICABLE, A LIMITED LIABILITY COMPANY), (2) A JOINT-STOCK COMPANY OR ASSOCIATION, (3) A PUBLICLY TRADED PARTNERSHIP TREATED AS A CORPORATION FOR PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO SECTION SEVENTY-SEVEN HUNDRED FOUR THEREOF AND (4) ANY BUSINESS CONDUCTED BY A TRUSTEE OR TRUSTEES WHEREIN INTEREST OR OWNERSHIP IS EVIDENCED BY CERTIFICATE OR OTHER WRITTEN INSTRUMENT;

(B) (1) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, AN UNINCORPORATED ORGANIZATION THAT (I) IS DESCRIBED IN SUBPARAGRAPH ONE OR THREE OF PARAGRAPH (A) OF THIS SUBDIVISION, (II) WAS SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEAR BEGINNING IN NINETEEN HUNDRED NINETY-FIVE, AND (III) MADE A ONE-TIME ELECTION NOT TO BE TREATED AS A CORPORATION AND, INSTEAD, TO CONTINUE TO BE SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX AND THEREAFTER, SHALL CONTINUE TO BE SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX.

(2) AN ELECTION UNDER THIS PARAGRAPH SHALL CONTINUE TO BE IN EFFECT UNTIL REVOKED BY THE UNINCORPORATED ORGANIZATION. AN ELECTION UNDER THIS PARAGRAPH SHALL BE REVOKED BY THE FILING OF A RETURN UNDER THIS SUBCHAPTER FOR THE FIRST TAXABLE YEAR WITH RESPECT TO WHICH SUCH REVOCATION IS TO BE EFFECTIVE. SUCH RETURN SHALL BE FILED ON OR BEFORE THE DUE DATE (DETERMINED WITH REGARD TO EXTENSIONS) FOR FILING SUCH RETURN. IN NO EVENT SHALL SUCH ELECTION OR REVOCATION BE FOR A PART OF A TAXABLE YEAR.

(C) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, A CORPORATION SHALL NOT INCLUDE AN ENTITY CLASSIFIED AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES.

2. THE TERM "SUBSIDIARY" MEANS A CORPORATION OF WHICH OVER FIFTY PER CENTUM OF THE NUMBER OF SHARES OF STOCK ENTITLING THE HOLDERS THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES IS OWNED BY THE TAXPAYER.

1 2-A. THE TERM "TAXPAYER" MEANS ANY CORPORATION SUBJECT TO TAX UNDER
2 THIS SUBCHAPTER.

3 3. INTENTIONALLY OMITTED.

4 3-A. THE TERM "STOCK" MEANS AN INTEREST IN A CORPORATION THAT IS
5 TREATED AS EQUITY FOR FEDERAL INCOME TAX PURPOSES.

6 4. (A) THE TERM "INVESTMENT CAPITAL" MEANS INVESTMENTS IN STOCKS THAT:
7 (I) SATISFY THE DEFINITION OF A CAPITAL ASSET UNDER SECTION 1221 OF THE
8 INTERNAL REVENUE CODE AT ALL TIMES THE TAXPAYER OWNED SUCH STOCKS DURING
9 THE TAXABLE YEAR; (II) ARE HELD BY THE TAXPAYER FOR INVESTMENT FOR MORE
10 THAN ONE YEAR; (III) THE DISPOSITIONS OF WHICH ARE, OR WOULD BE, TREATED
11 BY THE TAXPAYER AS GENERATING LONG-TERM CAPITAL GAINS OR LOSSES UNDER
12 THE INTERNAL REVENUE CODE; (IV) FOR STOCKS ACQUIRED ON OR AFTER JANUARY
13 FIRST, TWO THOUSAND FIFTEEN, AT ANY TIME AFTER THE CLOSE OF THE DAY IN
14 WHICH THEY ARE ACQUIRED, HAVE NEVER BEEN HELD FOR SALE TO CUSTOMERS IN
15 THE REGULAR COURSE OF BUSINESS; AND (V) BEFORE THE CLOSE OF THE DAY ON
16 WHICH THE STOCK WAS ACQUIRED, ARE CLEARLY IDENTIFIED IN THE TAXPAYER'S
17 RECORDS AS STOCK HELD FOR INVESTMENT IN THE SAME MANNER AS REQUIRED
18 UNDER SECTION 1236(A)(1) OF THE INTERNAL REVENUE CODE FOR THE STOCK OF A
19 DEALER IN SECURITIES TO BE ELIGIBLE FOR CAPITAL GAIN TREATMENT (WHETHER
20 OR NOT THE TAXPAYER IS A DEALER OF SECURITIES SUBJECT TO SECTION 1236),
21 PROVIDED, HOWEVER, THAT FOR STOCK ACQUIRED PRIOR TO OCTOBER FIRST, TWO
22 THOUSAND FIFTEEN THAT WAS NOT SUBJECT TO SECTION 1236(A) OF THE INTERNAL
23 REVENUE CODE, SUCH IDENTIFICATION IN THE TAXPAYER'S RECORDS MUST OCCUR
24 BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN. STOCK IN A CORPORATION THAT
25 IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER, STOCK IN A CORPO-
26 RATION THAT IS INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER PURSUANT
27 TO THE COMMONLY OWNED GROUP ELECTION IN SUBDIVISION THREE OF SECTION
28 11-654.3 OF THIS SUBCHAPTER, AND STOCK USED BY THE TAXPAYER SHALL NOT
29 CONSTITUTE INVESTMENT CAPITAL. FOR PURPOSES OF THIS SUBDIVISION, IF THE
30 TAXPAYER OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, LESS THAN TWENTY
31 PERCENT OF THE VOTING POWER OF THE STOCK OF A CORPORATION, THAT CORPO-
32 RATION WILL BE PRESUMED TO BE CONDUCTING A BUSINESS THAT IS NOT UNITARY
33 WITH THE BUSINESS OF THE TAXPAYER.

34 (B) THERE SHALL BE DEDUCTED FROM INVESTMENT CAPITAL ANY LIABILITIES
35 WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO INVESTMENT CAPITAL. IF
36 THE AMOUNT OF THOSE LIABILITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPI-
37 TAL, THE AMOUNT OF INVESTMENT CAPITAL SHALL BE ZERO.

38 (C) INVESTMENT CAPITAL SHALL NOT INCLUDE ANY SUCH INVESTMENTS THE
39 INCOME FROM WHICH IS EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE
40 PROVISIONS OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF THIS SECTION, AND
41 THAT INVESTMENT CAPITAL SHALL BE COMPUTED WITHOUT REGARD TO LIABILITIES
42 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INVESTMENTS, BUT ONLY IF AIR
43 CARRIERS ORGANIZED IN THE UNITED STATES AND OPERATING IN THE FOREIGN
44 COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS ITS MAJOR BASE OF OPER-
45 ATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR HEADQUARTERED (IF NOT
46 IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO
47 ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY
48 OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF, OR IF TAXED, ARE
49 PROVIDED AN EXEMPTION, EQUIVALENT TO THAT PROVIDED FOR HEREIN, FROM ANY
50 TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR
51 COUNTRIES AND FROM ANY SUCH TAX IMPOSED BY ANY POLITICAL SUBDIVISION
52 THEREOF.

53 (D) IF A TAXPAYER ACQUIRES STOCK THAT IS A CAPITAL ASSET UNDER SECTION
54 1221 OF THE INTERNAL REVENUE CODE DURING THE TAXABLE YEAR AND OWNS THAT
55 STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE PRESUMED, SOLELY
56 FOR THE PURPOSES OF DETERMINING WHETHER THAT STOCK SHOULD BE CLASSIFIED

1 AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, THAT THE TAXPAYER HELD THAT
2 STOCK FOR MORE THAN ONE YEAR. HOWEVER, IF THE TAXPAYER DOES NOT IN FACT
3 OWN THAT STOCK AT THE TIME IT ACTUALLY FILES ITS ORIGINAL REPORT FOR THE
4 TAXABLE YEAR IN WHICH IT ACQUIRED THE STOCK, THEN THE PRESUMPTION IN THE
5 PRECEDING SENTENCE SHALL NOT APPLY AND THE ACTUAL PERIOD OF TIME DURING
6 WHICH THE TAXPAYER OWNED THE STOCK SHALL BE USED TO DETERMINE WHETHER
7 THE STOCK SHOULD BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS
8 ACQUIRED. IF THE TAXPAYER RELIES ON THE PRESUMPTION IN THE FIRST
9 SENTENCE OF THIS PARAGRAPH BUT DOES NOT OWN THE STOCK FOR MORE THAN ONE
10 YEAR, THE TAXPAYER MUST INCREASE ITS TOTAL BUSINESS CAPITAL IN THE IMME-
11 DIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT INCLUDED IN INVESTMENT
12 CAPITAL FOR THAT STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE TO THAT
13 STOCK COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION AND MUST
14 INCREASE ITS BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING TAXABLE YEAR
15 BY THE AMOUNT OF INCOME AND NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT
16 STOCK INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST DEDUCTIONS
17 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS PROVIDED IN SUBDI-
18 VISION FIVE OF THIS SECTION.

19 (E) WHEN INCOME OR GAIN FROM A DEBT OBLIGATION OR OTHER SECURITY
20 CANNOT BE ALLOCATED TO THE CITY USING THE BUSINESS ALLOCATION PERCENTAGE
21 AS A RESULT OF THE UNITED STATES CONSTITUTIONAL PRINCIPLES, THE DEBT
22 OBLIGATION OR OTHER SECURITY WILL BE INCLUDED IN INVESTMENT CAPITAL.

23 5. (A)(I) THE TERM "INVESTMENT INCOME" MEANS INCOME, INCLUDING CAPI-
24 TAL GAINS IN EXCESS OF CAPITAL LOSSES, FROM INVESTMENT CAPITAL, TO THE
25 EXTENT INCLUDED IN COMPUTING ENTIRE NET INCOME, LESS, IN THE DISCRETION
26 OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS ALLOWABLE IN
27 COMPUTING ENTIRE NET INCOME WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUT-
28 ABLE TO INVESTMENT CAPITAL OR INVESTMENT INCOME, PROVIDED, HOWEVER, THAT
29 IN NO CASE SHALL INVESTMENT INCOME EXCEED ENTIRE NET INCOME.

30 (II) IF THE AMOUNT OF INTEREST DEDUCTIONS SUBTRACTED UNDER SUBPARA-
31 GRAPH (I) OF THIS PARAGRAPH EXCEEDS INVESTMENT INCOME, THE EXCESS OF
32 SUCH AMOUNT OVER INVESTMENT INCOME MUST BE ADDED BACK TO ENTIRE NET
33 INCOME.

34 (III) IF THE TAXPAYER'S INVESTMENT INCOME DETERMINED WITHOUT REGARD TO
35 THE INTEREST DEDUCTIONS SUBTRACTED UNDER SUBPARAGRAPH (I) OF THIS PARA-
36 GRAPH COMPRISES MORE THAN EIGHT PERCENT OF THE TAXPAYER'S ENTIRE NET
37 INCOME, INVESTMENT INCOME DETERMINED WITHOUT REGARD TO SUCH INTEREST
38 DEDUCTIONS CANNOT EXCEED EIGHT PERCENT OF THE TAXPAYER'S ENTIRE NET
39 INCOME.

40 (B) IN LIEU OF SUBTRACTING FROM INVESTMENT INCOME THE AMOUNT OF THOSE
41 INTEREST DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO
42 REDUCE ITS TOTAL INVESTMENT INCOME, DETERMINED AFTER APPLYING THE LIMI-
43 TATION IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, BY
44 FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST
45 ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND (C) OF SUBDI-
46 VISION FIVE-A OF THIS SECTION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS
47 ELECTION, THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARA-
48 GRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF THIS SECTION. A TAXPAYER
49 THAT DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO INVESTMENT CAPITAL
50 WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

53 5-A. (A) THE TERM "OTHER EXEMPT INCOME" MEANS THE SUM OF EXEMPT CFC
54 INCOME AND EXEMPT UNITARY CORPORATION DIVIDENDS.

55 (B) "EXEMPT CFC INCOME" MEANS THE INCOME REQUIRED TO BE INCLUDED IN
56 THE TAXPAYER'S FEDERAL GROSS INCOME PURSUANT TO SUBSECTION (A) OF

1 SECTION NINE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, RECEIVED
2 FROM A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE
3 TAXPAYER BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER,
4 LESS, IN THE DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST
5 DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT INCOME. IN LIEU
6 OF SUBTRACTING FROM ITS EXEMPT CFC INCOME THE AMOUNT OF THOSE INTEREST
7 DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE ITS
8 TOTAL EXEMPT CFC INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS
9 ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN
10 PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (C) OF
11 THIS SUBDIVISION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION,
12 THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF
13 SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (C) OF THIS SUBDIVISION.
14 A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO EXEMPT
15 CFC INCOME WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

16 (C) "EXEMPT UNITARY CORPORATE DIVIDENDS" MEANS THOSE DIVIDENDS FROM A
17 CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT
18 IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE
19 DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS
20 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND
21 INCOME RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER ELEVEN
22 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO
23 TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER ELEVEN
24 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO
25 TAXABLE UNDER THIS SUBCHAPTER) IF SUBJECT TO TAX AND CORPORATIONS THAT
26 WOULD HAVE BEEN TAXABLE AS INSURANCE CORPORATIONS UNDER FORMER PART IV,
27 TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW
28 YORK AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR, IN
29 LIEU OF SUBTRACTING FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS,
30 THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE THE TOTAL AMOUNT OF
31 THIS DIVIDEND INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS
32 ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN
33 PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (B) OF
34 THIS SUBDIVISION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION,
35 THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF
36 SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION.
37 A TAXPAYER THAT DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED
38 ANY EXEMPT UNITARY CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING
39 THIS ELECTION FOR DIVIDENDS RECEIVED FROM CORPORATIONS THAT ARE TAXABLE
40 UNDER CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY
41 SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXA-
42 BLE UNDER CHAPTER ELEVEN OF THIS TITLE IF SUBJECT TO TAX (EXCEPT FOR
43 VENDORS OF UTILITY SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER)
44 SHALL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

45 (D) IF THE TAXPAYER ATTRIBUTES INTEREST DEDUCTIONS TO OTHER EXEMPT
46 INCOME AND THE AMOUNT DEDUCTED EXCEEDS OTHER EXEMPT INCOME, THE EXCESS
47 OF THE INTEREST DEDUCTIONS OVER OTHER EXEMPT INCOME MUST BE ADDED BACK
48 TO ENTIRE NET INCOME. IN NO CASE SHALL OTHER EXEMPT INCOME EXCEED ENTIRE
49 NET INCOME.

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

52 6. (A) THE TERM "BUSINESS CAPITAL" MEANS ALL ASSETS, OTHER THAN
53 INVESTMENT CAPITAL AND STOCK ISSUED BY THE TAXPAYER, LESS LIABILITIES
54 NOT DEDUCTED FROM INVESTMENT CAPITAL; PROVIDED, HOWEVER, BUSINESS CAPI-
55 TAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME, LOSS OR EXPENSE OF WHICH
56 ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT

FULLY DEPRECIATED OR EXPENSED OR DEPRECIATED OR EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF ENTIRE NET INCOME FOR THE TAXABLE YEAR.

(B) PROVIDED, FURTHER, "BUSINESS CAPITAL" SHALL NOT INCLUDE ASSETS TO THE EXTENT EMPLOYED FOR THE PURPOSE OF GENERATING INCOME WHICH IS EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE PROVISIONS OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF THIS SECTION AND SHALL BE COMPUTED WITHOUT REGARD TO LIABILITIES DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH ASSETS, BUT ONLY IF AIR CARRIERS ORGANIZED IN THE UNITED STATES AND OPERATING IN THE FOREIGN COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS ITS MAJOR BASE OF OPERATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR HEADQUARTERED (IF NOT IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF, OR IF TAXED, ARE PROVIDED AN EXEMPTION, EQUIVALENT TO THAT PROVIDED FOR HEREIN, FROM ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES AND FROM ANY SUCH TAX IMPOSED BY ANY POLITICAL SUBDIVISION THEREOF.

7. THE TERM "BUSINESS INCOME" MEANS ENTIRE NET INCOME MINUS INVESTMENT INCOME AND OTHER EXEMPT INCOME. IN NO EVENT SHALL THE SUM OF INVESTMENT INCOME AND OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME. IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER, THEN ALL INCOME FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL CONSTITUTE BUSINESS INCOME.

8. THE TERM "ENTIRE NET INCOME" MEANS TOTAL NET INCOME FROM ALL SOURCES, WHICH SHALL BE PRESUMABLY THE SAME AS THE ENTIRE TAXABLE INCOME, WHICH, EXCEPT AS HEREAFTER PROVIDED IN THIS SUBDIVISION,

(I) THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPARTMENT, OR

(II) THE TAXPAYER, IN THE CASE OF A CORPORATION THAT IS EXEMPT FROM FEDERAL INCOME TAX (OTHER THAN THE TAX ON UNRELATED BUSINESS TAXABLE INCOME IMPOSED UNDER SECTION FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE) BUT WHICH IS SUBJECT TO TAX UNDER THIS SUBCHAPTER, WOULD HAVE BEEN REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPARTMENT BUT FOR SUCH EXEMPTION, OR

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

(A) ENTIRE NET INCOME SHALL NOT INCLUDE:

(1) INTENTIONALLY OMITTED;

(2) INTENTIONALLY OMITTED;

(2-A) ANY AMOUNTS TREATED AS DIVIDENDS PURSUANT TO SECTION SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE;

(3) BONA FIDE GIFTS;

(4) INCOME AND DEDUCTIONS WITH RESPECT TO AMOUNTS RECEIVED FROM SCHOOL DISTRICTS AND FROM CORPORATIONS AND ASSOCIATIONS, ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL PURPOSES, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, FOR THE OPERATION OF SCHOOL BUSES;

(5) ANY REFUND OR CREDIT OF A TAX IMPOSED UNDER THIS CHAPTER, OR IMPOSED BY ARTICLE NINE, NINE-A, TWENTY-THREE, OR FORMER ARTICLE THIRTY-TWO OF THE TAX LAW, FOR WHICH TAX NO EXCLUSION OR DEDUCTION WAS ALLOWED IN DETERMINING THE TAXPAYER'S ENTIRE NET INCOME UNDER THIS

1 SUBCHAPTER, SUBCHAPTER TWO, OR SUBCHAPTER THREE OF THIS CHAPTER FOR ANY
2 PRIOR YEAR;

3 (6) INTENTIONALLY OMITTED;

4 (7) THAT PORTION OF WAGES AND SALARIES PAID OR INCURRED FOR THE TAXA-
5 BLE YEAR FOR WHICH A DEDUCTION IS NOT ALLOWED PURSUANT TO THE PROVISIONS
6 OF SECTION TWO HUNDRED EIGHTY C OF THE INTERNAL REVENUE CODE;

7 (8) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
8 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
9 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVEN-
10 UE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
11 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
12 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
13 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
14 EIGHTY-NINE, ANY AMOUNT WHICH IS INCLUDED IN THE TAXPAYER'S FEDERAL
15 TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE
16 PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS
17 ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

18 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
19 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
20 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVEN-
21 UE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
22 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
23 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
24 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
25 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER COULD HAVE EXCLUDED FROM
26 FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PROVIDED FOR IN SUCH
27 PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO
28 JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

29 (10) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (J) OF THIS SUBDIVI-
30 SION;

31 (11) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS
32 SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE
33 AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF PARAGRAPH (B) OF THIS SUBDI-
34 VISION ATTRIBUTABLE TO SUCH PROPERTY EXCEEDS THE AGGREGATE OF THE
35 AMOUNTS DESCRIBED IN PARAGRAPH (J) OF THIS SUBDIVISION ATTRIBUTABLE TO
36 SUCH PROPERTY;

37 (12) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (K) OF THIS SUBDIVI-
38 SION;

39 (13) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (O) OF THIS SUBDIVI-
40 SION;

41 (14) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (Q), (R) OR (S) OF THIS
42 SUBDIVISION, BUT ONLY THE AMOUNT DETERMINED PURSUANT TO ONE OF SUCH
43 PARAGRAPHS; AND

44 (15) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (T) OF THIS SUBDIVI-
45 SION.

46 (A-1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, IN THE
47 CASE OF A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP SUBJECT TO THE TAX
48 IMPOSED BY CHAPTER ELEVEN OF THIS TITLE AS A UTILITY, AS DEFINED IN
49 SUBDIVISION SIX OF SECTION 11-1101 OF SUCH CHAPTER, ENTIRE NET INCOME
50 SHALL NOT INCLUDE THE TAXPAYER'S DISTRIBUTIVE OR PRO RATA SHARE FOR
51 FEDERAL INCOME TAX PURPOSES OF ANY ITEM OF INCOME, GAIN, LOSS OR
52 DEDUCTION OF SUCH PARTNERSHIP, OR ANY ITEM OF INCOME, GAIN, LOSS OR
53 DEDUCTION OF SUCH PARTNERSHIP THAT THE TAXPAYER IS REQUIRED TO TAKE INTO
54 ACCOUNT SEPARATELY FOR FEDERAL INCOME TAX PURPOSES.

55 (B) ENTIRE NET INCOME SHALL BE DETERMINED WITHOUT THE EXCLUSION,
56 DEDUCTION OR CREDIT OF:

1 (1) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF
2 THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS
3 DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, (I)
4 ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK,
5 SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFEC-
6 TIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED
7 STATES PURSUANT TO SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL
8 REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER
9 ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME
10 WOULD BE TREATED AS EFFECTIVELY CONNECTED IN THE ABSENCE OF SUCH
11 EXEMPTION PROVIDED THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE
12 TAXATION OF SUCH INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE
13 TREATED AS EFFECTIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM
14 GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION ONE HUNDRED THREE OF
15 THE INTERNAL REVENUE CODE;

16 (2) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST OF ANY KIND OF
17 STOCK, SECURITIES, OR INDEBTEDNESS;

18 (3) TAXES ON OR MEASURED BY PROFITS OR INCOME PAID OR ACCRUED TO THE
19 UNITED STATES, ANY OF ITS POSSESSIONS, TERRITORIES OR COMMONWEALTHS,
20 INCLUDING TAXES IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERAL-
21 LY IMPOSED BY ANY POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED
22 STATES, OR TAXES PAID OR ACCRUED TO THE STATE UNDER ARTICLE NINE,
23 NINE-A, THIRTEEN-A OR THIRTY-TWO OF THE TAX LAW AS IN EFFECT ON DECEMBER
24 THIRTY-FIRST, TWO THOUSAND FOURTEEN;

25 (3-A) TAXES ON OR MEASURED BY PROFITS OR INCOME, OR WHICH INCLUDE
26 PROFITS OR INCOME AS A MEASURE, PAID OR ACCRUED TO ANY OTHER STATE OF
27 THE UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR TO THE
28 DISTRICT OF COLUMBIA, INCLUDING TAXES EXPRESSLY IN LIEU OF ANY OF THE
29 FOREGOING TAXES OTHERWISE GENERALLY IMPOSED BY ANY OTHER STATE OF THE
30 UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF
31 COLUMBIA;

32 (4) TAXES IMPOSED UNDER THIS CHAPTER;

33 (4-A) INTENTIONALLY OMITTED;

34 (4-B) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE
35 TAX LAW IN DETERMINING THE ENTIRE TAXABLE INCOME FOR A RELOCATION
36 DESCRIBED IN SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER
37 WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY
38 DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS
39 NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVI-
40 SION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

41 (4-C) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE
42 TAX LAW FOR A RELOCATION DESCRIBED IN SUBDIVISION FOURTEEN OF SECTION
43 11-654 OF THIS SUBCHAPTER IN DETERMINING THE ENTIRE TAXABLE INCOME WHICH
44 THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPART-
45 MENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT
46 IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION
47 FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

48 (4-D) INTENTIONALLY OMITTED;

49 (4-E) INTENTIONALLY OMITTED;

50 (5) INTENTIONALLY OMITTED;

51 (6) ANY AMOUNT ALLOWED AS A DEDUCTION FOR THE TAXABLE YEAR UNDER
52 SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE, INCLUDING
53 CARRYOVERS OF DEDUCTIONS FROM PRIOR TAXABLE YEARS;

54 (7) ANY AMOUNT BY REASON OF THE GRANTING, ISSUING OR ASSUMING OF A
55 RESTRICTED STOCK OPTION, AS DEFINED IN THE INTERNAL REVENUE CODE OF
56 NINETEEN HUNDRED FIFTY-FOUR, OR BY REASON OF THE TRANSFER OF THE SHARE

1 OF STOCK UPON THE EXERCISE OF THE OPTION, UNLESS SUCH SHARE IS DISPOSED
2 OF BY THE GRANTEE OF THE OPTION WITHIN TWO YEARS FROM THE DATE OF THE
3 GRANTING OF THE OPTION OR WITHIN SIX MONTHS AFTER THE TRANSFER OF SUCH
4 SHARE TO THE GRANTEE;

5 (8) INTENTIONALLY OMITTED;

6 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
7 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
8 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVEN-
9 UE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
10 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
11 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
12 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
13 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER CLAIMED AS A DEDUCTION IN
14 COMPUTING ITS FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION
15 MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN
16 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
17 HUNDRED EIGHTY-FOUR;

18 (10) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
19 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
20 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVEN-
21 UE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
22 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
23 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
24 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
25 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER WOULD HAVE BEEN REQUIRED TO
26 INCLUDE IN THE COMPUTATION OF ITS FEDERAL TAXABLE INCOME HAD IT NOT MADE
27 THE ELECTION PERMITTED PURSUANT TO SUCH PARAGRAPH EIGHT AS IT WAS IN
28 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
29 HUNDRED EIGHTY-FOUR;

30 (11) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-
31 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING
32 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH
33 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED
34 EIGHTY F OF THE INTERNAL REVENUE CODE, PROPERTY SUBJECT TO THE
35 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
36 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING
37 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR AND PROPERTY
38 OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAM-
39 BOAT, FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES,
40 WHICH IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN
41 HUNDRED EIGHTY-NINE, THE AMOUNT ALLOWABLE AS A DEDUCTION DETERMINED
42 UNDER SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE;

43 (12) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS
44 SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE
45 AMOUNTS DESCRIBED IN SUCH PARAGRAPH (J) ATTRIBUTABLE TO SUCH PROPERTY
46 EXCEEDS THE AGGREGATE OF THE AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF
47 THIS PARAGRAPH ATTRIBUTABLE TO SUCH PROPERTY;

48 (13) INTENTIONALLY OMITTED;

49 (14) INTENTIONALLY OMITTED;

50 (15) INTENTIONALLY OMITTED;

51 (16) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF
52 SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVEN-
53 UE CODE, OTHER THAN QUALIFIED RESURGENCE ZONE PROPERTY DESCRIBED IN
54 PARAGRAPH (M) OF THIS SUBDIVISION, AND OTHER THAN QUALIFIED NEW YORK
55 LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (B) OF
56 SECTION FOURTEEN HUNDRED L OF THE INTERNAL REVENUE CODE (WITHOUT REGARD

TO CLAUSE (I) OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH), THE AMOUNT ALLOWABLE AS A DEDUCTION UNDER SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE;

(17) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE AMOUNT ALLOWABLE AS A DEDUCTION UNDER SECTIONS ONE HUNDRED SEVENTY-NINE, ONE HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE;

(18) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE HUNDRED NINETY-NINE OF THE INTERNAL REVENUE CODE;

(19) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR TAXES IMPOSED UNDER ARTICLE TWENTY-THREE OF THE TAX LAW.

(C) INTENTIONALLY OMITTED.

(C-1)(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, IN THE CASE OF A TAXPAYER WHICH IS A FOREIGN AIR CARRIER HOLDING A FOREIGN AIR CARRIER PERMIT ISSUED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION PURSUANT TO SECTION FOUR HUNDRED TWO OF THE FEDERAL AVIATION ACT OF NINETEEN HUNDRED FIFTY-EIGHT, AS AMENDED, AND WHICH IS QUALIFIED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, ENTIRE NET INCOME SHALL NOT INCLUDE, AND SHALL BE COMPUTED WITHOUT THE DEDUCTION OF, AMOUNTS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO, (I) ANY INCOME DERIVED FROM THE INTERNATIONAL OPERATION OF AIRCRAFT AS DESCRIBED IN AND SUBJECT TO THE PROVISIONS OF SECTION EIGHT HUNDRED EIGHTY-THREE OF THE INTERNAL REVENUE CODE, (II) INCOME WITHOUT THE UNITED STATES WHICH IS DERIVED FROM THE OPERATION OF AIRCRAFT, AND (III) INCOME WITHOUT THE UNITED STATES WHICH IS OF A TYPE DESCRIBED IN SUBDIVISION (A) OF SECTION EIGHT HUNDRED EIGHTY-ONE OF THE INTERNAL REVENUE CODE EXCEPT THAT IT IS DERIVED FROM SOURCES WITHOUT THE UNITED STATES. ENTIRE NET INCOME SHALL INCLUDE INCOME DESCRIBED IN CLAUSES (I), (II) AND (III) OF THIS SUBPARAGRAPH IN THE CASE OF TAXPAYERS NOT DESCRIBED IN THE PREVIOUS SENTENCE;

(2) A TAXPAYER IS QUALIFIED UNDER THIS SUBPARAGRAPH IF AIR CARRIERS ORGANIZED IN THE UNITED STATES AND OPERATING IN THE FOREIGN COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS ITS MAJOR BASE OF OPERATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR HEADQUARTERED (IF NOT IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO ANY INCOME TAX OR OTHER TAX BASED ON OR MEASURED BY INCOME OR RECEIPTS IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF, OR IF SO SUBJECT TO SUCH TAX, ARE PROVIDED AN EXEMPTION FROM SUCH TAX EQUIVALENT TO THAT PROVIDED FOR HEREIN.

(D) THE COMMISSIONER OF FINANCE MAY, WHENEVER NECESSARY IN ORDER PROPERLY TO REFLECT THE ENTIRE NET INCOME OF ANY TAXPAYER, DETERMINE THE YEAR OR PERIOD IN WHICH ANY ITEM OF INCOME OR DEDUCTION SHALL BE INCLUDED, WITHOUT REGARD TO THE METHOD OF ACCOUNTING EMPLOYED BY THE TAXPAYER.

(E) THE ENTIRE NET INCOME OF ANY BRIDGE COMMISSION CREATED BY ACT OF CONGRESS TO CONSTRUCT A BRIDGE ACROSS AN INTERNATIONAL BOUNDARY MEANS ITS GROSS INCOME LESS THE EXPENSE OF MAINTAINING AND OPERATING ITS PROPERTIES, THE ANNUAL INTEREST UPON ITS BONDS AND OTHER OBLIGATIONS, AND THE ANNUAL CHARGE FOR THE RETIREMENT OF SUCH BONDS OR OBLIGATIONS AT MATURITY.

(F) INTENTIONALLY OMITTED.

(G) AT THE ELECTION OF THE TAXPAYER, A DEDUCTION SHALL BE ALLOWED FOR EXPENDITURES PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE

1 CONSTRUCTION, RECONSTRUCTION, ERECTION OR IMPROVEMENT OF INDUSTRIAL
2 WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES.

3 (1)(I) THE TERM "INDUSTRIAL WASTE TREATMENT FACILITIES" SHALL MEAN
4 FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF INDUS-
5 TRIAL WASTE (AS THE TERM "INDUSTRIAL WASTE" IS DEFINED IN SECTION
6 17-0105 OF THE ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY
7 PRECEDING THE POINT OF SUCH TREATMENT, NEUTRALIZATION OR STABILIZATION
8 TO THE POINT OF DISPOSAL, INCLUDING THE NECESSARY PUMPING AND TRANSMIT-
9 TING FACILITIES, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY
10 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING
11 PROCESS OR ARE MARKETABLE.

12 (II) THE TERM "AIR POLLUTION CONTROL FACILITIES" SHALL MEAN FACILITIES
13 WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS EMITTED
14 FROM AN AIR CONTAMINATION SOURCE (AS THE TERMS "AIR CONTAMINANT" AND
15 "AIR CONTAMINATION SOURCE" ARE DEFINED IN SECTION 19-0107 OF THE ENVI-
16 RONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT
17 OF SUCH REMOVAL, REDUCTION OR RENDERING TO THE POINT OF DISCHARGE OF
18 AIR, MEETING EMISSION STANDARDS AS ESTABLISHED BY THE AIR POLLUTION
19 CONTROL BOARD, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY
20 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING
21 PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH RELY FOR
22 THEIR EFFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR CONTAM-
23 INANTS IN THE AMBIENT AIR AFTER EMISSION.

24 (2) HOWEVER, SUCH DEDUCTION SHALL BE ALLOWED ONLY (I) WITH RESPECT TO
25 TANGIBLE PROPERTY WHICH IS DEPRECIABLE, PURSUANT TO SECTION ONE HUNDRED
26 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVING A SITUS IN THE CITY AND
27 USED IN THE TAXPAYER'S TRADE OR BUSINESS, THE CONSTRUCTION, RECON-
28 STRUCTION, ERECTION OR IMPROVEMENT OF WHICH, IN THE CASE OF INDUSTRIAL
29 WASTE TREATMENT FACILITIES, IS INITIATED ON OR AFTER JANUARY FIRST,
30 NINETEEN HUNDRED SIXTY-SIX, AND ONLY FOR EXPENDITURES PAID OR INCURRED
31 PRIOR TO JANUARY FIRST, NINETEEN HUNDRED SEVENTY-TWO, OR WHICH, IN THE
32 CASE OF AIR POLLUTION CONTROL FACILITIES, IS INITIATED ON OR AFTER JANU-
33 ARY FIRST, NINETEEN HUNDRED SIXTY-SIX, AND

34 (II) ON CONDITION THAT SUCH FACILITIES HAVE BEEN CERTIFIED BY THE
35 STATE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR THE STATE COMMIS-
36 SIONER'S DESIGNATED REPRESENTATIVE, IN THE SAME MANNER AS PROVIDED FOR
37 IN SECTION 17-0707 OR 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, AS
38 APPLICABLE, AS COMPLYING WITH APPLICABLE PROVISIONS OF THE ENVIRONMENTAL
39 CONSERVATION LAW, THE STATE SANITARY CODE AND REGULATIONS, PERMITS OR
40 ORDERS ISSUED PURSUANT THERETO, AND

41 (III) ON CONDITION THAT ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL
42 SUCCEEDING TAXABLE YEARS BE COMPUTED WITHOUT ANY DEDUCTIONS FOR SUCH
43 EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY OTHER THAN THE
44 DEDUCTIONS ALLOWED BY THIS PARAGRAPH EXCEPT TO THE EXTENT THAT THE BASIS
45 OF THE PROPERTY MAY BE ATTRIBUTABLE TO FACTORS OTHER THAN SUCH EXPENDI-
46 TURES, OR IN CASE A DEDUCTION IS ALLOWABLE PURSUANT TO THIS PARAGRAPH
47 FOR ONLY A PART OF SUCH EXPENDITURES, ON CONDITION THAT ANY DEDUCTION
48 ALLOWED FOR FEDERAL INCOME TAX PURPOSES FOR SUCH EXPENDITURES OR FOR
49 DEPRECIATION OF THE SAME PROPERTY BE PROPORTIONATELY REDUCED IN COMPUT-
50 ING ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE
51 YEARS, AND

52 (IV) WHERE THE ELECTION PROVIDED FOR IN PARAGRAPH (D) OF SUBDIVISION
53 THREE OF SECTION 11-604 OF THIS CHAPTER OR THE ELECTION PROVIDED FOR IN
54 SUBDIVISION (K) OF SECTION 11-641 OF THIS CHAPTER HAS NOT BEEN EXERCISED
55 IN RESPECT TO THE SAME PROPERTY.

1 (3)(I) IF EXPENDITURES IN RESPECT TO AN INDUSTRIAL WASTE TREATMENT
2 FACILITY OR AN AIR POLLUTION CONTROL FACILITY HAVE BEEN DEDUCTED AS
3 PROVIDED HEREIN AND IF WITHIN TEN YEARS FROM THE END OF THE TAXABLE YEAR
4 IN WHICH SUCH DEDUCTION WAS ALLOWED SUCH PROPERTY OR ANY PART THEREOF IS
5 USED FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN
6 THE MANUFACTURING PROCESS OR ARE MARKETABLE, THE TAXPAYER SHALL REPORT
7 SUCH CHANGE OF USE IN ITS REPORT FOR THE FIRST TAXABLE YEAR DURING WHICH
8 IT OCCURS, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE
9 YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR
10 CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH
11 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION
12 THREE OF SECTION 11-674 OF THIS CHAPTER.

13 (II) IF A DEDUCTION IS ALLOWED AS HEREIN PROVIDED FOR EXPENDITURES
14 PAID OR INCURRED DURING ANY TAXABLE YEAR ON THE BASIS OF A TEMPORARY
15 CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVA-
16 TION LAW AND IF THE TAXPAYER FAILS TO OBTAIN A PERMANENT CERTIFICATE OF
17 COMPLIANCE UPON COMPLETION OF THE FACILITIES WITH RESPECT TO WHICH SUCH
18 TEMPORARY CERTIFICATE WAS ISSUED, THE TAXPAYER SHALL REPORT SUCH FAILURE
19 IN ITS REPORT FOR THE TAXABLE YEAR DURING WHICH SUCH FACILITIES ARE
20 COMPLETED, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE
21 YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR
22 CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH
23 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION
24 THREE OF SECTION 11-674 OF THIS CHAPTER.

25 (4) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
26 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO THIS
27 PARAGRAPH, SUCH DEDUCTION SHALL BE DISREGARDED IN COMPUTING GAIN OR
28 LOSS, AND THE GAIN OR LOSS ON THE SALE OR OTHER DISPOSITION OF SUCH
29 PROPERTY SHALL BE THE GAIN OR LOSS ENTERING INTO THE COMPUTATION OF
30 ENTIRE TAXABLE INCOME WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE
31 UNITED STATES TREASURY FOR SUCH TAXABLE YEAR;

32 (H) WITH RESPECT TO GAIN DERIVED FROM THE SALE OR OTHER DISPOSITION OF
33 ANY PROPERTY ACQUIRED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED
34 SIXTY-SIX; WHICH HAD A FEDERAL ADJUSTED BASIS ON SUCH DATE (OR ON THE
35 DATE OF ITS SALE OR OTHER DISPOSITION PRIOR TO JANUARY FIRST, NINETEEN
36 HUNDRED SIXTY-SIX) LOWER THAN ITS FAIR MARKET VALUE ON JANUARY FIRST,
37 NINETEEN HUNDRED SIXTY-SIX OR THE DATE OF ITS SALE OR OTHER DISPOSITION
38 PRIOR THERETO, EXCEPT PROPERTY DESCRIBED IN SUBSECTIONS ONE AND FOUR OF
39 SECTION TWELVE HUNDRED TWENTY-ONE OF THE INTERNAL REVENUE CODE, THERE
40 SHALL BE DEDUCTED FROM ENTIRE NET INCOME, THE DIFFERENCE BETWEEN (1) THE
41 AMOUNT OF THE TAXPAYER'S FEDERAL TAXABLE INCOME, AND (2) THE AMOUNT OF
42 THE TAXPAYER'S FEDERAL TAXABLE INCOME (IF SMALLER THAN THE AMOUNT
43 DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH) COMPUTED AS IF THE
44 FEDERAL ADJUSTED BASIS OF EACH SUCH PROPERTY (ON THE SALE OR OTHER
45 DISPOSITION OF WHICH GAIN WAS DERIVED) ON THE DATE OF THE SALE OR OTHER
46 DISPOSITION HAD BEEN EQUAL TO EITHER (I) ITS FAIR MARKET VALUE ON JANU-
47 ARY FIRST, NINETEEN HUNDRED SIXTY-SIX OR THE DATE OF ITS SALE OR OTHER
48 DISPOSITION PRIOR TO JANUARY FIRST, NINETEEN HUNDRED SIXTY-SIX, PLUS OR
49 MINUS ALL ADJUSTMENTS TO BASIS MADE WITH RESPECT TO SUCH PROPERTY FOR
50 FEDERAL INCOME TAX PURPOSES FOR PERIODS ON AND AFTER JANUARY FIRST,
51 NINETEEN HUNDRED SIXTY-SIX OR (II) THE AMOUNT REALIZED FROM ITS SALE OR
52 DISPOSITION, WHICHEVER IS LOWER; PROVIDED, HOWEVER, THAT THE TOTAL
53 MODIFICATION PROVIDED BY THIS PARAGRAPH SHALL NOT EXCEED THE AMOUNT OF
54 THE TAXPAYER'S NET GAIN FROM THE SALE OR OTHER DISPOSITION OF ALL SUCH
55 PROPERTY.

1 (I) IF THE PERIOD COVERED BY A REPORT UNDER THIS SUBCHAPTER IS OTHER
2 THAN THE PERIOD COVERED BY THE REPORT OF THE UNITED STATES TREASURY
3 DEPARTMENT, ENTIRE NET INCOME SHALL BE DETERMINED BY MULTIPLYING THE
4 FEDERAL TAXABLE INCOME (AS ADJUSTED PURSUANT TO THE PROVISIONS OF THIS
5 SUBCHAPTER) BY THE NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF
6 COVERED BY THE REPORT UNDER THIS SUBCHAPTER AND DIVIDING BY THE NUMBER
7 OF CALENDAR MONTHS OR MAJOR PARTS THEREOF COVERED BY THE REPORT TO SUCH
8 DEPARTMENT. IF IT SHALL APPEAR THAT SUCH METHOD OF DETERMINING ENTIRE
9 NET INCOME DOES NOT PROPERLY REFLECT THE TAXPAYER'S INCOME DURING THE
10 PERIOD COVERED BY THE REPORT UNDER THIS SUBCHAPTER, THE COMMISSIONER OF
11 FINANCE SHALL BE AUTHORIZED IN HIS OR HER DISCRETION TO DETERMINE SUCH
12 ENTIRE NET INCOME SOLELY ON THE BASIS OF THE TAXPAYER'S INCOME DURING
13 THE PERIOD COVERED BY ITS REPORT UNDER THIS SUBCHAPTER.

14 (J) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-
15 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING
16 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH
17 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED
18 EIGHTY F OF THE INTERNAL REVENUE CODE AND PROPERTY SUBJECT TO THE
19 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
20 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING
21 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR, AND PROVIDED
22 A DEDUCTION HAS NOT BEEN EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO
23 SUBPARAGRAPH NINE OF PARAGRAPH (B) OF THIS SUBDIVISION, A TAXPAYER SHALL
24 BE ALLOWED WITH RESPECT TO PROPERTY WHICH IS SUBJECT TO THE PROVISIONS
25 OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE THE
26 DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN
27 OF THE INTERNAL REVENUE CODE AS SUCH SECTION WOULD HAVE APPLIED TO PROP-
28 ERTY PLACED IN SERVICE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED
29 EIGHTY. THIS PARAGRAPH SHALL NOT APPLY TO PROPERTY OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED EIGHTY-NINE.

33 (K) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF
34 SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, OTHER THAN QUALIFIED RESURGENCE ZONE PROPERTY DESCRIBED IN PARAGRAPH (M) OF THIS SUBDIVISION, AND OTHER THAN QUALIFIED NEW YORK LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED L OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO CLAUSE (I) OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH), THE DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN AS SUCH SECTION WOULD HAVE APPLIED TO SUCH PROPERTY HAD IT BEEN ACQUIRED BY THE TAXPAYER ON SEPTEMBER TENTH, TWO THOUSAND ONE, PROVIDED, HOWEVER, THAT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOUR, IN THE CASE OF A PASSENGER MOTOR VEHICLE OR A SPORT UTILITY VEHICLE SUBJECT TO THE PROVISIONS OF PARAGRAPH (O) OF THIS SUBDIVISION, THE LIMITATION UNDER CLAUSE (I) OF SUBPARAGRAPH (A) OF PARAGRAPH ONE OF SUBDIVISION (A) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE APPLICABLE TO THE AMOUNT ALLOWED AS A DEDUCTION UNDER THIS PARAGRAPH SHALL BE DETERMINED AS OF THE DATE SUCH VEHICLE WAS PLACED IN SERVICE AND NOT AS OF SEPTEMBER TENTH, TWO THOUSAND ONE.

51 (L) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (K) OF THIS
52 SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE
53 NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS
54 FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH TWELVE OF PARAGRAPH (A)
55 AND SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUT-
56 ABLE TO SUCH PROPERTY.

1 (M) FOR PURPOSES OF THIS PARAGRAPH AND PARAGRAPH (L) OF THIS SUBDIVI-
2 SION, QUALIFIED RESURGENCE ZONE PROPERTY SHALL MEAN QUALIFIED PROPERTY
3 DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (K) OF SECTION ONE HUNDRED
4 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE SUBSTANTIALLY ALL OF THE USE OF
5 WHICH IS IN THE RESURGENCE ZONE, AS DEFINED BELOW, AND IS IN THE ACTIVE
6 CONDUCT OF A TRADE OR BUSINESS BY THE TAXPAYER IN SUCH ZONE, AND THE
7 ORIGINAL USE OF WHICH IN THE RESURGENCE ZONE COMMENCES WITH THE TAXPAYER
8 AFTER SEPTEMBER TENTH, TWO THOUSAND ONE. THE RESURGENCE ZONE SHALL MEAN
9 THE AREA OF NEW YORK COUNTY BOUNDED ON THE SOUTH BY A LINE RUNNING FROM
10 THE INTERSECTION OF THE HUDSON RIVER WITH THE HOLLAND TUNNEL, AND
11 RUNNING THENCE EAST TO CANAL STREET, THEN RUNNING ALONG THE CENTERLINE
12 OF CANAL STREET TO THE INTERSECTION OF THE BOWERY AND CANAL STREET,
13 RUNNING THENCE IN A SOUTHEASTERLY DIRECTION DIAGONALLY ACROSS MANHATTAN
14 BRIDGE PLAZA, TO THE MANHATTAN BRIDGE, AND THENCE ALONG THE CENTERLINE
15 OF THE MANHATTAN BRIDGE TO THE POINT WHERE THE CENTERLINE OF THE MANHAT-
16 TAN BRIDGE WOULD INTERSECT WITH THE EASTERLY BANK OF THE EAST RIVER, AND
17 BOUNDED ON THE NORTH BY A LINE RUNNING FROM THE INTERSECTION OF THE
18 HUDSON RIVER WITH THE HOLLAND TUNNEL AND RUNNING THENCE NORTH ALONG WEST
19 AVENUE TO THE INTERSECTION OF CLARKSON STREET THEN RUNNING EAST ALONG
20 THE CENTERLINE OF CLARKSON STREET TO THE INTERSECTION OF WASHINGTON
21 AVENUE, THEN RUNNING SOUTH ALONG THE CENTERLINE OF WASHINGTON AVENUE TO
22 THE INTERSECTION OF WEST HOUSTON STREET, THEN EAST ALONG THE CENTERLINE
23 OF WEST HOUSTON STREET, THEN AT THE INTERSECTION OF THE AVENUE OF THE
24 AMERICAS CONTINUING EAST ALONG THE CENTERLINE OF EAST HOUSTON STREET TO
25 THE EASTERLY BANK OF THE EAST RIVER.

26 (N) RELATED MEMBERS EXPENSE ADD BACK. (1) FOR PURPOSES OF THIS PARA-
27 GRAPH: (I) "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPAR-
28 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED
29 SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT"
30 SHALL BE SUBSTITUTED FOR "TEN PERCENT".

31 (II) "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATU-
32 TORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED
33 MEMBER'S NET INCOME MULTIPLIED BY THE ALLOCATION PERCENTAGE, IF ANY,
34 APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION.
35 FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY
36 CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID
37 CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE
38 TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN
39 THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR
40 PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX
41 FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR
42 OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE
43 RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR
44 COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF
45 TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY
46 RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY
47 SUCH CREDIT OR SIMILAR ADJUSTMENT.

48 (III) ROYALTY PAYMENTS ARE PAYMENTS DIRECTLY CONNECTED TO THE ACQUISSI-
49 TION, USE, MAINTENANCE OR MANAGEMENT, OWNERSHIP, SALE, EXCHANGE, OR ANY
50 OTHER DISPOSITION OF LICENSES, TRADEMARKS, COPYRIGHTS, TRADE NAMES,
51 TRADE DRESS, SERVICE MARKS, MASK WORKS, TRADE SECRETS, PATENTS AND ANY
52 OTHER SIMILAR TYPES OF INTANGIBLE ASSETS AS DETERMINED BY THE COMMIS-
53 SIONER OF FINANCE, AND INCLUDE AMOUNTS ALLOWABLE AS INTEREST DEDUCTIONS
54 UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE INTERNAL REVENUE CODE TO
55 THE EXTENT SUCH AMOUNTS ARE DIRECTLY OR INDIRECTLY FOR, RELATED TO OR IN

1 CONNECTION WITH THE ACQUISITION, USE, MAINTENANCE OR MANAGEMENT, OWNER-
2 SHIP, SALE, EXCHANGE OR DISPOSITION OF SUCH INTANGIBLE ASSETS.

3 (IV) A VALID BUSINESS PURPOSE IS ONE OR MORE BUSINESS PURPOSES, OTHER
4 THAN THE AVOIDANCE OR REDUCTION OF TAXATION, WHICH ALONE OR IN COMBINA-
5 TION CONSTITUTE THE PRIMARY MOTIVATION FOR SOME BUSINESS ACTIVITY OR
6 TRANSACTION, WHICH ACTIVITY OR TRANSACTION CHANGES IN A MEANINGFUL WAY,
7 APART FROM TAX EFFECTS, THE ECONOMIC POSITION OF THE TAXPAYER. THE
8 ECONOMIC POSITION OF THE TAXPAYER INCLUDES AN INCREASE IN THE MARKET
9 SHARE OF THE TAXPAYER, OR THE ENTRY BY THE TAXPAYER INTO NEW BUSINESS
10 MARKETS.

11 (2) ROYALTY EXPENSE ADD BACKS. (I) EXCEPT WHERE A TAXPAYER IS INCLUDED
12 IN A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER
13 WITH THE APPLICABLE RELATED MEMBER, FOR THE PURPOSE OF COMPUTING ENTIRE
14 NET INCOME OR OTHER APPLICABLE TAXABLE BASIS, A TAXPAYER MUST ADD BACK
15 ROYALTY PAYMENTS DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN
16 CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR
17 MORE RELATED MEMBERS DURING THE TAXABLE YEAR TO THE EXTENT DEDUCTIBLE IN
18 CALCULATING FEDERAL TAXABLE INCOME.

19 (II) EXCEPTIONS. (A) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL
20 NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB-
21 LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM
22 SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING
23 REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR
24 ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBI-
25 NATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID,
26 ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE
27 SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH
28 PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS-
29 ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE
30 RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

31 (B) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE
32 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND
33 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE
34 RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN
35 THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION
36 THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT
37 PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE
38 EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC-
39 TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT
40 APPLIED TO THE TAXPAYER UNDER SECTION 11-604 OF THIS CHAPTER FOR THE
41 TAXABLE YEAR.

42 (C) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE
43 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND
44 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE
45 ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGAN-
46 IZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE
47 RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHEN-
48 SIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III)
49 THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE
50 THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE
51 TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS
52 TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT
53 IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR
54 INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSI-
55 NESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(D) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

(O) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE DEDUCTIONS ALLOWABLE UNDER SECTIONS ONE HUNDRED SEVENTY-NINE, ONE HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE, DETERMINED AS IF SUCH SPORT UTILITY VEHICLE WERE A PASSENGER AUTOMOBILE AS DEFINED IN SUCH PARAGRAPH FIVE. FOR PURPOSES OF SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B) AND PARAGRAPH (K) OF THIS SUBDIVISION, THE TERMS QUALIFIED RESURGENCE ZONE PROPERTY AND QUALIFIED NEW YORK LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION B OF SECTION FOURTEEN HUNDRED L OF THE INTERNAL REVENUE CODE SHALL NOT INCLUDE ANY SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE.

(P) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (O) OF THIS SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH THIRTEEN OF PARAGRAPH (A) AND SUBPARAGRAPH SEVENTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUTABLE TO SUCH PROPERTY.

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

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

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

(II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

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

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

(II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

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

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

1 OF WHICH IS THE GROSS INTEREST INCOME DURING THE TAXABLE YEAR FROM ALL
2 LOANS.

3 (B) MULTIPLY THE AMOUNT DETERMINED IN SUBCLAUSE (A) OF THIS CLAUSE BY
4 FIFTY PERCENT. THIS PRODUCT IS THE AMOUNT OF THE DEDUCTION ALLOWED UNDER
5 THIS PARAGRAPH.

6 (II)(A) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST
7 INCOME FROM LOANS LESS GROSS INTEREST EXPENSE FROM LOANS. GROSS INTEREST
8 EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING GROSS INTEREST EXPENSE
9 BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL VALUE OF
10 LOANS OWNED BY THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXA-
11 BLE YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE
12 THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR.

13 (B) MEASUREMENT OF ASSETS. FOR PURPOSES OF THIS CLAUSE: (I) TOTAL
14 ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET,
15 COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF
16 THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

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

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

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

31 (III) A QUALIFYING LOAN IS A LOAN THAT MEETS THE CONDITIONS SPECIFIED
32 IN SUBCLAUSE (A) OF THIS CLAUSE AND SUBCLAUSE (B) OF THIS CLAUSE.

33 (A) THE LOAN IS ORIGINATED BY THE QUALIFIED COMMUNITY BANK OR SMALL
34 THRIFT INSTITUTION OR PURCHASED BY THE QUALIFIED COMMUNITY BANK OR SMALL
35 THRIFT INSTITUTION IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH
36 A COMMITMENT TO PURCHASE MADE BY THE BANK OR THRIFT INSTITUTION PRIOR TO
37 THE LOAN'S ORIGINATION.

38 (B) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,
39 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND
40 EITHER THE BORROWER IS LOCATED IN THIS CITY AS DETERMINED UNDER SECTION
41 11-654.2 OF THIS SUBCHAPTER AND THE LOAN IS NOT SECURED BY REAL PROPER-
42 TY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN THE CITY.

43 (C) A LOAN THAT MEETS THE DEFINITION OF A QUALIFYING LOAN IN A PRIOR
44 TAXABLE YEAR (INCLUDING YEARS PRIOR TO THE EFFECTIVE DATE OF THIS PARA-
45 GRAPH) REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH
46 SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED
47 REPORTING GROUP UNDER SECTION 11-654.3 OF THIS SUBCHAPTER.

48 (R) A SMALL THRIFT INSTITUTION OR A QUALIFIED COMMUNITY BANK, AS
49 DEFINED IN PARAGRAPH (Q) OF THIS SUBDIVISION, THAT MAINTAINED A CAPTIVE
50 REIT ON APRIL FIRST, TWO THOUSAND FOURTEEN SHALL UTILIZE A REIT
51 SUBTRACTION EQUAL TO ONE HUNDRED SIXTY PERCENT OF THE DIVIDENDS PAID
52 DEDUCTIONS ALLOWED TO THAT CAPTIVE REIT FOR THE TAXABLE YEAR FOR FEDERAL
53 INCOME TAX PURPOSES AND SHALL NOT BE ALLOWED TO UTILIZE THE SUBTRACTION
54 MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS UNDER PARAGRAPH (Q)
55 OF THIS SUBDIVISION OR THE SUBTRACTION MODIFICATION FOR QUALIFIED RESI-
56 DENTIAL LOAN PORTFOLIOS UNDER PARAGRAPH (S) OF THIS SUBDIVISION IN ANY

1 TAX YEAR IN WHICH SUCH THRIFT INSTITUTION OR COMMUNITY BANK MAINTAINS
2 THAT CAPTIVE REIT.

3 (S) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFO-
4 LIOS. (1)(I) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED
5 IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS
6 DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (Q) OF THIS SUBDIVISION AND
7 MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARA-
8 GRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING
9 ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (A) THIRTY-TWO PERCENT OF
10 ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH
11 EXCEEDS (B) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS
12 ONE HUNDRED SIXTY-SIX AND FIVE HUNDRED EIGHTY-FIVE OF THE INTERNAL
13 REVENUE CODE LESS ANY AMOUNTS INCLUDED IN FEDERAL TAXABLE INCOME AS A
14 RESULT OF A RECOVERY OF A LOAN.

15 (II)(A) IF THE TAXPAYER IS IN A COMBINED REPORT UNDER SECTION 11-654.3
16 OF THIS SUBCHAPTER, THIS DEDUCTION WILL BE COMPUTED ON A COMBINED BASIS.
17 IN THAT INSTANCE, THE ENTIRE NET INCOME OF THE COMBINED REPORTING GROUP
18 FOR PURPOSES OF THIS PARAGRAPH SHALL BE MULTIPLIED BY A FRACTION, THE
19 NUMERATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE THRIFT INSTI-
20 TUTIONS AND QUALIFIED COMMUNITY BANKS INCLUDED IN THE COMBINED REPORT
21 AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE
22 CORPORATIONS INCLUDED IN THE COMBINED REPORT.

23 (B) MEASUREMENT OF ASSETS. FOR PURPOSES OF THIS PARAGRAPH: (I) TOTAL
24 ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET,
25 COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF
26 THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

27 (II) ASSETS WILL ONLY BE INCLUDED IF THE INCOME OR EXPENSES OF WHICH
28 ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT
29 FULLY DEPRECIATED OR EXPENSED, OR DEPRECIATED OR EXPENSED TO A NOMINAL
30 AMOUNT) IN THE COMPUTATION OF THE COMBINED GROUP'S ENTIRE NET INCOME FOR
31 THE TAXABLE YEAR. ASSETS WILL NOT INCLUDE DEFERRED TAX ASSETS AND INTAN-
32 GIBLE ASSETS IDENTIFIED AS "GOODWILL".

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

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

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

44 (2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (I) A TAXPAYER MAINTAINS A
45 QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE
46 AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE
47 THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS
48 DESCRIBED IN SUBCLAUSES (A) THROUGH (L) OF THIS CLAUSE, WITH THE APPLI-
49 CATION OF THE RULE IN THE LAST UNDESIGNATED SUBCLAUSE OF THIS CLAUSE. IF
50 THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF
51 WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY
52 AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNI-
53 TY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP. ASSETS: (A) CASH,
54 WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH ITEMS IN THE
55 PROCESS OF COLLECTION, DEPOSITS WITH OTHER FINANCIAL INSTITUTIONS,
56 INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL RESERVE BANKS

1 AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH AND CASH
2 EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERVING AS
3 COLLATERAL FOR SECURITIES LENDING TRANSACTIONS; (B) OBLIGATIONS OF THE
4 UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK
5 OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERN-
6 MENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLI-
7 TICAL SUBDIVISION THEREOF; (C) LOANS SECURED BY A DEPOSIT OR SHARE OF A
8 MEMBER; (D) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR,
9 FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR
10 REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE
11 IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY
12 FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS SUBCLAUSE, RESI-
13 DENTIAL REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS,
14 FACILITIES IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROP-
15 erty USED ON A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED
16 ON A TRANSIENT BASIS; (E) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF
17 DEFAULTED LOANS DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (F) ANY REGU-
18 LAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS DEFINED IN SECTION
19 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE PROPORTION WHICH THE
20 ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED IN ANY OF THE PRECED-
21 ING SUBCLAUSES OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE PERCENT OR
22 MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN SUBCLAUSES (A)
23 THROUGH (E) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC SHALL QUAL-
24 IFY; (G) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A
25 FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST
26 PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH
27 SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN,
28 WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS
29 CLAUSE AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR
30 WHICH CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE
31 TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (H) CERTIF-
32 ICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION ORGANIZED UNDER A
33 STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPORATION TO INSURE THE
34 DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS; (I) LOANS SECURED BY
35 AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE INSTITUTIONS OR FACILI-
36 TIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMARILY FOR RESIDENTIAL
37 PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDERCARE, EMPLOYEES, OR
38 MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILITIES; (J) LOANS MADE
39 FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY EDUCATION OR VOCA-
40 TIONAL TRAINING; (K) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSI-
41 NESS WHICH CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC
42 AND INVESTING IN LOANS; AND (L) LOANS FOR WHICH THE TAXPAYER IS THE
43 CREDITOR AND WHICH ARE WHOLLY SECURED BY LOANS DESCRIBED IN SUBCLAUSE
44 (D) OF THIS CLAUSE.

45 THE VALUE OF ACCRUED INTEREST RECEIVABLE AND ANY LOSS-SHARING COMMIT-
46 MENT OR OTHER LOAN GUARANTY BY A GOVERNMENTAL AGENCY WILL BE CONSIDERED
47 PART OF THE BASIS IN THE LOANS TO WHICH THE ACCRUED INTEREST OR LOSS
48 PROTECTION APPLIES.

49 (II) AT THE ELECTION OF THE TAXPAYER, THE PERCENTAGE SPECIFIED IN
50 CLAUSE (I) OF THIS SUBPARAGRAPH SHALL BE APPLIED ON THE BASIS OF THE
51 AVERAGE ASSETS OUTSTANDING DURING THE TAXABLE YEAR, IN LIEU OF THE CLOSE
52 OF THE TAXABLE YEAR. THE TAXPAYER CAN ELECT TO COMPUTE AN AVERAGE USING
53 THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR AND ON THE LAST
54 DAY OF EACH SUBSEQUENT QUARTER, OR MONTH OR DAY DURING THE TAXABLE YEAR.
55 THIS ELECTION MAY BE MADE ANNUALLY.

1 (III) FOR PURPOSES OF SUBCLAUSE (D) OF CLAUSE (I) OF THIS SUBPARA-
2 GRAPH, IF A MULTIFAMILY STRUCTURE SECURING A LOAN IS USED IN PART FOR
3 NONRESIDENTIAL USE PURPOSES, THE ENTIRE LOAN IS DEEMED A RESIDENTIAL
4 REAL PROPERTY LOAN IF THE PLANNED RESIDENTIAL USE EXCEEDS EIGHTY PERCENT
5 OF THE PROPERTY'S PLANNED USE (MEASURED, AT THE TAXPAYER'S ELECTION, BY
6 USING SQUARE FOOTAGE OR GROSS RENTAL REVENUE, AND DETERMINED AS OF THE
7 TIME THE LOAN IS MADE).

8 (IV) FOR PURPOSES OF SUBCLAUSE (D) OF CLAUSE (I) OF THIS SUBPARAGRAPH,
9 LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE
10 DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY
11 IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESI-
12 DENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF
13 ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY
14 TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES
15 RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY
16 INTEREST IN A REMIC QUALIFIES UNDER SUBCLAUSE (F) OF CLAUSE (I) OF THIS
17 SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC
18 SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING SUBCLAUSE UNDER
19 PRINCIPLES SIMILAR TO THE PRINCIPLE OF SUCH SUBCLAUSE (F), EXCEPT THAT
20 IF SUCH REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS
21 ONE REMIC FOR PURPOSES OF SUCH SUBCLAUSE (F).

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

25 (T) SUBTRACTION MODIFICATION FOR QUALIFIED AFFORDABLE HOUSING AND LOW
26 INCOME COMMUNITY LOANS.

27 (1) A TAXPAYER THAT OWNS A QUALIFYING LOAN WITHIN THE MEANING OF
28 CLAUSE (III) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED A
29 DEDUCTION IN COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED
30 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH.

31 (2)(I) THE DEDUCTION ALLOWED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH
32 SHALL BE EQUAL TO:

33 (A) IF THE TOTAL AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS
34 OF THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT,
35 THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
36 11-654.3 OF THIS SUBCHAPTER, DOES NOT EXCEED ONE HUNDRED BILLION
37 DOLLARS, THE TAXPAYER'S NET INTEREST INCOME FROM QUALIFYING LOANS, OR

38 (B) IF THE TOTAL AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS
39 OF THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT,
40 THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
41 11-654.3 OF THIS SUBCHAPTER, EXCEEDS ONE HUNDRED BILLION DOLLARS BUT IS
42 LESS THAN ONE HUNDRED FIFTY BILLION DOLLARS, THE TAXPAYER'S NET INTEREST
43 INCOME FROM QUALIFYING LOANS MULTIPLIED BY A FRACTION, THE NUMERATOR OF
44 WHICH IS ONE HUNDRED FIFTY BILLION DOLLARS MINUS THE TOTAL AVERAGE VALUE
45 DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR IF THE TAXPAY-
46 ER IS INCLUDED IN A COMBINED REPORT, THE ASSETS OF THE COMBINED REPORT-
47 ING GROUP OF THE TAXPAYER UNDER SECTION 11-654.3 OF THIS SUBCHAPTER, AND
48 THE DENOMINATOR OF WHICH IS FIFTY BILLION DOLLARS.

49 (II)(A) NET INTEREST INCOME FROM QUALIFYING LOANS SHALL MEAN THE
50 TAXPAYER'S NET INTEREST INCOME FROM LOANS DURING THE TAXABLE YEAR MULTI-
51 PLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INTEREST INCOME
52 DURING THE TAXABLE YEAR FROM QUALIFYING LOANS AND THE DENOMINATOR OF
53 WHICH IS THE GROSS INTEREST INCOME FROM ALL LOANS.

54 (B) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST INCOME
55 DURING THE TAXABLE YEAR FROM LOANS LESS GROSS INTEREST EXPENSE FROM
56 LOANS. GROSS INTEREST EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING

1 GROSS INTEREST EXPENSE BY A FRACTION, THE NUMERATOR OF WHICH IS THE
2 AVERAGE TOTAL VALUE OF LOANS OWNED BY THE TAXPAYER DURING THE TAXABLE
3 YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE
4 TAXPAYER FOR THE YEAR.

5 (C) MEASUREMENT OF ASSETS. FOR PURPOSES OF THIS PARAGRAPH:

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

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

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

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

24 (III) A QUALIFYING LOAN IS A LOAN THAT MEETS THE CONDITIONS SPECIFIED
25 IN SUBCLAUSE (A) THROUGH SUBCLAUSE (E) OF THIS CLAUSE.

26 (A) THE LOAN IS ORIGINATED BY THE TAXPAYER LENDER OR PURCHASED BY THE
27 TAXPAYER IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH A COMMIT-
28 MENT TO PURCHASE MADE BY THE TAXPAYER PRIOR TO THE LOAN'S ORIGINATION.

29 (B) SATISFIES CONDITIONS OF ITEM (I) OR (II) OR THIS SUBCLAUSE.

30 (I) THE LOAN IS SECURED BY A HOUSING ACCOMMODATION LOCATED WITHIN THE
31 CITY, WHERE THERE ARE RENTAL UNITS IN SUCH HOUSING ACCOMMODATION THAT
32 ARE QUALIFYING UNITS, WHICH FOR PURPOSES OF THIS SUBCLAUSE, MEANS UNITS
33 SUBJECT TO RENT CONTROL, RENT STABILIZATION OR TO A REGULATORY AGREE-
34 MENT, PROVIDED THAT, EACH SUCH LOAN WILL BE CONSIDERED A QUALIFYING LOAN
35 FOR PURPOSES OF THIS PARAGRAPH ONLY IN PROPORTION TO A PERCENTAGE EQUAL
36 TO THE NUMBER OF QUALIFYING UNITS DIVIDED BY THE TOTAL NUMBER OF ALL
37 RESIDENTIAL AND COMMERCIAL UNITS LOCATED ON THE SITE OF THE REAL PROPER-
38 TY SECURING THE LOAN, AS DETERMINED AS OF THE DATE THE LOAN IS MADE.

39 (II) TO THE EXTENT NOT INCLUDED IN ITEM (I) OF THIS SUBCLAUSE, LOANS
40 SECURED BY RESIDENTIAL REAL PROPERTY LOCATED IN A LOW-INCOME COMMUNITY.
41 FOR PURPOSES OF THIS PARAGRAPH, LOW-INCOME COMMUNITY AREAS ARE CENSUS
42 TRACTS WITHIN THE CITY IN WHICH THE POVERTY RATE FOR SUCH TRACT IS AT
43 LEAST TWENTY PERCENT AND THE MEDIAN FAMILY INCOME FOR SUCH TRACT DOES
44 NOT EXCEED EIGHTY PERCENT OF METROPOLITAN AREA MEDIAN FAMILY INCOME.
45 THIS DETERMINATION WILL BE MADE BY REFERENCE TO THE POVERTY AND MEDIAN
46 FAMILY INCOME CENSUS DATA FOR APPLICATION OF SECTION 45D OF THE INTERNAL
47 REVENUE CODE OF 1986, AS IN EFFECT ON THE EFFECTIVE DATE OF THE CHAPTER
48 OF THE LAWS OF TWO THOUSAND FIFTEEN THAT ADDED THIS SUBCHAPTER.

49 (C) THE LOAN IS NOT TREATED AS A QUALIFYING LOAN IN THE COMPUTATION OF
50 A SUBTRACTION FROM ENTIRE NET INCOME PURSUANT TO PARAGRAPH (Q) OF THIS
51 SUBDIVISION.

52 (D) IF THE TAXPAYER APPLIES A SUBTRACTION PURSUANT TO PARAGRAPH (R) OF
53 THIS SUBDIVISION, THE INTEREST OR NET GAINS FROM THE LOAN ARE NOT RECOG-
54 NIZED BY A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS CHAPTER.

55 (E) A LOAN THAT MEETS THE DEFINITION OF A QUALIFYING LOAN IN A PRIOR
56 TAXABLE YEAR (INCLUDING YEARS PRIOR TO THE EFFECTIVE DATE OF THIS PARA-

GRAPH) REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED REPORTING GROUP UNDER SECTION 11-654.3 OF THIS SUBCHAPTER.

(IV) FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING TERMS SHALL MEAN:

(A) "HOUSING ACCOMMODATIONS" SHALL MEAN A MULTIPLE DWELLING THAT CONTAINS AT LEAST FIVE DWELLING UNITS TOGETHER WITH THE LAND ON WHICH SUCH STRUCTURE IS SITUATED.

(B) "REGULATORY AGREEMENT" SHALL MEAN A WRITTEN AGREEMENT WITH OR APPROVED BY ANY LOCAL, MUNICIPAL, STATE, FEDERAL OR OTHER GOVERNMENT AGENCY THAT REQUIRES THE PROVISION OF HOUSING ACCOMMODATIONS FOR FAMILIES AND PERSONS OF LOW OR MODERATE INCOME, AND BINDS THE OWNER OF SUCH REAL PROPERTY AND ITS SUCCESSORS AND ASSIGNS. A REGULATORY AGREEMENT MAY INCLUDE SUCH OTHER TERMS AND CONDITIONS AS THE LOCALITY, MUNICIPALITY, STATE, OR FEDERAL GOVERNMENT SHALL DETERMINE.

(C) "RENT STABILIZATION" SHALL MEAN, COLLECTIVELY, THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, THE RENT STABILIZATION CODE, AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, ALL AS IN EFFECT AS OF THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT ADDED THIS SUBCHAPTER OR AS AMENDED THEREAFTER, TOGETHER WITH ANY SUCCESSOR STATUTES OR REGULATIONS ADDRESSING SUBSTANTIALLY THE SAME SUBJECT MATTER.

9. (A) THE TERM "CALENDAR YEAR" MEANS A PERIOD OF TWELVE CALENDAR MONTHS (OR ANY SHORTER PERIOD BEGINNING ON THE DATE THE TAXPAYER BECOMES SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER) ENDING ON THE THIRTY-FIRST DAY OF DECEMBER, PROVIDED THE TAXPAYER KEEPS ITS BOOKS ON THE BASIS OF SUCH PERIOD OR ON THE BASIS OF ANY PERIOD ENDING ON ANY DAY OTHER THAN THE LAST DAY OF A CALENDAR MONTH, OR PROVIDED THE TAXPAYER DOES NOT KEEP BOOKS, AND INCLUDES, IN CASE THE TAXPAYER CHANGES THE PERIOD ON THE BASIS OF WHICH IT KEEPS ITS BOOKS FROM A FISCAL YEAR TO A CALENDAR YEAR, THE PERIOD FROM THE CLOSE OF ITS LAST OLD FISCAL YEAR UP TO AND INCLUDING THE FOLLOWING DECEMBER THIRTY-FIRST.

(B) THE TERM "FISCAL YEAR" MEANS A PERIOD OF TWELVE CALENDAR MONTHS (OR ANY SHORTER PERIOD BEGINNING ON THE DATE THE TAXPAYER BECOMES SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER) ENDING ON THE LAST DAY OF ANY MONTH OTHER THAN DECEMBER, PROVIDED THE TAXPAYER KEEPS ITS BOOKS ON THE BASIS OF SUCH PERIOD, AND INCLUDES, IN CASE THE TAXPAYER CHANGES THE PERIOD ON THE BASIS OF WHICH IT KEEPS ITS BOOKS FROM A CALENDAR YEAR TO A FISCAL YEAR OR FROM ONE FISCAL YEAR TO ANOTHER FISCAL YEAR, THE PERIOD FROM THE CLOSE OF ITS LAST OLD CALENDAR OR FISCAL YEAR UP TO THE DATE DESIGNATED AS THE CLOSE OF ITS NEW FISCAL YEAR.

10. THE TERM "TANGIBLE PERSONAL PROPERTY" MEANS CORPOREAL PERSONAL PROPERTY, SUCH AS MACHINERY, TOOLS, IMPLEMENTS, GOODS, WARES AND MERCHANDISE, AND DOES NOT MEAN MONEY, DEPOSITS IN BANKS, SHARES OF STOCK, BONDS, NOTES, CREDITS OR EVIDENCES OF AN INTEREST PROPERTY AND EVIDENCES OF DEBT.

11. THE TERM "INTERNAL REVENUE CODE" MEANS, UNLESS OTHERWISE SPECIFICALLY STATED IN THIS SUBCHAPTER, THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

12. THE TERM "COMBINABLE CAPTIVE INSURANCE COMPANY" MEANS AN ENTITY THAT IS TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE: (A) MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF WHICH IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE ENTITY THAT IS TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE AND NOT EXEMPT FROM FEDERAL INCOME TAX;

(B) THAT IS LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS STATE OR ANOTHER JURISDICTION;

1 (C) WHOSE BUSINESS INCLUDES PROVIDING, DIRECTLY AND INDIRECTLY, INSUR-
2 ANCE OR REINSURANCE COVERING THE RISKS OF ITS PARENT AND/OR MEMBERS OF
3 ITS AFFILIATED GROUP; AND

4 (D) FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE TAXABLE YEAR
5 CONSIST OF PREMIUMS FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR
6 FEDERAL INCOME TAX PURPOSES.

7 FOR PURPOSES OF THIS SUBDIVISION, "AFFILIATED GROUP" HAS THE SAME
8 MEANING AS THAT TERM IS GIVEN IN SECTION FIFTEEN HUNDRED FOUR OF THE
9 INTERNAL REVENUE CODE, EXCEPT THAT THE TERM "COMMON PARENT CORPORATION"
10 IN THAT SECTION IS DEEMED TO MEAN ANY PERSON, AS DEFINED IN SECTION
11 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE AND REFER-
12 ENCES TO "AT LEAST EIGHTY PERCENT" IN SECTION FIFTEEN HUNDRED FOUR OF
13 THE INTERNAL REVENUE CODE ARE TO BE READ AS "FIFTY PERCENT OR MORE;"
14 SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE IS TO BE READ
15 WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF THAT
16 SECTION; "PREMIUMS" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN PARA-
17 GRAPH ONE OF SUBDIVISION (C) OF SECTION FIFTEEN HUNDRED TEN OF THE TAX
18 LAW, EXCEPT THAT IT INCLUDES CONSIDERATION FOR ANNUITY CONTRACTS AND
19 EXCLUDES ANY PART OF THE CONSIDERATION FOR INSURANCE, REINSURANCE OR
20 ANNUITY CONTRACTS THAT DO NOT PROVIDE BONA FIDE INSURANCE, REINSURANCE
21 OR ANNUITY BENEFITS; AND "GROSS RECEIPTS" INCLUDES THE AMOUNTS INCLUDED
22 IN GROSS RECEIPTS FOR PURPOSES OF PARAGRAPH FIFTEEN OF SUBSECTION (C) OF
23 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT THOSE
24 AMOUNTS ALSO INCLUDE ALL PREMIUMS AS DEFINED IN THIS SUBDIVISION.

25 13. THE TERM "PARTNERSHIP" INCLUDES A SYNDICATE, GROUP, POOL, JOINT
26 VENTURE, OR OTHER UNINCORPORATED ORGANIZATION, THROUGH OR BY MEANS OF
27 WHICH ANY BUSINESS, FINANCIAL OPERATION, OR VENTURE IS CARRIED ON, AND
28 WHICH IS NOT A CORPORATION AS DEFINED IN SUBDIVISION ONE OF THIS
29 SECTION, OR A TRUST OR ESTATE THAT IS SEPARATE FROM ITS OWNER UNDER PART
30 ONE OF SUBCHAPTER J OF CHAPTER ONE OF SUBTITLE A OF THE INTERNAL REVENUE
31 CODE; AND THE TERM "PARTNER" INCLUDES A MEMBER IN SUCH SYNDICATE, GROUP,
32 POOL, JOINT VENTURE, OR ORGANIZATION.

33 S 11-653 IMPOSITION OF TAX; EXEMPTIONS. 1. (A) FOR THE PRIVILEGE OF
34 DOING BUSINESS, OR OF EMPLOYING CAPITAL, OR OF OWNING OR LEASING PROPER-
35 TY IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY, OR OF MAINTAINING
36 AN OFFICE IN THE CITY, FOR ALL OR ANY PART OF EACH OF ITS FISCAL OR
37 CALENDAR YEARS, EVERY DOMESTIC OR FOREIGN CORPORATION, EXCEPT CORPO-
38 RATIONS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, SHALL ANNUALLY
39 PAY A TAX, UPON THE BASIS OF ITS BUSINESS INCOME, OR UPON SUCH OTHER
40 BASIS AS MAY BE APPLICABLE AS HEREINAFTER PROVIDED, FOR SUCH FISCAL OR
41 CALENDAR YEAR OR PART THEREOF, ON A REPORT WHICH SHALL BE FILED, EXCEPT
42 AS HEREINAFTER PROVIDED, ON OR BEFORE THE FIFTEENTH DAY OF MARCH NEXT
43 SUCCEEDING THE CLOSE OF EACH SUCH YEAR, OR, IN THE CASE OF A TAXPAYER
44 WHICH REPORTS ON THE BASIS OF A FISCAL YEAR, WITHIN TWO AND ONE-HALF
45 MONTHS AFTER THE CLOSE OF SUCH FISCAL YEAR, AND SHALL BE PAID AS HEREIN-
46 AFTER PROVIDED.

47 (B) INTENTIONALLY OMITTED.

48 (C) A CORPORATION IS DOING BUSINESS IN THE CITY IF (1) IT HAS ISSUED
49 CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING
50 ADDRESS WITHIN THE CITY AS OF THE LAST DAY OF ITS TAXABLE YEAR, (2) IT
51 HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF
52 LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE
53 LOCATIONS IN THE CITY TO WHOM THE CORPORATION REMITTED PAYMENTS FOR
54 CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (3) THE SUM OF THE
55 NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH PLUS
56 THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARA-

GRAPH TWO OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED IN THIS SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARDS.

(D) INTENTIONALLY OMITTED.

(E) INTENTIONALLY OMITTED.

(F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY IN THE CITY, OR MAINTAINING AN OFFICE IN THE CITY, ANY CORPORATION THAT IS A PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO TAX UNDER THIS SUBCHAPTER AS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER OF FINANCE.

2. A FOREIGN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, BY REASON OF:

(A) THE MAINTENANCE OF CASH BALANCES WITH BANKS OR TRUST COMPANIES IN THE CITY, OR

(B) THE OWNERSHIP OF SHARES OF STOCK OR SECURITIES KEPT IN THE CITY, IF KEPT IN A SAFE DEPOSIT BOX, SAFE, VAULT OR OTHER RECEPTACLE RENTED FOR THE PURPOSE, OR IF PLEDGED AS COLLATERAL SECURITY, OR IF DEPOSITED WITH ONE OR MORE BANKS OR TRUST COMPANIES, OR BROKERS WHO ARE MEMBERS OF A RECOGNIZED SECURITY EXCHANGE, IN SAFEKEEPING OR CUSTODY ACCOUNTS, OR

(C) THE TAKING OF ANY ACTION BY ANY SUCH BANK OR TRUST COMPANY OR BROKER, WHICH IS INCIDENTAL TO THE RENDERING OF SAFEKEEPING OR CUSTODIAN SERVICE TO SUCH CORPORATION, OR

(D) THE MAINTENANCE OF AN OFFICE IN THE CITY BY ONE OR MORE OFFICERS OR DIRECTORS OF THE CORPORATION WHO ARE NOT EMPLOYEES OF THE CORPORATION IF THE CORPORATION OTHERWISE IS NOT DOING BUSINESS IN THE CITY, AND DOES NOT EMPLOY CAPITAL OR OWN OR LEASE PROPERTY IN THE CITY, OR

(E) THE KEEPING OF BOOKS OR RECORDS OF A CORPORATION IN THE CITY IF SUCH BOOKS OR RECORDS ARE NOT KEPT BY EMPLOYEES OF SUCH CORPORATION AND SUCH CORPORATION DOES NOT OTHERWISE DO BUSINESS, EMPLOY CAPITAL, OWN OR LEASE PROPERTY OR MAINTAIN AN OFFICE IN THE CITY, OR

(F) ANY COMBINATION OF THE FOREGOING ACTIVITIES.

2-A. AN ALIEN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, IF ITS ACTIVITIES IN THE CITY ARE LIMITED SOLELY TO:

(A) INVESTING OR TRADING IN STOCKS AND SECURITIES FOR ITS OWN ACCOUNT WITHIN THE MEANING OF CLAUSE (II) OF SUBPARAGRAPH (A) OF PARAGRAPH (2) OF SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, OR:

(B) INVESTING OR TRADING IN COMMODITIES FOR ITS OWN ACCOUNT WITHIN THE MEANING OF CLAUSE (II) OF SUBPARAGRAPH (B) OF PARAGRAPH (2) OF SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, OR

(C) ANY COMBINATION OF ACTIVITIES DESCRIBED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION.

AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE THREE OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER SHALL NOT BE SUBJECT TO TAX UNDER THIS SUBCHAPTER FOR THAT TAXABLE YEAR. FOR PURPOSES OF THIS SUBCHAPTER, AN ALIEN CORPORATION IS A CORPORATION ORGANIZED UNDER THE LAWS OF A COUNTRY, OR ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE UNITED STATES, OR ORGANIZED UNDER

1 THE LAWS OF A POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED
2 STATES.

3 3. ANY RECEIVER, REFEREE, TRUSTEE, ASSIGNEE OR OTHER FIDUCIARY, OR ANY
4 OFFICER OR AGENT APPOINTED BY ANY COURT, WHO CONDUCTS THE BUSINESS OF
5 ANY CORPORATION, SHALL BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER
6 IN THE SAME MANNER AND TO THE SAME EXTENT AS IF THE BUSINESS WERE
7 CONDUCTED BY THE AGENTS OR OFFICERS OF SUCH CORPORATION. A DISSOLVED
8 CORPORATION WHICH CONTINUES TO CONDUCT BUSINESS SHALL ALSO BE SUBJECT TO
9 THE TAX IMPOSED BY THIS SUBCHAPTER.

10 4. (A) CORPORATIONS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE,
11 ANY TRUST COMPANY ORGANIZED UNDER A LAW OF THIS STATE ALL OF THE STOCK
12 OF WHICH IS OWNED BY NOT LESS THAN TWENTY SAVINGS BANKS ORGANIZED UNDER
13 A LAW OF THIS STATE, HOUSING COMPANIES ORGANIZED AND OPERATING PURSUANT
14 TO THE PROVISIONS OF ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW,
15 HOUSING DEVELOPMENT FUND COMPANIES ORGANIZED PURSUANT TO THE PROVISIONS
16 OF ARTICLE ELEVEN OF THE PRIVATE HOUSING FINANCE LAW, CORPORATIONS
17 DESCRIBED IN SECTION THREE OF THE TAX LAW, A CORPORATION PRINCIPALLY
18 ENGAGED IN THE OPERATION OF MARINE VESSELS WHOSE ACTIVITIES IN THE CITY
19 ARE LIMITED EXCLUSIVELY TO THE USE OF PROPERTY IN INTERSTATE OR FOREIGN
20 COMMERCE, PROVIDED, HOWEVER, SUCH A CORPORATION WILL NOT BE SUBJECT TO
21 TAX UNDER THIS SUBCHAPTER SOLELY BECAUSE IT MAINTAINS AN OFFICE IN THE
22 CITY, OR EMPLOYS CAPITAL IN THE CITY, IN CONNECTION WITH SUCH USE OF
23 PROPERTY, A CORPORATION PRINCIPALLY ENGAGED IN THE CONDUCT OF A FERRY
24 BUSINESS AND OPERATING BETWEEN ANY OF THE BOROUGHES OF THE CITY UNDER A
25 LEASE GRANTED BY THE CITY AND A CORPORATION PRINCIPALLY ENGAGED IN THE
26 CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO
27 OR MORE OF SUCH BUSINESSES, ALL OF THE CAPITAL STOCK OF WHICH IS OWNED
28 BY A MUNICIPAL CORPORATION OF THIS STATE, SHALL NOT BE SUBJECT TO TAX
29 UNDER THIS SUBCHAPTER; PROVIDED, HOWEVER, THAT ANY CORPORATION, OTHER
30 THAN (1) A UTILITY CORPORATION SUBJECT TO THE SUPERVISION OF THE STATE
31 DEPARTMENT OF PUBLIC SERVICE, AND (2) FOR TAXABLE YEARS BEGINNING ON OR
32 AFTER AUGUST FIRST, TWO THOUSAND TWO, A UTILITY AS DEFINED IN SUBDIVI-
33 SION SIX OF SECTION 11-1101 OF THIS TITLE, WHICH IS SUBJECT TO TAX UNDER
34 CHAPTER ELEVEN OF THIS TITLE AS A VENDOR OF UTILITY SERVICES, SHALL BE
35 SUBJECT TO TAX UNDER THIS SUBCHAPTER, BUT IN COMPUTING THE TAX IMPOSED
36 BY THIS SECTION PURSUANT TO THE PROVISIONS OF CLAUSE (I) OF SUBPARAGRAPH
37 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS
38 SUBCHAPTER, BUSINESS INCOME ALLOCATED TO THE CITY PURSUANT TO PARAGRAPH
39 (A) OF SUBDIVISION THREE OF SUCH SECTION SHALL BE REDUCED BY THE
40 PERCENTAGE WHICH SUCH CORPORATION'S GROSS OPERATING INCOME SUBJECT TO
41 TAX UNDER CHAPTER ELEVEN OF THIS TITLE IS OF ITS GROSS OPERATING INCOME.

42 (B) THE TERM "GROSS OPERATING INCOME", WHEN USED IN PARAGRAPH (A) OF
43 THIS SUBDIVISION, MEANS RECEIPTS RECEIVED IN OR BY REASON OF ANY TRANS-
44 ACTION HAD AND CONSUMMATED IN THE CITY, INCLUDING CASH, CREDITS AND
45 PROPERTY OF ANY KIND OR NATURE (WHETHER OR NOT SUCH TRANSACTION IS MADE
46 FOR PROFIT), WITHOUT ANY DEDUCTION THEREFROM ON ACCOUNT OF THE COST OF
47 THE PROPERTY SOLD, THE COST OF MATERIALS USED, LABOR OR OTHER SERVICES,
48 DELIVERY COSTS OR ANY OTHER COSTS WHATSOEVER, INTEREST OR DISCOUNT PAID
49 OR ANY OTHER EXPENSES WHATSOEVER.

50 (C) IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT THE APPLI-
51 CATION OF THE PROVISO OF PARAGRAPH (A) OF THIS SUBDIVISION, DOES NOT
52 FAIRLY AND EQUITABLY REFLECT THE PORTION OF THE TAXPAYER'S BUSINESS
53 INCOME ALLOCABLE TO THE CITY WHICH IS ATTRIBUTABLE TO ITS CITY ACTIV-
54 ITIES WHICH ARE NOT TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE, THE
55 COMMISSIONER OF FINANCE MAY PRESCRIBE OTHER MEANS OR METHODS OF DETER-
56 MINING SUCH PORTION, INCLUDING THE USE OF THE BOOKS AND RECORDS OF THE

1 TAXPAYER, IF THE COMMISSIONER OF FINANCE FINDS THAT SUCH MEANS OR METH-
2 ODS USED IN KEEPING THEM FAIRLY AND EQUITABLY REFLECT SUCH PORTION.

3 5. INTENTIONALLY OMITTED.

4 6. INTENTIONALLY OMITTED.

5 7. FOR ANY TAXABLE YEAR OF A REAL ESTATE INVESTMENT TRUST, AS DEFINED
6 IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, IN
7 WHICH SUCH TRUST IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION
8 EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUCH TRUST SHALL BE SUBJECT TO A
9 TAX COMPUTED UNDER EITHER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH
10 (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, OR CLAUSE
11 (IV), WHICHEVER IS GREATER. IN THE CASE OF SUCH A REAL ESTATE INVESTMENT
12 TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS
13 CHAPTER, THE TERM "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT
14 TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF
15 SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED
16 FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER
17 PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN
18 OF SUCH CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SUBDIVISION EIGHT
19 OF SECTION 11-652 OF THIS SUBCHAPTER INCLUDING THE MODIFICATIONS
20 REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF SECTION
21 11-654 OF THIS SUBCHAPTER.

22 8. FOR ANY TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY, AS DEFINED
23 IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, IN
24 WHICH SUCH COMPANY IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION
25 EIGHT HUNDRED FIFTY-TWO OF SUCH CODE, SUCH COMPANY SHALL BE SUBJECT TO A
26 TAX COMPUTED UNDER EITHER CLAUSE ONE OR FOUR OF SUBPARAGRAPH (A) OF
27 PARAGRAPH E OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER,
28 WHICHEVER IS GREATER. IN THE CASE OF SUCH A REGULATED INVESTMENT COMPA-
29 NY, INCLUDING A CAPTIVE RIC AS DEFINED IN SECTION 11-601 OF THIS CHAP-
30 TER, THE TERM "ENTIRE NET INCOME" USED IN SUBDIVISION ONE OF THIS
31 SECTION MEANS "INVESTMENT COMPANY TAXABLE INCOME" AS DEFINED IN PARA-
32 GRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO, AS
33 MODIFIED BY SECTION EIGHT HUNDRED FIFTY-FIVE, OF THE INTERNAL REVENUE
34 CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF
35 SECTION EIGHT HUNDRED FIFTY-TWO OF SUCH CODE SUBJECT TO THE MODIFICA-
36 TIONS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAP-
37 TER, INCLUDING THE MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF
38 SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.

39 9. AN ORGANIZATION DESCRIBED IN PARAGRAPH TWO OR TWENTY-FIVE OF
40 SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE
41 SHALL BE EXEMPT FROM ALL TAXES IMPOSED BY THIS SUBCHAPTER.

42 S 11-654 COMPUTATION OF TAX. 1. (A) INTENTIONALLY OMITTED.

43 (B) INTENTIONALLY OMITTED.

44 (C) INTENTIONALLY OMITTED.

45 (D) INTENTIONALLY OMITTED.

46 (E) THE TAX IMPOSED BY SUBDIVISION ONE OF SECTION 11-653 OF THIS
47 SUBCHAPTER SHALL BE, IN THE CASE OF EACH TAXPAYER:

48 (1) WHICHEVER OF THE FOLLOWING AMOUNTS IS THE GREATEST:

49 (I) AN AMOUNT COMPUTED ON ITS BUSINESS INCOME OR THE PORTION OF SUCH
50 BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED,
51 SUBJECT TO THE APPLICATION OF PARAGRAPHS (J) AND (K) OF THIS SUBDIVISION
52 AND ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION
53 THREE OF THIS SECTION, AT THE RATE OF (1) NINE PER CENTUM FOR FINANCIAL
54 CORPORATIONS, AS DEFINED IN THIS CLAUSE, OR (2) EIGHT AND EIGHTY-FIVE
55 ONE HUNDREDTHS PER CENTUM FOR ALL OTHER CORPORATIONS. FOR PURPOSES OF
56 THIS CLAUSE, "FINANCIAL CORPORATION" MEANS A CORPORATION OR, IF THE

1 CORPORATION IS INCLUDED IN A COMBINED GROUP, A COMBINED GROUP, THAT (A)
2 HAS TOTAL ASSETS REFLECTED ON ITS BALANCE SHEET AT THE END OF ITS TAXA-
3 BLE YEAR IN EXCESS OF ONE HUNDRED BILLION DOLLARS, COMPUTED UNDER GENER-
4 ALLY ACCEPTED ACCOUNTING PRINCIPLES AND (B)(I) ALLOCATES MORE THAN FIFTY
5 PERCENT OF THE RECEIPTS INCLUDED IN THE DENOMINATOR OF ITS RECEIPTS
6 FRACTION, DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER, PURSUANT
7 TO SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER FOR ITS TAXA-
8 BLE YEAR, OR (II) IS ITSELF OR IS INCLUDED IN A COMBINED GROUP IN WHICH
9 MORE THAN FIFTY PERCENT OF THE TOTAL ASSETS REFLECTED ON ITS BALANCE
10 SHEET AT THE END OF ITS TAXABLE YEAR ARE HELD BY ONE OR MORE CORPO-
11 RATIONS THAT ARE CLASSIFIED AS (A) REGISTERED UNDER STATE LAW AS A BANK
12 HOLDING COMPANY OR REGISTERED UNDER THE FEDERAL BANK HOLDING COMPANY ACT
13 OF 1956 (12 U.S.C. S 1841, ET SEQ., AS AMENDED), OR REGISTERED AS A
14 SAVINGS AND LOAN HOLDING COMPANY UNDER THE FEDERAL NATIONAL HOUSING ACT
15 (12 U.S.C. 1701, AS AMENDED), (B) A NATIONAL BANK ORGANIZED AND EXISTING
16 AS A NATIONAL BANK ASSOCIATION PURSUANT TO THE PROVISIONS OF THE
17 NATIONAL BANK ACT, 12 U.S.C. 21 ET. SEQ., (C) A SAVINGS ASSOCIATION OR
18 FEDERAL SAVINGS BANK AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT, 12
19 U.S.C. S 1813(B)(1), (D) A BANK, SAVINGS ASSOCIATION, OR THRIFT INSTITU-
20 TION INCORPORATED OR ORGANIZED UNDER THE LAWS OF ANY STATE, (E) A CORPO-
21 RATION ORGANIZED UNDER THE PROVISIONS OF 12 U.S.C. SS 611 TO 631, (F) AN
22 AGENCY OR BRANCH OR A FOREIGN DEPOSITORY AS DEFINED IN 12 U.S.C. S 3101,
23 (G) A REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER REGISTERED
24 AS SUCH BY THE SECURITIES AND EXCHANGE COMMISSION OR THE COMMODITIES
25 FUTURES TRADING COMMISSION, WHICH SHALL INCLUDE AN OTC DERIVATIVES DEAL-
26 ER AS DEFINED UNDER REGULATIONS OF THE SECURITIES AND EXCHANGE COMMIS-
27 SION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE OF FEDERAL REGU-
28 LATIONS (17 CFR 240.3B-12), OR (H) ANY CORPORATION WHOSE VOTING STOCK IS
29 MORE THAN FIFTY PERCENT OWNED, DIRECTLY OR INDIRECTLY, BY ANY PERSON OR
30 BUSINESS ENTITY DESCRIBED IN SUBITEMS (A) THROUGH (G) OF THIS ITEM,
31 OTHER THAN AN INSURANCE COMPANY TAXABLE UNDER ARTICLE THIRTY-THREE OF
32 THE TAX LAW; OR

33 (II) AN AMOUNT COMPUTED BY MULTIPLYING ITS TOTAL BUSINESS CAPITAL, OR
34 THE PORTION THEREOF ALLOCATED WITHIN THE CITY, AS HEREINAFTER PROVIDED,

35 (A) EXCEPT AS PROVIDED IN SUBCLAUSES (B) AND (C) OF THIS CLAUSE, BY
36 FIFTEEN ONE-HUNDREDTHS PER CENTUM;

37 (B) IN THE CASE OF A COOPERATIVE HOUSING CORPORATION AS DEFINED IN THE
38 INTERNAL REVENUE CODE, BY FOUR ONE-HUNDREDTHS PER CENTUM;

39 (C) IN THE CASE OF THE PORTION OF TOTAL BUSINESS CAPITAL DIRECTLY
40 ATTRIBUTABLE TO A CORPORATION THAT IS OR WOULD BE TAXABLE UNDER CHAPTER
41 ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS
42 TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER) OR
43 A CORPORATION THAT WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION
44 UNDER FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE
45 CODE OF THE CITY OF NEW YORK AS IN EFFECT ON JUNE THIRTIETH, NINETEEN
46 HUNDRED SEVENTY-FOUR, BY SEVEN AND ONE-HALF ONE-HUNDREDTHS PER CENTUM;
47 AND

48 (D) SUBTRACTING TEN THOUSAND DOLLARS FROM THE SUM OF THE AMOUNT OF TAX
49 COMPUTED PURSUANT TO SUBCLAUSES (A), (B) AND (C) OF THIS CLAUSE,
50 PROVIDED THAT IF SUCH AMOUNT OF TAX IS LESS THAN ZERO IT SHALL BE DEEMED
51 TO BE ZERO; AND

52 (E) PROVIDED THAT IN NO EVENT SHALL THE AMOUNT OF TAX COMPUTED PURSU-
53 ANT TO SUBCLAUSE (D) OF THIS CLAUSE ON THE TAXPAYER'S TOTAL BUSINESS
54 CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE CITY, EXCEED TEN
55 MILLION DOLLARS, OR

56 (III) INTENTIONALLY OMITTED.

1	(IV) IF NEW YORK CITY RECEIPTS ARE:	FIXED DOLLAR MINIMUM
2		TAX IS:
3	NOT MORE THAN \$100,000	\$25
4	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$75
5	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$175
6	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$500
7	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,500
8	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,500
9	MORE THAN \$25,000,000 BUT NOT OVER \$50,000,000	\$5,000
10	MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
11	MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
12	MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
13	MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
14	OVER \$1,000,000,000	\$200,000

15 FOR PURPOSES OF THIS CLAUSE, NEW YORK CITY RECEIPTS ARE THE RECEIPTS
16 COMPUTED IN ACCORDANCE WITH SECTION 11-654.2 OF THIS SUBCHAPTER FOR THE
17 TAXABLE YEAR. IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT
18 PRESCRIBED BY THIS CLAUSE SHALL BE REDUCED BY TWENTY-FIVE PERCENT IF THE
19 PERIOD FOR WHICH THE TAXPAYER IS SUBJECT TO TAX IS MORE THAN SIX MONTHS
20 BUT NOT MORE THAN NINE MONTHS AND BY FIFTY PERCENT IF THE PERIOD FOR
21 WHICH THE TAXPAYER IS SUBJECT TO TAX IS NOT MORE THAN SIX MONTHS. IF THE
22 TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW YORK CITY
23 RECEIPTS FOR PURPOSES OF THIS CLAUSE IS DETERMINED BY DIVIDING THE
24 AMOUNT OF THE RECEIPTS FOR THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN
25 THE TAXABLE YEAR AND MULTIPLYING THE RESULT BY TWELVE.

26 (F) INTENTIONALLY OMITTED.

27 (G) INTENTIONALLY OMITTED.

28 (H) INTENTIONALLY OMITTED.

29 (I) INTENTIONALLY OMITTED.

30 (J) (1) IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS
31 HEREINAFTER PROVIDED IS LESS THAN ONE MILLION DOLLARS, THE AMOUNT
32 COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS
33 SUBDIVISION SHALL BE AT THE RATE OF SIX AND FIVE-TENTHS PER CENTUM OF
34 THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER
35 PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E)
36 OF SUBDIVISION THREE OF THIS SECTION;

37 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE AMOUNT OF
38 BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS ONE
39 MILLION DOLLARS OR GREATER BUT LESS THAN ONE MILLION FIVE HUNDRED THOU-
40 SAND DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF
41 PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF (I) SIX AND
42 FIVE-TENTHS PER CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER
43 CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED
44 BUSINESS INCOME LESS ONE MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS
45 FIVE HUNDRED THOUSAND DOLLARS, OF THE AMOUNT OF BUSINESS INCOME ALLO-
46 CATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICA-
47 TION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS
48 SECTION;

49 (3) PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF
50 THE AMOUNT OF BUSINESS INCOME BEFORE ALLOCATION IS TWO MILLION DOLLARS
51 OR GREATER BUT LESS THAN THREE MILLION DOLLARS, THE RATE OF TAX PROVIDED
52 FOR IN THIS PARAGRAPH SHALL NOT BE LESS THAN (I) SIX AND FIVE-TENTHS PER
53 CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER CENTUM MULTI-
54 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS BUSINESS INCOME BEFORE
55 ALLOCATION LESS TWO MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS ONE
56 MILLION DOLLARS, AND PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE

1 CONTRARY, IF THE AMOUNT OF BUSINESS INCOME BEFORE ALLOCATION IS THREE
2 MILLION DOLLARS OR GREATER, THE RATE OF TAX SHALL BE EIGHT AND
3 EIGHTY-FIVE ONE-HUNDREDTHS PERCENTUM OR, IN THE CASE OF A FINANCIAL
4 CORPORATION, AS DEFINED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH
5 (E) OF SUBDIVISION ONE OF SECTION 11-654, IF THE AMOUNT OF BUSINESS
6 INCOME BEFORE ALLOCATION IS THREE MILLION DOLLARS OR GREATER THE RATE OF
7 TAX SHALL BE NINE PER CENTUM.

8 (K)(1) FOR QUALIFIED NEW YORK MANUFACTURING CORPORATIONS AS DEFINED IN
9 SUBPARAGRAPH FOUR OF THIS PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME
10 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS LESS THAN TEN
11 MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE
12 OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF FOUR AND
13 FOUR HUNDRED TWENTY-FIVE ONE THOUSANDTHS PER CENTUM, OF ITS BUSINESS
14 INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY
15 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF
16 THIS SECTION;

17 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH FOR QUALIFIED NEW
18 YORK MANUFACTURING CORPORATIONS AS DEFINED IN SUBPARAGRAPH FOUR OF THIS
19 PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS
20 HEREINAFTER PROVIDED IS TEN MILLION DOLLARS OR GREATER BUT LESS THAN
21 TWENTY MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARA-
22 GRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF
23 (I) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUSANDTHS PER CENTUM, PLUS
24 (II) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUSANDTHS PER CENTUM MULTI-
25 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED BUSINESS INCOME
26 LESS TEN MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS TEN MILLION
27 DOLLARS, OF ITS BUSINESS INCOME OR THE PORTION OF SUCH BUSINESS INCOME
28 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY
29 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF
30 THIS SECTION;

31 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF BUSI-
32 NESS INCOME BEFORE ALLOCATION IS TWENTY MILLION DOLLARS OR GREATER BUT
33 LESS THAN FORTY MILLION DOLLARS, THE RATE OF TAX PROVIDED FOR IN THIS
34 PARAGRAPH SHALL NOT BE LESS THAN (I) FOUR AND FOUR HUNDRED TWENTY-FIVE
35 ONE THOUSANDTHS PERCENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-FIVE
36 ONE THOUSANDTHS PERCENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF
37 WHICH IS BUSINESS INCOME BEFORE ALLOCATION LESS TWENTY MILLION DOLLARS
38 AND THE DENOMINATOR OF WHICH IS TWENTY MILLION DOLLARS, AND PROVIDED,
39 HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF
40 BUSINESS INCOME BEFORE ALLOCATION IS FORTY MILLION DOLLARS OR GREATER,
41 THE RATE OF TAX SHALL BE EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS PER
42 CENTUM.

43 (4)(I) AS USED IN THIS SUBPARAGRAPH, THE TERM "MANUFACTURING CORPO-
44 RATION" MEANS A CORPORATION PRINCIPALLY ENGAGED IN THE MANUFACTURING AND
45 SALE THEREOF OF TANGIBLE PERSONAL PROPERTY; AND THE TERM "MANUFACTURING"
46 INCLUDES THE PROCESS (INCLUDING THE ASSEMBLY PROCESS) (A) OF WORKING RAW
47 MATERIALS INTO WARES SUITABLE FOR USE OR (B) WHICH GIVES NEW SHAPES, NEW
48 QUALITIES OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH
49 SOME ARTIFICIAL PROCESS, BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND
50 OTHER SIMILAR EQUIPMENT. MOREOVER, IN THE CASE OF A COMBINED REPORT, A
51 COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURING CORPORATION" FOR
52 PURPOSES OF THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE
53 TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS
54 PARAGRAPH, OR ANY COMBINATION THEREOF. A TAXPAYER OR, IN THE CASE OF A
55 COMBINED REPORT, A COMBINED GROUP, SHALL BE "PRINCIPALLY ENGAGED" IN
56 ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY

1 PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPEC-
2 TIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY
3 SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTER-
4 CORPORATE RECEIPTS SHALL BE ELIMINATED.

5 (II) A "QUALIFIED NEW YORK MANUFACTURING CORPORATION" IS A MANUFACTUR-
6 ING CORPORATION THAT HAS PROPERTY IN THE STATE WHICH IS DESCRIBED IN
7 SUBPARAGRAPH FIVE OF THIS PARAGRAPH AND EITHER (A) THE ADJUSTED BASIS OF
8 SUCH PROPERTY FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXA-
9 BLE YEAR IS AT LEAST ONE MILLION DOLLARS OR (B) MORE THAN FIFTY PERCENT-
10 TUM OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN THE STATE.

11 (5) FOR PURPOSES OF SUBCLAUSE (A) OF CLAUSE (II) OF SUBPARAGRAPH FOUR
12 OF THIS PARAGRAPH, PROPERTY INCLUDES TANGIBLE PERSONAL PROPERTY AND
13 OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS
14 OF BUILDINGS, WHICH ARE: DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED
15 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVE A USEFUL LIFE OF FOUR
16 YEARS OR MORE, ARE ACQUIRED BY PURCHASE AS DEFINED IN SUBSECTION (D) OF
17 SECTION ONE HUNDRED SEVENTY-NINE OF THE INTERNAL REVENUE CODE, HAVE A
18 SITUS IN THE STATE AND ARE PRINCIPALLY USED BY THE TAXPAYER IN THE
19 PRODUCTION OF GOODS BY MANUFACTURING. PROPERTY USED IN THE PRODUCTION OF
20 GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY
21 WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY,
22 EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION
23 OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERA-
24 TION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE
25 PRODUCTS THAT ARE PRODUCED.

26 2. THE AMOUNT OF INVESTMENT CAPITAL AND BUSINESS CAPITAL SHALL BE
27 DETERMINED BY TAKING THE AVERAGE VALUE OF THE GROSS ASSETS INCLUDED
28 THEREIN (LESS LIABILITIES DEDUCTIBLE THEREFROM PURSUANT TO THE
29 PROVISIONS OF SUBDIVISIONS FOUR AND SIX OF SECTION 11-652 OF THIS
30 SUBCHAPTER), AND, IF THE PERIOD COVERED BY THE REPORT IS OTHER THAN A
31 PERIOD OF TWELVE CALENDAR MONTHS, BY MULTIPLYING SUCH VALUE BY THE
32 NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF INCLUDED IN SUCH PERI-
33 OD, AND DIVIDING THE PRODUCT THUS OBTAINED BY TWELVE. FOR PURPOSES OF
34 THIS SUBDIVISION, REAL PROPERTY AND MARKETABLE SECURITIES SHALL BE
35 VALUED AT FAIR MARKET VALUE AND THE VALUE OF PERSONAL PROPERTY OTHER
36 THAN MARKETABLE SECURITIES SHALL BE THE VALUE THEREOF SHOWN ON THE BOOKS
37 AND RECORDS OF THE TAXPAYER IN ACCORDANCE WITH GENERALLY ACCEPTED
38 ACCOUNTING PRINCIPLES.

39 3. THE PORTION OF THE BUSINESS INCOME OF A TAXPAYER TO BE ALLOCATED TO
40 THE CITY SHALL BE DETERMINED AS FOLLOWS:

41 (A) MULTIPLY ITS BUSINESS INCOME BY A BUSINESS ALLOCATION PERCENTAGE
42 TO BE DETERMINED BY:

43 (1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE TAXPAY-
44 ER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT,
45 WITHIN THE CITY DURING THE PERIOD COVERED BY ITS REPORT BEARS TO THE
46 AVERAGE VALUE OF ALL THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY,
47 WHETHER OWNED OR RENTED TO IT, WHEREVER SITUATED DURING SUCH PERIOD. FOR
48 THE PURPOSE OF THIS SUBPARAGRAPH, THE TERM "VALUE OF THE TAXPAYER'S REAL
49 AND TANGIBLE PERSONAL PROPERTY" SHALL MEAN THE ADJUSTED BASES OF SUCH
50 PROPERTIES FOR FEDERAL INCOME TAX PURPOSES (EXCEPT THAT IN THE CASE OF
51 RENTED PROPERTY SUCH VALUE SHALL MEAN THE PRODUCT OF (I) EIGHT AND (II)
52 THE GROSS RENTS PAYABLE FOR THE RENTAL OF SUCH PROPERTY DURING THE TAXA-
53 BLE YEAR); PROVIDED, HOWEVER, THAT THE TAXPAYER MAY MAKE A ONE-TIME,
54 REVOCABLE ELECTION, PURSUANT TO REGULATIONS PROMULGATED BY THE COMMIS-
55 SIONER OF FINANCE TO USE FAIR MARKET VALUE AS THE VALUE OF ALL OF ITS
56 REAL AND TANGIBLE PERSONAL PROPERTY, PROVIDED THAT SUCH ELECTION IS MADE

1 ON OR BEFORE THE DUE DATE FOR FILING A REPORT UNDER SECTION 11-655 OF
2 THIS SUBCHAPTER FOR THE TAXPAYER'S FIRST TAXABLE YEAR COMMENCING ON OR
3 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND PROVIDED THAT SUCH
4 ELECTION SHALL NOT APPLY TO ANY TAXABLE YEAR WITH RESPECT TO WHICH THE
5 TAXPAYER IS INCLUDED ON A COMBINED REPORT UNLESS EACH OF THE TAXPAYERS
6 INCLUDED ON SUCH REPORT HAS MADE SUCH AN ELECTION WHICH REMAINS IN
7 EFFECT FOR SUCH YEAR OR TO ANY TAXPAYER THAT WAS SUBJECT TO TAX UNDER
8 SUBCHAPTER TWO OF THIS CHAPTER AND DID NOT HAVE AN ELECTION IN EFFECT
9 UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
10 11-604 OF THIS CHAPTER ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;

11 (2) ASCERTAINING THE PERCENTAGE DETERMINED UNDER SECTION 11-654.2 OF
12 THIS SUBCHAPTER;

13 (3) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER
14 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF
15 EMPLOYEES WITHIN THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS, TO THE
16 TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY
17 COMPUTED, DURING SUCH PERIOD OF ALL THE TAXPAYER'S EMPLOYEES WITHIN AND
18 WITHOUT THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

19 (4) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE
20 RESULT BY THE NUMBER OF PERCENTAGES.

21 (5) INTENTIONALLY OMITTED.

22 (6) INTENTIONALLY OMITTED.

23 (7) INTENTIONALLY OMITTED.

24 (8) INTENTIONALLY OMITTED.

25 (9) INTENTIONALLY OMITTED.

26 (10) NOTWITHSTANDING SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH,
27 THE BUSINESS ALLOCATION PERCENTAGE, TO THE EXTENT THAT IT IS COMPUTED BY
28 REFERENCE TO THE PERCENTAGES DETERMINED UNDER SUBPARAGRAPHS ONE, TWO AND
29 THREE OF THIS PARAGRAPH, SHALL BE COMPUTED IN THE MANNER SET FORTH IN
30 THIS SUBPARAGRAPH.

31 (I) INTENTIONALLY OMITTED.

32 (II) INTENTIONALLY OMITTED.

33 (III) INTENTIONALLY OMITTED.

34 (IV) INTENTIONALLY OMITTED.

35 (V) INTENTIONALLY OMITTED.

36 (VI) INTENTIONALLY OMITTED.

37 (VII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSI-
38 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
39 FOLLOWING PERCENTAGES:

40 (A) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER
41 SUBPARAGRAPH ONE OF THIS PARAGRAPH;

42 (B) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER
43 SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND

44 (C) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER
45 SUBPARAGRAPH THREE OF THIS PARAGRAPH.

46 (VIII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSI-
47 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
48 FOLLOWING PERCENTAGES:

49 (A) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-
50 MINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;

51 (B) THE PRODUCT OF EIGHTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED
52 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND

53 (C) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-
54 MINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

1 (IX) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSI-
2 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
3 FOLLOWING PERCENTAGES:

4 (A) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE
5 DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;

6 (B) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED
7 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND

8 (C) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE
9 DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

10 (X) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND SEVENTEEN, THE
11 BUSINESS ALLOCATION PERCENTAGE SHALL BE THE PERCENTAGE DETERMINED UNDER
12 SUBPARAGRAPH TWO OF THIS PARAGRAPH.

13 (XI) THE COMMISSIONER OF FINANCE SHALL PROMULGATE RULES NECESSARY TO
14 IMPLEMENT THE PROVISIONS OF THIS SUBPARAGRAPH UNDER SUCH CIRCUMSTANCES
15 WHERE ANY OF THE PERCENTAGES TO BE DETERMINED UNDER SUBPARAGRAPH ONE,
16 TWO OR THREE OF THIS PARAGRAPH CANNOT BE DETERMINED BECAUSE THE TAXPAYER
17 HAS NO PROPERTY, RECEIPTS OR WAGES WITHIN OR WITHOUT THE CITY.

18 (XII) NOTWITHSTANDING THE PROVISIONS OF CLAUSES (VIII), (IX), AND (X)
19 OF THIS SUBPARAGRAPH, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY
20 FIRST, TWO THOUSAND EIGHTEEN, A TAXPAYER THAT HAS FIFTY MILLION DOLLARS
21 OR LESS OF RECEIPTS ALLOCATED TO THE CITY AS DETERMINED UNDER SECTION
22 11-654.2 OF THIS SUBCHAPTER, OR, IF THE TAXPAYER IS INCLUDED IN A
23 COMBINED GROUP, A COMBINED GROUP THAT HAS FIFTY MILLION DOLLARS OR LESS
24 OF RECEIPTS ALLOCATED TO THE CITY AS DETERMINED UNDER SECTION 11-654.2
25 OF THIS SUBCHAPTER, MAY MAKE A ONE-TIME ELECTION TO DETERMINE ITS BUSI-
26 NESS ALLOCATION PERCENTAGE BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

27 (A) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE
28 DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;

29 (B) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED
30 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND

31 (C) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE
32 DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

33 THE ELECTION PROVIDED FOR IN THIS CLAUSE MUST BE MADE ON AN ORIGINAL
34 OR AMENDED REPORT FILED PURSUANT TO SECTION 11-655 OF THIS SUBCHAPTER
35 FOR THE TAXPAYER'S OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP,
36 THE COMBINED GROUP'S, FIRST TAXABLE YEAR COMMENCING ON OR AFTER JANUARY
37 FIRST, TWO THOUSAND EIGHTEEN AND SHALL REMAIN IN EFFECT UNTIL REVOKED BY
38 THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP, THE
39 COMBINED GROUP. AN ELECTION SHALL BE REVOKED UNDER THIS CLAUSE ON AN
40 ORIGINAL OR AMENDED REPORT FILED PURSUANT TO SECTION 11-655 OF THIS
41 SUBCHAPTER FOR THE TAXPAYER'S, OR IF THE TAXPAYER IS INCLUDED IN A
42 COMBINED GROUP, THE COMBINED GROUP'S, FIRST TAXABLE YEAR WITH RESPECT TO
43 WHICH SUCH REVOCATION IS TO BE EFFECTIVE. IF THE TAXPAYER IS A MEMBER OF
44 A COMBINED GROUP, AN ELECTION OR REVOCATION BY THE TAXPAYER UNDER THIS
45 CLAUSE SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

46 (11) A FOREIGN AIR CARRIER DESCRIBED IN THE FIRST SENTENCE OF SUBPARA-
47 GRAPH ONE OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF SECTION 11-652 OF
48 THIS SUBCHAPTER SHALL DETERMINE ITS BUSINESS ALLOCATION PERCENTAGE
49 PURSUANT TO SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH, AS MODI-
50 FIED BY SUBPARAGRAPH TEN OF THIS PARAGRAPH, EXCEPT THAT THE NUMERATORS
51 AND DENOMINATORS INVOLVED IN SUCH COMPUTATION SHALL EXCLUDE PROPERTY TO
52 THE EXTENT EMPLOYED IN GENERATING INCOME EXCLUDED FROM ENTIRE NET INCOME
53 FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF
54 SECTION 11-652 OF THIS SUBCHAPTER, EXCLUDE SUCH RECEIPTS AS ARE EXCLUDED
55 FROM ENTIRE NET INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1)
56 OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, AND EXCLUDE

1 WAGES, SALARIES OR OTHER PERSONAL SERVICE COMPENSATION WHICH ARE DIRECT-
2 LY ATTRIBUTABLE TO THE GENERATION OF INCOME EXCLUDED FROM ENTIRE NET
3 INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION
4 EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER.

5 (B) INTENTIONALLY OMITTED.

6 (C) INTENTIONALLY OMITTED.

7 (D) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
8 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO
9 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION
10 11-604 OF THIS CHAPTER OR SUBDIVISION (K) OF SECTION 11-641 OF THIS
11 CHAPTER IN ANY PERIOD IN WHICH THE TAXPAYER WAS SUBJECT TO TAX UNDER
12 SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING INTO
13 THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN
14 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED
15 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN
16 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR
17 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO
18 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO
19 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION
20 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-
21 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR
22 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS
23 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
24 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

25 (E) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
26 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO
27 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION
28 11-604 OF THIS CHAPTER IN ANY PERIOD THE TAXPAYER WAS SUBJECT TO TAX
29 UNDER SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING
30 INTO THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN
31 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED
32 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN
33 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR
34 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO
35 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO
36 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION
37 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-
38 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR
39 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS
40 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
41 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

42 4. THE PORTION OF THE BUSINESS CAPITAL OF A TAXPAYER TO BE ALLOCATED
43 WITHIN THE CITY SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT THEREOF BY
44 THE BUSINESS ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED.

45 4-A. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE
46 TAX UNDER THIS SUBCHAPTER USING ANY METHOD REQUIRED OR PERMITTED IN
47 REGULATIONS OF THE COMMISSIONER OF FINANCE.

48 5. INTENTIONALLY OMITTED.

49 6. INTENTIONALLY OMITTED.

50 7. INTENTIONALLY OMITTED.

51 8. INTENTIONALLY OMITTED.

52 9. IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY BUSINESS
53 ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED DOES NOT PROP-
54 ERLY REFLECT THE ACTIVITY, BUSINESS, INCOME OR CAPITAL OF A TAXPAYER
55 WITHIN THE CITY, THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED IN HIS
56 OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY REQUEST THAT THE

1 COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE OR MORE OF THE
2 FACTORS THEREIN, (B) INCLUDING ONE OR MORE OTHER FACTORS, SUCH AS
3 EXPENSES, PURCHASES, CONTRACT VALUES (MINUS SUBCONTRACT VALUES), (C)
4 EXCLUDING ONE OR MORE ASSETS IN COMPUTING SUCH ALLOCATION PERCENTAGE,
5 PROVIDED THE INCOME THEREFROM, IS ALSO EXCLUDED IN DETERMINING ENTIRE
6 NET INCOME, OR (D) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO
7 EFFECT A FAIR AND PROPER ALLOCATION OF THE INCOME AND CAPITAL REASONABLY
8 ATTRIBUTABLE TO THE CITY. THE PARTY SEEKING THE ADJUSTMENT SHALL BEAR
9 THE BURDEN OF PROOF TO DEMONSTRATE THAT THE BUSINESS ALLOCATION PERCENT-
10 AGE DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER
11 REFLECTION OF THE TAXPAYER'S INCOME OR CAPITAL WITHIN THE CITY AND THAT
12 THE PROPOSED ADJUSTMENT IS APPROPRIATE. THE COMMISSIONER OF FINANCE
13 FROM TIME TO TIME SHALL PUBLISH ALL RULINGS OF GENERAL PUBLIC INTEREST
14 WITH RESPECT TO ANY APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION.

15 10. INTENTIONALLY OMITTED.

16 11. INTENTIONALLY OMITTED.

17 12. INTENTIONALLY OMITTED.

18 13. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A
19 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS
20 SUBCHAPTER TO BE CREDITED OR REFUNDED WITHOUT INTEREST, IN THE MANNER
21 HEREINAFTER PROVIDED IN THIS SECTION.

22 (1)(I) WHERE A TAXPAYER SHALL HAVE RELOCATED TO THE CITY FROM A
23 LOCATION OUTSIDE THE STATE, AND BY SUCH RELOCATION SHALL HAVE CREATED A
24 MINIMUM OF ONE HUNDRED INDUSTRIAL OR COMMERCIAL EMPLOYMENT OPPORTU-
25 NITIES; AND WHERE SUCH TAXPAYER SHALL HAVE ENTERED INTO A WRITTEN LEASE
26 FOR THE RELOCATION PREMISES, THE TERMS OF WHICH LEASE PROVIDE FOR
27 INCREASED ADDITIONAL PAYMENTS TO THE LANDLORD WHICH ARE BASED SOLELY AND
28 DIRECTLY UPON ANY INCREASE OR ADDITION IN REAL ESTATE TAXES IMPOSED ON
29 THE LEASED PREMISES, THE TAXPAYER UPON APPROVAL AND CERTIFICATION BY THE
30 INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD AS HEREINAFTER PROVIDED SHALL
31 BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE
32 AMOUNT OF SUCH CREDIT SHALL BE AN AMOUNT EQUAL TO THE ANNUAL INCREASED
33 PAYMENTS ACTUALLY MADE BY THE TAXPAYER TO THE LANDLORD WHICH ARE SOLELY
34 AND DIRECTLY ATTRIBUTABLE TO AN INCREASE OR ADDITION TO THE REAL ESTATE
35 TAX IMPOSED UPON THE LEASED PREMISES. SUCH CREDIT SHALL BE ALLOWED ONLY
36 TO THE EXTENT THAT THE TAXPAYER HAS NOT OTHERWISE CLAIMED SAID AMOUNT AS
37 A DEDUCTION AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER.

38 (II) THE INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD IN APPROVING AND
39 CERTIFYING TO THE QUALIFICATIONS OF THE TAXPAYER TO RECEIVE THE TAX
40 CREDIT PROVIDED FOR HEREIN SHALL FIRST DETERMINE THAT THE APPLICANT HAS
41 MET THE REQUIREMENTS OF THIS SECTION, AND FURTHER, THAT THE GRANTING OF
42 THE TAX CREDIT TO THE APPLICANT IS IN THE "PUBLIC INTEREST". IN DETER-
43 MINING THAT THE GRANTING OF THE TAX CREDIT IS IN THE PUBLIC INTEREST,
44 THE BOARD SHALL MAKE AFFIRMATIVE FINDINGS THAT: THE GRANTING OF THE TAX
45 CREDIT TO THE APPLICANT WILL NOT EFFECT AN UNDUE HARDSHIP ON SIMILAR
46 TAXPAYERS ALREADY LOCATED WITHIN THE CITY; THE EXISTENCE OF THIS TAX
47 INCENTIVE HAS BEEN INSTRUMENTAL IN BRINGING ABOUT THE RELOCATION OF THE
48 APPLICANT TO THE CITY; AND THE GRANTING OF THE TAX CREDIT WILL FOSTER
49 THE ECONOMIC RECOVERY AND ECONOMIC DEVELOPMENT OF THE CITY.

50 (III) THE TAX CREDIT, IF APPROVED AND CERTIFIED BY THE INDUSTRIAL AND
51 COMMERCIAL INCENTIVE BOARD, MUST BE UTILIZED ANNUALLY BY THE TAXPAYER
52 FOR THE LENGTH OF THE TERM OF THE LEASE OR FOR A PERIOD NOT TO EXCEED
53 TEN YEARS FROM THE DATE OF RELOCATION WHICHEVER PERIOD IS SHORTER.

54 (2) WHEN USED IN THIS SUBDIVISION:

(I) "EMPLOYMENT OPPORTUNITY" MEANS THE CREATION OF A FULL TIME POSITION OF GAINFUL EMPLOYMENT FOR AN INDUSTRIAL OR COMMERCIAL EMPLOYEE AND THE ACTUAL HIRING OF SUCH EMPLOYEE FOR THE SAID POSITION.

(II) "INDUSTRIAL EMPLOYEE" MEANS ONE ENGAGED IN THE MANUFACTURE OR ASSEMBLING OF TANGIBLE GOODS OR THE PROCESSING OF RAW MATERIALS.

(III) "COMMERCIAL EMPLOYEE" MEANS ONE ENGAGED IN THE BUYING, SELLING OR OTHERWISE PROVIDING OF GOODS OR SERVICES OTHER THAN ON A RETAIL BASIS.

(IV) "RETAIL" MEANS THE SELLING OR OTHERWISE DISPOSING OR FURNISHING OF TANGIBLE GOODS OR SERVICES DIRECTLY TO THE ULTIMATE USER OR CONSUMER.

(V) "FULL TIME POSITION" MEANS THE HIRING OF AN INDUSTRIAL OR COMMERCIAL EMPLOYEE IN A POSITION OF GAINFUL EMPLOYMENT WHERE THE NUMBER OF HOURS WORKED BY SUCH EMPLOYEES IS NOT LESS THAN THIRTY HOURS DURING ANY GIVEN WORK WEEK.

(VI) "INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD" MEANS THE BOARD CREATED PURSUANT TO PART THREE OF SUBCHAPTER TWO OF CHAPTER TWO OF THIS TITLE.

(B) 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 11-677 OF THIS CHAPTER.

14. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED WITHOUT INTEREST, IN THE MANNER HEREINAFTER PROVIDED IN THIS SECTION. THE AMOUNT OF SUCH CREDIT SHALL BE:

(1) A MAXIMUM OF THREE HUNDRED DOLLARS FOR EACH COMMERCIAL EMPLOYMENT OPPORTUNITY AND A MAXIMUM OF FIVE HUNDRED DOLLARS FOR EACH INDUSTRIAL EMPLOYMENT OPPORTUNITY RELOCATED TO THE CITY FROM AN AREA OUTSIDE THE STATE. SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER WHO RELOCATES A MINIMUM OF TEN EMPLOYMENT OPPORTUNITIES. THE CREDIT SHALL BE ALLOWED AGAINST EMPLOYMENT OPPORTUNITY RELOCATION COSTS INCURRED BY THE TAXPAYER. SUCH CREDIT SHALL BE ALLOWED ONLY TO THE EXTENT THAT THE TAXPAYER HAS NOT CLAIMED A DEDUCTION FOR ALLOWABLE EMPLOYMENT OPPORTUNITY RELOCATION COSTS. THE CREDIT ALLOWED HEREUNDER MAY BE TAKEN BY THE TAXPAYER IN WHOLE OR IN PART IN THE YEAR IN WHICH THE EMPLOYMENT OPPORTUNITY IS RELOCATED BY SUCH TAXPAYER OR EITHER OF THE TWO YEARS SUCCEEDING SUCH EVENT, PROVIDED, HOWEVER, NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO A TAXPAYER FOR INDUSTRIAL EMPLOYMENT OPPORTUNITIES RELOCATED TO PREMISES (I) THAT ARE WITHIN AN INDUSTRIAL BUSINESS ZONE ESTABLISHED PURSUANT TO SECTION 22-626 OF THIS CODE AND (II) FOR WHICH A BINDING CONTRACT TO PURCHASE OR LEASE WAS FIRST ENTERED INTO BY THE TAXPAYER ON OR AFTER JULY FIRST, TWO THOUSAND FIVE.

THE COMMISSIONER OF FINANCE IS EMPOWERED TO PROMULGATE RULES AND REGULATIONS AND TO PRESCRIBE THE FORM OF APPLICATION TO BE USED BY A TAXPAYER SEEKING THE CREDIT PROVIDED HEREUNDER.

(2) WHEN USED IN THIS SUBDIVISION:

(I) "EMPLOYMENT OPPORTUNITY" MEANS THE CREATION OF A FULL TIME POSITION OF GAINFUL EMPLOYMENT FOR AN INDUSTRIAL OR COMMERCIAL EMPLOYEE AND THE ACTUAL HIRING OF SUCH EMPLOYEE FOR THE SAID POSITION.

(II) "INDUSTRIAL EMPLOYEE" MEANS ONE ENGAGED IN THE MANUFACTURE OR ASSEMBLING OF TANGIBLE GOODS OR THE PROCESSING OF RAW MATERIALS.

(III) "COMMERCIAL EMPLOYEE" MEANS ONE ENGAGED IN THE BUYING, SELLING OR OTHERWISE PROVIDING OF GOODS OR SERVICES OTHER THAN ON A RETAIL BASIS.

1 (IV) "RETAIL" MEANS THE SELLING OR OTHERWISE DISPOSING OF TANGIBLE
2 GOODS DIRECTLY TO THE ULTIMATE USER OR CONSUMER.

3 (V) "FULL TIME POSITION" MEANS THE HIRING OF AN INDUSTRIAL OR COMMER-
4 CIAL EMPLOYEE IN A POSITION OF GAINFUL EMPLOYMENT WHERE THE NUMBER OF
5 HOURS WORKED BY SUCH EMPLOYEE IS NOT LESS THAN THIRTY HOURS DURING ANY
6 GIVEN WORK WEEK.

7 (VI) "EMPLOYMENT OPPORTUNITY RELOCATION COSTS" MEANS THE COSTS
8 INCURRED BY THE TAXPAYER IN MOVING FURNITURE, FILES, PAPERS AND OFFICE
9 EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS
10 INCURRED BY THE TAXPAYER IN THE MOVING AND INSTALLATION OF MACHINERY AND
11 EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS OF
12 INSTALLATION OF TELEPHONES AND OTHER COMMUNICATIONS EQUIPMENT REQUIRED
13 AS A RESULT OF THE RELOCATION TO THE CITY FROM A LOCATION OUTSIDE THE
14 STATE; THE COST INCURRED IN THE PURCHASE OF OFFICE FURNITURE AND
15 FIXTURES REQUIRED AS A RESULT OF THE RELOCATION TO THE CITY FROM A
16 LOCATION OUTSIDE THE STATE; AND THE COST OF RENOVATION OF THE PREMISES
17 TO BE OCCUPIED AS A RESULT OF THE RELOCATION; PROVIDED, HOWEVER, THAT
18 SUCH RENOVATION COSTS SHALL BE ALLOWABLE ONLY TO THE EXTENT THAT THEY DO
19 NOT EXCEED SEVENTY-FIVE CENTS PER SQUARE FOOT OF THE TOTAL AREA UTILIZED
20 BY THE TAXPAYER IN THE OCCUPIED PREMISES.

21 (B) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL
22 BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR
23 REFUNDED WITHOUT INTEREST IN ACCORDANCE WITH THE PROVISIONS OF SECTION
24 11-677 OF THIS CHAPTER.

25 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
26 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
27 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
28 FORTH IN SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER FOR AN
29 ELIGIBLE EMPLOYMENT RELOCATION, A CREDIT SHALL BE ALLOWED TO THE TAXPAY-
30 ER UNDER THIS SUBDIVISION FOR ANY TAX YEAR BEGINNING ON OR AFTER JANUARY
31 FIRST, TWO THOUSAND FIFTEEN, IN THE SAME AMOUNT AND TO THE SAME EXTENT
32 THAT A CREDIT, OR THE UNUSED PORTION THEREOF, WOULD HAVE BEEN ALLOWED
33 UNDER SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER, AS IN
34 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVI-
35 SION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

36 15. INTENTIONALLY OMITTED.

37 16. INTENTIONALLY OMITTED.

38 17. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A
39 TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-B
40 OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE
41 TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE
42 AMOUNT DETERMINED BY MULTIPLYING FIVE HUNDRED DOLLARS OR, IN THE CASE OF
43 A TAXPAYER THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE
44 TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST,
45 NINETEEN HUNDRED NINETY-FIVE, ONE THOUSAND DOLLARS OR, IN THE CASE OF AN
46 ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH
47 TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY
48 FIRST, TWO THOUSAND, FOR A RELOCATION TO ELIGIBLE PREMISES LOCATED WITH-
49 IN A REVITALIZATION AREA DEFINED IN SUBDIVISION (N) OF SECTION 22-621 OF
50 THIS CODE, THREE THOUSAND DOLLARS, BY THE NUMBER OF ELIGIBLE AGGREGATE
51 EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR
52 WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED;
53 PROVIDED, HOWEVER, WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION
54 FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO
55 THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE NOT WITHIN A REVITALIZA-
56 TION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO

1 SUBDIVISION (J) OF SECTION 22-621 OF THIS CODE IS BEFORE JULY FIRST,
2 NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER
3 OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS,
4 AND WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIFI-
5 CATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND
6 THREE, TO ELIGIBLE PREMISES THAT ARE WITHIN A REVITALIZATION AREA, IF
7 THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF
8 SUCH SECTION IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE
9 AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT
10 SHARES SHALL BE FIVE HUNDRED DOLLARS, AND IF THE DATE OF SUCH RELOCATION
11 AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS ON OR AFTER
12 JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, AND BEFORE JULY FIRST, TWO
13 THOUSAND, ONE THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NO CREDIT SHALL
14 BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES;
15 PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-
16 SION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF
17 SECTION 22-622 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS
18 TAX IMPOSED BY CHAPTER ELEVEN OF THIS TITLE; AND PROVIDED THAT IN THE
19 CASE OF AN ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B
20 OF SUCH TITLE TWENTY-TWO CERTIFICATIONS OF ELIGIBILITY FOR MORE THAN ONE
21 RELOCATION, THE PORTION OF THE TOTAL AMOUNT OF ELIGIBLE AGGREGATE
22 EMPLOYMENT SHARES TO BE MULTIPLIED BY THE DOLLAR AMOUNT SPECIFIED IN
23 THIS SUBDIVISION FOR EACH SUCH CERTIFICATION OF A RELOCATION SHALL BE
24 THE NUMBER OF TOTAL ATTRIBUTED ELIGIBLE AGGREGATE EMPLOYMENT SHARES
25 DETERMINED WITH RESPECT TO SUCH RELOCATION PURSUANT TO SUBDIVISION (O)
26 OF SECTION 22-621 OF THIS CODE. FOR PURPOSES OF THIS SUBDIVISION, THE
27 TERMS "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "RELOCATE," "RETAIL ACTIV-
28 ITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED BY SECTION
29 22-621 OF THIS CODE.

30 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE
31 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO PARTICULAR PREM-
32 ISSES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE FIRST
33 TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE
34 MAINTAINED WITH RESPECT TO SUCH PREMISES AND FOR ANY OF THE TWELVE
35 SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT
36 SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES; PROVIDED THAT THE
37 CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCU-
38 LATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES
39 MAINTAINED WITH RESPECT TO SUCH PREMISES IN THE TWELFTH SUCCEEDING TAXA-
40 BLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS
41 SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF
42 DAYS THE ELIGIBLE BUSINESS MAINTAINED EMPLOYMENT SHARES IN THE ELIGIBLE
43 PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH
44 IS THE NUMBER OF DAYS IN SUCH TWELFTH SUCCEEDING TAXABLE YEAR DURING
45 WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH
46 RESPECT TO SUCH PREMISES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS
47 SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-
48 SION FOR ANY TAXABLE YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE
49 EXCESS MAY BE CARRIED OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING
50 TAXABLE YEARS AND, TO THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE
51 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEARS.

52 (C) THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE DEDUCTED
53 AFTER THE CREDIT ALLOWED BY SUBDIVISION EIGHTEEN OF THIS SECTION, BUT
54 PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS SECTION.

55 (D) IN THE CASE OF A TAXPAYER THAT HAS OBTAINED A CERTIFICATION OF
56 ELIGIBILITY PURSUANT TO CHAPTER SIX-B OF TITLE TWENTY-TWO OF THIS CODE

1 DATED ON OR AFTER JULY FIRST, TWO THOUSAND FOR A RELOCATION TO ELIGIBLE
2 PREMISES LOCATED WITHIN THE REVITALIZATION AREA DEFINED IN SUBDIVISION
3 (N) OF SECTION 22-621 OF THIS CODE, THE CREDITS ALLOWED UNDER THIS
4 SUBDIVISION, OR IN THE CASE OF A TAXPAYER THAT HAS RELOCATED MORE THAN
5 ONCE, THE PORTION OF SUCH CREDITS ATTRIBUTED TO SUCH CERTIFICATION OF
6 ELIGIBILITY PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AGAINST THE
7 TAX IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF SUCH RELOCATION AND
8 FOR THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF
9 SUCH RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE
10 TAXPAYER TO BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE
11 WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE
12 YEARS, SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY
13 SUCCEEDING TAXABLE YEAR; PROVIDED, HOWEVER, THAT THIS PARAGRAPH SHALL
14 NOT APPLY TO ANY RELOCATION FOR WHICH AN APPLICATION FOR A CERTIFICATION
15 OF ELIGIBILITY WAS NOT SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND
16 THREE, UNLESS THE DATE OF SUCH RELOCATION IS ON OR AFTER JULY FIRST, TWO
17 THOUSAND.

18 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
19 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-
20 TER SIX-B OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-
21 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,
22 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION SEVENTEEN OF
23 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS CHAPTER FOR
24 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER
25 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR
26 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE
27 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION
28 SEVENTEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS
29 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,
30 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE
31 YEAR.

32 17-A. INTENTIONALLY OMITTED.

33 17-B. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, AN
34 ELIGIBLE BUSINESS THAT FIRST ENTERS INTO A BINDING CONTRACT ON OR AFTER
35 JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR LEASE ELIGIBLE PREMISES TO
36 WHICH IT RELOCATES SHALL BE ALLOWED A ONE-TIME CREDIT AGAINST THE TAX
37 IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED IN THE MANNER
38 HEREINAFTER PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF SUCH CREDIT
39 SHALL BE ONE THOUSAND DOLLARS PER FULL-TIME EMPLOYEE; PROVIDED, HOWEVER,
40 THAT THE AMOUNT OF SUCH CREDIT SHALL NOT EXCEED THE LESSER OF ACTUAL
41 RELOCATION COSTS OR ONE HUNDRED THOUSAND DOLLARS.

42 (B) WHEN USED IN THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE
43 FOLLOWING MEANINGS:

44 (1) "ELIGIBLE BUSINESS" MEANS ANY BUSINESS SUBJECT TO TAX UNDER THIS
45 SUBCHAPTER THAT (I) HAS BEEN CONDUCTING SUBSTANTIAL BUSINESS OPERATIONS
46 AND ENGAGING PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT ONE
47 OR MORE LOCATIONS WITHIN THE CITY OF NEW YORK OR OUTSIDE THE STATE OF
48 NEW YORK CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL MONTHS
49 IMMEDIATELY PRECEDING RELOCATION, (II) HAS LEASED THE PREMISES FROM
50 WHICH IT RELOCATES CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL
51 MONTHS IMMEDIATELY PRECEDING RELOCATION, (III) FIRST ENTERS INTO A BIND-
52 ING CONTRACT ON OR AFTER JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR
53 LEASE ELIGIBLE PREMISES TO WHICH SUCH BUSINESS WILL RELOCATE, AND (IV)
54 WILL BE ENGAGED PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT
55 SUCH ELIGIBLE PREMISES.

(2) "ELIGIBLE PREMISES" MEANS PREMISES LOCATED ENTIRELY WITHIN AN INDUSTRIAL BUSINESS ZONE. FOR ANY ELIGIBLE BUSINESS, AN INDUSTRIAL BUSINESS ZONE TAX CREDIT SHALL NOT BE GRANTED WITH RESPECT TO MORE THAN ONE ELIGIBLE PREMISES.

(3) "FULL-TIME EMPLOYEE" MEANS (I) ONE PERSON GAINFULLY EMPLOYED IN AN ELIGIBLE PREMISES BY AN ELIGIBLE BUSINESS WHERE THE NUMBER OF HOURS REQUIRED TO BE WORKED BY SUCH PERSON IS NOT LESS THAN THIRTY-FIVE HOURS PER WEEK; OR (II) TWO PERSONS GAINFULLY EMPLOYED IN AN ELIGIBLE PREMISES BY AN ELIGIBLE BUSINESS WHERE THE NUMBER OF HOURS REQUIRED TO BE WORKED BY EACH SUCH PERSON IS MORE THAN FIFTEEN HOURS PER WEEK BUT LESS THAN THIRTY-FIVE HOURS PER WEEK.

(4) "INDUSTRIAL BUSINESS ZONE" MEANS AN AREA WITHIN THE CITY OF NEW YORK ESTABLISHED PURSUANT TO SECTION 22-626 OF THIS CODE.

(5) "INDUSTRIAL BUSINESS ZONE TAX CREDIT" MEANS A CREDIT, AS PROVIDED FOR IN THIS SUBDIVISION, AGAINST A TAX IMPOSED UNDER THIS SUBCHAPTER.

(6) "INDUSTRIAL AND MANUFACTURING ACTIVITIES" MEANS ACTIVITIES INVOLVING THE ASSEMBLY OF GOODS TO CREATE A DIFFERENT ARTICLE, OR THE PROCESSING, FABRICATION, OR PACKAGING OF GOODS. INDUSTRIAL AND MANUFACTURING ACTIVITIES SHALL NOT INCLUDE WASTE MANAGEMENT OR UTILITY SERVICES.

(7) "RELOCATION" MEANS THE PHYSICAL RELOCATION OF FURNITURE, FIXTURES, EQUIPMENT, MACHINERY AND SUPPLIES DIRECTLY TO AN ELIGIBLE PREMISES, FROM ONE OR MORE LOCATIONS OF AN ELIGIBLE BUSINESS, INCLUDING AT LEAST ONE LOCATION AT WHICH SUCH BUSINESS CONDUCTS SUBSTANTIAL BUSINESS OPERATIONS AND ENGAGES PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES. FOR PURPOSES OF THIS SUBDIVISION, THE DATE OF RELOCATION SHALL BE (I) THE DATE OF THE COMPLETION OF THE RELOCATION TO THE ELIGIBLE PREMISES OR (II) NINETY DAYS FROM THE COMMENCEMENT OF THE RELOCATION TO THE ELIGIBLE PREMISES, WHICHEVER IS EARLIER.

(8) "RELOCATION COSTS" MEANS COSTS INCURRED IN THE RELOCATION OF SUCH FURNITURE, FIXTURES, EQUIPMENT, MACHINERY AND SUPPLIES, INCLUDING, BUT NOT LIMITED TO, THE COST OF DISMANTLING AND REASSEMBLING EQUIPMENT AND THE COST OF FLOOR PREPARATION NECESSARY FOR THE REASSEMBLY OF THE EQUIPMENT. RELOCATION COSTS SHALL INCLUDE ONLY SUCH COSTS THAT ARE INCURRED DURING THE NINETY-DAY PERIOD IMMEDIATELY FOLLOWING THE COMMENCEMENT OF THE RELOCATION TO AN ELIGIBLE PREMISES. RELOCATION COSTS SHALL NOT INCLUDE COSTS FOR STRUCTURAL OR CAPITAL IMPROVEMENTS OR ITEMS PURCHASED IN CONNECTION WITH THE RELOCATION.

(C) 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 11-677 OF THIS CHAPTER.

(D) THE NUMBER OF FULL-TIME EMPLOYEES FOR THE PURPOSES OF CALCULATING AN INDUSTRIAL BUSINESS TAX CREDIT SHALL BE THE AVERAGE NUMBER OF FULL-TIME EMPLOYEES, CALCULATED ON A WEEKLY BASIS, EMPLOYED IN THE ELIGIBLE PREMISES BY THE ELIGIBLE BUSINESS IN THE FIFTY-TWO WEEK PERIOD IMMEDIATELY FOLLOWING THE EARLIER OF (1) THE DATE OF THE COMPLETION OF THE RELOCATION TO ELIGIBLE PREMISES OR (2) NINETY DAYS FROM THE COMMENCEMENT OF THE RELOCATION TO THE ELIGIBLE PREMISES.

(E) THE CREDIT ALLOWED UNDER THIS SUBDIVISION MUST BE TAKEN BY THE TAXPAYER IN THE TAXABLE YEAR IN WHICH SUCH TWELVE MONTH PERIOD SELECTED BY THE TAXPAYER ENDS.

(F) FOR THE PURPOSES OF CALCULATING ENTIRE NET INCOME IN THE TAXABLE YEAR THAT AN INDUSTRIAL BUSINESS TAX CREDIT IS ALLOWED, A TAXPAYER MUST ADD BACK THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION, TO THE EXTENT OF ANY RELOCATION COSTS DEDUCTED IN THE CURRENT TAXABLE YEAR OR A PRIOR TAXABLE YEAR IN CALCULATING FEDERAL TAXABLE INCOME.

(G) THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE GRANTED FOR AN ELIGIBLE BUSINESS FOR MORE THAN ONE RELOCATION. NOTWITHSTANDING THE FOREGOING, AN INDUSTRIAL BUSINESS TAX CREDIT SHALL NOT BE GRANTED IF THE ELIGIBLE BUSINESS RECEIVES BENEFITS PURSUANT TO CHAPTER SIX-B OR SIX-C OF TITLE TWENTY-TWO OF THIS CODE, THROUGH A GRANT PROGRAM ADMINISTERED BY THE BUSINESS RELOCATION ASSISTANCE CORPORATION, OR THROUGH THE NEW YORK CITY PRINTERS RELOCATION FUND GRANT.

(H) THE COMMISSIONER OF FINANCE IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS AND TO PRESCRIBE FORMS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SUBDIVISION.

18. (A) IF A CORPORATION IS A PARTNER IN AN UNINCORPORATED BUSINESS TAXABLE UNDER CHAPTER FIVE OF THIS TITLE, AND IS REQUIRED TO INCLUDE IN ENTIRE NET INCOME ITS DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND DEDUCTIONS OF, OR GUARANTEED PAYMENTS FROM, SUCH UNINCORPORATED BUSINESS, SUCH CORPORATION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER EQUAL TO THE LESSER OF THE AMOUNTS DETERMINED IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH:

(1) THE AMOUNT DETERMINED IN THIS SUBPARAGRAPH IS THE PRODUCT OF (I) THE SUM OF (A) THE TAX IMPOSED BY CHAPTER FIVE OF THIS TITLE ON THE UNINCORPORATED BUSINESS FOR ITS TAXABLE YEAR ENDING WITHIN OR WITH THE TAXABLE YEAR OF THE CORPORATION AND PAID BY THE UNINCORPORATED BUSINESS AND (B) THE AMOUNT OF ANY CREDIT OR CREDITS TAKEN BY THE UNINCORPORATED BUSINESS UNDER SECTION 11-503 OF THIS TITLE (EXCEPT THE CREDIT ALLOWED BY SUBDIVISION (B) OF SECTION 11-503 OF THIS TITLE) FOR ITS TAXABLE YEAR ENDING WITHIN OR WITH THE TAXABLE YEAR OF THE CORPORATION, TO THE EXTENT THAT SUCH CREDITS DO NOT REDUCE SUCH UNINCORPORATED BUSINESS'S TAX BELOW ZERO, AND (II) A FRACTION, THE NUMERATOR OF WHICH IS THE NET TOTAL OF THE CORPORATION'S DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED BUSINESS FOR SUCH TAXABLE YEAR, AND THE DENOMINATOR OF WHICH IS THE SUM, FOR SUCH TAXABLE YEAR, OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS TO, ALL PARTNERS IN THE UNINCORPORATED BUSINESS FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH PARTNER) IS GREATER THAN ZERO.

(2) THE AMOUNT DETERMINED IN THIS SUBPARAGRAPH IS THE PRODUCT OF (I) THE EXCESS OF (A) THE TAX COMPUTED UNDER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, WITHOUT ALLOWANCE OF ANY CREDITS ALLOWED BY THIS SECTION, OVER (B) THE TAX SO COMPUTED, DETERMINED AS IF THE CORPORATION HAD NO SUCH DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS WITH RESPECT TO THE UNINCORPORATED BUSINESS, AND (II) A FRACTION, THE NUMERATOR OF WHICH IS FOUR AND THE DENOMINATOR OF WHICH IS EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS, PROVIDED HOWEVER, IN THE CASE OF A TAXPAYER THAT IS SUBJECT TO PARAGRAPH (J) OR (K) OF SUBDIVISION ONE OF THIS SECTION, SUCH DENOMINATOR SHALL BE THE RATE OF TAX AS DETERMINED BY SUCH PARAGRAPH (J) OR (K) FOR THE TAXABLE YEAR AND, PROVIDED, HOWEVER, THAT THE AMOUNTS COMPUTED IN SUBCLAUSES (A) AND (B) OF CLAUSE (I) OF THIS SUBPARAGRAPH SHALL BE COMPUTED WITH THE FOLLOWING MODIFICATIONS:

(A) SUCH AMOUNTS SHALL BE COMPUTED WITHOUT TAKING INTO ACCOUNT ANY CARRYFORWARD OR CARRYBACK BY THE PARTNER OF A NET OPERATING LOSS OR A PRIOR NET OPERATION LOSS CONVERSION SUBTRACTION;

(B) IF, PRIOR TO TAKING INTO ACCOUNT ANY DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS FROM ANY UNINCORPORATED BUSINESS OR ANY NET OPERATING LOSS CARRYFORWARD OR CARRYBACK, THE ENTIRE NET INCOME OF THE PARTNER IS LESS THAN ZERO, SUCH ENTIRE NET INCOME SHALL BE TREATED AS ZERO; AND

(C) IF SUCH PARTNER'S NET TOTAL DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, ANY UNINCORPORATED

1 BUSINESS IS LESS THAN ZERO, SUCH NET TOTAL SHALL BE TREATED AS ZERO. THE
2 AMOUNT DETERMINED IN THIS SUBPARAGRAPH SHALL NOT BE LESS THAN ZERO.

3 (B)(1) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN PARAGRAPH (A) OF
4 THIS SUBDIVISION, IN THE CASE OF A CORPORATION THAT, BEFORE THE APPLICA-
5 TION OF THIS SUBDIVISION OR ANY OTHER CREDIT ALLOWED BY THIS SECTION, IS
6 LIABLE FOR THE TAX ON BUSINESS INCOME UNDER CLAUSE (I) OF SUBPARAGRAPH
7 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, THE CREDIT OR
8 THE SUM OF THE CREDITS THAT MAY BE TAKEN BY SUCH CORPORATION FOR A TAXA-
9 BLE YEAR UNDER THIS SUBDIVISION WITH RESPECT TO AN UNINCORPORATED BUSI-
10 NESS OR UNINCORPORATED BUSINESSES IN WHICH IT IS A PARTNER SHALL NOT
11 EXCEED THE TAX SO COMPUTED, WITHOUT ALLOWANCE OF ANY CREDITS ALLOWED BY
12 THIS SECTION, MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS FOUR
13 AND THE DENOMINATOR OF WHICH IS EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS
14 PROVIDED, HOWEVER, IN THE CASE OF A TAXPAYER THAT IS SUBJECT TO PARA-
15 GRAPH (J) OR (K) OF SUBDIVISION ONE OF THIS SECTION, SUCH DENOMINATOR
16 SHALL BE THE RATE OF TAX AS DETERMINED BY SUCH PARAGRAPH (J) OR (K) FOR
17 THE TAXABLE YEAR. IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION OR THE
18 SUM OF SUCH CREDITS EXCEEDS THE PRODUCT OF SUCH TAX AND SUCH FRACTION,
19 THE AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD, IN ORDER, TO EACH OF
20 THE SEVEN IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO THE EXTENT NOT
21 PREVIOUSLY TAKEN, SHALL BE ALLOWED AS A CREDIT IN EACH OF SUCH YEARS. IN
22 APPLYING THE PROVISIONS OF THE PRECEDING SENTENCE, THE CREDIT DETERMINED
23 FOR THE TAXABLE YEAR UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE
24 TAKEN BEFORE TAKING ANY CREDIT CARRYFORWARD PURSUANT TO THIS PARAGRAPH
25 AND THE CREDIT CARRYFORWARD ATTRIBUTABLE TO THE EARLIEST TAXABLE YEAR
26 SHALL BE TAKEN BEFORE TAKING A CREDIT CARRYFORWARD ATTRIBUTABLE TO A
27 SUBSEQUENT TAXABLE YEAR.

28 (2) INTENTIONALLY OMITTED.

29 (2-A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
30 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
31 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
32 FORTH IN SUBDIVISION EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR IN
33 SECTION 11-643.8 OF THIS CHAPTER FOR A TAX PAID UNDER CHAPTER FIVE OF
34 THIS TITLE IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-
35 SAND FIFTEEN, THE TAXPAYER MAY CARRY FORWARD THE UNUSED PORTION OF SUCH
36 CREDIT UNDER THIS SUBDIVISION TO ANY TAXABLE YEAR BEGINNING ON OR AFTER
37 JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME
38 EXTENT, INCLUDING THE SAME LIMITATIONS, THAT THE CREDIT, OR THE UNUSED
39 PORTION THEREOF, WOULD HAVE BEEN ALLOWED TO BE CARRIED FORWARD UNDER
40 SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION EIGHTEEN OF SECTION
41 11-604 OF THIS CHAPTER OR PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION
42 11-643.8 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
43 THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAY-
44 ER FOR SUCH TAXABLE YEAR.

45 (3) NO CREDIT ALLOWED UNDER THIS SUBDIVISION MAY BE TAKEN IN A TAXABLE
46 YEAR BY A TAXPAYER THAT, IN THE ABSENCE OF SUCH CREDIT, WOULD BE LIABLE
47 FOR THE TAX COMPUTED ON THE BASIS OF BUSINESS CAPITAL UNDER CLAUSE (II)
48 OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION
49 OR THE FIXED-DOLLAR MINIMUM TAX UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF
50 PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

51 (C) FOR CORPORATIONS THAT FILE A REPORT ON A COMBINED BASIS PURSUANT
52 TO SECTION 11-654.3 OF THIS SUBCHAPTER, THE CREDIT ALLOWED BY THIS
53 SUBDIVISION SHALL BE COMPUTED AS IF THE COMBINED GROUP WERE THE PARTNER
54 IN EACH UNINCORPORATED BUSINESS FROM WHICH ANY OF THE MEMBERS OF SUCH
55 GROUP HAD A DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS, PROVIDED, HOWEV-
56 ER, IF MORE THAN ONE MEMBER OF THE COMBINED GROUP IS A PARTNER IN THE

1 SAME UNINCORPORATED BUSINESS, FOR PURPOSES OF THE CALCULATION REQUIRED
2 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, THE NUMERATOR
3 OF THE FRACTION DESCRIBED IN CLAUSE (II) OF SUCH SUBPARAGRAPH ONE SHALL
4 BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS
5 AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED
6 BUSINESS OF ALL OF THE PARTNERS OF THE UNINCORPORATED BUSINESS WITHIN
7 THE COMBINED GROUP FOR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED
8 FOR EACH PARTNER) IS GREATER THAN ZERO, AND THE DENOMINATOR OF SUCH
9 FRACTION SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF
10 INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE
11 UNINCORPORATED BUSINESS OF ALL PARTNERS IN THE UNINCORPORATED BUSINESS
12 FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH
13 PARTNER) IS GREATER THAN ZERO.

14 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE CREDIT
15 ALLOWABLE UNDER THIS SUBDIVISION SHALL BE TAKEN PRIOR TO THE TAKING OF
16 ANY OTHER CREDIT ALLOWED BY THIS SECTION. NOTWITHSTANDING ANY OTHER
17 PROVISION OF THIS SUBCHAPTER, THE APPLICATION OF THIS SUBDIVISION SHALL
18 NOT CHANGE THE BASIS ON WHICH THE TAXPAYER'S TAX IS COMPUTED UNDER PARA-
19 GRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

20 19. LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE CREDIT. (A)
21 IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER THAT
22 HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-C OF TITLE TWEN-
23 TY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
24 THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE AMOUNT DETERMINED
25 BY MULTIPLYING THREE THOUSAND DOLLARS BY THE NUMBER OF ELIGIBLE AGGRE-
26 GATE EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE
27 YEAR WITH RESPECT TO ELIGIBLE PREMISES TO WHICH THE TAXPAYER HAS RELO-
28 CATED; PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR THE RELO-
29 CATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES; PROVIDED, FURTHER, THAT
30 NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO ANY TAXPAYER THAT
31 HAS ELECTED PURSUANT TO SUBDIVISION (D) OF SECTION 22-624 OF THIS CODE
32 TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS TAX IMPOSED UNDER CHAPTER
33 ELEVEN OF THIS TITLE. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS
34 "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "ELIGIBLE PREMISES," "RELOCATE,"
35 "RETAIL ACTIVITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED
36 BY SECTION 22-623 OF THIS CODE.

37 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE
38 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES
39 TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE TAXABLE
40 YEAR OF THE RELOCATION AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE
41 YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED
42 WITH RESPECT TO ELIGIBLE PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR
43 THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING
44 THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH
45 RESPECT TO ELIGIBLE PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY
46 THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER
47 OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE
48 TAXPAYER MAINTAINED EMPLOYMENT SHARES IN ELIGIBLE PREMISES IN THE TAXA-
49 BLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF
50 DAYS IN SUCH TWELFTH TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE
51 EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES.

52 (C) EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, IF THE
53 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE
54 YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE EXCESS MAY BE CARRIED
55 OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO

1 THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE DEDUCTED FROM THE TAXPAY-
2 ER'S TAX FOR SUCH YEARS.

3 (D) THE CREDITS ALLOWED UNDER THIS SUBDIVISION, AGAINST THE TAX
4 IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF THE RELOCATION AND FOR
5 THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF SUCH
6 RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE TAXPAYER TO
7 BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE
8 PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE YEARS,
9 SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY SUCCEED-
10 ING TAXABLE YEAR.

11 (E) THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE DEDUCTED
12 AFTER THE CREDITS ALLOWED BY SUBDIVISIONS SEVENTEEN AND EIGHTEEN OF THIS
13 SECTION, BUT PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS
14 SECTION.

15 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
16 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-
17 TER SIX-C OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-
18 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,
19 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION NINETEEN OF
20 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS CHAPTER FOR
21 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER
22 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR
23 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE
24 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION
25 NINETEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS
26 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,
27 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE
28 YEAR.

29 20. INTENTIONALLY OMITTED.

30 21. BIOTECHNOLOGY CREDIT. (A) (1) A TAXPAYER THAT IS A QUALIFIED
31 EMERGING TECHNOLOGY COMPANY, ENGAGES IN BIOTECHNOLOGIES, AND MEETS THE
32 ELIGIBILITY REQUIREMENTS OF THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT
33 AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF CREDIT SHALL
34 BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN SUBPARAGRAPHS THREE,
35 FOUR AND FIVE OF THIS PARAGRAPH, SUBJECT TO THE LIMITATIONS IN SUBPARA-
36 GRAPH SEVEN OF THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION. FOR
37 THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED EMERGING TECHNOLOGY COMPA-
38 NY" SHALL MEAN A COMPANY LOCATED IN THE CITY: (I) WHOSE PRIMARY PRODUCTS
39 OR SERVICES ARE CLASSIFIED AS EMERGING TECHNOLOGIES AND WHOSE TOTAL
40 ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS; OR (II) A COMPANY
41 THAT HAS RESEARCH AND DEVELOPMENT ACTIVITIES IN THE CITY AND WHOSE RATIO
42 OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES EQUALS OR EXCEEDS THE
43 AVERAGE RATIO FOR ALL SURVEYED COMPANIES CLASSIFIED AS DETERMINED BY THE
44 NATIONAL SCIENCE FOUNDATION IN THE MOST RECENT PUBLISHED RESULTS FROM
45 ITS SURVEY OF INDUSTRY RESEARCH AND DEVELOPMENT, OR ANY COMPARABLE
46 SUCCESSOR SURVEY AS DETERMINED BY THE DEPARTMENT OF FINANCE, AND WHOSE
47 TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS. FOR THE
48 PURPOSES OF THIS SUBDIVISION, THE DEFINITION OF RESEARCH AND DEVELOPMENT
49 FUNDS SHALL BE THE SAME AS THAT USED BY THE NATIONAL SCIENCE FOUNDATION
50 IN THE AFOREMENTIONED SURVEY. FOR THE PURPOSES OF THIS SUBDIVISION,
51 "BIOTECHNOLOGIES" SHALL MEAN THE TECHNOLOGIES INVOLVING THE SCIENTIFIC
52 MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE
53 SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING
54 THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED
55 SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL
56 APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS. ACTIVITIES

1 INCLUDED WITH SUCH APPLICATIONS AND SERVICES SHALL INCLUDE, BUT NOT BE
2 LIMITED TO, ALTERNATIVE MRNA SPLICING, DNA SEQUENCE AMPLIFICATION, ANTI-
3 GENETIC SWITCHING BIOAUGMENTATION, BIOENRICHMENT, BIOREMEDIATION, CHRO-
4 MOSOME WALKING, CYTOGENETIC ENGINEERING, DNA DIAGNOSIS, FINGERPRINTING,
5 AND SEQUENCING, ELECTROPORATION, GENE TRANSLOCATION, GENETIC MAPPING,
6 SITE-DIRECTED MUTAGENESIS, BIO-TRANSDUCTION, BIO-MECHANICAL AND BIO-E-
7 LECTRICAL ENGINEERING, AND BIO-INFORMATICS.

8 (2) AN ELIGIBLE TAXPAYER SHALL (I) HAVE NO MORE THAN ONE HUNDRED
9 FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED
10 IN THE CITY, (II) HAVE A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET
11 SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC
12 AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING THE CALENDAR
13 YEAR ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS
14 CLAIMED, AND (III) HAVE GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF
15 ITS "AFFILIATES" AND "RELATED MEMBERS" NOT EXCEEDING TWENTY MILLION
16 DOLLARS FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR
17 ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.
18 FOR THE PURPOSES OF THIS SUBDIVISION, "AFFILIATES" SHALL MEAN THOSE
19 CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED
20 IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE
21 TAXPAYER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED
22 MEMBERS" SHALL MEAN A PERSON, CORPORATION, OR OTHER ENTITY, INCLUDING AN
23 ENTITY THAT IS TREATED AS A PARTNERSHIP OR OTHER PASS-THROUGH VEHICLE
24 FOR PURPOSES OF FEDERAL TAXATION, WHETHER SUCH PERSON, CORPORATION OR
25 ENTITY IS A TAXPAYER OR NOT, WHERE ONE SUCH PERSON, CORPORATION OR ENTI-
26 TY, OR SET OF RELATED PERSONS, CORPORATIONS OR ENTITIES, DIRECTLY OR
27 INDIRECTLY OWNS OR CONTROLS A CONTROLLING INTEREST IN ANOTHER ENTITY.
28 SUCH ENTITY OR ENTITIES MAY INCLUDE ALL TAXPAYERS UNDER CHAPTERS FIVE,
29 ELEVEN AND SEVENTEEN OF THIS TITLE, AND THIS SUBCHAPTER AND SUBCHAPTERS
30 TWO AND THREE OF THIS CHAPTER. A CONTROLLING INTEREST SHALL MEAN, IN THE
31 CASE OF A CORPORATION, EITHER THIRTY PERCENT OR MORE OF THE TOTAL
32 COMBINED VOTING POWER OF ALL CLASSES OF STOCK OF SUCH CORPORATION, OR
33 THIRTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST IN
34 SUCH VOTING STOCK OF SUCH CORPORATION; AND IN THE CASE OF A PARTNERSHIP,
35 ASSOCIATION, TRUST OR OTHER ENTITY, THIRTY PERCENT OR MORE OF THE CAPI-
36 TAL, PROFITS OR BENEFICIAL INTEREST IN SUCH PARTNERSHIP, ASSOCIATION,
37 TRUST OR OTHER ENTITY.

38 (3) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EIGHTEEN PER
39 CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF
40 RESEARCH AND DEVELOPMENT PROPERTY THAT IS ACQUIRED BY THE TAXPAYER BY
41 PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
42 SEVENTY-NINE OF THE INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING
43 THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH
44 THE CREDIT IS CLAIMED. PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS
45 PARAGRAPH ONLY, AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH
46 PERCENTAGE OF THE (I) COST OR OTHER BASIS FOR FEDERAL INCOME TAX
47 PURPOSES FOR PROPERTY USED IN THE TESTING OR INSPECTION OF MATERIALS AND
48 PRODUCTS, (II) THE COSTS OR EXPENSES ASSOCIATED WITH QUALITY CONTROL OF
49 THE RESEARCH AND DEVELOPMENT, (III) FEES FOR USE OF SOPHISTICATED TECH-
50 NOLOGY FACILITIES AND PROCESSES, AND (IV) FEES FOR THE PRODUCTION OR
51 EVENTUAL COMMERCIAL DISTRIBUTION OF MATERIALS AND PRODUCTS RESULTING
52 FROM THE ACTIVITIES OF AN ELIGIBLE TAXPAYER AS LONG AS SUCH ACTIVITIES
53 FALL UNDER ACTIVITIES RELATING TO BIOTECHNOLOGIES. THE COSTS, EXPENSES
54 AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS
55 PARAGRAPH SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT
56 ALLOWED UNDER THIS SUBCHAPTER. FOR THE PURPOSES OF THIS SUBDIVISION,

1 "RESEARCH AND DEVELOPMENT PROPERTY" SHALL MEAN PROPERTY THAT IS USED FOR
2 PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR LABORATORY
3 SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDINARY TESTING
4 OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL, EFFICIENCY
5 SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING, PROMOTIONS,
6 OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMILAR PROJECTS.

7 (4) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR NINE PER CENTUM
8 OF QUALIFIED RESEARCH EXPENSES PAID OR INCURRED BY THE TAXPAYER IN THE
9 CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE
10 CREDIT IS CLAIMED. FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED
11 RESEARCH EXPENSES" SHALL MEAN EXPENSES ASSOCIATED WITH IN-HOUSE RESEARCH
12 AND PROCESSES, AND COSTS ASSOCIATED WITH THE DISSEMINATION OF THE
13 RESULTS OF THE PRODUCTS THAT DIRECTLY RESULT FROM SUCH RESEARCH AND
14 DEVELOPMENT ACTIVITIES; PROVIDED, HOWEVER, THAT SUCH COSTS SHALL NOT
15 INCLUDE ADVERTISING OR PROMOTION THROUGH MEDIA. IN ADDITION, COSTS ASSO-
16 CIATED WITH THE PREPARATION OF PATENT APPLICATIONS, PATENT APPLICATION
17 FILING FEES, PATENT RESEARCH FEES, PATENT EXAMINATIONS FEES, PATENT POST
18 ALLOWANCE FEES, PATENT MAINTENANCE FEES, AND GRANT APPLICATION EXPENSES
19 AND FEES SHALL QUALIFY AS QUALIFIED RESEARCH EXPENSES. IN NO CASE SHALL
20 THE CREDIT ALLOWED UNDER THIS SUBPARAGRAPH APPLY TO EXPENSES FOR LITI-
21 GATION OR THE CHALLENGE OF ANOTHER ENTITY'S INTELLECTUAL PROPERTY
22 RIGHTS, OR FOR CONTRACT EXPENSES INVOLVING OUTSIDE PAID CONSULTANTS.

23 (5) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR QUALIFIED
24 HIGH-TECHNOLOGY TRAINING EXPENDITURES AS DESCRIBED IN THIS SUBPARAGRAPH
25 PAID OR INCURRED BY THE TAXPAYER DURING THE CALENDAR YEAR THAT ENDS WITH
26 OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

27 (I) THE AMOUNT OF CREDIT SHALL BE ONE HUNDRED PERCENT OF THE TRAINING
28 EXPENSES DESCRIBED IN CLAUSE (III) OF THIS SUBPARAGRAPH, SUBJECT TO A
29 LIMITATION OF NO MORE THAN FOUR THOUSAND DOLLARS PER EMPLOYEE PER CALEN-
30 DAR YEAR FOR SUCH TRAINING EXPENSES.

31 (II) QUALIFIED HIGH-TECHNOLOGY TRAINING SHALL INCLUDE A COURSE OR
32 COURSES TAKEN AND SATISFACTORILY COMPLETED BY AN EMPLOYEE OF THE TAXPAY-
33 ER AT AN ACCREDITED, DEGREE GRANTING POST-SECONDARY COLLEGE OR UNIVERSI-
34 TY IN THE CITY THAT (A) DIRECTLY RELATES TO BIOTECHNOLOGY ACTIVITIES,
35 AND (B) IS INTENDED TO UPGRADE, RETRAIN OR IMPROVE THE PRODUCTIVITY OR
36 THEORETICAL AWARENESS OF THE EMPLOYEE. SUCH COURSE OR COURSES MAY
37 INCLUDE, BUT ARE NOT LIMITED TO, INSTRUCTION OR RESEARCH RELATING TO
38 TECHNIQUES, META, MACRO, OR MICRO-THEORETICAL OR PRACTICAL KNOWLEDGE
39 BASES OR FRONTIERS, OR ETHICAL CONCERNS RELATED TO SUCH ACTIVITIES. SUCH
40 COURSE OR COURSES SHALL NOT INCLUDE CLASSES IN THE DISCIPLINES OF
41 MANAGEMENT, ACCOUNTING OR THE LAW OR ANY CLASS DESIGNED TO FULFILL THE
42 DISCIPLINE SPECIFIC REQUIREMENTS OF A DEGREE PROGRAM AT THE ASSOCIATE,
43 BACCALAUREATE, GRADUATE OR PROFESSIONAL LEVEL OF THESE DISCIPLINES.
44 SATISFACTORY COMPLETION OF A COURSE OR COURSES SHALL MEAN THE EARNING
45 AND GRANTING OF CREDIT OR EQUIVALENT UNIT, WITH THE ATTAINMENT OF A
46 GRADE OF "B" OR HIGHER IN A GRADUATE LEVEL COURSE OR COURSES, A GRADE OF
47 "C" OR HIGHER IN AN UNDERGRADUATE LEVEL COURSE OR COURSES, OR A SIMILAR
48 MEASURE OF COMPETENCY FOR A COURSE THAT IS NOT MEASURED ACCORDING TO A
49 STANDARD GRADE FORMULA.

50 (III) QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL INCLUDE
51 EXPENSES FOR TUITION AND MANDATORY FEES, SOFTWARE REQUIRED BY THE INSTI-
52 TUTION, FEES FOR TEXTBOOKS OR OTHER LITERATURE REQUIRED BY THE INSTITU-
53 TION OFFERING THE COURSE OR COURSES, MINUS APPLICABLE SCHOLARSHIPS AND
54 TUITION OR FEE WAIVERS NOT GRANTED BY THE TAXPAYER OR ANY AFFILIATES OF
55 THE TAXPAYER, THAT ARE PAID OR REIMBURSED BY THE TAXPAYER. QUALIFIED
56 HIGH-TECHNOLOGY EXPENDITURES DO NOT INCLUDE ROOM AND BOARD, COMPUTER

1 HARDWARE OR SOFTWARE NOT SPECIFICALLY ASSIGNED FOR SUCH COURSE OR COURSE-
2 ES, LATE-CHARGES, FINES OR MEMBERSHIP DUES AND SIMILAR EXPENSES. SUCH
3 QUALIFIED EXPENDITURES SHALL NOT BE ELIGIBLE FOR THE CREDIT PROVIDED BY
4 THIS SECTION UNLESS THE EMPLOYEE FOR WHOM THE EXPENDITURES ARE DISBURSED
5 IS CONTINUOUSLY EMPLOYED BY THE TAXPAYER IN A FULL-TIME, FULL-YEAR POSI-
6 TION PRIMARILY LOCATED AT A QUALIFIED SITE DURING THE PERIOD OF SUCH
7 COURSEWORK AND LASTING THROUGH AT LEAST ONE HUNDRED EIGHTY DAYS AFTER
8 THE SATISFACTORY COMPLETION OF THE QUALIFYING COURSE-WORK. QUALIFIED
9 HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL NOT INCLUDE EXPENSES FOR
10 IN-HOUSE OR SHARED TRAINING OUTSIDE OF A CITY HIGHER EDUCATION INSTITU-
11 TION OR THE USE OF CONSULTANTS OUTSIDE OF CREDIT GRANTING COURSES,
12 WHETHER SUCH CONSULTANTS FUNCTION INSIDE OF SUCH HIGHER EDUCATION INSTI-
13 TUTION OR NOT.

14 (IV) IF A TAXPAYER RELOCATES FROM AN ACADEMIC BUSINESS INCUBATOR
15 FACILITY PARTNERED WITH AN ACCREDITED POST-SECONDARY EDUCATION INSTITU-
16 TION LOCATED WITHIN THE CITY, WHICH PROVIDES SPACE AND BUSINESS SUPPORT
17 SERVICES TO TAXPAYERS, TO ANOTHER SITE, THE CREDIT PROVIDED IN THIS
18 SUBDIVISION SHALL BE ALLOWED FOR ALL EXPENDITURES REFERENCED IN CLAUSE
19 (III) OF THIS SUBPARAGRAPH PAID OR INCURRED IN THE TWO PRECEDING CALEN-
20 DAR YEARS THAT THE TAXPAYER WAS LOCATED IN SUCH AN INCUBATOR FACILITY
21 FOR EMPLOYEES OF THE TAXPAYER WHO ALSO RELOCATE FROM SAID INCUBATOR
22 FACILITY TO SUCH CITY SITE AND ARE EMPLOYED AND PRIMARILY LOCATED BY THE
23 TAXPAYER IN THE CITY. SUCH EXPENDITURES IN THE TWO PRECEDING YEARS
24 SHALL BE ADDED TO THE AMOUNTS OTHERWISE QUALIFYING FOR THE CREDIT
25 PROVIDED BY THIS SUBDIVISION THAT WERE PAID OR INCURRED IN THE CALENDAR
26 YEAR THAT THE TAXPAYER RELOCATES FROM SUCH A FACILITY. SUCH EXPENDITURES
27 SHALL INCLUDE EXPENSES PAID FOR AN ELIGIBLE EMPLOYEE WHO IS A FULL-TIME,
28 FULL-YEAR EMPLOYEE OF SAID TAXPAYER DURING THE CALENDAR YEAR THAT THE
29 TAXPAYER RELOCATED FROM AN INCUBATOR FACILITY NOTWITHSTANDING (A) THAT
30 SUCH EMPLOYEE WAS EMPLOYED FULL OR PART-TIME AS AN OFFICER, STAFF-PERSON
31 OR PAID INTERN OF THE TAXPAYER WHEN SUCH TAXPAYER WAS LOCATED AT SUCH
32 INCUBATOR FACILITY OR (B) THAT SUCH EMPLOYEE WAS NOT CONTINUOUSLY
33 EMPLOYED WHEN SUCH TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY DURING
34 THE ONE HUNDRED EIGHTY DAY PERIOD REFERRED TO IN CLAUSE (III) OF THIS
35 SUBPARAGRAPH, PROVIDED SUCH EMPLOYEE RECEIVED WAGES OR EQUIVALENT INCOME
36 FOR AT LEAST SEVEN HUNDRED FIFTY HOURS DURING ANY TWENTY-FOUR MONTH
37 PERIOD WHEN THE TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY. SUCH
38 EXPENDITURES SHALL INCLUDE PAYMENTS MADE TO SUCH EMPLOYEE AFTER THE
39 TAXPAYER HAS RELOCATED FROM THE INCUBATOR FACILITY FOR QUALIFIED EXPEND-
40 ITURES IF SUCH PAYMENTS ARE MADE TO REIMBURSE AN EMPLOYEE FOR EXPENDI-
41 TURES PAID BY THE EMPLOYEE DURING SUCH TWO PRECEDING YEARS. THE CREDIT
42 PROVIDED UNDER THIS PARAGRAPH SHALL BE ALLOWED IN ANY TAXABLE YEAR THAT
43 THE TAXPAYER QUALIFIES AS AN ELIGIBLE TAXPAYER.

44 (V) FOR PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC YEAR" SHALL
45 MEAN THE ANNUAL PERIOD OF SESSIONS OF A POST-SECONDARY COLLEGE OR
46 UNIVERSITY.

47 (VI) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC INCUBATOR
48 FACILITY" SHALL MEAN A FACILITY PROVIDING LOW-COST SPACE, TECHNICAL
49 ASSISTANCE, SUPPORT SERVICES AND EDUCATIONAL OPPORTUNITIES, INCLUDING
50 BUT NOT LIMITED TO CENTRAL SERVICES PROVIDED BY THE MANAGER OF THE
51 FACILITY TO THE TENANTS OF THE FACILITY, TO AN ENTITY LOCATED IN THE
52 CITY. SUCH ENTITY'S PRIMARY ACTIVITY MUST BE IN BIOTECHNOLOGIES, AND
53 SUCH ENTITY MUST BE IN THE FORMATIVE STAGE OF DEVELOPMENT. THE ACADEMIC
54 INCUBATOR FACILITY AND THE ENTITY MUST ACT IN PARTNERSHIP WITH AN
55 ACCREDITED POST-SECONDARY COLLEGE OR UNIVERSITY LOCATED IN THE CITY. AN
56 ACADEMIC INCUBATOR FACILITY'S MISSION SHALL BE TO PROMOTE JOB CREATION,

1 ENTREPRENEURSHIP, TECHNOLOGY TRANSFER, AND PROVIDE SUPPORT SERVICES TO
2 INCUBATOR TENANTS, INCLUDING, BUT NOT LIMITED TO, BUSINESS PLANNING,
3 MANAGEMENT ASSISTANCE, FINANCIAL-PACKAGING, LINKAGES TO FINANCING
4 SERVICES, AND COORDINATING WITH OTHER SOURCES OF ASSISTANCE.

5 (6) AN ELIGIBLE TAXPAYER MAY CLAIM CREDITS UNDER THIS SUBDIVISION FOR
6 THREE CONSECUTIVE YEARS. IN NO CASE SHALL THE CREDIT ALLOWED BY THIS
7 SUBDIVISION TO A TAXPAYER EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER
8 CALENDAR YEAR FOR ELIGIBLE EXPENDITURES MADE DURING SUCH CALENDAR YEAR.

9 (7) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
10 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT
11 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-
12 VISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT
13 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
14 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
15 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
16 ACCORDANCE WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER;
17 PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679
18 OF THIS CHAPTER, NO INTEREST SHALL BE PAID THEREON.

19 (8) THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL ONLY BE ALLOWED
20 FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN.

21 (B) (1) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS
22 SUBDIVISION IN ANY CALENDAR YEAR SHALL BE:

23 (I) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY A
24 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR THAT ENDS WITH OR WITHIN
25 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS AT LEAST ONE HUNDRED
26 FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, ONE HUNDRED
27 PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS
28 CLAUSE EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER CALENDAR YEAR.
29 PROVIDED, HOWEVER, THE INCREASE IN BASE YEAR EMPLOYMENT SHALL NOT APPLY
30 TO A TAXPAYER ALLOWED A CREDIT UNDER THIS SUBDIVISION THAT WAS, (A)
31 LOCATED OUTSIDE OF THE CITY, (B) NOT DOING BUSINESS, OR (C) DID NOT HAVE
32 ANY EMPLOYEES, IN THE YEAR PRECEDING THE FIRST YEAR THAT THE CREDIT IS
33 CLAIMED. ANY SUCH TAXPAYER SHALL BE ELIGIBLE FOR ONE HUNDRED PERCENT OF
34 THE CREDIT FOR THE FIRST CALENDAR YEAR THAT ENDS WITH OR WITHIN THE
35 TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, PROVIDED THAT SUCH TAXPAY-
36 ER LOCATES IN THE CITY, BEGINS DOING BUSINESS IN THE CITY OR HIRES
37 EMPLOYEES IN THE CITY DURING SUCH CALENDAR YEAR AND IS OTHERWISE ELIGI-
38 BLE FOR THE CREDIT PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

39 (II) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY A
40 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR THAT ENDS WITH OR WITHIN
41 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS LESS THAN ONE
42 HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, FIFTY
43 PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS
44 CLAUSE EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS PER CALENDAR
45 YEAR. IN THE CASE OF AN ENTITY LOCATED IN THE CITY RECEIVING SPACE AND
46 BUSINESS SUPPORT SERVICES BY AN ACADEMIC INCUBATOR FACILITY, IF THE
47 AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY SUCH ENTITY IN THE
48 CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT ALLOWED UNDER THIS
49 SUBDIVISION IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE
50 TAXPAYER'S BASE YEAR EMPLOYMENT, THE CREDIT SHALL BE ZERO.

51 (2) FOR THE PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS
52 THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN
53 THE CITY IN THE YEAR PRECEDING THE FIRST CALENDAR YEAR THAT ENDS WITH OR
54 WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

55 (3) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVID-
56 UALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH

1 INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING
2 EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO
3 OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR
4 YEAR OR OTHER APPLICABLE PERIOD.

5 (4) NOTWITHSTANDING ANYTHING CONTAINED IN THIS SECTION TO THE CONTRA-
6 RY, THE CREDIT PROVIDED BY THIS SUBDIVISION SHALL BE ALLOWED AGAINST THE
7 TAXES AUTHORIZED BY THIS CHAPTER FOR THE TAXABLE YEAR AFTER REDUCTION BY
8 ALL OTHER CREDITS PERMITTED BY THIS CHAPTER.

9 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
10 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
11 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
12 FORTH IN SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER FOR AN
13 ELIGIBLE ACQUISITION OF PROPERTY AND/OR EXPENSE PAID OR INCURRED, A
14 CREDIT SHALL BE ALLOWED TO THE TAXPAYER UNDER THIS SUBDIVISION FOR ANY
15 TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN
16 THE SAME AMOUNT AND TO THE SAME EXTENT THAT A CREDIT WOULD HAVE BEEN
17 ALLOWED UNDER SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER,
18 AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH
19 SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

20 S 11-654.1 NET OPERATING LOSS. 1. IN COMPUTING THE BUSINESS INCOME
21 SUBJECT TO TAX, TAXPAYERS SHALL BE ALLOWED BOTH A PRIOR NET OPERATING
22 LOSS CONVERSION SUBTRACTION UNDER SUBDIVISION TWO OF THIS SECTION AND A
23 NET OPERATING LOSS DEDUCTION UNDER SUBDIVISION THREE OF THIS SECTION.
24 THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION COMPUTED UNDER
25 SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED AGAINST BUSINESS INCOME
26 BEFORE THE NET OPERATING LOSS DEDUCTION COMPUTED UNDER SUBDIVISION THREE
27 OF THIS SECTION.

28 2. PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION. (A) DEFINITIONS.

29 (1) "BASE YEAR" MEANS THE LAST TAXABLE YEAR BEGINNING ON OR AFTER JANU-
30 ARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND
31 FIFTEEN.

32 (2) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF
33 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION
34 EIGHT OF SECTION 11-602 OF THIS CHAPTER OR SUBDIVISION (K-1) OF SECTION
35 11-641 OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER
36 THIRTY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS NOT DEDUCTIBLE IN PREVIOUS
37 TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER ON THE LAST DAY OF THE BASE
38 YEAR SUBJECT TO THE LIMITATIONS FOR DEDUCTION UNDER SUCH SECTIONS,
39 INCLUDING ANY NET OPERATING LOSS SUSTAINED BY THE TAXPAYER DURING THE
40 BASE YEAR.

41 (3) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION PERCENT-
42 AGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
43 11-604 OF THIS CHAPTER FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION
44 PERCENTAGE AS CALCULATED UNDER SECTION 11-642 OF THIS CHAPTER FOR
45 PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH
46 SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

47 (4) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE
48 YEAR AS APPLIED TO ENTIRE NET INCOME AND CALCULATED UNDER SUBDIVISION
49 ONE OF SECTION 11-604 OF THIS CHAPTER OR SUBDIVISION (A) OF SECTION
50 11-643.5 OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN EFFECT ON DECEMBER
51 THIRTY-FIRST, TWO THOUSAND FOURTEEN.

52 (B) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE
53 CALCULATED AS FOLLOWS:

54 (1) THE TAXPAYER SHALL FIRST CALCULATE THE TAX VALUE OF ITS UNABSORBED
55 NET OPERATING LOSS FOR THE BASE YEAR. THE VALUE IS EQUAL TO THE PRODUCT
56 OF (I) THE AMOUNT OF THE TAXPAYER'S UNABSORBED NET OPERATING LOSS, (II)

1 THE TAXPAYER'S BASE YEAR BAP, AND (III) THE TAXPAYER'S BASE YEAR TAX
2 RATE.

3 (2) THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH
4 SHALL THEN BE DIVIDED BY EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PER CENTUM
5 OR, IN THE CASE OF A FINANCIAL CORPORATION, AS DEFINED IN CLAUSE (I) OF
6 SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654
7 OF THIS SUBCHAPTER, THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF
8 THIS PARAGRAPH SHALL THEN BE DIVIDED BY NINE PER CENTUM. THIS RESULT
9 SHALL EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION
10 SUBTRACTION POOL.

11 (3) THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION FOR
12 THE TAXABLE YEAR SHALL EQUAL ONE-TENTH OF ITS PRIOR NET OPERATING LOSS
13 CONVERSION SUBTRACTION POOL, PLUS ANY AMOUNT OF UNUSED PRIOR NET OPERAT-
14 ING LOSS CONVERSION SUBTRACTION FROM PRECEDING TAXABLE YEARS.

15 (4) IN LIEU OF THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
16 DESCRIBED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE TAXPAYER SO
17 ELECTS, THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
18 FOR ITS TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
19 FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN SHALL EQUAL, IN
20 EACH YEAR, NOT MORE THAN ONE-HALF OF ITS PRIOR NET OPERATING LOSS
21 CONVERSION SUBTRACTION POOL UNTIL THE POOL IS EXHAUSTED. IF THE POOL IS
22 NOT EXHAUSTED AT THE END OF SUCH TIME PERIOD, THE REMAINDER OF THE POOL
23 SHALL BE FORFEITED. THE TAXPAYER SHALL MAKE SUCH ELECTION, WHICH SHALL
24 BE REVOCABLE, ON ITS FIRST RETURN FOR THE TAX YEAR BEGINNING ON OR AFTER
25 JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOU-
26 SAND SIXTEEN BY THE DUE DATE FOR SUCH RETURN (DETERMINED WITH REGARD TO
27 EXTENSIONS).

28 (C) (1) WHERE A TAXPAYER WAS PROPERLY INCLUDED OR REQUIRED TO BE
29 INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR PURSUANT TO SECTION
30 11-605 OF THIS CHAPTER OR A COMBINED RETURN FOR THE BASE YEAR PURSUANT
31 TO SECTION 11-646 OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON
32 DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, AND THE MEMBERS OF THE
33 COMBINED GROUP FOR THE BASE YEAR ARE THE SAME AS THE MEMBERS OF THE
34 COMBINED GROUP FOR THE TAXABLE YEAR IMMEDIATELY SUCCEEDING THE BASE
35 YEAR, THE COMBINED GROUP SHALL CALCULATE ITS PRIOR NET OPERATING LOSS
36 CONVERSION SUBTRACTION POOL USING THE COMBINED GROUP'S TOTAL UNABSORBED
37 NET OPERATING LOSS, BASE YEAR BAP, AND BASE YEAR TAX RATE.

38 (2) IF A COMBINED GROUP INCLUDES ADDITIONAL MEMBERS IN THE TAXABLE
39 YEAR IMMEDIATELY SUCCEEDING THE BASE YEAR THAT WERE NOT INCLUDED IN THE
40 COMBINED GROUP DURING THE BASE YEAR, EACH BASE YEAR COMBINED GROUP AND
41 EACH TAXPAYER THAT FILED SEPARATELY FOR THE BASE YEAR BUT IS INCLUDED IN
42 THE COMBINED GROUP IN THE TAXABLE YEAR SUCCEEDING THE BASE YEAR SHALL
43 CALCULATE ITS PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL, AND
44 THE SUM OF THE POOLS SHALL BE THE COMBINED PRIOR NET OPERATING LOSS
45 CONVERSION SUBTRACTION POOL OF THE COMBINED GROUP.

46 (3) IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE
47 BASE YEAR AND FILES A SEPARATE REPORT FOR A SUBSEQUENT TAXABLE YEAR,
48 THEN THE AMOUNT OF REMAINING PRIOR NET OPERATING LOSS CONVERSION
49 SUBTRACTION ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE
50 PROPORTIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR
51 NET OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND
52 THE REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO
53 THE REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDING-
54 LY.

55 (4) IF A TAXPAYER FILED A SEPARATE REPORT FOR THE BASE YEAR AND IS
56 PROPERLY INCLUDED IN A COMBINED REPORT FOR A SUBSEQUENT TAXABLE YEAR,

1 THEN THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL OF THE
2 COMBINED GROUP SHALL BE INCREASED BY THE AMOUNT OF THE REMAINING PRIOR
3 NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER AT THE
4 TIME THE TAXPAYER IS PROPERLY INCLUDED IN THE COMBINED GROUP.

5 (D) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO
6 REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF
7 THE TAX ON BUSINESS CAPITAL UNDER CLAUSE (II) OF SUBPARAGRAPH ONE OF
8 PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER OR
9 THE FIXED DOLLAR MINIMUM UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARA-
10 GRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER.
11 UNLESS THE TAXPAYER HAS MADE THE ELECTION PROVIDED FOR IN SUBPARAGRAPH
12 FOUR OF PARAGRAPH (B) OF THIS SUBDIVISION, ANY AMOUNT OF UNUSED PRIOR
13 NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE CARRIED FORWARD TO A
14 SUBSEQUENT TAX YEAR OR SUBSEQUENT TAX YEARS UNTIL THE PRIOR NET OPERAT-
15 ING LOSS CONVERSION SUBTRACTION POOL IS EXHAUSTED, BUT FOR NO LONGER
16 THAN TWENTY TAXABLE YEARS OR THE TAXABLE YEAR BEGINNING ON OR AFTER
17 JANUARY FIRST, TWO THOUSAND THIRTY-FIVE BUT BEFORE JANUARY FIRST, TWO
18 THOUSAND THIRTY-SIX, WHICHEVER COMES FIRST. SUCH AMOUNT CARRIED FORWARD
19 SHALL NOT BE SUBJECT TO THE ONE-TENTH LIMITATION FOR THE SUBSEQUENT TAX
20 YEAR OR YEARS UNDER SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVI-
21 SION. HOWEVER, IF THE TAXPAYER ELECTS TO COMPUTE ITS PRIOR NET OPERATING
22 LOSS CONVERSION SUBTRACTION PURSUANT TO SUBPARAGRAPH FOUR OF PARAGRAPH
23 (B) OF THIS SUBDIVISION, THE TAXPAYER SHALL NOT CARRY FORWARD ANY UNUSED
24 AMOUNT OF SUCH PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION TO ANY
25 TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

26 3. IN COMPUTING BUSINESS INCOME, A NET OPERATING LOSS DEDUCTION SHALL
27 BE ALLOWED. A NET OPERATING LOSS DEDUCTION SHALL BE THE AMOUNT OF NET
28 OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED
29 FORWARD OR CARRIED BACK TO A PARTICULAR TAXABLE YEAR. A NET OPERATING
30 LOSS SHALL BE THE AMOUNT OF A BUSINESS LOSS INCURRED IN A PARTICULAR TAX
31 YEAR MULTIPLIED BY THE BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR AS
32 DETERMINED UNDER SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.
33 THE MAXIMUM NET OPERATING LOSS DEDUCTION THAT IS ALLOWED IN A TAXABLE
34 YEAR SHALL BE THE AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED
35 BUSINESS INCOME TO THE HIGHER OF THE TAX ON BUSINESS CAPITAL UNDER
36 CLAUSE (II) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF
37 SECTION 11-654 OF THIS SUBCHAPTER OR THE FIXED DOLLAR MINIMUM AMOUNT
38 UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION
39 ONE OF SECTION 11-654 OF THIS SUBCHAPTER. SUCH NET OPERATING LOSS
40 DEDUCTION AND NET OPERATING LOSS SHALL BE DETERMINED IN ACCORDANCE WITH
41 THE FOLLOWING:

42 (A) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT BE LIMITED TO THE
43 AMOUNT ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL
44 REVENUE CODE OR THE AMOUNT THAT WOULD HAVE BEEN ALLOWED IF THE TAXPAYER
45 DID NOT HAVE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER ONE OF THE INTER-
46 NAL REVENUE CODE IN EFFECT FOR THE APPLICABLE TAX YEAR.

47 (B) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-
48 ATING LOSS INCURRED DURING ANY TAXABLE YEAR BEGINNING PRIOR TO JANUARY
49 FIRST, TWO THOUSAND FIFTEEN, OR DURING ANY TAXABLE YEAR IN WHICH THE
50 TAXPAYER WAS NOT SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER.

51 (C) A TAXPAYER THAT FILES AS PART OF A FEDERAL CONSOLIDATED RETURN BUT
52 ON A SEPARATE BASIS FOR PURPOSES OF THIS SUBCHAPTER SHALL COMPUTE ITS
53 DEDUCTION AND LOSS AS IF IT WERE FILING ON A SEPARATE BASIS FOR FEDERAL
54 INCOME TAX PURPOSES.

55 (D) A NET OPERATING LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS
56 PRECEDING THE TAXABLE YEAR OF THE LOSS EXCEPT THAT NO LOSS MAY BE

1 CARRIED BACK TO A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-
2 SAND FIFTEEN. THE LOSS FIRST SHALL BE CARRIED TO THE EARLIEST OF THE
3 THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS. IF IT IS NOT
4 ENTIRELY USED IN THAT YEAR, IT SHALL BE CARRIED TO THE SECOND TAXABLE
5 YEAR PRECEDING THE TAXABLE YEAR OF THE LOSS, AND ANY REMAINING AMOUNT
6 SHALL BE CARRIED TO THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE
7 YEAR OF THE LOSS. ANY UNUSED AMOUNT OF LOSS THEN REMAINING MAY BE
8 CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS FOLLOWING THE TAXA-
9 BLE YEAR OF THE LOSS. LOSSES CARRIED FORWARD ARE CARRIED FORWARD FIRST
10 TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE TAXABLE YEAR OF THE LOSS,
11 THEN TO THE SECOND TAXABLE YEAR FOLLOWING THE TAXABLE YEAR OF THE LOSS,
12 AND THEN TO THE NEXT IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL
13 THE LOSS IS USED UP OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE TAXABLE
14 YEAR OF THE LOSS, WHICHEVER COMES FIRST.

15 (E) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-
16 ATING LOSS INCURRED DURING ANY TAXABLE YEAR COMMENCING AFTER JANUARY
17 FIRST, TWO THOUSAND FIFTEEN IF THE TAXPAYER WAS SUBJECT TO TAX UNDER
18 SUBCHAPTER TWO OR THREE OF THIS CHAPTER IN THAT YEAR; PROVIDED, HOWEVER,
19 ANY YEAR COMMENCING AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN THAT THE
20 TAXPAYER WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO OR THREE OF THIS CHAP-
21 TER IN THAT YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF
22 DETERMINING THE NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS
23 MAY BE CARRIED FORWARD.

24 (F) WHERE THERE ARE TWO OR MORE ALLOCATED NET OPERATING LOSSES, OR
25 PORTIONS THEREOF, CARRIED BACK OR CARRIED FORWARD TO BE DEDUCTED IN ONE
26 PARTICULAR TAX YEAR FROM ALLOCATED BUSINESS INCOME, THE EARLIEST ALLO-
27 CATED LOSS INCURRED MUST BE APPLIED FIRST.

28 (G) A TAXPAYER MAY ELECT TO WAIVE THE ENTIRE CARRYBACK PERIOD WITH
29 RESPECT TO A NET OPERATING LOSS. SUCH ELECTION MUST BE MADE ON THE
30 TAXPAYER'S ORIGINAL TIMELY FILED RETURN (DETERMINED WITH REGARD TO
31 EXTENSIONS) FOR THE TAXABLE YEAR OF THE NET OPERATING LOSS FOR WHICH THE
32 ELECTION IS TO BE IN EFFECT. ONCE AN ELECTION IS MADE FOR A TAXABLE
33 YEAR, IT SHALL BE IRREVOCABLE FOR THAT TAXABLE YEAR. A SEPARATE ELECTION
34 MUST BE MADE FOR EACH TAXABLE YEAR OF THE LOSS. THIS ELECTION APPLIES TO
35 ALL MEMBERS OF A COMBINED GROUP.

36 S 11-654.2 RECEIPTS ALLOCATION. 1. THE PERCENTAGE OF RECEIPTS OF THE
37 TAXPAYER TO BE ALLOCATED TO THE CITY FOR PURPOSES OF SUBPARAGRAPH TWO OF
38 PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER
39 SHALL BE EQUAL TO THE RECEIPTS FRACTION DETERMINED PURSUANT TO THIS
40 SECTION. THE RECEIPTS FRACTION IS A FRACTION, DETERMINED BY INCLUDING
41 ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS DESCRIBED IN
42 THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE TAXPAYER'S
43 BUSINESS INCOME (DETERMINED WITHOUT REGARD TO THE MODIFICATION PROVIDED
44 IN SUBPARAGRAPH FOURTEEN OF PARAGRAPH (A) OF SUBDIVISION EIGHT OF
45 SECTION 11-652 OF THIS SUBCHAPTER) FOR THE TAXABLE YEAR. THE NUMERATOR
46 OF THE RECEIPTS FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS
47 REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE PROVISIONS OF
48 THIS SECTION AND THE DENOMINATOR OF THE RECEIPTS FRACTION SHALL BE EQUAL
49 TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE DENOMINATOR
50 PURSUANT TO THE PROVISIONS OF THIS SECTION.

51 2. (A) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIP-
52 MENTS ARE MADE TO POINTS WITHIN THE CITY OR THE DESTINATION OF THE PROP-
53 erty IS A POINT WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF
54 THE RECEIPTS FRACTION. RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY
55 WHERE SHIPMENTS ARE MADE TO POINTS WITHIN AND WITHOUT THE CITY OR THE

1 DESTINATION IS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE
2 DENOMINATOR OF THE RECEIPTS FRACTION.

3 (B) RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN THE
4 CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.
5 RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN AND WITH-
6 OUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
7 TION.

8 (C) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY
9 THAT ARE TRADED AS COMMODITIES AS THE TERM "COMMODITY" IS DEFINED IN
10 SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE, SHALL BE
11 INCLUDED IN THE RECEIPTS FRACTION IN ACCORDANCE WITH CLAUSE (I) OF
12 SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION.

13 (D) NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY
14 LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE
15 RECEIPTS FRACTION. NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL
16 PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE
17 DENOMINATOR OF THE RECEIPTS FRACTION.

18 3. (A) RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY
19 LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE
20 RECEIPTS FRACTION. RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL
21 PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE
22 DENOMINATOR OF THE RECEIPTS FRACTION.

23 (B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADE-
24 MARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE CITY SHALL BE
25 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS OF ROYAL-
26 TIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTAN-
27 GIBLE PERSONAL PROPERTY WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN
28 THE DENOMINATOR OF THE RECEIPTS FRACTION. A PATENT, COPYRIGHT, TRADE-
29 MARK, OR SIMILAR INTANGIBLE PERSONAL PROPERTY IS USED WITHIN THE CITY TO
30 THE EXTENT THAT THE ACTIVITIES THEREUNDER ARE CARRIED ON WITHIN THE
31 CITY.

32 (C) RECEIPTS FROM THE SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE
33 TELEVISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A
34 REGULARLY SCHEDULED BASIS) TAKING PLACE WITHIN THE CITY AS A RESULT OF
35 THE RENDITION OF SERVICES BY EMPLOYEES OF THE CORPORATION, AS ATHLETES,
36 ENTERTAINERS OR PERFORMING ARTISTS, SHALL BE INCLUDED IN THE NUMERATOR
37 OF THE RECEIPTS FRACTION TO THE EXTENT THAT SUCH RECEIPTS ARE ATTRIBUT-
38 ABLE TO SUCH TRANSMISSIONS RECEIVED OR EXHIBITED WITHIN THE CITY.
39 RECEIPTS FROM ALL SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE TELE-
40 VISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A REGU-
41 LARLY SCHEDULED BASIS) SHALL BE INCLUDED IN THE DENOMINATOR OF THE
42 RECEIPTS FRACTION.

43 4. (A) FOR PURPOSES OF DETERMINING THE RECEIPTS FRACTION UNDER THIS
44 SECTION, THE TERM "DIGITAL PRODUCT" MEANS ANY PROPERTY OR SERVICE, OR
45 COMBINATION THEREOF, OF WHATEVER NATURE DELIVERED TO THE PURCHASER
46 THROUGH THE USE OF WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO
47 WAVE, SATELLITE OR SIMILAR SUCCESSOR MEDIA, OR ANY COMBINATION THEREOF.
48 DIGITAL PRODUCT INCLUDES, BUT IS NOT LIMITED TO, AN AUDIO WORK, AUDI-
49 OVISUAL WORK, VISUAL WORK, BOOK OR LITERARY WORK, GRAPHIC WORK, GAME,
50 INFORMATION OR ENTERTAINMENT SERVICE, STORAGE OF DIGITAL PRODUCTS AND
51 COMPUTER SOFTWARE BY WHATEVER MEANS DELIVERED. THE TERM "DELIVERED TO"
52 INCLUDES FURNISHED OR PROVIDED TO OR ACCESSED BY. A DIGITAL PRODUCT
53 SHALL NOT INCLUDE LEGAL, MEDICAL, ACCOUNTING, ARCHITECTURAL, RESEARCH,
54 ANALYTICAL, ENGINEERING OR CONSULTING SERVICES PROVIDED BY THE TAXPAYER.

55 (B) RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR GRANTING OF REMOTE
56 ACCESS TO DIGITAL PRODUCTS WITHIN THE CITY, DETERMINED ACCORDING TO THE

1 HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF
2 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE INCLUDED IN THE NUMERATOR OF
3 THE RECEIPTS FRACTION. RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR
4 GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN AND WITHOUT THE
5 CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. THE
6 TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN
7 PARAGRAPH (C) OF THIS SUBDIVISION BEFORE REJECTING IT AND PROCEEDING TO
8 THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS DETERMINATION ON
9 INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN TO
10 THE TAXPAYER UPON REASONABLE INQUIRY. IF THE RECEIPT FOR A DIGITAL PROD-
11 UCT IS COMPRISED OF A COMBINATION OF PROPERTY AND SERVICES, IT CANNOT BE
12 DIVIDED INTO SEPARATE COMPONENTS AND SHALL BE CONSIDERED TO BE ONE
13 RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING
14 PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

15 (C) THE HIERARCHY OF SOURCING METHODS IS AS FOLLOWS: (1) THE CUSTOM-
16 ER'S PRIMARY USE LOCATION OF THE DIGITAL PRODUCT; (2) THE LOCATION WHERE
17 THE DIGITAL PRODUCT IS RECEIVED BY THE CUSTOMER, OR IS RECEIVED BY A
18 PERSON DESIGNATED FOR RECEIPT BY THE CUSTOMER; (3) THE RECEIPTS FRACTION
19 DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR
20 FOR SUCH DIGITAL PRODUCT; OR (4) THE RECEIPTS FRACTION IN THE CURRENT
21 TAXABLE YEAR FOR THOSE DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE
22 HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARA-
23 GRAPH.

24 5. (A) A FINANCIAL INSTRUMENT IS A "NONQUALIFIED FINANCIAL INSTRU-
25 MENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRUMENT. A QUALIFIED FINAN-
26 CIAL INSTRUMENT MEANS A FINANCIAL INSTRUMENT THAT IS OF A TYPE DESCRIBED
27 IN ANY OF CLAUSE (I), (II), (III), (IV), (VII), (VIII) OR (IX) OF
28 SUBPARAGRAPH TWO OF THIS PARAGRAPH AND THAT HAS BEEN MARKED TO MARKET IN
29 THE TAXABLE YEAR BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF
30 THE INTERNAL REVENUE CODE. FURTHER, IF THE TAXPAYER HAS IN THE TAXABLE
31 YEAR MARKED TO MARKET A FINANCIAL INSTRUMENT OF THE TYPE DESCRIBED IN
32 ANY OF CLAUSE (I), (II), (III), (IV), (VII), (VIII) OR (IX) OF SUBPARA-
33 GRAPH TWO OF THIS PARAGRAPH, THEN ANY FINANCIAL INSTRUMENT WITHIN THAT
34 TYPE DESCRIBED IN THE ABOVE SPECIFIED CLAUSE OR CLAUSES THAT HAS NOT
35 BEEN MARKED TO MARKET BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256
36 OF THE INTERNAL REVENUE CODE IS A QUALIFIED FINANCIAL INSTRUMENT IN THE
37 TAXABLE YEAR. NOTWITHSTANDING THE TWO PRECEDING SENTENCES, (I) A LOAN
38 SECURED BY REAL PROPERTY SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT,
39 (II) IF THE ONLY LOANS THAT ARE MARKED TO MARKET BY THE TAXPAYER UNDER
40 SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE ARE LOANS
41 SECURED BY REAL PROPERTY, THEN NO LOANS SHALL BE QUALIFIED FINANCIAL
42 INSTRUMENTS, AND (III) STOCK THAT IS INVESTMENT CAPITAL AS DEFINED IN
43 PARAGRAPH (A) OF SUBDIVISION 4 OF SECTION 11-652 OF THIS SUBCHAPTER
44 SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT. IF A CORPORATION IS
45 INCLUDED IN A COMBINED REPORT, THE DEFINITION OF QUALIFIED FINANCIAL
46 INSTRUMENT SHALL BE DETERMINED ON A COMBINED BASIS.

47 (1) IN DETERMINING THE INCLUSION OF RECEIPTS AND NET GAINS FROM QUALI-
48 FIED FINANCIAL INSTRUMENTS IN THE RECEIPTS FRACTION, TAXPAYERS MAY ELECT
49 TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN THIS SUBPARAGRAPH FOR
50 QUALIFIED FINANCIAL INSTRUMENTS. THE ELECTION IS IRREVOCABLE, APPLIES TO
51 ALL QUALIFIED FINANCIAL INSTRUMENTS, AND MUST BE MADE ON AN ANNUAL BASIS
52 ON THE TAXPAYER'S ORIGINAL, TIMELY FILED RETURN (DETERMINED WITH REGARD
53 TO EXTENSIONS). IF THE TAXPAYER ELECTS THE FIXED PERCENTAGE METHOD,
54 THEN ALL INCOME, GAIN OR LOSS, INCLUDING MARKED TO MARKET NET GAINS AS
55 DEFINED IN CLAUSE (X) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH, FROM QUALI-
56 FIED FINANCIAL INSTRUMENTS CONSTITUTE BUSINESS INCOME, GAIN OR LOSS. IF

1 THE TAXPAYER DOES NOT ELECT TO USE THE FIXED PERCENTAGE METHOD, THEN
2 RECEIPTS AND NET GAINS ARE INCLUDED IN THE RECEIPTS FRACTION IN ACCORD-
3 ANCE WITH THE CUSTOMER SOURCING METHOD DESCRIBED IN SUBPARAGRAPH TWO OF
4 THIS PARAGRAPH. UNDER THE FIXED PERCENTAGE METHOD, EIGHT PERCENT OF ALL
5 NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS
6 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. ALL NET
7 INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL
8 BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

9 (2) RECEIPTS AND NET GAINS FROM QUALIFIED FINANCIAL INSTRUMENTS, IN
10 CASES WHERE THE TAXPAYER DID NOT ELECT TO USE THE FIXED PERCENTAGE METH-
11 OD DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH, AND FROM NONQUALI-
12 FIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE RECEIPTS FRACTION IN
13 ACCORDANCE WITH THIS SUBPARAGRAPH. FOR PURPOSES OF THIS PARAGRAPH, AN
14 INDIVIDUAL IS DEEMED TO BE LOCATED WITHIN THE CITY IF HIS OR HER BILLING
15 ADDRESS IS WITHIN THE CITY. A BUSINESS ENTITY IS DEEMED TO BE LOCATED
16 WITHIN THE CITY IF ITS COMMERCIAL DOMICILE IS LOCATED WITHIN THE CITY.

17 (1)(A) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY REAL PROP-
18 ERTY LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE
19 RECEIPTS FRACTION. RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY
20 REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN
21 THE DENOMINATOR OF THE RECEIPTS FRACTION.

22 (B) RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL
23 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF
24 THE BORROWER IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST
25 FROM LOANS NOT SECURED BY REAL PROPERTY, WHETHER THE BORROWER IS LOCATED
26 WITHIN OR WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE
27 RECEIPTS FRACTION.

28 (C) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY REAL
29 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
30 PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE SALES OF
31 LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE RECEIPTS
32 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE NET GAINS BY A FRACTION,
33 THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS FROM SALES
34 OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE CITY AND THE DENOM-
35 INATOR OF WHICH SHALL BE THE GROSS PROCEEDS FROM SALES OF LOANS SECURED
36 BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY. GROSS PROCEEDS
37 SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE
38 THE LOANS BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN
39 ZERO) FROM SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND
40 WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS
41 FRACTION.

42 (D) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT SECURED BY
43 REAL PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
44 TION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE
45 SALES OF LOANS NOT SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF
46 THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE NET GAINS
47 BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF GROSS
48 PROCEEDS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS
49 LOCATED WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE AMOUNT
50 OF GROSS PROCEEDS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO
51 PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY. GROSS PROCEEDS SHALL BE
52 DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS
53 BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM
54 SALES OF LOANS NOT SECURED BY REAL PROPERTY SHALL BE INCLUDED IN THE
55 DENOMINATOR OF THE RECEIPTS FRACTION.

1 (E) FOR PURPOSES OF THIS SUBDIVISION, A LOAN IS SECURED BY REAL PROP-
2 erty IF FIFTY PERCENT OR MORE OF THE VALUE OF THE COLLATERAL USED TO
3 SECURE THE LOAN, WHEN VALUED AT FAIR MARKET VALUE AS OF THE TIME THE
4 LOAN WAS ENTERED INTO, CONSISTS OF REAL PROPERTY.

5 (II) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTER-
6 EST AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED
7 STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE
8 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS CONSTITUT-
9 ING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT
10 INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK OR ITS
11 POLITICAL SUBDIVISIONS, INCLUDING THE CITY, SHALL BE INCLUDED IN THE
12 DENOMINATOR OF THE RECEIPTS FRACTION. FIFTY PERCENT OF THE RECEIPTS
13 CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF
14 DEBT INSTRUMENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS
15 SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

45 (IV) RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS SHALL BE
46 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE COMMERCIAL
47 DOMICILE OF THE ISSUING CORPORATION IS WITHIN THE CITY. EIGHT PERCENT OF
48 THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS SOLD
49 THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED
50 EXCHANGE SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.
51 THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES OF CORPO-
52 RATE BONDS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE
53 DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF
54 WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS
55 LOCATED WITHIN THE CITY AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF
56 GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE

1 CITY. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS, WHETHER THE
2 ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITHOUT THE CITY,
3 AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS TO
4 PURCHASERS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMI-
5 NATOR OF THE RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER
6 THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT SHALL NOT BE LESS
7 THAN ZERO.

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

26 (VI) EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN ZERO) FROM
27 FEDERAL FUNDS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
28 TION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS SHALL BE
29 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. NET INTEREST FROM
30 FEDERAL FUNDS SHALL BE DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE
31 FROM FEDERAL FUNDS.

32 (VII) DIVIDENDS FROM STOCK, NET GAINS (NOT LESS THAN ZERO) FROM SALES
33 OF STOCK AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF PARTNERSHIP
34 INTERESTS SHALL NOT BE INCLUDED IN EITHER THE NUMERATOR OR DENOMINATOR
35 OF THE RECEIPTS FRACTION UNLESS THE COMMISSIONER OF FINANCE DETERMINES
36 PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION THAT INCLUSION OF SUCH
37 DIVIDENDS AND NET GAINS (NOT LESS THAN ZERO) IS NECESSARY TO PROPERLY
38 REFLECT THE BUSINESS INCOME OR CAPITAL OF THE TAXPAYER.

39 (VIII)(A) RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRU-
40 MENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE
41 PAYOR IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST FROM
42 OTHER FINANCIAL INSTRUMENTS, WHETHER THE PAYOR IS WITHIN OR WITHOUT THE
43 CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

44 (B) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL
45 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL
46 INSTRUMENTS WHERE THE PURCHASER OR PAYOR IS LOCATED WITHIN THE CITY
47 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION, PROVIDED
48 THAT, IF THE PURCHASER OR PAYOR IS A REGISTERED SECURITIES BROKER OR
49 DEALER OR THE TRANSACTION IS MADE THROUGH A LICENSED EXCHANGE, THEN
50 EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) OR OTHER INCOME (NOT
51 LESS THAN ZERO) SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
52 TION. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL
53 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL
54 INSTRUMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
55 TION.

1 (IX) NET INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMOD-
2 ITIES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
3 PROVIDED IN THIS CLAUSE. THE AMOUNT OF NET INCOME FROM SALES OF PHYS-
4 ICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
5 SHALL BE DETERMINED BY MULTIPLYING THE NET INCOME FROM SALES OF PHYSICAL
6 COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF
7 RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY DELIVERED TO POINTS
8 WITHIN THE CITY OR, IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL
9 COMMODITY, SOLD TO PURCHASERS LOCATED WITHIN THE CITY, AND THE DENOMINA-
10 TOR OF WHICH SHALL BE THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL
11 COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE CITY OR,
12 IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL COMMODITY, SOLD TO
13 PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY. NET INCOME (NOT LESS
14 THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES SHALL BE INCLUDED IN THE
15 DENOMINATOR OF THE RECEIPTS FRACTION. NET INCOME (NOT LESS THAN ZERO)
16 FROM SALES OF PHYSICAL COMMODITIES SHALL BE DETERMINED AFTER THE
17 DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL COMMODITIES.

18 (X)(A) FOR PURPOSES OF THIS SUBDIVISION, "MARKED TO MARKET" MEANS THAT
19 A FINANCIAL INSTRUMENT IS, UNDER SECTION FOUR HUNDRED SEVENTY-FIVE OR
20 SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, TREATED
21 BY THE TAXPAYER AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS
22 DAY OF THE TAXPAYER'S TAXABLE YEAR. "MARKED TO MARKET GAIN OR LOSS"
23 MEANS THE GAIN OR LOSS RECOGNIZED BY THE TAXPAYER UNDER SECTION FOUR
24 HUNDRED SEVENTY-FIVE OR SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL
25 REVENUE CODE BECAUSE THE FINANCIAL INSTRUMENT IS TREATED AS SOLD FOR ITS
26 FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXPAYER'S TAXABLE
27 YEAR.

28 (B) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM
29 EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN
30 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-
31 ING THE MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM SUCH TYPE
32 OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE
33 THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF
34 FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS
35 SUBPARAGRAPH AND THE DENOMINATOR OF WHICH SHALL BE THE DENOMINATOR OF
36 THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRU-
37 MENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED
38 TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR
39 WHICH THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS IS DETERMINED
40 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-
41 INATOR OF THE RECEIPTS FRACTION.

42 (C) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS
43 NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE
44 TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRU-
45 MENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF
46 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINAN-
47 CIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL
48 BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT
49 LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION,
50 THE NUMERATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS
51 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)
52 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE, AND
53 THE DENOMINATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS
54 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)
55 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE.
56 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO

1 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IS DETERMINED
2 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-
3 INATOR OF THE RECEIPTS FRACTION.

4 (B) RECEIPTS OF A REGISTERED SECURITIES BROKER OR DEALER FROM SECURI-
5 TIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARA-
6 GRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN
7 SUBPARAGRAPHS ONE THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH
8 ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR
9 OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN
10 AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE
11 RECEIPTS FRACTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURI-
12 TIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (C)
13 OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE AND
14 THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO
15 OF SUBSECTION (E) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL
16 REVENUE CODE.

17 (1) RECEIPTS CONSTITUTING BROKERAGE COMMISSIONS DERIVED FROM THE
18 EXECUTION OF SECURITIES OR COMMODITIES PURCHASE OR SALES ORDERS FOR THE
19 ACCOUNTS OF CUSTOMERS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF
20 THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO
21 IS RESPONSIBLE FOR PAYING SUCH COMMISSIONS IS WITHIN THE CITY.

22 (2) RECEIPTS CONSTITUTING MARGIN INTEREST EARNED ON BEHALF OF BROKER-
23 AGE ACCOUNTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE
24 MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS
25 RESPONSIBLE FOR PAYING SUCH MARGIN INTEREST IS WITHIN THE CITY.

26 (3) (I) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY
27 SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES
28 FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY THAT IS CONTEMPLATING
29 ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR
30 MANAGING AN UNDERWRITING SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY
31 IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH CUSTOMER
32 WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE CITY.

33 (II) RECEIPTS CONSTITUTING THE PRIMARY SPREAD OF SELLING CONCESSION
34 FROM UNDERWRITTEN SECURITIES SHALL BE DEEMED TO BE GENERATED WITHIN THE
35 CITY IF THE CUSTOMER IS LOCATED WITHIN THE CITY.

36 (III) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE
37 PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETING AND
38 THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURI-
39 TIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION
40 AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S
41 FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPA-
42 RATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY
43 THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO
44 THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE
45 TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE
46 TAXPAYER IS NOT THE LEAD UNDERWRITER.

47 (4) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO
48 BE GENERATED WITHIN THE CITY IF THE MAILING ADDRESS IN THE RECORDS OF
49 THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH ACCOUNT
50 MAINTENANCE FEES IS WITHIN THE CITY.

51 (5) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES,
52 INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISSI-
53 TION ACTIVITIES, BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN PARA-
54 GRAPH (D) OF THIS SUBDIVISION, SHALL BE DEEMED TO BE GENERATED WITHIN
55 THE CITY IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE
56 CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE CITY.

(6) RECEIPTS CONSTITUTING INTEREST EARNED BY THE TAXPAYER ON LOANS AND ADVANCES MADE BY THE TAXPAYER TO A CORPORATION AFFILIATED WITH THE TAXPAYER BUT WITH WHICH THE TAXPAYER IS NOT PERMITTED OR REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE PRINCIPAL PLACE OF BUSINESS OF SUCH AFFILIATED CORPORATION.

(7) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS. THE AMOUNT OF SUCH RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS.

(8) IF, FOR THE PURPOSES OF SUBPARAGRAPH ONE, SUBPARAGRAPH TWO, CLAUSE (I) OF SUBPARAGRAPH THREE, SUBPARAGRAPH FOUR, OR SUBPARAGRAPH FIVE OF THIS PARAGRAPH, THE TAXPAYER IS UNABLE FROM ITS RECORDS TO DETERMINE THE MAILING ADDRESS OF THE CUSTOMER, EIGHT PERCENT OF THE RECEIPTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.

(C) RECEIPTS RELATING TO THE BANK, CREDIT, TRAVEL, AND ENTERTAINMENT CARD ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

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

(3) RECEIPTS FROM MERCHANT DISCOUNTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE MERCHANT IS LOCATED WITHIN THE CITY. IN THE CASE OF A MERCHANT WITH LOCATIONS BOTH WITHIN AND WITHOUT THE CITY, ONLY RECEIPTS FROM MERCHANT DISCOUNTS ATTRIBUTABLE TO SALES MADE FROM LOCATIONS WITHIN THE CITY ARE ALLOCATED TO THE CITY. IT SHALL BE PRESUMED THAT THE LOCATION OF THE MERCHANT IS THE ADDRESS OF THE MERCHANT SHOWN ON THE INVOICE SUBMITTED BY THE MERCHANT TO THE TAXPAYER; AND

(4) RECEIPTS FROM CREDIT CARD AUTHORIZATION PROCESSING, AND CLEARING AND SETTLEMENT PROCESSING RECEIVED BY A CREDIT CARD PROCESSOR SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE LOCATION WHERE THE CREDIT CARD PROCESSOR'S CUSTOMER ACCESSES THE CREDIT CARD PROCESSOR'S NETWORK IS LOCATED WITHIN THE CITY. THE AMOUNT OF ALL OTHER RECEIPTS RECEIVED BY A CREDIT CARD PROCESSOR NOT SPECIFICALLY ADDRESSED IN SUBDIVISIONS ONE THROUGH NINE OR SUBDIVISION TWELVE OF THIS SECTION DEEMED TO BE GENERATED WITHIN THE CITY SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT

1 OF SUCH OTHER RECEIPTS BY THE AVERAGE OF (I) EIGHT PERCENT AND (II) THE
2 PERCENT OF NEW YORK CITY ACCESS POINTS. THE PERCENT OF NEW YORK CITY
3 ACCESS POINTS SHALL BE THE NUMBER OF LOCATIONS IN NEW YORK CITY FROM
4 WHICH THE CREDIT CARD PROCESSOR'S CUSTOMERS ACCESS THE CREDIT CARD
5 PROCESSOR'S NETWORK DIVIDED BY THE TOTAL NUMBER OF LOCATIONS IN THE
6 UNITED STATES WHERE THE CREDIT CARD PROCESSOR'S CUSTOMERS ACCESS THE
7 CREDIT CARD PROCESSOR'S NETWORK.

8 (D) RECEIPTS RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE
9 OF MANAGEMENT, ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVEST-
10 MENT COMPANY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
11 TION. THE PORTION OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE
12 RECEIPTS FRACTION (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK CITY
13 PORTION) SHALL BE DETERMINED AS PROVIDED IN THIS PARAGRAPH.

14 (1) THE NEW YORK CITY PORTION SHALL BE THE PRODUCT OF THE TOTAL OF
15 SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERA-
16 TOR OF THAT FRACTION SHALL BE THE SUM OF THE MONTHLY PERCENTAGES (AS
17 DEFINED HEREINAFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPA-
18 NY'S TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR
19 ENDS WITHIN THE TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH
20 DURING WHICH THE INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE
21 MONTHLY PERCENTAGE FOR EACH SUCH MONTH SHALL BE DETERMINED BY DIVIDING
22 THE NUMBER OF SHARES IN THE INVESTMENT COMPANY THAT ARE OWNED ON THE
23 LAST DAY OF THE MONTH BY SHAREHOLDERS THAT ARE LOCATED IN THE CITY BY
24 THE TOTAL NUMBER OF SHARES IN THE INVESTMENT COMPANY OUTSTANDING ON THAT
25 DATE. THE DENOMINATOR OF THE FRACTION SHALL BE THE NUMBER OF SUCH MONTH-
26 LY PERCENTAGES.

27 (2)(I) FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL, ESTATE OR TRUST
28 SHALL BE DEEMED TO BE LOCATED WITHIN THE CITY IF HIS, HER OR ITS MAILING
29 ADDRESS IN THE RECORDS OF THE INVESTMENT COMPANY IS LOCATED WITHIN THE
30 CITY. A BUSINESS ENTITY IS DEEMED TO BE LOCATED WITHIN THE CITY IF ITS
31 COMMERCIAL DOMICILE IS LOCATED WITHIN THE CITY.

32 (II) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INVESTMENT COMPANY"
33 MEANS A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION EIGHT
34 HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, AND A PARTNERSHIP TO
35 WHICH SUBSECTION (A) OF SECTION SEVEN THOUSAND SEVEN HUNDRED FOUR OF THE
36 INTERNAL REVENUE CODE APPLIES (BY VIRTUE OF PARAGRAPH THREE OF
37 SUBSECTION (C) OF SECTION SEVEN THOUSAND SEVEN HUNDRED FOUR OF SUCH
38 CODE) AND THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF SECTION EIGHT
39 HUNDRED FIFTY-ONE OF SUCH CODE. THE PRECEDING SENTENCE SHALL BE APPLIED
40 TO THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES OF THE BUSINESS
41 ENTITY THAT IS ASSERTED TO CONSTITUTE AN INVESTMENT COMPANY THAT ENDS
42 WITHIN THE TAXABLE YEAR OF THE TAXPAYER.

43 (III) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "RECEIPTS RECEIVED FROM
44 AN INVESTMENT COMPANY" INCLUDES AMOUNTS RECEIVED DIRECTLY FROM AN
45 INVESTMENT COMPANY AS WELL AS AMOUNTS RECEIVED FROM THE SHAREHOLDERS IN
46 SUCH INVESTMENT COMPANY, IN THEIR CAPACITY AS SUCH.

47 (IV) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "MANAGEMENT SERVICES"
48 MEANS THE RENDERING OF INVESTMENT ADVICE TO AN INVESTMENT COMPANY,
49 MAKING DETERMINATIONS AS TO WHEN SALES AND PURCHASES OF SECURITIES ARE
50 TO BE MADE ON BEHALF OF AN INVESTMENT COMPANY, OR THE SELLING OR
51 PURCHASING OF SECURITIES CONSTITUTING ASSETS OF AN INVESTMENT COMPANY,
52 AND RELATED ACTIVITIES, BUT ONLY WHERE SUCH ACTIVITY OR ACTIVITIES ARE
53 PERFORMED PURSUANT TO A CONTRACT WITH THE INVESTMENT COMPANY ENTERED
54 INTO PURSUANT TO SUBSECTION (A) OF SECTION FIFTEEN OF THE FEDERAL
55 INVESTMENT COMPANY ACT OF NINETEEN HUNDRED FORTY, AS AMENDED.

1 (V) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DISTRIBUTION SERVICES"
2 MEANS THE SERVICES OF ADVERTISING, SERVICING INVESTOR ACCOUNTS (INCLUD-
3 ING REDEMPTIONS), MARKETING SHARES OR SELLING SHARES OF AN INVESTMENT
4 COMPANY, BUT, IN THE CASE OF ADVERTISING, SERVICING INVESTOR ACCOUNTS
5 (INCLUDING REDEMPTIONS) OR MARKETING SHARES, ONLY WHERE SUCH SERVICE IS
6 PERFORMED BY A PERSON WHO IS (OR WAS, IN THE CASE OF A CLOSED END COMPA-
7 NY) ALSO ENGAGED IN THE SERVICE OF SELLING SUCH SHARES. IN THE CASE OF
8 AN OPEN END COMPANY, SUCH SERVICE OF SELLING SHARES MUST BE PERFORMED
9 PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO SUBSECTION (B) OF
10 SECTION FIFTEEN OF THE FEDERAL INVESTMENT COMPANY ACT OF NINETEEN
11 HUNDRED FORTY, AS AMENDED.

12 (VI) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ADMINISTRATION
13 SERVICES" INCLUDES CLERICAL, ACCOUNTING, BOOKKEEPING, DATA PROCESSING,
14 INTERNAL AUDITING, LEGAL AND TAX SERVICES PERFORMED FOR AN INVESTMENT
15 COMPANY BUT ONLY IF THE PROVIDER OF SUCH SERVICE OR SERVICES DURING THE
16 TAXABLE YEAR IN WHICH SUCH SERVICE OR SERVICES ARE SOLD ALSO SELLS
17 MANAGEMENT OR DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH
18 INVESTMENT COMPANY.

19 (E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOW-
20 ING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY,
21 BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD
22 BE KNOWN UPON REASONABLE INQUIRY: (1) THE SEAT OF MANAGEMENT AND CONTROL
23 OF THE BUSINESS ENTITY; AND (2) THE BILLING ADDRESS OF THE BUSINESS
24 ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILI-
25 GENCE BEFORE REJECTING THE FIRST METHOD IN THIS HIERARCHY AND PROCEEDING
26 TO THE NEXT METHOD.

27 (F) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "REGISTERED SECURITIES
28 BROKER OR DEALER" MEANS A BROKER OR DEALER REGISTERED AS SUCH BY THE
29 SECURITIES AND EXCHANGE COMMISSION OR A BROKER OR DEALER REGISTERED AS
30 SUCH BY THE COMMODITIES FUTURES TRADING COMMISSION, AND SHALL INCLUDE AN
31 OTC DERIVATIVES DEALER AS DEFINED UNDER REGULATIONS OF THE SECURITIES
32 AND EXCHANGE COMMISSION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE
33 OF FEDERAL REGULATIONS (17 CFR 240.3B-12).

34 6. RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE
35 RAILROAD, WHETHER OR NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED
36 RAILROAD, PALACE CAR OR SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS
37 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS.
38 THE AMOUNT OF RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS OR A
39 TRUCKING BUSINESS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
40 SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF RECEIPTS FROM SUCH
41 BUSINESS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE MILES IN
42 SUCH BUSINESS WITHIN THE CITY DURING THE PERIOD COVERED BY THE TAXPAY-
43 ER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE MILES IN SUCH
44 BUSINESS WITHIN AND WITHOUT THE CITY DURING SUCH PERIOD. RECEIPTS FROM
45 THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS SHALL BE
46 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

47 7. (A) RECEIPTS OF A TAXPAYER ACTING AS PRINCIPAL FROM THE ACTIVITY OF
48 AIR FREIGHT FORWARDING AND LIKE INDIRECT AIR CARRIER RECEIPTS ARISING
49 FROM SUCH ACTIVITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS
50 FRACTION AS FOLLOWS: ONE HUNDRED PERCENT OF SUCH RECEIPTS IF BOTH THE
51 PICKUP AND DELIVERY ASSOCIATED WITH SUCH RECEIPTS ARE MADE WITHIN THE
52 CITY AND FIFTY PERCENT OF SUCH RECEIPTS IF EITHER THE PICKUP OR DELIVERY
53 ASSOCIATED WITH SUCH RECEIPTS IS MADE WITHIN THIS CITY. SUCH RECEIPTS,
54 WHETHER THE PICKUP OR DELIVERY ASSOCIATED WITH THE RECEIPTS IS WITHIN OR
55 WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS
56 FRACTION.

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

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

(B) THE PERCENTAGE DETERMINED BY DIVIDING THE REVENUE TONS HANDLED BY THE TAXPAYER AT AIRPORTS WITHIN THE CITY DURING SUCH PERIOD BY THE TOTAL REVENUE TONS HANDLED BY IT AT AIRPORTS WITHIN AND WITHOUT THE CITY DURING SUCH PERIOD; AND

(C) THE PERCENTAGE DETERMINED BY DIVIDING THE TAXPAYER'S ORIGINATING REVENUE WITHIN THE CITY FOR SUCH PERIOD BY ITS TOTAL ORIGINATING REVENUE WITHIN AND WITHOUT THE CITY FOR SUCH PERIOD.

(II) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAYER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM THE TRANSPORTATION OF REVENUE PASSENGERS AND REVENUE PROPERTY FIRST RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT AIRPORTS; AND THE TERM "REVENUE TONS HANDLED BY THE TAXPAYER AT AIRPORTS" MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGINATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT AIRPORTS.

(2) ALL SUCH RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES DESCRIBED IN THIS PARAGRAPH SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

(3) A CORPORATION IS A QUALIFIED AIR FREIGHT FORWARDER WITH RESPECT TO ANOTHER CORPORATION:

(I) IF IT OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY ALL OF THE CAPITAL STOCK OF SUCH OTHER CORPORATION, OR IF ALL OF ITS CAPITAL STOCK IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY SUCH OTHER CORPORATION, OR IF ALL OF THE CAPITAL STOCK OF BOTH CORPORATIONS IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY THE SAME INTERESTS;

(II) IF IT IS PRINCIPALLY ENGAGED IN THE BUSINESS OF AIR FREIGHT FORWARDING; AND

1 (III) IF ITS AIR FREIGHT FORWARDING BUSINESS IS CARRIED ON PRINCIPALLY
2 WITH THE AIRLINE OR AIRLINES OPERATED BY SUCH OTHER CORPORATION.

3 8. (A) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS
4 OR PERIODICALS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL
5 BE DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION,
6 THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF NEWSPAPERS AND PERIODICALS
7 DELIVERED TO POINTS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL
8 BE THE NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN
9 AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTIS-
10 ING IN NEWSPAPERS OR PERIODICALS SHALL BE INCLUDED IN THE DENOMINATOR OF
11 THE RECEIPTS FRACTION.

12 (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR
13 RADIO INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETER-
14 MINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE
15 NUMERATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN
16 THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR
17 LISTENERS WITHIN AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM
18 SALES OF ADVERTISING ON TELEVISION OR RADIO SHALL BE INCLUDED IN THE
19 DENOMINATOR OF THE RECEIPTS FRACTION.

20 (C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN
21 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR
22 DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF
23 WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR
24 SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE
25 NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING
26 THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH SHALL
27 BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE CITY AND THE DENOMINA-
28 TOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND
29 WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING
30 DESCRIBED IN THIS PARAGRAPH SHALL BE INCLUDED IN THE DENOMINATOR OF THE
31 RECEIPTS FRACTION.

32 9. RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH
33 PIPES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
34 FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION
35 OF GAS THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
36 SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY
37 A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TAXPAYER'S TRANSPORTA-
38 TION UNITS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE
39 TAXPAYER'S TRANSPORTATION UNITS WITHIN AND WITHOUT THE CITY. A TRANSPOR-
40 TATION UNIT IS THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A
41 DISTANCE OF ONE MILE. THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTA-
42 TION OR TRANSMISSION OF GAS THROUGH PIPES SHALL BE INCLUDED IN THE
43 DENOMINATOR OF THE RECEIPTS FRACTION.

44 10. (A) RECEIPTS FROM SERVICES NOT ADDRESSED IN SUBDIVISIONS ONE
45 THROUGH NINE OR SUBDIVISION TWELVE OF THIS SECTION AND OTHER BUSINESS
46 RECEIPTS NOT ADDRESSED IN SUCH SUBDIVISIONS SHALL BE INCLUDED IN THE
47 NUMERATOR OF THE RECEIPTS FRACTION IF THE LOCATION OF THE CUSTOMER IS
48 WITHIN THE CITY. SUCH RECEIPTS FROM CUSTOMERS WITHIN AND WITHOUT THE
49 CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.
50 WHETHER THE RECEIPTS ARE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
51 TION SHALL BE DETERMINED ACCORDING TO THE HIERARCHY OF METHODS SET FORTH
52 IN PARAGRAPH (B) OF THIS SUBDIVISION. THE TAXPAYER MUST EXERCISE DUE
53 DILIGENCE UNDER EACH METHOD DESCRIBED IN SUCH PARAGRAPH BEFORE REJECTING
54 IT AND PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS
55 DETERMINATION ON INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT
56 WOULD BE KNOWN TO THE TAXPAYER UPON REASONABLE INQUIRY.

(B) THE HIERARCHY OF METHODS IS AS FOLLOWS: (1) THE BENEFIT IS RECEIVED IN THE CITY; (2) DELIVERY DESTINATION; (3) THE RECEIPTS FRACTION FOR SUCH RECEIPTS WITHIN THE CITY DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR; OR (4) THE RECEIPTS FRACTION IN THE CURRENT TAXABLE YEAR DETERMINED PURSUANT TO THIS SUBDIVISION FOR THOSE RECEIPTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

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

12. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE OPERATION OF VESSELS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF WORKING DAYS OF THE VESSELS OWNED OR LEASED BY THE TAXPAYER IN TERRITORIAL WATERS OF THE CITY DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY THE TAXPAYER DURING SUCH PERIOD. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

S 11-654.3 COMBINED REPORTS. 1. (A) THE TAX ON A COMBINED REPORT SHALL BE THE HIGHEST OF (1) THE COMBINED BUSINESS INCOME MULTIPLIED BY THE TAX RATE SPECIFIED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER; (2) THE COMBINED CAPITAL MULTIPLIED BY THE TAX RATE SPECIFIED IN CLAUSE (II) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, BUT NOT EXCEEDING THE LIMITATION PROVIDED FOR IN SUCH CLAUSE (II); OR (3) THE FIXED DOLLAR MINIMUM THAT IS ATTRIBUTABLE TO THE DESIGNATED AGENT OF THE COMBINED GROUP. IN ADDITION, THE TAX ON A COMBINED REPORT SHALL INCLUDE THE FIXED DOLLAR MINIMUM TAX SPECIFIED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER FOR EACH MEMBER OF THE COMBINED GROUP, OTHER THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

(B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED BUSINESS INCOME OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY, REDUCED BY ANY PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE COMBINED CAPITAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY.

2. (A) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, ANY TAXPAYER (1) WHICH OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY MORE THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, OR (2) MORE THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF WHICH IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY ONE OR MORE OTHER CORPORATIONS, OR (3) MORE

THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF WHICH AND THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME INTERESTS, AND (4) THAT IS ENGAGED IN A UNITARY BUSINESS WITH THOSE CORPORATIONS (HEREINAFTER REFERRED TO AS "RELATED CORPORATIONS"), SHALL MAKE A COMBINED REPORT WITH THOSE OTHER CORPORATIONS.

(B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEANING OF THIS SECTION SHALL ALSO INCLUDE (1) A CAPTIVE REIT AND A CAPTIVE RIC; (2) A COMBINABLE CAPTIVE INSURANCE COMPANY; AND (3) AN ALIEN CORPORATION THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION IF (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT CORPORATION IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II) IT HAS EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER.

(C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT UNDER THIS SECTION DOES NOT INCLUDE (1) A CORPORATION THAT IS TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF THIS CHAPTER OR CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER), OR WOULD BE TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF THIS CHAPTER OR CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER), OR WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION UNDER THE FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE CODE AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR; (2) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE RIC; OR (3) AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER. IF A CORPORATION IS SUBJECT TO TAX UNDER THIS SUBCHAPTER SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THIS CITY, AND NONE OF THE CORPORATION'S RELATED CORPORATIONS ARE SUBJECT TO TAX UNDER THIS SUBCHAPTER, SUCH CORPORATION SHALL NOT BE REQUIRED OR PERMITTED TO FILE A COMBINED REPORT UNDER THIS SECTION WITH SUCH RELATED CORPORATIONS.

(D) A COMBINED REPORT SHALL BE FILED BY THE DESIGNATED AGENT OF THE COMBINED GROUP AS DETERMINED UNDER SUBDIVISION SEVEN OF THIS SECTION.

3. (A) SUBJECT TO THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION, A TAXPAYER MAY ELECT TO TREAT AS ITS COMBINED GROUP ALL CORPORATIONS THAT MEET THE OWNERSHIP REQUIREMENTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION (SUCH CORPORATIONS COLLECTIVELY REFERRED TO IN THIS SUBDIVISION AS THE "COMMONLY OWNED GROUP"). IF THAT ELECTION IS MADE, THE COMMONLY OWNED GROUP SHALL CALCULATE THE COMBINED BUSINESS INCOME, COMBINED BUSINESS CAPITAL, AND FIXED DOLLAR MINIMUM AMOUNT OF ALL MEMBERS OF THE GROUP IN ACCORDANCE WITH PARAGRAPH FOUR OF THIS SUBDIVISION, WHETHER OR NOT THAT BUSINESS INCOME OR BUSINESS CAPITAL IS FROM A SINGLE UNITARY BUSINESS.

(B) THE ELECTION UNDER THIS SUBDIVISION SHALL BE MADE ON AN ORIGINAL, TIMELY FILED RETURN (DETERMINED WITH REGARD TO EXTENSIONS) OF THE COMBINED GROUP. ANY CORPORATION ENTERING A COMMONLY OWNED GROUP SUBSE-

1 QUENT TO THE YEAR OF ELECTION SHALL BE INCLUDED IN THE COMBINED GROUP
2 AND IS CONSIDERED TO HAVE WAIVED ANY OBJECTION TO ITS INCLUSION IN THE
3 COMBINED GROUP.

4 (C) THE ELECTION SHALL BE IRREVOCABLE, AND BINDING FOR AND APPLICABLE
5 TO THE TAXABLE YEAR FOR WHICH IT IS MADE AND FOR THE NEXT SIX TAXABLE
6 YEARS. THE ELECTION WILL AUTOMATICALLY BE RENEWED FOR ANOTHER SEVEN
7 TAXABLE YEARS AFTER IT HAS BEEN IN EFFECT FOR SEVEN TAXABLE YEARS UNLESS
8 IT IS AFFIRMATIVELY REVOKED. THE REVOCATION SHALL BE MADE ON AN
9 ORIGINAL, TIMELY FILED RETURN (DETERMINED WITH REGARD TO EXTENSIONS) FOR
10 THE FIRST TAXABLE YEAR AFTER THE COMPLETION OF A SEVEN YEAR PERIOD FOR
11 WHICH AN ELECTION UNDER THIS SUBDIVISION WAS IN PLACE. IN THE CASE OF A
12 REVOCATION, A NEW ELECTION UNDER THIS SUBDIVISION SHALL NOT BE PERMITTED
13 IN ANY OF THE IMMEDIATELY FOLLOWING THREE TAXABLE YEARS. IN DETERMINING
14 THE SEVEN AND THREE YEAR PERIODS DESCRIBED IN THIS PARAGRAPH, SHORT
15 TAXABLE YEARS SHALL NOT BE CONSIDERED OR COUNTED.

16 4. (A) IN COMPUTING THE TAX BASES FOR A COMBINED REPORT, THE COMBINED
17 GROUP SHALL GENERALLY BE TREATED AS A SINGLE CORPORATION, EXCEPT AS
18 OTHERWISE PROVIDED, AND SUBJECT TO ANY REGULATIONS OR GUIDANCE ISSUED BY
19 THE COMMISSIONER OF FINANCE OR THE DEPARTMENT OF FINANCE.

20 (B)(1) IN COMPUTING COMBINED BUSINESS INCOME, ALL INTERCORPORATE DIVI-
21 DENDS SHALL BE ELIMINATED, AND ALL OTHER INTERCORPORATE TRANSACTIONS
22 SHALL BE DEFERRED IN A MANNER SIMILAR TO THE UNITED STATES TREASURY
23 DEPARTMENT REGULATIONS RELATING TO INTERCOMPANY TRANSACTIONS UNDER
24 SECTION FIFTEEN HUNDRED TWO OF THE INTERNAL REVENUE CODE.

25 (2) IN COMPUTING COMBINED CAPITAL, ALL INTERCORPORATE STOCKHOLDINGS,
26 INTERCORPORATE BILLS, INTERCORPORATE NOTES RECEIVABLE AND PAYABLE,
27 INTERCORPORATE ACCOUNTS RECEIVABLE AND PAYABLE, AND OTHER INTERCORPORATE
28 INDEBTEDNESS, SHALL BE ELIMINATED.

29 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,
30 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED
31 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS
32 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE
33 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION
34 11-654 OF THIS SUBCHAPTER, OR ANY OTHER APPLICABLE SECTION OF THIS
35 SUBCHAPTER, LIMITS A CREDIT TO THE FIXED DOLLAR MINIMUM AMOUNT
36 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-
37 VISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, SUCH FIXED DOLLAR MINI-
38 MUM AMOUNT SHALL BE THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE
39 TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

40 (D)(1) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE
41 COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE
42 COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED
43 CAPITAL OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE
44 DESIGNATED AGENT OF THE COMBINED GROUP. A COMBINED NET OPERATING LOSS
45 DEDUCTION IS EQUAL TO THE AMOUNT OF COMBINED NET OPERATING LOSS OR LOSS-
46 ES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD OR CARRIED
47 BACK TO A PARTICULAR TAXABLE YEAR. A COMBINED NET OPERATING LOSS IS THE
48 COMBINED BUSINESS LOSS INCURRED IN A PARTICULAR TAXABLE YEAR MULTIPLIED
49 BY THE COMBINED BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR DETERMINED
50 AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

51 (2) THE COMBINED NET OPERATING LOSS DEDUCTION AND COMBINED NET OPERAT-
52 ING LOSS ARE ALSO SUBJECT TO THE PROVISIONS CONTAINED IN PARAGRAPHS (A)
53 THROUGH (G) OF SUBDIVISION THREE OF SECTION 11-654.1 OF THIS SUBCHAPTER.

54 (3) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT, EITHER
55 IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN WHICH A
56 DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET OPERATING

LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A SINGLE CORPORATION AND, TO THE EXTENT POSSIBLE AND NOT OTHERWISE INCONSISTENT WITH THIS SUBDIVISION, IS SUBJECT TO THE SAME LIMITATIONS THAT WOULD APPLY FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE AND THE CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD FILED FOR SUCH TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN WITH THE SAME CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPORATION FILES A COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPARATE RETURN OR CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP MUST BE COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED RETURN FOR THE SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

(4) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPARATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT IN COMPUTING THE COMBINED NET OPERATING LOSS.

(D-1) A PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION IS ALLOWED IN COMPUTING THE COMBINED BUSINESS INCOME BASE, AS PROVIDED IN SUBDIVISIONS ONE AND TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER. SUCH SUBTRACTION MAY REDUCE THE TAX ON COMBINED BUSINESS INCOME TO THE HIGHER OF THE TAX ON COMBINED CAPITAL OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

(E)(I) ANY ELECTION MADE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION FIVE, PARAGRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF SECTION 11-652 OF THIS SUBCHAPTER, AND PARAGRAPH (G) OF SUBDIVISION THREE OF SECTION 11-654.1 OF THIS SUBCHAPTER SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

(II) THE DETERMINATION OF WHETHER OR NOT THE LIMITATION ON INVESTMENT INCOME PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 11-652 OF THIS SUBCHAPTER TO THE COMBINED GROUP SHALL BE BASED ON THE INVESTMENT INCOME OF THE COMBINED GROUP, DETERMINED WITHOUT REGARD TO INTEREST EXPENSES ATTRIBUTABLE TO INVESTMENT CAPITAL OR INVESTMENT INCOME, AND THE ENTIRE NET INCOME OF THE COMBINED GROUP.

(F)(1) IN THE CASE OF A CAPTIVE REIT OR CAPTIVE RIC REQUIRED UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME SHALL BE COMPUTED AS REQUIRED UNDER SUBDIVISION SEVEN (IN THE CASE OF A CAPTIVE REIT) OR SUBDIVISION EIGHT (IN THE CASE OF A CAPTIVE RIC) OF SECTION 11-653 OF THIS SUBCHAPTER. HOWEVER, THE DEDUCTION UNDER THE INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR CAPTIVE RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE CORPORATION THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL NOT BE ALLOWED. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "AFFILIATED GROUP" MEANS "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR IN SUBSECTION (B) OF THAT SECTION.

(2) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER.

(G) IF MORE THAN ONE MEMBER OF A COMBINED GROUP IS ELIGIBLE FOR ANY OF THE MODIFICATIONS DESCRIBED IN PARAGRAPHS (Q), (R) OR (S) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, ALL SUCH MEMBERS MUST UTILIZE THE SAME MODIFICATION.

5. (A) IN DETERMINING THE BUSINESS ALLOCATION PERCENTAGE FOR A COMBINED REPORT, THE RECEIPTS, NET INCOME, NET GAINS AND OTHER ITEMS OF EACH MEMBER OF THE COMBINED GROUP, WHETHER OR NOT THEY ARE A TAXPAYER, ARE INCLUDED AND INTERCORPORATE RECEIPTS, INCOME AND GAINS ARE ELIMINATED. RECEIPTS, NET INCOME, NET GAINS AND OTHER ITEMS ARE SOURCED, AND THE AMOUNTS ALLOWED IN THE RECEIPTS FRACTION ARE DETERMINED, AS PROVIDED IN SECTION 11-654.2 OF THIS SUBCHAPTER.

(B) AN ELECTION MADE TO ALLOCATE INCOME AND GAINS FROM QUALIFYING FINANCIAL INSTRUMENTS PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

6. EVERY MEMBER OF THE COMBINED GROUP THAT IS SUBJECT TO TAX UNDER THIS ARTICLE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR THE TAX DUE PURSUANT TO A COMBINED REPORT.

7. EACH COMBINED GROUP SHALL APPOINT A DESIGNATED AGENT FOR THE COMBINED GROUP, WHICH SHALL BE A TAXPAYER. ONLY THE DESIGNATED AGENT MAY ACT ON BEHALF OF THE MEMBERS OF THE COMBINED GROUP FOR MATTERS RELATING TO THE COMBINED REPORT.

S 11-655 REPORTS. 1. EVERY CORPORATION HAVING AN OFFICER, AGENT OR REPRESENTATIVE WITHIN THE CITY, SHALL ANNUALLY ON OR BEFORE MARCH FIFTEENTH, TRANSMIT TO THE COMMISSIONER OF FINANCE A REPORT IN A FORM PRESCRIBED BY THE COMMISSIONER OF FINANCE (EXCEPT THAT A CORPORATION WHICH REPORTS ON THE BASIS OF A FISCAL YEAR SHALL TRANSMIT ITS REPORT WITHIN TWO AND ONE-HALF MONTHS AFTER THE CLOSE OF ITS FISCAL YEAR) SETTING FORTH SUCH INFORMATION AS THE COMMISSIONER OF FINANCE MAY PRESCRIBE, AND EVERY TAXPAYER WHICH CEASES TO DO BUSINESS IN THE CITY OR TO BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER SHALL TRANSMIT TO THE COMMISSIONER OF FINANCE A REPORT ON THE DATE OF SUCH CESSATION OR AT SUCH OTHER TIME AS THE COMMISSIONER OF FINANCE MAY REQUIRE COVERING EACH YEAR OR PERIOD FOR WHICH NO REPORT WAS THERETOFORE FILED. EVERY TAXPAYER SHALL ALSO TRANSMIT SUCH OTHER REPORTS AND SUCH FACTS AND INFORMATION AS THE COMMISSIONER OF FINANCE MAY REQUIRE IN THE ADMINISTRATION OF THIS SUBCHAPTER. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF TIME FOR FILING REPORTS WHENEVER GOOD CAUSE EXISTS.

AN AUTOMATIC EXTENSION OF SIX MONTHS FOR THE FILING OF ITS ANNUAL REPORT SHALL BE ALLOWED ANY TAXPAYER IF, WITHIN THE TIME PRESCRIBED BY THE PRECEDING PARAGRAPH, WHICHEVER IS APPLICABLE, SUCH TAXPAYER FILES WITH THE COMMISSIONER OF FINANCE AN APPLICATION FOR EXTENSION IN SUCH FORM AS THE COMMISSIONER OF FINANCE MAY PRESCRIBE BY REGULATION AND PAYS ON OR BEFORE THE DATE OF SUCH FILING THE AMOUNT PROPERLY ESTIMATED AS ITS TAX.

2. EVERY REPORT SHALL HAVE ANNEXED THERETO A CERTIFICATION BY THE PRESIDENT, VICE-PRESIDENT, TREASURER, ASSISTANT TREASURER, CHIEF ACCOUNTING OFFICER OR ANOTHER OFFICER OF THE TAXPAYER DULY AUTHORIZED SO TO ACT TO THE EFFECT THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE. IN THE CASE OF AN ASSOCIATION, WITHIN THE MEANING OF PARAGRAPH THREE OF SECTION (A) OF SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, A PUBLICLY-TRADED PARTNERSHIP TREATED AS A CORPORATION FOR PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO SECTION SEVENTY-SEVEN HUNDRED FOUR THEREOF AND ANY BUSINESS CONDUCTED BY A TRUSTEE OR TRUSTEES WHEREIN INTEREST OR OWNERSHIP IS EVIDENCED BY CERTIFICATES OR OTHER WRITTEN INSTRUMENTS, SUCH CERTIFICATION SHALL BE MADE BY ANY PERSON DULY

1 AUTHORIZED SO TO ACT ON BEHALF OF SUCH ASSOCIATION, PUBLICLY-TRADED
2 PARTNERSHIP OR BUSINESS. THE FACT THAT AN INDIVIDUAL'S NAME IS SIGNED ON
3 A CERTIFICATION OF THE REPORT SHALL BE PRIMA FACIE EVIDENCE THAT SUCH
4 INDIVIDUAL IS AUTHORIZED TO SIGN AND CERTIFY THE REPORT ON BEHALF OF THE
5 CORPORATION. BLANK FORMS OF REPORTS SHALL BE FURNISHED BY THE COMMIS-
6 SIONER OF FINANCE, ON APPLICATION, BUT FAILURE TO SECURE SUCH A BLANK
7 SHALL NOT RELEASE ANY CORPORATION FROM THE OBLIGATION OF MAKING ANY
8 REPORT REQUIRED BY THIS SUBCHAPTER.

9 2-A. THE COMMISSIONER OF FINANCE MAY PRESCRIBE REGULATIONS AND
10 INSTRUCTIONS REQUIRING RETURNS OF INFORMATION TO BE MADE AND FILED IN
11 CONJUNCTION WITH THE REPORTS REQUIRED TO BE FILED PURSUANT TO THIS
12 SECTION, RELATING TO PAYMENTS MADE TO SHAREHOLDERS OWNING, DIRECTLY OR
13 INDIRECTLY, INDIVIDUALLY OR IN THE AGGREGATE, MORE THAN FIFTY PERCENT OF
14 THE ISSUED CAPITAL STOCK OF THE TAXPAYER, WHERE SUCH PAYMENTS ARE TREAT-
15 ED AS PAYMENTS OF INTEREST IN THE COMPUTATION OF ENTIRE NET INCOME
16 REPORTED ON SUCH REPORTS.

17 3. IF THE AMOUNT OF TAXABLE INCOME OR OTHER BASIS OF TAX FOR ANY YEAR
18 OF ANY TAXPAYER AS RETURNED TO THE UNITED STATES TREASURY DEPARTMENT OR
19 THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE IS CHANGED OR
20 CORRECTED BY THE COMMISSIONER OF INTERNAL REVENUE OR OTHER OFFICER OF
21 THE UNITED STATES OR THE NEW YORK STATE COMMISSIONER OF TAXATION AND
22 FINANCE OR OTHER COMPETENT AUTHORITY, OR WHERE A RENEGOTIATION OF A
23 CONTRACT OR SUBCONTRACT WITH THE UNITED STATES OR THE STATE OF NEW YORK
24 RESULTS IN A CHANGE IN TAXABLE INCOME OR OTHER BASIS OF TAX, OR WHERE A
25 RECOVERY OF A WAR LOSS RESULTS IN A COMPUTATION OR RECOMPUTATION OF ANY
26 TAX IMPOSED BY THE UNITED STATES OR THE STATE OF NEW YORK, OR IF A
27 TAXPAYER, PURSUANT TO SUBSECTION (D) OF SECTION SIXTY-TWO HUNDRED THIR-
28 TEEN OF THE INTERNAL REVENUE CODE, EXECUTES A NOTICE OF WAIVER OF THE
29 RESTRICTIONS PROVIDED IN SUBSECTION (A) OF SAID SECTION, OR IF A TAXPAY-
30 ER, PURSUANT TO SUBSECTION (F) OF SECTION ONE THOUSAND EIGHTY-ONE OF THE
31 TAX LAW, EXECUTES A NOTICE OF WAIVER OF THE RESTRICTIONS PROVIDED IN
32 SUBSECTION (C) OF SAID SECTION, SUCH TAXPAYER SHALL REPORT SUCH CHANGED
33 OR CORRECTED TAXABLE INCOME OR OTHER BASIS OF TAX, OR THE RESULTS OF
34 SUCH RENEGOTIATION, OR SUCH COMPUTATION, OR RECOMPUTATION, OR SUCH
35 EXECUTION OF SUCH NOTICE OF WAIVER AND THE CHANGES OR CORRECTIONS OF THE
36 TAXPAYER'S FEDERAL OR NEW YORK STATE TAXABLE INCOME OR OTHER BASIS OF
37 TAX ON WHICH IT IS BASED, WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY
38 DAYS, IN THE CASE OF A TAXPAYER MAKING A COMBINED REPORT UNDER THIS
39 SUBCHAPTER FOR SUCH YEAR) AFTER SUCH EXECUTION OR THE FINAL DETERMI-
40 NATION OF SUCH CHANGE OR CORRECTION OR RENEGOTIATION, OR SUCH COMPUTA-
41 TION, OR RECOMPUTATION, OR AS REQUIRED BY THE COMMISSIONER OF FINANCE,
42 AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE WHEREIN IT
43 IS ERRONEOUS. THE ALLOWANCE OF A TENTATIVE CARRYBACK ADJUSTMENT BASED
44 UPON A NET OPERATING LOSS CARRYBACK OR NET CAPITAL LOSS CARRYBACK PURSU-
45 ANT TO SECTION SIXTY-FOUR HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE
46 SHALL BE TREATED AS A FINAL DETERMINATION FOR PURPOSES OF THIS SUBDIVI-
47 SION. ANY TAXPAYER FILING AN AMENDED RETURN WITH SUCH DEPARTMENT SHALL
48 ALSO FILE WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF
49 A TAXPAYER MAKING A COMBINED REPORT UNDER THIS SUBCHAPTER FOR SUCH YEAR)
50 THEREAFTER AN AMENDED REPORT WITH THE COMMISSIONER OF FINANCE.

51 4. THE PROVISIONS OF SECTION 11-654.3 OF THIS SUBCHAPTER SHALL APPLY
52 TO COMBINED REPORTS.

53 5. IN CASE IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY
54 AGREEMENT, UNDERSTANDING OR ARRANGEMENT EXISTS BETWEEN THE TAXPAYER AND
55 ANY OTHER CORPORATION OR ANY PERSON OR FIRM, WHEREBY THE ACTIVITY, BUSI-
56 NESS, INCOME OR CAPITAL OF THE TAXPAYER WITHIN THE CITY IS IMPROPERLY OR

1 INACCURATELY REFLECTED, THE COMMISSIONER OF FINANCE IS AUTHORIZED AND
2 EMPOWERED, IN ITS DISCRETION AND IN SUCH MANNER AS IT MAY DETERMINE, TO
3 ADJUST ITEMS OF INCOME, DEDUCTIONS AND CAPITAL, AND TO ELIMINATE ASSETS
4 IN COMPUTING ANY ALLOCATION PERCENTAGE PROVIDED ONLY THAT ANY INCOME
5 DIRECTLY TRACEABLE THERETO BE ALSO EXCLUDED FROM ENTIRE NET INCOME, SO
6 AS EQUITABLY TO DETERMINE THE TAX. WHERE (A) ANY TAXPAYER CONDUCTS ITS
7 ACTIVITY OR BUSINESS UNDER ANY AGREEMENT, ARRANGEMENT OR UNDERSTANDING
8 IN SUCH MANNER AS EITHER DIRECTLY OR INDIRECTLY TO BENEFIT ITS MEMBERS
9 OR STOCKHOLDERS, OR ANY OF THEM, OR ANY PERSON OR PERSONS DIRECTLY OR
10 INDIRECTLY INTERESTED IN SUCH ACTIVITY OR BUSINESS, BY ENTERING INTO ANY
11 TRANSACTION AT MORE OR LESS THAN A FAIR PRICE WHICH, BUT FOR SUCH AGREE-
12 MENT, ARRANGEMENT OR UNDERSTANDING, MIGHT HAVE BEEN PAID OR RECEIVED
13 THEREFOR, OR (B) ANY TAXPAYER, A SUBSTANTIAL PORTION OF WHOSE CAPITAL
14 STOCK IS OWNED EITHER DIRECTLY OR INDIRECTLY BY ANOTHER CORPORATION,
15 ENTERS INTO ANY TRANSACTION WITH SUCH OTHER CORPORATION ON SUCH TERMS AS
16 TO CREATE AN IMPROPER LOSS OR NET INCOME, THE COMMISSIONER OF FINANCE
17 MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER THE FAIR PROFITS,
18 WHICH, BUT FOR SUCH AGREEMENT, ARRANGEMENT OR UNDERSTANDING, THE TAXPAY-
19 ER MIGHT HAVE DERIVED FROM SUCH TRANSACTION. WHERE ANY TAXPAYER OWNS,
20 DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF
21 ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION FIFTEEN HUNDRED TWO-A
22 OF THE TAX LAW AND FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE
23 TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSIONER OF FINANCE MAY
24 INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED DISTRIB-
25 UTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT IS IN
26 EXCESS OF ITS NET PREMIUM INCOME.

27 6. AN ACTION MAY BE BROUGHT AT ANY TIME BY THE CORPORATION COUNSEL AT
28 THE INSTANCE OF THE COMMISSIONER OF FINANCE TO COMPEL THE FILING OF
29 REPORTS DUE UNDER THIS SUBCHAPTER.

30 7. REPORTS SHALL BE PRESERVED FOR FIVE YEARS, AND THEREAFTER UNTIL THE
31 COMMISSIONER OF FINANCE ORDERS THEM TO BE DESTROYED.

32 8. WHERE THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE
33 CHANGES OR CORRECTS A TAXPAYER'S SALES AND COMPENSATING USE TAX LIABIL-
34 ITY WITH RESPECT TO THE PURCHASE OR USE OF ITEMS FOR WHICH A SALES OR
35 COMPENSATING USE TAX CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER
36 WAS CLAIMED, THE TAXPAYER SHALL REPORT SUCH CHANGE OR CORRECTION TO THE
37 COMMISSIONER OF FINANCE WITHIN NINETY DAYS OF THE FINAL DETERMINATION OF
38 SUCH CHANGE OR CORRECTION, OR AS REQUIRED BY THE COMMISSIONER OF
39 FINANCE, AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE
40 WHEREIN IT IS ERRONEOUS. ANY TAXPAYER FILING AN AMENDED RETURN OR REPORT
41 RELATING TO THE PURCHASE OR USE OF SUCH ITEMS SHALL ALSO FILE WITHIN
42 NINETY DAYS THEREAFTER A COPY OF SUCH AMENDED RETURN OR REPORT WITH THE
43 COMMISSIONER OF FINANCE.

44 S 11-656 PAYMENT AND LIEN OF TAX. 1. TO THE EXTENT THE TAX IMPOSED BY
45 SECTION 11-653 OF THIS SUBCHAPTER SHALL NOT HAVE BEEN PREVIOUSLY PAID
46 PURSUANT TO SECTION 11-658 OF THIS SUBCHAPTER:

47 (A) SUCH TAX, OR THE BALANCE THEREOF, SHALL BE PAYABLE TO THE COMMIS-
48 SIONER OF FINANCE IN FULL AT THE TIME THE REPORT IS REQUIRED TO BE
49 FILED; AND

50 (B) SUCH TAX, OR THE BALANCE THEREOF, IMPOSED ON ANY TAXPAYER WHICH
51 CEASES TO DO BUSINESS IN THE CITY OR TO BE SUBJECT TO THE TAX IMPOSED BY
52 THIS SUBCHAPTER SHALL BE PAYABLE TO THE COMMISSIONER OF FINANCE AT THE
53 TIME THE REPORT IS REQUIRED TO BE FILED; ALL OTHER TAXES OF ANY SUCH
54 TAXPAYER, WHICH PURSUANT TO THE FOREGOING PROVISIONS OF THIS SECTION
55 WOULD OTHERWISE BE PAYABLE SUBSEQUENT TO THE TIME SUCH REPORT IS
56 REQUIRED TO BE FILED, SHALL NEVERTHELESS BE PAYABLE AT SUCH TIME.

1 IF THE TAXPAYER, WITHIN THE TIME PRESCRIBED BY SECTION 11-655 OF THIS
2 SUBCHAPTER, SHALL HAVE APPLIED FOR AN AUTOMATIC EXTENSION OF TIME TO
3 FILE ITS ANNUAL REPORT AND SHALL HAVE PAID TO THE COMMISSIONER OF
4 FINANCE ON OR BEFORE THE DATE SUCH APPLICATION IS FILED AN AMOUNT PROP-
5 ERLY ESTIMATED AS PROVIDED BY SAID SECTION, THE ONLY AMOUNT PAYABLE IN
6 ADDITION TO THE TAX SHALL BE INTEREST AT THE UNDERPAYMENT RATE SET BY
7 THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER,
8 OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF PERCENT PER
9 ANNUM UPON THE AMOUNT BY WHICH THE TAX, OR THE PORTION THEREOF PAYABLE
10 ON OR BEFORE THE DATE THE REPORT WAS REQUIRED TO BE FILED, EXCEEDS THE
11 AMOUNT SO PAID. FOR PURPOSES OF THE PRECEDING SENTENCE:

12 (1) AN AMOUNT SO PAID SHALL BE DEEMED PROPERLY ESTIMATED IF IT IS
13 EITHER: (I) NOT LESS THAN NINETY PERCENT OF THE TAX AS FINALLY DETER-
14 MINED, OR (II) NOT LESS THAN THE TAX SHOWN ON THE TAXPAYER'S REPORT FOR
15 THE PRECEDING TAXABLE YEAR, IF SUCH PRECEDING YEAR WAS A TAXABLE YEAR OF
16 TWELVE MONTHS; AND

17 (2) THE TIME WHEN A REPORT IS REQUIRED TO BE FILED SHALL BE DETERMINED
18 WITHOUT REGARD TO ANY EXTENSION OF TIME FOR FILING SUCH REPORT.

19 2. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
20 TIME FOR PAYMENT OF ANY TAX IMPOSED BY THIS SUBCHAPTER UNDER SUCH CONDI-
21 TIONS AS THE COMMISSIONER OF FINANCE DEEMS JUST AND PROPER.

22 3. INTENTIONALLY OMITTED.

23 S 11-657 DECLARATION OF ESTIMATED TAX. 1. EVERY TAXPAYER SUBJECT TO
24 THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER SHALL MAKE A DECLA-
25 RATION OF ITS ESTIMATED TAX FOR THE CURRENT PRIVILEGE PERIOD, CONTAINING
26 SUCH INFORMATION AS THE COMMISSIONER OF FINANCE MAY PRESCRIBE BY REGU-
27 LATIONS OR INSTRUCTIONS, IF SUCH ESTIMATED TAX CAN REASONABLY BE
28 EXPECTED TO EXCEED ONE THOUSAND DOLLARS.

29 2. THE TERM "ESTIMATED TAX" MEANS THE AMOUNT WHICH A TAXPAYER ESTI-
30 MATES TO BE THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER FOR THE
31 CURRENT PRIVILEGE PERIOD, LESS THE AMOUNT WHICH IT ESTIMATES TO BE THE
32 SUM OF ANY CREDITS ALLOWABLE AGAINST THE TAX.

33 3. IN THE CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A CALENDAR
34 YEAR, A DECLARATION OF ESTIMATED TAX SHALL BE FILED ON OR BEFORE JUNE
35 FIFTEENTH OF THE CURRENT PRIVILEGE PERIOD, EXCEPT THAT IF THE REQUIRE-
36 MENTS OF SUBDIVISION ONE OF THIS SECTION ARE FIRST MET:

37 (A) AFTER MAY THIRTY-FIRST AND BEFORE SEPTEMBER FIRST OF SUCH CURRENT
38 PRIVILEGE PERIOD, THE DECLARATION SHALL BE FILED ON OR BEFORE SEPTEMBER
39 FIFTEENTH; OR

40 (B) AFTER AUGUST THIRTY-FIRST AND BEFORE DECEMBER FIRST OF SUCH
41 CURRENT PRIVILEGE PERIOD, THE DECLARATION SHALL BE FILED ON OR BEFORE
42 DECEMBER FIFTEENTH.

43 4. A TAXPAYER MAY AMEND A DECLARATION UNDER REGULATIONS OF THE COMMIS-
44 SIONER OF FINANCE.

45 5. IF, ON OR BEFORE FEBRUARY FIFTEENTH OF THE SUCCEEDING YEAR IN THE
46 CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A CALENDAR YEAR, A
47 TAXPAYER FILES ITS REPORT FOR THE YEAR FOR WHICH THE DECLARATION IS
48 REQUIRED, AND PAYS THEREWITH THE BALANCE, IF ANY, OF THE FULL AMOUNT OF
49 THE TAX SHOWN TO BE DUE ON THE REPORT:

50 (A) SUCH REPORT SHALL BE CONSIDERED AS ITS DECLARATION IF NO DECLARA-
51 TION IS REQUIRED TO BE FILED DURING THE CALENDAR OR FISCAL YEAR FOR
52 WHICH THE TAX WAS IMPOSED, BUT IS OTHERWISE REQUIRED TO BE FILED ON OR
53 BEFORE DECEMBER FIFTEENTH PURSUANT TO SUBDIVISION THREE OF THIS SECTION;
54 AND

55 (B) SUCH REPORT SHALL BE CONSIDERED AS THE AMENDMENT PERMITTED BY
56 SUBDIVISION FOUR OF THIS SECTION TO BE FILED ON OR BEFORE DECEMBER

1 FIFTEENTH IF THE TAX SHOWN ON THE REPORT IS GREATER THAN THE ESTIMATED
2 TAX SHOWN ON A DECLARATION PREVIOUSLY MADE.

3 6. THIS SECTION SHALL APPLY TO PRIVILEGE PERIODS OF TWELVE MONTHS
4 OTHER THAN A CALENDAR YEAR BY THE SUBSTITUTION OF THE MONTHS OF SUCH
5 FISCAL YEAR FOR THE CORRESPONDING MONTHS SPECIFIED IN THIS SECTION.

6 7. IF THE PRIVILEGE PERIOD FOR WHICH A TAX IS IMPOSED BY SECTION
7 11-653 OF THIS SUBCHAPTER IS LESS THAN TWELVE MONTHS, EVERY TAXPAYER
8 REQUIRED TO MAKE A DECLARATION OF ESTIMATED TAX FOR SUCH PRIVILEGE PERI-
9 OD SHALL MAKE SUCH A DECLARATION IN ACCORDANCE WITH REGULATIONS OF THE
10 COMMISSIONER OF FINANCE.

11 8. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
12 TIME, NOT TO EXCEED THREE MONTHS, FOR THE FILING OF ANY DECLARATION
13 REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDITIONS AS IT
14 MAY REQUIRE.

15 S 11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX. 1. EVERY TAXPAYER
16 SUBJECT TO THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER SHALL
17 PAY WITH THE REPORT REQUIRED TO BE FILED FOR THE PRECEDING PRIVILEGE
18 PERIOD, IF ANY, OR WITH AN APPLICATION FOR EXTENSION OF THE TIME AND
19 FILING SUCH REPORT, AN AMOUNT EQUAL TO TWENTY-FIVE PER CENTUM OF THE
20 PRECEDING YEAR'S TAX IF SUCH PRECEDING YEAR'S TAX EXCEEDED ONE THOUSAND
21 DOLLARS.

22 2. THE ESTIMATED TAX WITH RESPECT TO WHICH A DECLARATION FOR SUCH
23 PRIVILEGE PERIOD IS REQUIRED SHALL BE PAID, IN THE CASE OF A TAXPAYER
24 WHICH REPORTS ON THE BASIS OF A CALENDAR YEAR, AS FOLLOWS:

25 (A) IF THE DECLARATION IS FILED ON OR BEFORE JUNE FIFTEENTH, THE ESTI-
26 MATED TAX SHOWN THEREON, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID
27 DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS
28 SECTION, SHALL BE PAID IN THREE EQUAL INSTALLMENTS. ONE OF SUCH INSTALL-
29 MENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION, ONE
30 SHALL BE PAID ON THE FOLLOWING SEPTEMBER FIFTEENTH, AND ONE ON THE
31 FOLLOWING DECEMBER FIFTEENTH.

32 (B) IF THE DECLARATION IS FILED AFTER JUNE FIFTEENTH AND NOT AFTER
33 SEPTEMBER FIFTEENTH OF SUCH PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE
34 FILED ON OR BEFORE JUNE FIFTEENTH OF SUCH PERIOD, THE ESTIMATED TAX
35 SHOWN ON SUCH DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY,
36 PAID DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF
37 THIS SECTION, SHALL BE PAID IN TWO EQUAL INSTALLMENTS. ONE OF SUCH
38 INSTALLMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION
39 AND ONE SHALL BE PAID ON THE FOLLOWING DECEMBER FIFTEENTH.

40 (C) IF THE DECLARATION IS FILED AFTER SEPTEMBER FIFTEENTH OF SUCH
41 PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE FILED ON OR BEFORE SEPTEMBER
42 FIFTEENTH OF SUCH PRIVILEGE PERIOD, THE ESTIMATED TAX SHOWN ON SUCH
43 DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID IN RESPECT
44 TO SUCH PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS SECTION,
45 SHALL BE PAID IN FULL AT THE TIME OF THE FILING OF THE DECLARATION.

46 (D) IF THE DECLARATION IS FILED AFTER THE TIME PRESCRIBED THEREFOR, OR
47 AFTER THE EXPIRATION OF ANY EXTENSION OF TIME THEREFOR, PARAGRAPHS (B)
48 AND (C) OF THIS SUBDIVISION SHALL NOT APPLY, AND THERE SHALL BE PAID AT
49 THE TIME OF SUCH FILING ALL INSTALLMENTS OF ESTIMATED TAX PAYABLE AT OR
50 BEFORE SUCH TIME, AND THE REMAINING INSTALLMENTS SHALL BE PAID AT THE
51 TIMES AT WHICH, AND IN THE AMOUNTS IN WHICH, THEY WOULD HAVE BEEN PAYA-
52 BLE IF THE DECLARATION HAD BEEN FILED WHEN DUE.

53 3. IF ANY AMENDMENT OF A DECLARATION IS FILED, THE REMAINING INSTALL-
54 MENTS, IF ANY, SHALL BE RATABLY INCREASED OR DECREASED (AS THE CASE MAY
55 BE) TO REFLECT ANY INCREASE OR DECREASE IN THE ESTIMATED TAX BY REASON
56 OF SUCH AMENDMENT, AND IF ANY AMENDMENT IS MADE AFTER SEPTEMBER

1 FIFTEENTH OF THE PRIVILEGE PERIOD, ANY INCREASE IN THE ESTIMATED TAX BY
2 REASON THEREOF SHALL BE PAID AT THE TIME OF MAKING SUCH AMENDMENT.

3 4. ANY AMOUNT PAID SHALL BE APPLIED AFTER PAYMENT AS A FIRST INSTALL-
4 MENT AGAINST THE ESTIMATED TAX OF THE TAXPAYER FOR THE CURRENT PRIVILEGE
5 PERIOD SHOWN ON THE DECLARATION REQUIRED TO BE FILED PURSUANT TO SECTION
6 11-657 OF THIS SUBCHAPTER OR, IF NO DECLARATION OF ESTIMATED TAX IS
7 REQUIRED TO BE FILED BY THE TAXPAYER PURSUANT TO SUCH SECTION, ANY SUCH
8 AMOUNT SHALL BE CONSIDERED A PAYMENT ON ACCOUNT OF THE TAX SHOWN ON THE
9 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR SUCH PRIVILEGE PERIOD.

10 5. NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679 OF THIS CHAPTER OR
11 OF SECTION THREE-A OF THE GENERAL MUNICIPAL LAW, IF AN AMOUNT PAID
12 PURSUANT TO SUBDIVISION ONE OF THIS SECTION EXCEEDS THE TAX SHOWN ON THE
13 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR THE PRIVILEGE PERIOD
14 DURING WHICH THE AMOUNT WAS PAID, INTEREST SHALL BE ALLOWED AND PAID ON
15 THE AMOUNT BY WHICH THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION
16 EXCEEDS SUCH TAX, AT THE OVERPAYMENT RATE SET BY THE COMMISSIONER OF
17 FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER, OR, IF NO RATE IS
18 SET, AT THE RATE OF FOUR PERCENT PER ANNUM FROM THE DATE OF PAYMENT OF
19 THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION TO THE FIFTEENTH DAY OF
20 THE THIRD MONTH FOLLOWING THE CLOSE OF THE PRIVILEGE PERIOD, PROVIDED,
21 HOWEVER, THAT NO INTEREST SHALL BE ALLOWED OR PAID UNDER THIS SUBDIVI-
22 SION IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR OR IF SUCH INTEREST
23 BECOMES PAYABLE SOLELY BECAUSE OF A CARRYBACK OF A NET OPERATING LOSS IN
24 A SUBSEQUENT PRIVILEGE PERIOD.

25 6. AS USED IN THIS SECTION, "THE PRECEDING YEAR'S TAX" MEANS THE TAX
26 IMPOSED UPON THE TAXPAYER BY SECTION 11-653 OF THIS SUBCHAPTER FOR THE
27 PRECEDING CALENDAR OR FISCAL YEAR, OR, FOR PURPOSES OF COMPUTING THE
28 FIRST INSTALLMENT OF ESTIMATED TAX WHEN AN APPLICATION HAS BEEN FILED
29 FOR EXTENSION OF THE TIME FOR FILING THE REPORT REQUIRED TO BE FILED FOR
30 SUCH PRECEDING CALENDAR OR FISCAL YEAR, THE AMOUNT PROPERLY ESTIMATED
31 PURSUANT TO SECTION 11-657 OF THIS SUBCHAPTER AS THE TAX IMPOSED UPON
32 THE TAXPAYER FOR SUCH CALENDAR OR FISCAL YEAR.

33 7. THIS SECTION SHALL APPLY TO A PRIVILEGE PERIOD OF LESS THAN TWELVE
34 MONTHS IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER OF FINANCE.

35 8. THE PROVISIONS OF THIS SECTION SHALL APPLY TO PRIVILEGE PERIODS OF
36 TWELVE MONTHS OTHER THAN A CALENDAR YEAR BY THE SUBSTITUTION OF THE
37 MONTHS OF SUCH FISCAL YEAR FOR THE CORRESPONDING MONTHS SPECIFIED IN
38 SUCH PROVISIONS.

39 9. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
40 TIME, NOT TO EXCEED SIX MONTHS, FOR PAYMENT OF ANY INSTALLMENT OF ESTI-
41 MATED TAX REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDI-
42 TIONS AS THE COMMISSIONER OF FINANCE MAY REQUIRE INCLUDING THE FURNISH-
43 ING OF A BOND OR OTHER SECURITY BY THE TAXPAYER IN AN AMOUNT NOT
44 EXCEEDING TWICE THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT
45 IS GRANTED, PROVIDED, HOWEVER, THAT INTEREST AT THE UNDERPAYMENT RATE
46 SET BY THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS
47 SUBCHAPTER, OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF
48 PERCENT PER ANNUM FOR THE PERIOD OF THE EXTENSION SHALL BE CHARGED AND
49 COLLECTED ON THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS
50 GRANTED UNDER THIS SUBDIVISION.

51 10. A TAXPAYER MAY ELECT TO PAY ANY INSTALLMENT OF ESTIMATED TAX PRIOR
52 TO THE DATE PRESCRIBED IN THIS SECTION FOR PAYMENT THEREOF.

53 11. INTENTIONALLY OMITTED.

54 S 11-659 COLLECTION OF TAXES. EVERY FOREIGN CORPORATION (OTHER THAN A
55 MONEYED CORPORATION) SUBJECT TO THE PROVISIONS OF THIS SUBCHAPTER,
56 EXCEPT A CORPORATION HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF

1 SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, SHALL
2 FILE IN THE DEPARTMENT OF STATE A CERTIFICATE OF DESIGNATION IN ITS
3 CORPORATE NAME, SIGNED AND ACKNOWLEDGED BY ITS PRESIDENT OR A VICE-PRE-
4 SIDENT OR ITS SECRETARY OR TREASURER, UNDER ITS CORPORATE SEAL, DESIG-
5 NATING THE SECRETARY OF STATE AS ITS AGENT UPON WHOM PROCESS IN ANY
6 ACTION PROVIDED FOR BY THIS SUBCHAPTER MAY BE SERVED WITHIN THIS STATE,
7 AND SETTING FORTH AN ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL
8 A COPY OF ANY SUCH PROCESS AGAINST THE CORPORATION WHICH MAY BE SERVED
9 UPON THE SECRETARY OF STATE. IN CASE ANY SUCH CORPORATION SHALL HAVE
10 FAILED TO FILE SUCH CERTIFICATE OF DESIGNATION, IT SHALL BE DEEMED TO
11 HAVE DESIGNATED THE SECRETARY OF STATE AS ITS AGENT UPON WHOM SUCH PROC-
12 ESS AGAINST IT MAY BE SERVED; AND UNTIL A CERTIFICATE OF DESIGNATION
13 SHALL HAVE BEEN FILED THE CORPORATION SHALL BE DEEMED TO HAVE DIRECTED
14 THE SECRETARY OF STATE TO MAIL COPIES OF PROCESS SERVED UPON HIM OR HER
15 TO THE CORPORATION AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT
16 THE STATE. WHEN A CERTIFICATE OF DESIGNATION HAS BEEN FILED BY SUCH
17 CORPORATION THE SECRETARY OF STATE SHALL MAIL COPIES OF PROCESS THERE-
18 AFTER SERVED UPON THE SECRETARY OF STATE TO THE ADDRESS SET FORTH IN
19 SUCH CERTIFICATE. ANY SUCH CORPORATION, FROM TIME TO TIME, MAY CHANGE
20 THE ADDRESS TO WHICH THE SECRETARY OF STATE IS DIRECTED TO MAIL COPIES
21 OF PROCESS, BY FILING A CERTIFICATE TO THAT EFFECT EXECUTED, SIGNED AND
22 ACKNOWLEDGED IN LIKE MANNER AS A CERTIFICATE OF DESIGNATION AS HEREIN
23 PROVIDED. SERVICE OF PROCESS UPON ANY SUCH CORPORATION OR UPON ANY
24 CORPORATION HAVING A CERTIFICATE OF AUTHORITY UNDER SECTION EIGHT
25 HUNDRED FIVE OF THE LIMITED LIABILITY COMPANY LAW OR HAVING AUTHORITY TO
26 DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS
27 CORPORATION LAW, IN ANY ACTION COMMENCED AT ANY TIME PURSUANT TO THE
28 PROVISIONS OF THIS SUBCHAPTER, MAY BE MADE BY EITHER: (A) PERSONALLY
29 DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE, A DEPUTY SECRE-
30 TARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE TO
31 RECEIVE SUCH SERVICE DUPLICATE COPIES THEREOF AT THE OFFICE OF THE
32 DEPARTMENT OF STATE IN THE CITY OF ALBANY, IN WHICH EVENT THE SECRETARY
33 OF STATE SHALL FORTHWITH SEND BY REGISTERED MAIL, RETURN RECEIPT
34 REQUESTED, ONE OF SUCH COPIES TO THE CORPORATION AT THE ADDRESS DESIG-
35 NATED BY IT OR AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE
36 STATE, OR (B) PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF
37 STATE, A DEPUTY SECRETARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE
38 SECRETARY OF STATE TO RECEIVE SUCH SERVICE, A COPY THEREOF AT THE OFFICE
39 OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY AND BY DELIVERING A
40 COPY THEREOF TO, AND LEAVING SUCH COPY WITH, THE PRESIDENT, VICE-PRESI-
41 DENT, SECRETARY, ASSISTANT SECRETARY, TREASURER, ASSISTANT TREASURER, OR
42 CASHIER OF SUCH CORPORATION, OR THE OFFICER PERFORMING CORRESPONDING
43 FUNCTIONS UNDER ANOTHER NAME, OR A DIRECTOR OR MANAGING AGENT OF SUCH
44 CORPORATION, PERSONALLY WITHOUT THE STATE. PROOF OF SUCH PERSONAL
45 SERVICE WITHOUT THE STATE SHALL BE FILED WITH THE CLERK OF THE COURT IN
46 WHICH THE ACTION IS PENDING WITHIN THIRTY DAYS AFTER SUCH SERVICE, AND
47 SUCH SERVICE SHALL BE COMPLETE TEN DAYS AFTER PROOF THEREOF IS FILED.

48 S 11-660 LIMITATIONS OF TIME. THE PROVISIONS OF THE CIVIL PRACTICE LAW
49 AND RULES RELATIVE TO THE LIMITATION OF TIME ENFORCING A CIVIL REMEDY
50 SHALL NOT APPLY TO ANY PROCEEDING OR ACTION TAKEN TO LEVY, APPRAISE,
51 ASSESS, DETERMINE OR ENFORCE THE COLLECTION OF ANY TAX OR PENALTY
52 PRESCRIBED BY THIS SUBCHAPTER, PROVIDED, HOWEVER, THAT AS TO REAL ESTATE
53 IN THE HANDS OF PERSONS WHO ARE OWNERS THEREOF WHO WOULD BE PURCHASERS
54 IN GOOD FAITH BUT FOR SUCH TAX OR PENALTY AND AS TO THE LIEN ON REAL
55 ESTATE OF MORTGAGES HELD BY PERSONS WHO WOULD BE HOLDERS THEREOF IN GOOD
56 FAITH BUT FOR SUCH TAX OR PENALTY, ALL SUCH TAXES AND PENALTIES SHALL

CEASE TO BE A LIEN ON SUCH REAL ESTATE AS AGAINST SUCH PURCHASERS OR HOLDERS AFTER THE EXPIRATION OF TEN YEARS FROM THE DATE SUCH TAXES BECAME DUE AND PAYABLE. THE LIMITATIONS HEREIN PROVIDED FOR SHALL NOT APPLY TO ANY TRANSFER FROM A CORPORATION TO A PERSON OR CORPORATION WITH INTENT TO AVOID PAYMENT OF ANY TAXES, OR WHERE WITH LIKE INTENT THE TRANSFER IS MADE TO A GRANTEE CORPORATION, OR ANY SUBSEQUENT GRANTEE CORPORATION, CONTROLLED BY SUCH GRANTOR OR WHICH HAS ANY COMMUNITY OF INTEREST WITH IT, EITHER THROUGH STOCK OWNERSHIP OR OTHERWISE.

S 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section 11-508 of the administrative code of the city of New York, as added by chapter 485 of the laws of 1994, is amended to read as follows:

(A) In the case of an issuer or obligor subject to tax under subchapter two OR THREE-A of chapter six of this title, or subject to tax as a utility corporation under chapter eleven of this title, the issuer's allocation percentage shall be the percentage of the appropriate measure (as defined hereinafter) which is required to be allocated within the city on the report or reports, if any, required of the issuer or obligor under chapter six or eleven of this title for the preceding year. The appropriate measure referred to in the preceding sentence shall be: in the case of an issuer or obligor subject to subchapter two OR THREE-A of chapter six of this title, entire capital; and in the case of an issuer or obligor subject to chapter eleven of this title as a utility corporation, gross income.

S 3. The administrative code of the city of New York is amended by adding a new section 11-602.1 to read as follows:

S 11-602.1 APPLICATION OF THIS SUBCHAPTER. 1. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, THE TAX IMPOSED UNDER THIS SUBCHAPTER SHALL ONLY APPLY TO A CORPORATION THAT (A) HAS AN ELECTION IN EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (B) IS A QUALIFIED SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

2. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, THE TAX IMPOSED UNDER THIS SUBCHAPTER SHALL NOT APPLY TO A CORPORATION THAT IS NOT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION EXCEPT TO THE EXTENT PROVIDED IN SUBCHAPTER THREE-A OF THIS CHAPTER.

3. CROSS-REFERENCE. FOR THE TAXATION OF CORPORATIONS THAT ARE NOT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, THAT WERE TAXABLE UNDER THIS SUBCHAPTER FOR TAX YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, SEE SUBCHAPTER THREE-A OF THIS CHAPTER.

S 4. Subdivision (a) of section 11-639 of the administrative code of the city of New York is amended to read as follows:

(a) (1) For the privilege of doing business in the city in a corporate or organized capacity, a tax, computed under section 11-643 of this part, is hereby annually imposed on every banking corporation for each of its taxable years, or any part thereof, beginning on or after January first, nineteen hundred seventy-three AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN.

(2) FOR THE PRIVILEGE OF DOING BUSINESS IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY, A TAX, COMPUTED UNDER SECTION 11-643 OF THIS PART, IS HEREBY ANNUALLY IMPOSED ON EVERY BANKING CORPORATION FOR EACH TAXABLE YEAR, OR ANY PART THEREOF, COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, WHERE SUCH BANKING CORPORATION (I) HAS AN ELECTION IN EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (II) IS A QUALIFIED

1 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF
2 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL
3 REVENUE CODE OF 1986, AS AMENDED.

4 S 5. Section 11-639 of the administrative code of the city of New York
5 is amended by adding a new subdivision (d) to read as follows:

6 (D) CROSS-REFERENCE. FOR THE TAXATION OF CORPORATIONS THAT ARE NOT
7 DESCRIBED IN PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, THAT WERE
8 TAXABLE UNDER THIS SUBCHAPTER FOR TAX YEARS BEGINNING BEFORE JANUARY
9 FIRST, TWO THOUSAND FIFTEEN, SEE SUBCHAPTER THREE-A OF THIS CHAPTER.

10 S 6. Paragraph 2 of subdivision (b) of section 11-641 of the adminis-
11 trative code of the city of New York, as amended by chapter 525 of the
12 laws of 1988, is amended to read as follows:

13 (2) taxes on or measured by income or profits paid or accrued within
14 the taxable year to the United States, or any of its possessions or to
15 any foreign country and taxes imposed under article nine, nine-A, thir-
16 teen-A or thirty-two of the tax law AS IN EFFECT ON DECEMBER
17 THIRTY-FIRST, TWO THOUSAND FOURTEEN and any tax imposed under this part
18 or subchapter two OR THREE-A of this chapter;

19 S 7. Subdivision 1 and paragraph (a) of subdivision 2 of section
20 11-671 of the administrative code of the city of New York are amended to
21 read as follows:

22 1. General. The provisions of this subchapter shall apply to the
23 administration of and the procedures with respect to the taxes imposed
24 by subchapters two, three, THREE-A and four of this chapter.

25 (a) the term "named subchapters" means subchapters two, three OR
26 THREE-A and four of this chapter;

27 S 8. Paragraph (a) of subdivision 5 and subdivisions 7, 8 and 9 of
28 section 11-672 of the administrative code of the city of New York, para-
29 graph (a) of subdivision 5 as amended by chapter 525 of the laws of
30 1988, and paragraph (b) of subdivision 9 as amended by chapter 808 of
31 the laws of 1992, are amended to read as follows:

32 (a) If the taxpayer fails to comply with subchapter two [or], three OR
33 THREE-A of this chapter in not reporting a change or correction or rene-
34 gotiation, or computation or recomputation of tax, increasing or
35 decreasing its federal or New York state taxable income, alternative
36 minimum taxable income or other basis of tax as reported on its federal
37 or New York state income tax return or in not reporting a change or
38 correction or renegotiation, or computation or recomputation of tax,
39 which is treated in the same manner as if it were a deficiency for
40 federal or New York state income tax purposes or in not filing an
41 amended return or in not reporting the execution of a notice of waiver
42 executed pursuant to subsection (d) of section six thousand two hundred
43 thirteen of the internal revenue code or pursuant to subdivision (f) of
44 section one thousand eighty-one of the tax law, instead of the mode and
45 time of assessment provided for in subdivision two of this section, the
46 commissioner of finance may assess a deficiency based upon such
47 increased or decreased federal or New York state taxable income, alter-
48 native minimum taxable income or other basis of tax by mailing to the
49 taxpayer a notice of additional tax due specifying the amount of the
50 deficiency, and such deficiency, together with the interest, additions
51 to tax and penalties stated in such notice, shall be deemed assessed on
52 the date such notice is mailed unless within thirty days after the mail-
53 ing of such notice a report of the federal or New York state change or
54 correction or renegotiation, or computation or recomputation of tax, or
55 an amended return, where such return was required by subchapter two
56 [or], three OR THREE-A, is filed accompanied by a statement showing

1 wherein such federal or New York state determination and such notice of
2 additional tax due are erroneous.

3 7. Two or more corporations. In case of a combined return under
4 subchapter two OR THREE-A or a consolidated return under subchapter
5 three of two or more corporations, the commissioner of finance may
6 determine a deficiency of tax under subchapter two [or subchapter],
7 three OR THREE-A of this chapter with respect to the entire tax due upon
8 such return against any taxpayer included therein. In the case of a
9 taxpayer which might have been included in such a return under subchap-
10 ter two [or subchapter], three OR THREE-A of this chapter when the tax
11 was originally reported, the commissioner of finance may determine a
12 deficiency of tax under subchapter two [or], three OR THREE-A of this
13 chapter against such taxpayer and against any other taxpayers which
14 might have been included in such a return.

15 8. Deficiency defined. For the purposes of this subchapter, a defi-
16 ciency means the amount of the tax imposed by the named subchapters, or
17 any of them, less: (a) the amount shown as the tax upon the taxpayer's
18 return (whether the return was made or the tax computed by it or by the
19 commissioner of finance), and less (b) the amounts previously assessed
20 (or collected without assessment) as a deficiency and plus (c) the
21 amount of any rebates. For the purpose of this definition, the tax
22 imposed by subchapter two [or], three OR THREE-A of this chapter and the
23 tax shown on the return shall both be determined without regard to any
24 payment of estimated tax; and a rebate means so much of an abatement,
25 credit, refund or other repayment (whether or not erroneous) as was made
26 on the ground that the amounts entering into the definition of a defi-
27 ciency showed a balance in favor of the taxpayer.

28 9. Exception where change or correction of sales and compensating use
29 tax liability is not reported.

30 (a) If a taxpayer fails to comply with subchapter two OR THREE-A of
31 this chapter in not reporting a change or correction of its sales and
32 compensating use tax liability or in not filing a copy of an amended
33 return or report relating to its sales and compensating use tax liabil-
34 ity, instead of the mode and time of assessment provided for in subdivi-
35 sion two of this section, the commissioner of finance may assess a defi-
36 ciency based upon such changed or corrected sales and compensating use
37 tax liability, as same relates to credits claimed under subchapter two
38 OR THREE-A of this chapter, by mailing to the taxpayer a notice of addi-
39 tional tax due specifying the amount of the deficiency, and such defi-
40 ciency, together with the interest, additions to tax and penalties stat-
41 ed in such notice, shall be deemed assessed on the date such notice is
42 mailed unless within thirty days after the mailing of such notice a
43 report of the state change or correction or a copy of an amended return
44 or report, where such copy was required by subchapter two OR THREE-A, is
45 filed accompanied by a statement showing wherein such state determi-
46 nation and such notice of additional tax due are erroneous.

47 (b) Such notice shall not be considered as a notice of deficiency for
48 the purposes of this section, subdivision six of section 11-678 (limit-
49 ing credits or refunds after petition to the tax appeals tribunal), or
50 subdivision two of section 11-680 (authorizing the filing of a petition
51 with the tax appeals tribunal based on a notice of deficiency), nor
52 shall such assessment or the collection thereof be prohibited by the
53 provisions of subdivision three of this section.

54 (c) If the taxpayer has terminated its existence, a notice of addi-
55 tional tax due may be mailed to its last known address in or out of the
56 city, and such notice shall be sufficient for purposes of this subchap-

ter. If the commissioner of finance has received notice that a person is acting for the taxpayer in a fiduciary capacity, a copy of such notice shall also be mailed to the fiduciary named in such notice.

S 9. Subdivisions 1 and 3 of section 11-673 of the administrative code of the city of New York, the first undesignated paragraph of subdivision 1 as amended by chapter 808 of the laws of 1992, are amended to read as follows:

1. Assessment date. The amount of tax which a return shows to be due, or the amount of tax which a return would have shown to be due but for a mathematical error, shall be deemed to be assessed on the date of filing of the return (including any amended return showing an increase of tax). If a notice of deficiency has been mailed, the amount of the deficiency shall be deemed to be assessed on the date specified in subdivision two of section 11-672 of this subchapter if no petition is both served on the commissioner of finance and filed with the tax appeals tribunal, or if a petition is so served and filed, then upon the date when a decision of the tax appeals tribunal establishing the amount of the deficiency becomes final. If a report or an amended return filed pursuant to subchapter two [or], three OR THREE-A of this chapter concedes the accuracy of a federal or New York state adjustment or change or correction or renegotiation or computation or recomputation of tax, any deficiency in tax under subchapter two [or], three OR THREE-A of this chapter resulting therefrom shall be deemed to be assessed on the date of filing such report or amended return, and such assessment shall be timely notwithstanding section 11-674 of this chapter.

If a report filed pursuant to subchapter two OR THREE-A of this chapter concedes the accuracy of a state change or correction of sales and compensating use tax liability, any deficiency in tax under subchapter two OR THREE-A of this chapter resulting therefrom shall be deemed assessed on the date of filing such report, and such assessment shall be timely notwithstanding section 11-674 of this chapter.

If a notice of additional tax due, as prescribed in subdivision five of section 11-672 of this chapter, has been mailed, the amount of the deficiency shall be deemed to be assessed on the date specified in such subdivision unless within thirty days after the mailing of such notice a report of the federal or New York state adjustment or change or correction or renegotiation or computation or recomputation of tax, or an amended return, where such return was required by subchapter two [or], three OR THREE-A of this chapter, is filed accompanied by a statement showing wherein such federal or New York state determination and such notice of additional tax due are erroneous.

If a notice of additional tax due, as prescribed in subdivision nine of section 11-672 of this subchapter, has been mailed, the amount of the deficiency shall be deemed to be assessed on the date specified in such subdivision unless within thirty days after the mailing of such notice a report of the state change or correction, or a copy of an amended return or report, where such copy was required by subchapter two OR THREE-A of this chapter, is filed accompanied by a statement showing wherein such state determination and such notice of additional tax due are erroneous.

Any amount paid as a tax or in respect of a tax, other than amounts paid as estimated tax, shall be deemed to be assessed upon the date of receipt of payment notwithstanding any other provisions.

3. Estimated tax. No unpaid amount of estimated tax under subchapter two [or], three OR THREE-A of this chapter shall be assessed.

S 10. Subdivisions 3 and 4 of section 11-674 of the administrative code of the city of New York, subparagraph 3 of paragraph (a) and para-

graph (c) of subdivision 3 as amended by chapter 525 of the laws of 1988 and paragraph (d) of subdivision 3 as amended by local law number 57 of the city of New York for the year 2001, are amended to read as follows:

3. Exceptions.

(a) Assessment at any time. The tax may be assessed at any time if:

(1) no return is filed,

(2) a false or fraudulent return is filed with intent to evade tax,

(3) in the case of the tax imposed under subchapter two [or], three OR THREE-A of this chapter, the taxpayer fails to file a report or amended return required thereunder, in respect of an increase or decrease in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax, or in respect of a change or correction or renegotiation or in respect of the execution of a notice of waiver report of which is required thereunder, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes, or

(4) in the case of the tax imposed under subchapter two OR THREE-A of this chapter, the taxpayer fails to file a report or amended return or report required thereunder, in respect of a change or correction of sales and compensating use tax liability, relating to the purchase or use of items for which a sales or compensating use tax credit against the tax imposed by subchapter two OR THREE-A was claimed.

(b) Extension by agreement. Where, before the expiration of the time prescribed in this section for the assessment of tax, both the commissioner of finance and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Report of federal or New York state change or correction. In the case of the tax imposed under subchapter two [or], three OR THREE-A of this chapter, if the taxpayer files a report or amended return required thereunder, in respect of an increase or decrease in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax, or in respect of a change or correction or renegotiation, or in respect of the execution of a notice of waiver report of which is required thereunder, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes, the assessment (if not deemed to have been made upon the filing of the report or amended return) may be made at any time within two years after such report or amended return was filed. The amount of such assessment of tax shall not exceed the amount of the increase in city tax attributable to such federal or New York state change or correction or renegotiation, or computation or recomputation of tax. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

(d) Deficiency attributable to carry back. If a deficiency of tax under subchapter two OR THREE-A of this chapter is attributable to the application to taxpayer of a net operating loss carry back or a capital loss carry back, it may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.

(e) Recovery of erroneous refund. An erroneous refund shall be considered an underpayment of tax on the date made, and an assessment of a deficiency arising out of an erroneous refund may be made at any time

1 within two years from the making of the refund, except that the assess-
2 ment may be made within five years from the making of the refund if it
3 appears that any part of the refund was induced by fraud or misrepresen-
4 tation of a material fact.

5 (f) Request for prompt assessment. The tax shall be assessed within
6 eighteen months after written request therefor (made after the return is
7 filed) by the taxpayer or by a fiduciary representing the taxpayer, but
8 not more than three years after the return was filed, except as other-
9 wise provided in this subdivision and subdivision four. This subdivision
10 shall not apply unless:

11 (1) (A) such written request notifies the commissioner of finance that
12 the taxpayer contemplates dissolution at or before the expiration of
13 such eighteen-month period, (B) the dissolution is in good faith begun
14 before the expiration of such eighteen-month period, (C) the dissolution
15 is completed;

16 (2) (A) such written request notifies the commissioner of finance that
17 a dissolution has in good faith been begun, and (B) the dissolution is
18 completed; or

19 (3) a dissolution has been completed at the time such written request
20 is made.

21 (g) Change of the allocation of taxpayer's income or capital. [No]

22 (1) WITH REGARD TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO
23 THOUSAND FIFTEEN, NO change of the allocation of income or capital upon
24 which the taxpayer's return (or any additional assessment) was based
25 shall be made where an assessment of tax is made during the additional
26 period of limitation under subparagraph three or four of paragraph (a),
27 or under paragraph (c), (d) or (i); and where any such assessment has
28 been made, or where a notice of deficiency has been mailed to the
29 taxpayer on the basis of any such proposed assessment, no change of the
30 allocation of income or capital shall be made in a proceeding on the
31 taxpayer's claim for refund of such assessment or on the taxpayer's
32 petition for redetermination of such deficiency.

33 (2) WITH REGARD TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,
34 TWO THOUSAND FIFTEEN, NO CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL
35 UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS
36 BASED SHALL BE MADE WHERE AN ASSESSMENT OF TAX IS MADE DURING THE ADDI-
37 TIONAL PERIOD OF LIMITATION UNDER SUBPARAGRAPH THREE OR FOUR OF PARA-
38 GRAPH (A) OR UNDER PARAGRAPH (C), (D) OR (I), EXCEPT TO THE EXTENT SUCH
39 ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW YORK STATE TAXABLE
40 INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX, OR BASED ON A
41 CHANGE, CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON THE EXECUTION OF
42 A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER, OR COMPUTATION
43 OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT
44 WERE A DEFICIENCY FOR NEW YORK STATE INCOME TAX PURPOSES; AND WHERE ANY
45 SUCH ASSESSMENT HAS BEEN MADE, OR WHERE A NOTICE OF DEFICIENCY HAS BEEN
46 MAILED TO THE TAXPAYER ON THE BASIS OF ANY SUCH PROPOSED ASSESSMENT, NO
47 CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL SHALL BE MADE IN A
48 PROCEEDING ON THE TAXPAYER'S CLAIM FOR REFUND OF SUCH ASSESSMENT OR ON
49 THE TAXPAYER'S PETITION FOR REDETERMINATION OF SUCH DEFICIENCY, EXCEPT
50 TO THE EXTENT SUCH ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW
51 YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX,
52 OR BASED ON A CHANGE OR CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON
53 THE EXECUTION OF A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER,
54 OR COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME
55 MANNER AS IF IT WERE AN OVERPAYMENT FOR NEW YORK STATE INCOME TAX
56 PURPOSES.

(h) Report concerning waste treatment facility. Under the circumstances described in subparagraph three of paragraph (g) of subdivision eight of section 11-602 of this chapter OR IN SUBPARAGRAPH THREE OF PARAGRAPH (G) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS CHAPTER, the tax may be assessed within three years after the filing of the report containing the information required by such paragraph.

(i) Report of changed or corrected sales and compensating use tax liability. In the case of a tax imposed under subchapter two OR THREE-A of this chapter, if the taxpayer files a report or amended return or report required thereunder, in respect of a change or correction of sales and compensating use tax liability, the assessment (if not deemed to have been made upon the filing of the report) may be made at any time within two years after such report or amended return or report was filed. The amount of such assessment of tax shall not exceed the amount of the increase in city tax attributable to such state change or correction. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

4. Omission of income on return. The tax may be assessed at any time within six years after the return was filed if a taxpayer omits from gross income required to be reported on a return under any of the named subchapters an amount properly includable therein which is in excess of twenty-five per centum of the amount of gross income stated in the return.

For the purposes of this subdivision:

(a) the term "gross income" means gross income for federal income tax purposes as reportable on a return under subchapter two OR THREE-A of this chapter and "gross earnings", "gross income," "gross operating income" and "gross direct premiums less return premiums," as those terms are used in whichever of the named subchapters is applicable;

(b) there shall not be taken into account any amount which is omitted in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the commissioner of finance of the nature and amount of such item.

S 11. Subdivisions 2 and 5 of section 11-675 of the administrative code of the city of New York, subdivision 5 as amended by local law number 57 of the city of New York for the year 2001, are amended to read as follows:

2. Exception as to estimated tax. This section shall not apply to any failure to pay estimated tax under subchapter two [or subchapter], three OR THREE-A of this chapter.

5. Tax reduced by carry back. If the amount of tax under subchapter two OR THREE-A for any taxable year is reduced by reason of a carryback of a net operating loss or a capital loss, such reduction in tax shall not affect the computation of interest under this section for the period ending with the filing date for the taxable year in which the net operating loss or capital loss arises. Such filing date shall be determined without regard to extensions of time to file.

S 12. Subdivision 3 of section 11-676 of the administrative code of the city of New York, as amended by chapter 201 of the laws of 2009, is amended to read as follows:

3. Failure to file declaration or underpayment of estimated tax. If any taxpayer fails to file a declaration of estimated tax under subchapter two [or], three OR THREE-A of this chapter, or fails to pay all or any part of an amount which is applied as an installment against such estimated tax, it shall be deemed to have made an underpayment of esti-

1 mated tax. There shall be added to the tax for the taxable year an
2 amount at the underpayment rate set by the commissioner of finance
3 pursuant to section 11-687 of this subchapter, or, if no rate is set, at
4 the rate of seven and one-half percent per annum upon the amount of the
5 underpayment for the period of the underpayment but not beyond the
6 fifteenth day of the third month following the close of the taxable
7 year. The amount of the underpayment shall be, with respect to any
8 installment of estimated tax computed on the basis of the preceding
9 year's tax, the excess of the amount required to be paid over the
10 amount, if any, paid on or before the last day prescribed for such
11 payment or, with respect to any other installment of estimated tax, the
12 excess of the amount of the installment which would be required to be
13 paid if the estimated tax were equal to ninety percent of the tax shown
14 on the return for the taxable year (or if no return was filed, ninety
15 percent of the tax for such year) over the amount, if any, of the
16 installment paid on or before the last day prescribed for such payment.
17 In any case in which there would be no underpayment if "eighty percent"
18 were substituted for "ninety percent" each place it appears in this
19 subdivision, the addition to the tax shall be equal to seventy-five
20 percent of the amount otherwise determined. No underpayment shall be
21 deemed to exist with respect to a declaration or installment otherwise
22 due on or after the termination of existence of the taxpayer.

23 S 13. The opening paragraph of subdivision 4 of section 11-676 of the
24 administrative code of the city of New York is amended to read as
25 follows:

26 The addition to tax under subdivision three with respect to any under-
27 payment of any amount which is applied as an installment against esti-
28 mated tax under subchapter two [or], three OR THREE-A of this chapter
29 shall not be imposed if the total amount of all payments of estimated
30 tax made on or before the last date prescribed for the payment of any
31 such amount equals or exceeds the amount which would have been required
32 to be paid on or before such date if the estimated tax were whichever of
33 the following is the least:

34 S 14. Subdivision 13 of section 11-676 of the administrative code of
35 the city of New York, as added by chapter 525 of the laws of 1988, is
36 amended to read as follows:

37 13. Failure to file report of information relating to certain interest
38 payments. In case of failure to file the report of information required
39 under EITHER subdivision two-a of section 11-605 of this chapter OR
40 SUBDIVISION TWO-A OF SECTION 11-655 OF THIS CHAPTER, unless it is shown
41 that such failure is due to reasonable cause and not due to willful
42 neglect, there shall be added to the tax a penalty of five hundred
43 dollars.

44 S 15. Subdivision 2 of section 11-677 of the administrative code of
45 the city of New York is amended to read as follows:

46 2. Credits against estimated tax. The commissioner of finance may
47 prescribe regulations providing for the crediting against the estimated
48 tax under subchapter two [or], three OR THREE-A of this chapter for any
49 taxable year of the amount determined to be an overpayment of tax under
50 any such subchapter for a preceding taxable year. If any overpayment of
51 tax is so claimed as a credit against estimated tax for the succeeding
52 taxable year, such amount shall be considered as a payment of the tax
53 under subchapter two [or], three OR THREE-A of this chapter for the
54 succeeding taxable year (whether or not claimed as a credit in the
55 declaration of estimated tax for such succeeding taxable year), and no

claim for credit or refund of such overpayment shall be allowed for the taxable year for which the overpayment arises.

S 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administrative code of the city of New York, subdivision 3 as amended by chapter 241 of the laws of 1989 and subdivision 4 as amended by local law number 57 of the city of New York for the year 2001, are amended to read as follows:

3. Notice of change or correction of federal or New York state income or other basis of tax. If a taxpayer is required by subchapter two [or], three OR THREE-A of this chapter to file a report or amended return in respect of (a) a decrease or increase in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax, (b) a federal or New York state change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were an overpayment for federal or New York state income tax purposes, claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the time such report or amended return was required to be filed with the commissioner of finance. If the report or amended return required by subchapter two [or], three OR THREE-A of this chapter is not filed within the ninety day period therein specified, no interest shall be payable on any claim for credit or refund of the overpayment attributable to the federal or New York state change or correction. The amount of such credit or refund:

(c) shall, (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based, and, (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, BE COMPUTED WITHOUT CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS BASED TO THE EXTENT THAT THE CLAIM FOR REFUND ARISES FROM A DECREASE OR INCREASE IN FEDERAL TAXABLE INCOME OR OTHER BASIS OF TAX OR FEDERAL TAX, OR FROM A FEDERAL CHANGE, CORRECTION, RENEGOTIATION, COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR FEDERAL INCOME TAX PURPOSES, AND

(d) shall not exceed the amount of the reduction in tax attributable to such decrease or increase in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax or to such federal or New York state change or correction or renegotiation, or computation or recomputation of tax.

This subdivision shall not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subdivision.

4. Overpayment attributable to net operating loss carry back or capital loss carry back. A claim for credit or refund of so much of an overpayment under subchapter two OR THREE-A of this chapter as is attributable to the application to the taxpayer of a net operating loss carry back or a capital loss carry back shall be filed within three years from the time the return was due (including extensions thereof) for the taxable year of the loss, or within the period prescribed in subdivision two in respect of such taxable year, or within the period prescribed in subdivision three, where applicable, in respect to the taxable year to which the net operating loss or capital loss is carried back, whichever expires the latest. Where such claim for credit or refund is filed after

1 the expiration of the period prescribed in subdivision one or in subdi-
2 vision two where applicable, in respect to the taxable year to which the
3 net operating loss or capital loss is carried back, the amount of such
4 credit or refund shall be computed without change of the allocation of
5 income or capital upon which the taxpayer's return (or any additional
6 assessment) was based.

7 9. Prepaid tax. For purposes of this section, any tax paid by the
8 taxpayer before the last day prescribed for its payment (including any
9 amount paid by the taxpayer as estimated tax for a taxable year) shall
10 be deemed to have been paid by it on the fifteenth day of the third
11 month following the close of the taxable year the income of which is the
12 basis for tax under subchapter two [or], three OR THREE-A of this chap-
13 ter, or on the last day prescribed in part one of subchapter three or
14 subchapter four for the filing of a final return for such taxable year,
15 or portion thereof, determined in all cases without regard to any exten-
16 sion of time granted the taxpayer.

17 11. Notice of change or correction of sales and compensating use tax
18 liability. (a) If a taxpayer is required by subchapter two OR THREE-A of
19 this chapter to file a report or amended return in respect of a change
20 or correction of its sales and compensating use tax liability, claim for
21 credit or refund of any resulting overpayment of tax shall be filed by
22 the taxpayer within two years from the time such report or amended
23 return was required to be filed with the commissioner of finance. The
24 amount of such credit or refund shall be computed without change of the
25 allocation of income or capital upon which the taxpayer's return (or any
26 additional assessment) was based, and shall not exceed the amount of the
27 reduction in tax attributable to such change or correction of sales and
28 compensating use tax liability.

29 (b) This subdivision shall not affect the time within which or the
30 amount for which a claim for credit or refund may be filed apart from
31 this subdivision.

32 S 17. Subdivisions 4 and 6 of section 11-679 of the administrative
33 code of the city of New York, subdivision 4 as amended by local law
34 number 57 of the city of New York for the year 2001 and subdivision 6 as
35 amended by chapter 241 of the laws of 1989, are amended to read as
36 follows:

37 4. Refund of tax caused by carryback. For purposes of this section, if
38 any overpayment of tax imposed by subchapter two OR THREE-A of this
39 chapter results from a carryback of a net operating loss or a net capi-
40 tal loss, such overpayment shall be deemed not to have been made prior
41 to the filing date for the taxable year in which such net operating loss
42 or net capital loss arises. Such filing date shall be determined without
43 regard to extensions of time to file. For purposes of subdivision three
44 of this section any overpayment described herein shall be treated as an
45 overpayment for the loss year and such subdivision shall be applied with
46 respect to such overpayment by treating the return for the loss year as
47 not filed before claim for such overpayment is filed. The term "loss
48 year" means the taxable year in which such loss arises.

49 6. Cross reference. For provision with respect to interest after fail-
50 ure to file a report of federal or New York state change or correction
51 or amended return under subchapter two [or], three OR THREE-A, see
52 subdivision three of section 11-678 of this subchapter.

53 S 18. Paragraph (d) of subdivision 4 of section 11-680 of the adminis-
54 trative code of the city of New York, as amended by chapter 808 of the
55 laws of 1992, is amended to read as follows:

1 (d) Restriction on further notices of deficiency. If the taxpayer
2 files a petition with the tax appeals tribunal under this section, no
3 notice of deficiency under section 11-672 of this subchapter may there-
4 after be issued by the commissioner of finance for the same taxable
5 year, except in case of fraud or with respect to an increase or decrease
6 in federal or New York state taxable income, alternative minimum taxable
7 income or other basis of tax or federal or New York state tax or a
8 federal or New York state change or correction or renegotiation, or
9 computation or recomputation of tax, which is treated in the same manner
10 as if it were a deficiency for federal or New York state income tax
11 purposes, required to be reported under subchapter two [or], three OR
12 THREE-A of this chapter or with respect to a state change or correction
13 of sales and compensating use tax liability required to be reported
14 under subchapter two OR THREE-A of this chapter.

15 S 19. Paragraph (c) of subdivision 5 of section 11-680 of the adminis-
16 trative code of the city of New York, as amended by chapter 808 of the
17 laws of 1992, is amended to read as follows:

18 (c) whether the petitioner is liable for any increase in a deficiency
19 where such increase is asserted initially after a notice of deficiency
20 was mailed and a petition under this section filed, unless such increase
21 in deficiency is the result of an increase or decrease in federal or New
22 York state taxable income, alternative minimum taxable income or other
23 basis of tax or federal or New York state tax or a federal or New York
24 state change or correction or renegotiation, or computation or recompu-
25 tation of tax, which is treated in the same manner as if it were a defi-
26 ciency for federal or New York state income tax purposes, required to be
27 reported under subchapter two [or], three OR THREE-A of this chapter,
28 and of which increase, decrease, change or correction or renegotiation,
29 or computation or recomputation, the commissioner of finance had no
30 notice at the time he or she mailed the notice of deficiency or unless
31 such increase in deficiency is the result of a change or correction of
32 sales and compensating use tax liability required to be reported under
33 subchapter two OR THREE-A of this chapter, and of which change or
34 correction the commissioner of finance had no notice at the time he or
35 she mailed the notice of deficiency; and

36 S 20. Paragraph (a) of subdivision 5 of section 11-687 of the adminis-
37 trative code of the city of New York, as amended by chapter 201 of the
38 laws of 2009, is amended to read as follows:

39 (a) Authority to set interest rates. The commissioner of finance shall
40 set the overpayment and underpayment rates of interest to be paid pursu-
41 ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675,
42 11-676, and 11-679 of this chapter, but if no such rate or rates of
43 interest are set, such overpayment rate shall be deemed to be set at six
44 percent per annum and such underpayment rate shall be deemed to be set
45 at seven and one-half percent per annum. Such overpayment and underpay-
46 ment rates shall be the rates prescribed in paragraph (b) of this subdivi-
47 sion but the underpayment rate shall not be less than seven and one-
48 half percent per annum. Any such rates set by the commissioner of
49 finance shall apply to taxes, or any portion thereof, which remain or
50 become due or overpaid on or after the date on which such rates become
51 effective and shall apply only with respect to interest computed or
52 computable for periods or portions of periods occurring in the period
53 during which such rates are in effect.

54 S 21. Subdivision 7 of section 11-688 of the administrative code of
55 the city of New York, as added by section 22 of part M of chapter 686 of
56 the laws of 2003, is amended to read as follows:

1 7. Notwithstanding anything in subdivision one of this section, the
2 commissioner of finance may disclose to a taxpayer or a taxpayer's
3 related member, as defined in paragraph (n) of subdivision eight of
4 section 11-602, PARAGRAPH (N) OF SUBDIVISION EIGHT OF SECTION 11-652 or
5 paragraph one of subdivision (q) of section 11-641 of this chapter,
6 information relating to any royalty paid, incurred or received by such
7 taxpayer or related member to or from the other, including the treatment
8 of such payments by the taxpayer or the related member in any report or
9 return transmitted to the commissioner of finance under this title.

10 S 22. Paragraph 4 of subdivision (f) of section 11-704 of the adminis-
11 trative code of the city of New York, as amended by chapter 831 of the
12 laws of 1992, is amended to read as follows:

13 (4) No tenant shall be authorized to receive a reduction in base rent
14 subject to tax under the provisions of this subdivision, until the prem-
15 ises with respect to which it is claiming a reduction in base rent meet
16 the requirements in the definition of eligible premises and until it has
17 obtained a certification of eligibility from the mayor or an agency
18 designated by the mayor, and an annual certification from the mayor or
19 an agency designated by the mayor as to the number of eligible aggregate
20 employment shares maintained by such tenant which may qualify for
21 obtaining a base rent reduction for the tenant's tax year. Any written
22 documentation submitted to the mayor or such agency or agencies in order
23 to obtain any such certification shall be deemed a written instrument
24 for purposes of section 175.00 of the penal law. Application fees for
25 such certifications shall be determined by the mayor or such agency or
26 agencies. No certification of eligibility shall be issued to an eligible
27 business on or after July first, nineteen hundred ninety-nine unless
28 such business meets the requirements of either subparagraph (a) or (b)
29 below:

30 (a) (1) prior to such date such business has purchased, leased or
31 entered into a contract to purchase or lease particular premises or a
32 parcel on which will be constructed such premises or already owned such
33 premises or parcel;

34 (2) prior to such date improvements have been commenced on such prem-
35 ises or parcel which improvements will meet the requirements of subdivi-
36 sion (e) of section 22-621 of this code relating to expenditures for
37 improvements;

38 (3) prior to such date such business submits a preliminary application
39 for a certification of eligibility to such mayor or such agency or agen-
40 cies with respect to a proposed relocation to such particular premises;
41 and

42 (4) such business relocates to such particular premises not later than
43 thirty-six months or, in a case in which the expenditures made for the
44 improvements specified in clause two of this subparagraph are in excess
45 of fifty million dollars within seventy-two months from the date of
46 submission of such preliminary application; or

47 (b) (1) not later than June thirtieth, two thousand two, such business
48 has purchased, leased or entered into a contract to purchase or lease
49 particular premises wholly contained in a building in which at least an
50 aggregate of forty per centum or two hundred thousand square feet,
51 whichever is less, of the nonresidential floor area of such building has
52 been purchased or leased by a business or businesses which meet or will
53 meet the requirements of subparagraph (a) of this paragraph with respect
54 to such floor area and which are or will become certified as eligible to
55 receive a credit under section 22-622 of this code with respect to such
56 floor area;

(2) not later than June thirtieth, two thousand two, such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(3) not later than June thirtieth, two thousand two, such business relocates to such particular premises.

Any tenant subject to a tax imposed under chapter five, or subchapter two [or], three OR THREE-A of chapter six, of this title obtaining a certification of eligibility pursuant to subdivision (b) of section 22-622 of the code shall be deemed to have obtained the certification of eligibility required by this paragraph.

S 23. Subdivision (a) and the opening paragraph of subdivision (o) of section 22-621 of the administrative code of the city of New York, subdivision (a) as amended by chapter 149 of the laws of 1999 and the opening paragraph of subdivision (o) as added by chapter 143 of the laws of 2004, are amended to read as follows:

(a) "Eligible Business." Any person subject to a tax imposed under chapter five, or subchapter two [or], three OR THREE-A of chapter six, or chapter eleven, of title eleven of the code, that: (1) has been conducting substantial business operations at one or more business locations outside the eligible area for the twenty-four consecutive months immediately preceding the taxable year during which such eligible business relocates as defined in subdivision (j) of this section; and (2) on or after May twenty-seventh, nineteen hundred eighty-seven relocates as defined in subdivision (j) of this section all or part of such business operations; and (3) either (i) on or after May twenty-seventh, nineteen hundred eighty-seven first enters into a contract to purchase or lease the premises to which it relocates as defined in subdivision (j) of this section, or a parcel on which will be constructed such premises, or (ii) as of May twenty-seventh, nineteen hundred eighty-seven owns such parcel or premises and has not prior to such date made application for benefits pursuant to part four of subchapter two of chapter two of title eleven of the code.

"Total attributed eligible aggregate employment shares" means, for any relocation, the sum of the number of eligible aggregate employment shares apportioned to such relocation pursuant to paragraph one of this subdivision, less any excess shares determined with respect to such relocation pursuant to paragraph two of this subdivision, plus any excess shares attributed to such relocation pursuant to paragraph three of this subdivision. Except as provided in paragraph four of this subdivision, any eligible aggregate employment shares that are attributed to a relocation to particular premises pursuant to paragraph three of this subdivision shall be treated as eligible aggregate employment shares that are maintained with respect to such premises and shall be subject to all provisions of this chapter and the provisions for a credit against a tax imposed under chapter five or subchapter two [or], three OR THREE-A of chapter six or chapter eleven of title eleven of the code as such provisions pertain to such relocation.

S 24. Subdivisions (a) and (d) of section 22-622 of the administrative code of the city of New York, subdivision (a) as amended and subdivision (d) as added by chapter 149 of the laws of 1999, are amended to read as follows:

(a) An eligible business that relocates as defined in subdivision (j) of section 22-621 of the code shall be allowed to receive a credit against a tax imposed by chapter five, or subchapter two [or], three OR THREE-A of chapter six, or chapter eleven, of title eleven of the code,

1 as described in subdivision (i) of section 11-503, subdivision seventeen
2 of section 11-604, SUBDIVISION SEVENTEEN OF SECTION 11-654, section
3 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent
4 subject to tax as described in subdivision f of section 11-704 of the
5 code, provided, however, notwithstanding any other provision of law to
6 the contrary, no such credit shall be allowed against the tax imposed
7 under such chapter eleven for a relocation taking place prior to January
8 first, nineteen hundred ninety-nine.

9 (d) An eligible business other than a utility company subject to the
10 supervision of the department of public service shall not be authorized
11 to receive a credit against the gross receipts tax imposed under chapter
12 eleven of title eleven of the code, unless such eligible business elects
13 to take the credit authorized by this section against the tax imposed by
14 such chapter on an application filed with respect to the first relo-
15 cation of such business that qualifies or will qualify under this
16 section, with the mayor or the agency designated by such mayor pursuant
17 to subdivision (b) of this section. The election authorized by this
18 subdivision may not be withdrawn after the issuance of such certif-
19 ication of eligibility. No taxpayer that has previously received a
20 certification of eligibility to receive such credit against any tax
21 imposed by chapter five or subchapter two [or], three OR THREE-A of
22 chapter six of title eleven of the code may make the election authorized
23 by this subdivision. No taxpayer that makes the election provided in
24 this subdivision shall be authorized to take such credit against any tax
25 imposed by chapter five or subchapter two [or], three OR THREE-A of
26 chapter six of title eleven of the code.

27 S 25. Subdivisions (a) and (l) of section 22-623 of the administrative
28 code of the city of New York, subdivision (a) as added by chapter 143 of
29 the laws of 2004 and subdivision (l) as added by section 10 of part E of
30 chapter 2 of the laws of 2005, are amended to read as follows:

31 (a) "Eligible business" means any person subject to a tax imposed
32 under chapter five, or subchapter two [or], three OR THREE-A of chapter
33 six, or chapter eleven, of title eleven of the code, that:

34 (1) has been conducting substantial business operations at one or more
35 business locations outside the city of New York for the twenty-four
36 consecutive months immediately preceding the taxable year during which
37 such eligible business relocates as defined in subdivision (j) of this
38 section but has not maintained employment shares at premises in the city
39 of New York at any time during the period beginning January first, two
40 thousand two and ending on the date it enters into a lease or a contract
41 to purchase the premises that will qualify as eligible premises pursuant
42 to this chapter; and

43 (2) on or after July first, two thousand three relocates as defined in
44 subdivision (j) of this section all or part of such business operations.

45 (l) "Special eligible business" means any person subject to a tax
46 imposed under chapter five, or subchapter two [or], three OR THREE-A of
47 chapter six, or chapter eleven, of title eleven of the code, that: (1)
48 has been conducting substantial business operations at one or more busi-
49 ness locations outside the city of New York for the twenty-four consec-
50 utive months immediately preceding the taxable year during which such
51 eligible business relocates as defined in subdivision (m); (2) main-
52 tained employment shares at premises in Manhattan in the city of New
53 York at some time during the period beginning January first, two thou-
54 sand two, and ending on the date it enters into a lease or a contract to
55 purchase the premises that will qualify as eligible premises pursuant to
56 this section, and (3) on or after June thirtieth, two thousand five,

1 relocates as defined in subdivision (m) of this section all or part of
2 such business operations.

3 S 26. Subdivisions (a) and (d) of section 22-624 of the administrative
4 code of the city of New York, subdivision (a) as amended by section 11
5 of part E of chapter 2 of the laws of 2005 and subdivision (d) as
6 amended by section 12 of part E of chapter 2 of the laws of 2005, are
7 amended to read as follows:

8 (a) An eligible business that relocates as defined in subdivision (j)
9 of section 22-623 of this chapter or a special eligible business that
10 relocates as defined in subdivision (m) of section 22-623 of this chap-
11 ter shall be allowed to receive a credit against a tax imposed by chap-
12 ter five, or subchapter two [or], three OR THREE-A of chapter six, or
13 chapter eleven, of title eleven of the code, as described in subdivision
14 (l) of section 11-503, subdivision nineteen of section 11-604, SUBDIVI-
15 SION NINETEEN OF SECTION 11-654, section 11-643.9 or section 11-1105.3
16 of the code.

17 (d) An eligible business or special eligible business other than a
18 utility company subject to the supervision of the department of public
19 service shall not be authorized to receive a credit against the gross
20 receipts tax imposed under chapter eleven of title eleven of the code
21 unless such eligible business or special eligible business elects to
22 take the credit authorized by this section against the tax imposed by
23 such chapter on its application filed with the mayor or the agency
24 designated by such mayor pursuant to subdivision (b) of this section.
25 The election authorized by this subdivision may not be withdrawn after
26 the issuance of such certification of eligibility. No taxpayer that has
27 previously received a certification of eligibility to receive such cred-
28 it against any tax imposed by chapter five or subchapter two [or], three
29 OR THREE-A of chapter six of title eleven of the code may make the
30 election authorized by this subdivision. No taxpayer that makes the
31 election provided in this subdivision shall be authorized to take such
32 credit against any tax imposed by chapter five or subchapter two [or],
33 three OR THREE-A of chapter six of title eleven of the code.

34 S 27. No addition to tax under subdivision 3 of section 11-676 of the
35 administrative code of the city of New York shall be imposed with
36 respect to declarations or payments of estimated tax required under
37 sections 11-657 and 11-658 of the administrative code of the city of New
38 York for declarations otherwise required to be filed and payments other-
39 wise required to be made, by reason of section one of this act, prior to
40 or on June 15, 2015, on the condition that the taxpayer files such
41 declarations and makes such payments no later than the first date
42 following June 15, 2015 on which an installment of estimated tax is
43 required to be paid, together with all other such declarations and
44 payments then due.

45 S 28. Severability clause. If any clause, sentence, paragraph, subdi-
46 vision, section or part of this act shall be adjudged by any court of
47 competent jurisdiction to be invalid, such judgment shall not affect,
48 impair, or invalidate the remainder thereof, but shall be confined in
49 its operation to the clause, sentence, paragraph, subdivision, section
50 or part thereof directly involved in the controversy in which such judg-
51 ment shall have been rendered. It is hereby declared to be the intent of
52 the legislature that this act would have been enacted even if such
53 invalid provisions had not been included herein.

54 S 29. This act shall take effect immediately and shall apply to taxa-
55 ble years beginning on or after January 1, 2015.

1

PART E

2 Section 1. Chapter 567 of the laws of 2010 relating to establishing a
3 special commission on compensation, and providing for their powers and
4 duties; and to provide periodic salary increases to state officers is
5 REPEALED.

6 S 2. 1. On the first of June of every fourth year, commencing June 1,
7 2015, there shall be established a commission on legislative, judicial
8 and executive compensation to examine, evaluate and make recommendations
9 with respect to adequate levels of compensation and non-salary benefits
10 for members of the legislature, judges and justices of the state-paid
11 courts of the unified court system, statewide elected officials, and
12 those state officers referred to in section 169 of the executive law.

13 2. (a) In accordance with the provisions of this section, the commis-
14 sion shall examine: (1) the prevailing adequacy of pay levels and other
15 non-salary benefits received by members of the legislature, statewide
16 elected officials, and those state officers referred to in section 169
17 of the executive law; and

18 (2) the prevailing adequacy of pay levels and non-salary benefits
19 received by the judges and justices of the state-paid courts of the
20 unified court system and housing judges of the civil court of the city
21 of New York and determine whether any of such pay levels warrant adjust-
22 ment; and

23 (b) The commission shall determine whether: (1) for any of the four
24 years commencing on the first of April of such years, following the year
25 in which the commission is established, the annual salaries for the
26 judges and justices of the state-paid courts of the unified court system
27 and housing judges of the civil court of the city of New York warrant an
28 increase; and

29 (2) on the first of January after the November general election at
30 which members of the state legislature are elected following the year in
31 which the commission is established, and on the first of January follow-
32 ing the next such election, the like annual salaries and allowances of
33 members of the legislature, and salaries of statewide elected officials
34 and state officers referred to in section 169 of the executive law
35 warrant an increase.

36 3. In discharging its responsibilities under subdivision two of this
37 section, the commission shall take into account all appropriate factors
38 including, but not limited to: the overall economic climate; rates of
39 inflation; changes in public-sector spending; the levels of compensation
40 and non-salary benefits received by executive branch officials and
41 legislators of other states and of the federal government; the levels of
42 compensation and non-salary benefits received by professionals in
43 government, academia and private and nonprofit enterprise; and the
44 state's ability to fund increases in compensation and non-salary bene-
45 fits.

46 S 3. 1. The commission shall consist of seven members to be appointed
47 as follows: three shall be appointed by the governor; one shall be
48 appointed by the temporary president of the senate; one shall be
49 appointed by the speaker of the assembly; and two shall be appointed by
50 the chief judge of the state, one of whom shall serve as chair of the
51 commission. With regard to any matters regarding legislative or execu-
52 tive compensation, the chair shall preside but not vote. Vacancies in
53 the commission shall be filled in the same manner as original appoint-
54 ments. To the extent practicable, members of the commission shall have

1 experience in one or more of the following: determination of executive
2 compensation, human resource administration or financial management.

3 2. The commission shall only meet within the state, may hold public
4 hearings, at least one of which shall be open for the public to provide
5 comments and shall have all the powers of a legislative committee pursu-
6 ant to the legislative law. It shall be governed by articles 6, 6-A and
7 7 of the public officers law.

8 3. The members of the commission shall receive no compensation for
9 their services but shall be allowed their actual and necessary expenses
10 incurred in the performance of their duties hereunder.

11 4. No member of the commission shall be disqualified from holding any
12 other public office or employment, nor shall he or she forfeit any such
13 office or employment by reason of his or her appointment pursuant to
14 this section, notwithstanding the provisions of any general, special or
15 local law, regulation, ordinance or city charter.

16 5. To the maximum extent feasible, the commission shall be entitled to
17 request and receive and shall utilize and be provided with such facili-
18 ties, resources and data of any court, department, division, board,
19 bureau, commission, agency or public authority of the state or any poli-
20 tical subdivision thereof as it may reasonably request to carry out
21 properly its powers and duties pursuant to this section.

22 6. The commission may request, and shall receive, reasonable assist-
23 ance from state agency personnel as necessary for the performance of its
24 function.

25 7. The commission shall make a report to the governor, the legisla-
26 ture and the chief judge of the state of its findings, conclusions,
27 determinations and recommendations, if any, not later than the thirty-
28 first of December of the year in which the commission is established for
29 judicial compensation and the fifteenth of November the following year
30 for legislative and executive compensation. Any findings, conclusions,
31 determinations and recommendations in the report must be adopted by a
32 majority vote of the commission and findings, conclusions, determi-
33 nations and recommendations with respect to executive and legislative
34 compensation shall also be supported by at least one member appointed by
35 each appointing authority. Each recommendation made to implement a
36 determination pursuant to section two of this act shall have the force
37 of law, and shall supersede, where appropriate, inconsistent provisions
38 of article 7-B of the judiciary law, section 169 of the executive law,
39 and sections 5 and 5-a of the legislative law, unless modified or abro-
40 gated by statute prior to April first of the year as to which such
41 determination applies to judicial compensation and January first of the
42 year as to which such determination applies to legislative and executive
43 compensation.

44 8. Upon the making of its report as provided in subdivision seven of
45 this section, each commission established pursuant to this section shall
46 be deemed dissolved.

47 S 4. Date of entitlement to salary increase. Notwithstanding the
48 provisions of this act or of any other law, each increase in salary or
49 compensation of any officer or employee provided by this act shall be
50 added to the salary or compensation of such officer or employee at the
51 beginning of that payroll period the first day of which is nearest to
52 the effective date of such increase as provided in this act, or at the
53 beginning of the earlier of two payroll periods the first days of which
54 are nearest but equally near to the effective date of such increase as
55 provided in this act; provided, however, the payment of such salary
56 increase pursuant to this section on a date prior thereto instead of on

1 such effective date, shall not operate to confer any additional salary
2 rights or benefits on such officer or employee. The annual salaries as
3 prescribed pursuant to this act whenever adjusted pursuant to the
4 provisions of this act, shall be rounded up to the nearest multiple of
5 one hundred dollars.

6 S 5. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2015.

8 PART F

9 Section 1. This act shall be known and may be cited as the "Infras-
10 tructure investment act".

11 S 2. For the purposes of this act:

12 (a) "authorized state entity" shall mean the New York state thruway
13 authority, the department of transportation, the office of parks, recre-
14 ation and historic preservation, the department of environmental conser-
15 vation and the New York state bridge authority.

16 (b) "best value" shall mean the basis for awarding contracts for
17 services to the offerer that optimize quality, cost and efficiency,
18 price and performance criteria, which may include, but is not limited
19 to:

20 1. The quality of the contractor's performance on previous projects;

21 2. The timeliness of the contractor's performance on previous
22 projects;

23 3. The level of customer satisfaction with the contractor's perform-
24 ance on previous projects;

25 4. The contractor's record of performing previous projects on budget
26 and ability to minimize cost overruns;

27 5. The contractor's ability to limit change orders;

28 6. The contractor's ability to prepare appropriate project plans;

29 7. The contractor's technical capacities;

30 8. The individual qualifications of the contractor's key personnel;

31 9. The contractor's ability to assess and manage risk and minimize
32 risk impact; and

33 10. The contractor's past record of compliance with article 15-A of
34 the executive law.

35 Such basis shall reflect, wherever possible, objective and quantifi-
36 able analysis.

37 (c) "capital project" shall have the same meaning as such term is
38 defined by subdivision 2-a of section 2 of the state finance law.

39 (d) "cost plus" shall mean compensating a contractor for the cost to
40 complete a contract by reimbursing actual costs for labor, equipment and
41 materials plus an additional amount for overhead and profit.

42 (e) "design-build contract" shall mean a contract for the design and
43 construction of a capital project with a single entity, which may be a
44 team comprised of separate entities.

45 (f) "procurement record" means documentation of the decisions made and
46 the approach taken in the procurement process.

47 S 3. Notwithstanding the provisions of section 38 of the highway law,
48 section 136-a of the state finance law, section 359 of the public
49 authorities law, section 7210 of the education law, and the provisions
50 of any other law to the contrary, and in conformity with the require-
51 ments of this act, an authorized state entity may utilize the alterna-
52 tive delivery method referred to as design-build contracts, in consulta-
53 tion with relevant local labor organizations and construction industry,
54 for capital projects related to the state's physical infrastructure,

1 including, but not limited to, the state's highways, bridges, dams,
2 flood control projects, canals, and parks, including, but not limited
3 to, to repair damage caused by natural disaster, to correct health and
4 safety defects, to comply with federal and state laws, standards, and
5 regulations, to extend the useful life of or replace the state's high-
6 ways, bridges, dams, flood control projects, canals, and parks or to
7 improve or add to the state's highways, bridges, dams, flood control
8 projects, canals, and parks; provided that for the contracts executed by
9 the department of transportation, the office of parks, recreation and
10 historic preservation, or the department of environmental conservation,
11 the total cost of each such project shall not be less than one million
12 two hundred thousand dollars (\$1,200,000).

13 S 4. An entity selected by an authorized state entity to enter into a
14 design-build contract shall be selected through a two-step method, as
15 follows:

16 (a) Step one. Generation of a list of entities that have demonstrated
17 the general capability to perform the design-build contract. Such list
18 shall consist of a specified number of entities, as determined by an
19 authorized state entity, and shall be generated based upon the author-
20 ized state entity's review of responses to a publicly advertised request
21 for qualifications. The authorized state entity's request for qualifica-
22 tions shall include a general description of the project, the maximum
23 number of entities to be included on the list, and the selection crite-
24 ria to be used in generating the list. Such selection criteria shall
25 include the qualifications and experience of the design and construction
26 team, organization, demonstrated responsibility, ability of the team or
27 of a member or members of the team to comply with applicable require-
28 ments, including the provisions of articles 145, 147 and 148 of the
29 education law, past record of compliance with the labor law, and such
30 other qualifications the authorized state entity deems appropriate which
31 may include but are not limited to project understanding, financial
32 capability and record of past performance. The authorized state entity
33 shall evaluate and rate all entities responding to the request for qual-
34 ifications. Based upon such ratings, the authorized state entity shall
35 list the entities that shall receive a request for proposals in accord-
36 ance with subdivision (b) of this section. To the extent consistent
37 with applicable federal law, the authorized state entity shall consider,
38 when awarding any contract pursuant to this section, the participation
39 of: (i) firms certified pursuant to article 15-A of the executive law as
40 minority or women-owned businesses and the ability of other businesses
41 under consideration to work with minority and women-owned businesses so
42 as to promote and assist participation by such businesses; and (ii)
43 small business concerns identified pursuant to subdivision (b) of
44 section 139-g of the state finance law.

45 (b) Step two. Selection of the proposal which is the best value to the
46 state. The authorized state entity shall issue a request for proposals
47 to the entities listed pursuant to subdivision (a) of this section. If
48 such an entity consists of a team of separate entities, the entities
49 that comprise such a team must remain unchanged from the entity as list-
50 ed pursuant to subdivision (a) of this section unless otherwise approved
51 by the authorized state entity. The request for proposals shall set
52 forth the project's scope of work, and other requirements, as determined
53 by the authorized state entity. The request for proposals shall specify
54 the criteria to be used to evaluate the responses and the relative
55 weight of each such criteria. Such criteria shall include the
56 proposal's cost, the quality of the proposal's solution, the qualifica-

tions and experience of the design-build entity, and other factors deemed pertinent by the authorized state entity, which may include, but shall not be limited to, the proposal's project implementation, ability to complete the work in a timely and satisfactory manner, maintenance costs of the completed project, maintenance of traffic approach, and community impact. Any contract awarded pursuant to this act shall be awarded to a responsive and responsible entity that submits the proposal, which, in consideration of these and other specified criteria deemed pertinent to the project, offers the best value to the state, as determined by the authorized state entity. Nothing herein shall be construed to prohibit the authorized entity from negotiating final contract terms and conditions including cost.

S 5. Any contract entered into pursuant to this act shall include a clause requiring that any professional services regulated by articles 145, 147 and 148 of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such articles.

S 6. Construction for each capital project undertaken by the authorized state entity pursuant to this act shall be deemed a "public work" to be performed in accordance with the provisions of article 8 of the labor law, as well as subject to sections 200, 240, 241 and 242 of the labor law and enforcement of prevailing wage requirements by the New York state department of labor.

S 7. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be subject to section 135 of the state finance law and section 222 of the labor law.

S 8. Each contract entered into by the authorized state entity pursuant to this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law or, for projects receiving federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

S 9. Capital projects undertaken by the authorized state entity pursuant to this act shall be subject to the requirements of article 8 of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

S 10. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be governed by sections 139-d, 139-j, 139-k, paragraph f of subdivision 1 and paragraph g of subdivision 9 of section 163 of the state finance law.

S 11. The submission of a proposal or responses or the execution of a design-build contract pursuant to this act shall not be construed to be a violation of section 6512 of the education law.

S 12. Nothing contained in this act shall limit the right or obligation of the authorized state entity to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of the obligations of the authorized state entity, or to award contracts as otherwise provided by law.

S 13. Alternative construction awarding processes. (a) Notwithstanding the provisions of any other law to the contrary, the authorized state entity may award a construction contract:

1. To the contractor offering the best value; or

2. Utilizing a cost-plus not to exceed guaranteed maximum price form of contract in which the authorized state entity shall be entitled to monitor and audit all project costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authorized state entity and the contractor shall:

1 (i) describe the scope of the work and the cost of performing such
2 work;

3 (ii) include a detailed line item cost breakdown;

4 (iii) include a list of all drawings, specifications and other infor-
5 mation on which the guaranteed maximum price is based;

6 (iv) include the dates for substantial and final completion on which
7 the guaranteed maximum price is based; and

8 (v) include a schedule of unit prices; or

9 3. Utilizing a lump sum contract in which the contractor agrees to
10 accept a set dollar amount for a contract which comprises a single bid
11 without providing a cost breakdown for all costs such as for equipment,
12 labor, materials, as well as such contractor's profit for completing all
13 items of work comprising the project.

14 (b) Capital projects undertaken by an authorized state entity may
15 include an incentive clause in the contract for various performance
16 objectives, but the incentive clause shall not include an incentive that
17 exceeds the quantifiable value of the benefit received by the state. The
18 authorized state entity shall establish such performance and payment
19 bonds as it deems necessary.

20 S 14. Prequalified contractors. (a) Notwithstanding any other
21 provision of law, the authorized state entity may maintain a list of
22 prequalified contractors who are eligible to submit a proposal pursuant
23 to this act and entry into such list shall be continuously available.
24 Prospective contractors may be prequalified as contractors to provide
25 particular types of construction, in accordance with general criteria
26 established by the authorized state entity which may include, but shall
27 not be limited to, the experience, past performance, ability to under-
28 take the type and complexity of work, financial capability, responsibil-
29 ity, compliance with equal employment opportunity requirements and anti-
30 discrimination laws, and reliability. Such prequalification may be by
31 categories designed by size and other factors.

32 (b) A contractor who is denied prequalification or whose prequalifica-
33 tion is revoked or suspended by the authorized state entity may appeal
34 such decision to the authorized state entity. If such a suspension
35 extends for more than three months, it shall be deemed a revocation of
36 the prequalification. The authorized state entity may proceed with the
37 contract award during any appeal.

38 S 15. Nothing in this act shall affect existing powers of New York
39 state public entities to use alternative project delivery methods.

40 S 16. A report shall be submitted on or no later than June 30, 2016 to
41 the governor, the temporary president of the senate and the speaker of
42 the assembly by the New York state urban development corporation
43 containing information on each authorized state entity that has entered
44 into a design-build contract pursuant to this act, which shall include,
45 but not be limited to, a description of each project, procurement infor-
46 mation including the short list of qualified bidders, the total cost of
47 each project, the estimated cost and schedule savings of each project,
48 an explanation of how the savings were determined, and whether a project
49 labor agreement was used, and if applicable, the justification for using
50 a project labor agreement.

51 S 17. This act shall take effect immediately and shall expire and be
52 deemed repealed 2 years after such date, provided that, projects with
53 requests for qualifications issued prior to such repeal shall be permit-
54 ted to continue under this act notwithstanding such repeal.

1 Section 1. This act may be known and be cited as the "New York State
2 water infrastructure improvement act of 2015".

3 S 2. For purposes of this act:

4 1. "water quality infrastructure project" shall mean "sewage treatment
5 works" as defined in section 17-1903 of the environmental conservation
6 law or "eligible project" as defined in paragraphs (a), (b), (c) and (e)
7 of subdivision 4 of section 1160 of the public health law.

8 2. "construction" shall mean:

9 (a) for sewage treatment works, the same as defined in section 17-1903
10 of the environmental conservation law; and

11 (b) for eligible projects, the same meaning as defined in section 1160
12 of the public health law.

13 3. "municipality" shall mean any county, city, town, village, district
14 corporation, county or town improvement district, school district, Indi-
15 an nation or tribe recognized by the state or the United States with a
16 reservation wholly or partly within the boundaries of New York state,
17 any public benefit corporation or public authority established pursuant
18 to the laws of New York or any agency of New York state which is
19 empowered to construct and operate a water quality infrastructure
20 project, or any two or more of the foregoing which are acting jointly in
21 connection with a water quality infrastructure project.

22 S 3. 1. The environmental facilities corporation shall undertake and
23 provide state financial assistance payments, from funds appropriated for
24 such purpose, to municipalities in support of water quality infrastruc-
25 ture projects provided, however, in any such year that funds are appro-
26 priated for such purpose, no municipality shall receive more than five
27 million dollars of appropriated funds. Such state financial assistance
28 payments shall be awarded only to water quality infrastructure projects
29 for:

30 (a) replacement or repair of infrastructure; or

31 (b) compliance with environmental and public health laws and regu-
32 lations related to water quality.

33 2. Any state financial assistance payment awarded pursuant to this act
34 shall not exceed sixty percent of the project cost.

35 3. A municipality may make an application for such state financial
36 assistance payment, in a manner, form and timeframe and containing such
37 information as the environmental facilities corporation may require
38 provided however, such requirements shall not include a requirement for
39 prior listing on the intended use plan.

40 4. A municipality shall not be required to accept environmental facil-
41 ities corporation loan financing in order to obtain a state financial
42 assistance payment pursuant to this act if it can provide proof of
43 having obtained similarly low cost financing or other funding from
44 another source.

45 5. In awarding such state financial assistance payments, the environ-
46 mental facilities corporation shall consider and give preference to
47 municipalities that meet the hardship criteria established by the envi-
48 ronmental facilities corporation pursuant to section 1285-m of the
49 public authorities law and projects that result in the greatest water
50 quality improvement or greatest reduction in serious risk to public
51 health. For the purposes of this act, the hardship criteria of section
52 1285-m of the public authorities law shall also apply to sewage treat-
53 ment works defined in section 17-1903 of the environmental conservation
54 law.

55 S 4. This act shall take effect April 1, 2015.

1

PART H

2 Section 1. The state finance law is amended by adding a new section
3 93-b to read as follows:

4 S 93-B. DEDICATED INFRASTRUCTURE INVESTMENT FUND. 1. DEDICATED INFRAS-
5 TRUCTURE INVESTMENT FUND. (A) THERE IS HEREBY ESTABLISHED IN THE JOINT
6 CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND
7 FINANCE A SPECIAL FUND TO BE KNOWN AS THE "DEDICATED INFRASTRUCTURE
8 INVESTMENT FUND".

9 (B) ACCOUNT. THE DEDICATED INFRASTRUCTURE INVESTMENT FUND SHALL
10 CONSIST OF ONE ACCOUNT, THE "INFRASTRUCTURE INVESTMENT ACCOUNT". MONEYS
11 IN THIS ACCOUNT SHALL BE KEPT SEPARATE AND NOT COMMINGLED WITH ANY OTHER
12 MONEYS IN THE CUSTODY OF THE COMPTROLLER.

13 (C) SOURCES OF FUNDS. THE SOURCES OF FUNDS SHALL CONSIST OF ALL MONEYS
14 COLLECTED THEREFOR, OR MONEYS CREDITED, APPROPRIATED OR TRANSFERRED
15 THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW OR ANY OTHER
16 MONEYS MADE AVAILABLE FOR THE PURPOSES OF THE FUND. ANY INTEREST
17 RECEIVED BY THE COMPTROLLER ON MONEYS ON DEPOSIT SHALL BE RETAINED AND
18 BECOME PART OF THE FUND, UNLESS OTHERWISE DIRECTED BY LAW.

19 2. USES OF FUNDS. FOLLOWING APPROPRIATION BY THE LEGISLATURE, MONEYS
20 IN THE INFRASTRUCTURE INVESTMENT ACCOUNT SHALL BE AVAILABLE TO FINANCE
21 PROJECTS, WORKS, ACTIVITIES OR PURPOSES NECESSARY TO SUPPORT STATEWIDE
22 INVESTMENTS AS APPROPRIATED BY THE LEGISLATURE. NOTHING CONTAINED IN
23 THIS SECTION SHALL BE CONSTRUED TO LIMIT IN ANY WAY THE PROJECTS, WORKS,
24 ACTIVITIES OR PURPOSES THAT CAN BE FINANCED FROM THIS ACCOUNT, INCLUDING
25 BUT NOT LIMITED TO LOANS OF MONEY TO PUBLIC CORPORATIONS OR AUTHORITIES
26 UNDER TERMS APPROVED BY THE DIRECTOR OF THE BUDGET.

27 3. TRANSFERS. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE
28 CONTRARY, FOR THE STATE FISCAL YEAR COMMENCING ON APRIL FIRST, TWO THOU-
29 SAND FIFTEEN, THE COMPTROLLER IS HEREBY AUTHORIZED TO TRANSFER MONIES
30 FROM THE DEDICATED INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND,
31 AND FROM THE GENERAL FUND TO THE DEDICATED INFRASTRUCTURE INVESTMENT
32 FUND, IN AN AMOUNT DETERMINED BY THE DIRECTOR OF THE BUDGET TO THE
33 EXTENT MONEYS ARE AVAILABLE IN THE FUND; PROVIDED, HOWEVER, THAT THE
34 COMPTROLLER IS ONLY AUTHORIZED TO TRANSFER MONIES FROM THE DEDICATED
35 INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND IN THE EVENT OF AN
36 ECONOMIC DOWNTURN AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION;
37 AND/OR TO FULFILL DISALLOWANCES AND/OR SETTLEMENTS RELATED TO OVER-PAY-
38 MENTS OF FEDERAL MEDICARE AND MEDICAID REVENUES IN EXCESS OF ONE HUNDRED
39 MILLION DOLLARS FROM ANTICIPATED LEVELS, AS DETERMINED BY THE DIRECTOR
40 OF THE BUDGET AND DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION.

41 (A) ECONOMIC DOWNTURN. NOTWITHSTANDING ANY LAW TO THE CONTRARY, FOR
42 THE PURPOSE OF THIS SECTION, THE COMMISSIONER OF LABOR SHALL CALCULATE
43 AND PUBLISH, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, A COMPOSITE
44 INDEX OF BUSINESS CYCLE INDICATORS. SUCH INDEX SHALL BE CALCULATED USING
45 MONTHLY DATA ON NEW YORK STATE EMPLOYMENT, TOTAL MANUFACTURING HOURS
46 WORKED, AND UNEMPLOYMENT PREPARED BY THE DEPARTMENT OF LABOR OR ITS
47 SUCCESSOR AGENCY, AND TOTAL SALES TAX COLLECTED NET OF LAW CHANGES,
48 PREPARED BY THE DEPARTMENT OF TAXATION AND FINANCE OR ITS SUCCESSOR
49 AGENCY. SUCH INDEX SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE PROCE-
50 DURES FOR CALCULATING COMPOSITE INDEXES ISSUED BY THE CONFERENCE BOARD
51 OR ITS SUCCESSOR ORGANIZATION, AND ADJUSTED FOR SEASONAL VARIATIONS IN
52 ACCORDANCE WITH THE PROCEDURES ISSUED BY THE CENSUS BUREAU OF THE UNITED
53 STATES DEPARTMENT OF COMMERCE OR ITS SUCCESSOR AGENCY. IF THE COMPOSITE
54 INDEX DECLINES FOR FIVE CONSECUTIVE MONTHS, THE COMMISSIONER OF LABOR
55 SHALL NOTIFY THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY

1 PRESIDENT OF THE SENATE, AND THE MINORITY LEADERS OF THE ASSEMBLY AND
2 THE SENATE. UPON SUCH NOTIFICATION, THE DIRECTOR OF THE BUDGET MAY
3 AUTHORIZE AND DIRECT THE COMPTROLLER TO TRANSFER FROM THE DEDICATED
4 INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND SUCH AMOUNTS AS THE
5 DIRECTOR OF THE BUDGET DEEMS NECESSARY TO MEET THE REQUIREMENTS OF THE
6 STATE FINANCIAL PLAN. THE AUTHORITY TO TRANSFER FUNDS UNDER THE
7 PROVISIONS OF THIS PARAGRAPH SHALL LAPSE WHEN THE COMPOSITE INDEX SHALL
8 HAVE INCREASED FOR FIVE CONSECUTIVE MONTHS OR TWELVE MONTHS FROM THE
9 ORIGINAL NOTIFICATION OF THE COMMISSIONER OF LABOR, WHICHEVER OCCURS
10 EARLIER. PROVIDED, HOWEVER, THAT FOR EVERY ADDITIONAL AND CONSECUTIVE
11 MONTHLY DECLINE SUCCEEDING THE FIVE MONTH DECLINE SO NOTED BY THE
12 COMMISSIONER OF LABOR, THE TWELVE MONTH LAPSE DATE SHALL BE EXTENDED BY
13 ONE ADDITIONAL MONTH.

14 (B) FEDERAL MEDICARE AND MEDICAID REVENUES. NOTWITHSTANDING ANY LAW TO
15 THE CONTRARY, THE DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE
16 COMPTROLLER TO TRANSFER FROM THE DEDICATED INFRASTRUCTURE INVESTMENT
17 FUND TO THE GENERAL FUND AN AMOUNT NOT TO EXCEED THE DISALLOWANCES
18 AND/OR SETTLEMENTS RELATED TO THE OVER-PAYMENTS OF FEDERAL MEDICARE AND
19 MEDICAID REVENUES. IN THE EVENT THIS AUTHORIZATION IS UTILIZED, THE
20 DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE COMPTROLLER TO
21 TRANSFER SUCH AMOUNT AND THE CONCOMITANT REDUCTION IN STATE SHARE MEDI-
22 CARE AND MEDICAID REVENUES FROM THE GENERAL FUND TO THE MISCELLANEOUS
23 SPECIAL REVENUE FUND, MENTAL HYGIENE PROGRAM FUND (21907), THE MISCELLA-
24 NEOUS SPECIAL REVENUE FUND, PATIENT INCOME ACCOUNT (21909), AND THE
25 MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) STATEWIDE ESCROW FUND
26 (60901).

27 (C) PRIOR TO AUTHORIZING ANY TRANSFER FROM THE DEDICATED INFRASTRUC-
28 TURE INVESTMENT FUND ACCOUNTS PURSUANT TO THE PROVISIONS OF THIS
29 SECTION, THE DIRECTOR OF THE BUDGET SHALL NOTIFY THE SPEAKER OF THE
30 ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEAD-
31 ERS OF THE ASSEMBLY AND THE SENATE. SUCH LETTER SHALL SPECIFY THE
32 REASONS FOR THE TRANSFER AND THE AMOUNT THEREOF.

33 S 2. This act shall take effect immediately.

34 PART I

35 Section 1. The state comptroller is hereby authorized and directed to
36 loan money in accordance with the provisions set forth in subdivision 5
37 of section 4 of the state finance law to the following funds and/or
38 accounts:

- 39 1. Tuition reimbursement account (20451).
- 40 2. Proprietary vocational school supervision account (20452).
- 41 3. Local government records management account (20501).
- 42 4. Child health plus program account (20810).
- 43 5. EPIC premium account (20818).
- 44 6. Education - New (20901).
- 45 7. VLT - Sound basic education fund (20904).
- 46 8. Sewage treatment program management and administration fund
47 (21000).
- 48 9. Hazardous bulk storage account (21061).
- 49 10. Federal grants indirect cost recovery account (21065).
- 50 11. Low level radioactive waste account (21066).
- 51 12. Recreation account (21067).
- 52 13. Public safety recovery account (21077).
- 53 14. Environmental regulatory account (21081).
- 54 15. Natural resource account (21082).

1 16. Mined land reclamation program account (21084).
2 17. Great lakes restoration initiative account (21087).
3 18. Environmental protection and oil spill compensation fund (21200).
4 19. Public transportation systems account (21401).
5 20. Metropolitan mass transportation (21402).
6 21. Operating permit program account (21451).
7 22. Mobile source account (21452).
8 23. Statewide planning and research cooperative system account
9 (21902).
10 24. OPWDD provider of service account (21903).
11 25. Mental hygiene program fund account (21907).
12 26. Mental hygiene patient income account (21909).
13 27. Financial control board account (21911).
14 28. Regulation of racing account (21912).
15 29. New York Metropolitan Transportation Council account (21913).
16 30. State university dormitory income reimbursable account (21937).
17 31. Energy research account (21943).
18 32. Criminal justice improvement account (21945).
19 33. Fingerprint identification and technology account (21950).
20 34. Environmental laboratory reference fee account (21959).
21 35. Clinical laboratory reference system assessment account (21962).
22 36. Indirect cost recovery account (21978).
23 37. High school equivalency program account (21979).
24 38. Multi-agency training account (21989).
25 39. Bell jar collection account (22003).
26 40. Industry and utility service account (22004).
27 41. Real property disposition account (22006).
28 42. Parking account (22007).
29 43. Asbestos safety training program account (22009).
30 44. Batavia school for the blind account (22032).
31 45. Investment services account (22034).
32 46. Surplus property account (22036).
33 47. Financial oversight account (22039).
34 48. Regulation of indian gaming account (22046).
35 49. Rome school for the deaf account (22053).
36 50. Seized assets account (22054).
37 51. Administrative adjudication account (22055).
38 52. Federal salary sharing account (22056).
39 53. New York City assessment account (22062).
40 54. Cultural education account (22063).
41 55. Local services account (22078).
42 56. DHCR mortgage servicing account (22085).
43 57. Department of motor vehicles compulsory insurance account (22087).
44 58. Housing indirect cost recovery account (22090).
45 59. Accident prevention course program account (22094).
46 60. DHCR-HCA application fee account (22100).
47 61. Low income housing monitoring account (22130).
48 62. Corporation administration account (22135).
49 63. Montrose veteran's home account (22144).
50 64. Deferred compensation administration account (22151).
51 65. Rent revenue other New York City account (22156).
52 66. Rent revenue account (22158).
53 67. Tax revenue arrearage account (22168).
54 68. State university general income offset account (22654).
55 69. State police motor vehicle law enforcement account (22802).
56 70. Highway safety program account (23001).

- 1 71. EFC drinking water program account (23101).
- 2 72. DOH drinking water program account (23102).
- 3 73. NYCCC operating offset account (23151).
- 4 74. Commercial gaming revenue account (23701).
- 5 75. Commercial gaming regulation account (23702).
- 6 76. Highway and bridge capital account (30051).
- 7 77. State university residence hall rehabilitation fund (30100).
- 8 78. State parks infrastructure account (30351).
- 9 79. Clean water/clean air implementation fund (30500).
- 10 80. Hazardous waste remedial cleanup account (31506).
- 11 81. Youth facilities improvement account (31701).
- 12 82. Housing assistance fund (31800).
- 13 83. Housing program fund (31850).
- 14 84. Highway facility purpose account (31951).
- 15 85. Information technology capital financing account (32215).
- 16 86. New York racing account (32213).
- 17 87. Mental hygiene facilities capital improvement fund (32300).
- 18 88. Correctional facilities capital improvement fund (32350).
- 19 89. New York State Storm Recovery Capital Fund (33000).
- 20 90. OGS convention center account (50318).
- 21 91. Centralized services fund (55000).
- 22 92. Archives records management account (55052).
- 23 93. Federal single audit account (55053).
- 24 94. Civil service law section II administrative account (55055).
- 25 95. Civil service EHS occupational health program account (55056).
- 26 96. Banking services account (55057).
- 27 97. Cultural resources survey account (55058).
- 28 98. Neighborhood work project (55059).
- 29 99. Automation & printing chargeback account (55060).
- 30 100. OFT NYT account (55061).
- 31 101. Data center account (55062).
- 32 102. Intrusion detection account (55066).
- 33 103. Domestic violence grant account (55067).
- 34 104. Centralized technology services account (55069).
- 35 105. Labor contact center account (55071).
- 36 106. Human services contact center account (55072).
- 37 107. Tax contact center account (55073).
- 38 108. Executive direction internal audit account (55251).
- 39 109. CIO Information technology centralized services account (55252).
- 40 110. Health insurance internal service account (55300).
- 41 111. Civil service employee benefits division administrative account
- 42 (55301).
- 43 112. Correctional industries revolving fund (55350).
- 44 113. Employees health insurance account (60201).
- 45 114. Medicaid management information system escrow fund (60900).
- 46 S 1-a. The state comptroller is hereby authorized and directed to loan
- 47 money in accordance with the provisions set forth in subdivision 5 of
- 48 section 4 of the state finance law to any account within the following
- 49 federal funds, provided the comptroller has made a determination that
- 50 sufficient federal grant award authority is available to reimburse such
- 51 loans:
- 52 1. Federal USDA-food and nutrition services fund (25000).
- 53 2. Federal health and human services fund (25100).
- 54 3. Federal education fund (25200).
- 55 4. Federal block grant fund (25250).
- 56 5. Federal miscellaneous operating grants fund (25300).

- 1 6. Federal unemployment insurance administration fund (25900).
- 2 7. Federal unemployment insurance occupational training fund (25950).
- 3 8. Federal emergency employment act fund (26000).
- 4 9. Federal capital projects fund (31350).

5 S 2. Notwithstanding any law to the contrary, and in accordance with
6 section 4 of the state finance law, the comptroller is hereby authorized
7 and directed to transfer, upon request of the director of the budget, on
8 or before March 31, 2016, up to the unencumbered balance or the follow-
9 ing amounts:

10 Economic Development and Public Authorities:

- 11 1. \$175,000 from the miscellaneous special revenue fund, underground
12 facilities safety training account (22172), to the general fund.
- 13 2. An amount up to the unencumbered balance from the miscellaneous
14 special revenue fund, business and licensing services account (21977),
15 to the general fund.
- 16 3. \$14,810,000 from the miscellaneous special revenue fund, code
17 enforcement account (21904), to the general fund.
- 18 4. \$3,000,000 from the general fund to the miscellaneous special
19 revenue fund, tax revenue arrearage account (22168).
- 20 5. \$552,000 from the miscellaneous special revenue fund, consumer food
21 industry account (21966), to the general fund.

22 Education:

- 23 1. \$2,219,000,000 from the general fund to the state lottery fund,
24 education account (20901), as reimbursement for disbursements made from
25 such fund for supplemental aid to education pursuant to section 92-c of
26 the state finance law that are in excess of the amounts deposited in
27 such fund for such purposes pursuant to section 1612 of the tax law.
- 28 2. \$950,000,000 from the general fund to the state lottery fund, VLT
29 education account (20904), as reimbursement for disbursements made from
30 such fund for supplemental aid to education pursuant to section 92-c of
31 the state finance law that are in excess of the amounts deposited in
32 such fund for such purposes pursuant to section 1612 of the tax law.
- 33 3. Moneys from the state lottery fund up to an amount deposited in
34 such fund pursuant to section 1612 of the tax law in excess of the
35 current year appropriation for supplemental aid to education pursuant to
36 section 92-c of the state finance law.
- 37 4. \$300,000 from the local government records management improvement
38 fund (20500) to the archives partnership trust fund (20350).
- 39 5. \$900,000 from the general fund to the miscellaneous special revenue
40 fund, Batavia school for the blind account (22032).
- 41 6. \$900,000 from the general fund to the miscellaneous special revenue
42 fund, Rome school for the deaf account (22053).
- 43 7. \$343,400,000 from the state university dormitory income fund
44 (40350) to the miscellaneous special revenue fund, state university
45 dormitory income reimbursable account (21937).
- 46 8. \$24,000,000 from any of the state education department special
47 revenue and internal service funds to the miscellaneous special revenue
48 fund, indirect cost recovery account (21978).
- 49 9. \$8,318,000 from the general fund to the state university income
50 fund, state university income offset account (22654), for the state's
51 share of repayment of the STIP loan.
- 52 10. \$45,000,000 from the state university income fund, state universi-
53 ty hospitals income reimbursable account (22656) to the general fund for
54 hospital debt service for the period April 1, 2015 through March 31,
55 2016.

56 Environmental Affairs:

1 1. \$16,000,000 from any of the department of environmental conserva-
2 tion's special revenue federal funds to the environmental conservation
3 special revenue fund, federal indirect recovery account (21065).

4 2. \$2,000,000 from any of the department of environmental conserva-
5 tion's special revenue federal funds to the conservation fund as neces-
6 sary to avoid diversion of conservation funds.

7 3. \$3,000,000 from any of the office of parks, recreation and historic
8 preservation capital projects federal funds and special revenue federal
9 funds to the miscellaneous special revenue fund, federal grant indirect
10 cost recovery account (22188).

11 4. \$1,000,000 from any of the office of parks, recreation and historic
12 preservation special revenue federal funds to the miscellaneous special
13 revenue fund, I love NY water account (21930).

14 5. \$23,000,000 from the general fund to the environmental protection
15 fund, environmental protection fund transfer account (30451).

16 6. \$8,500,000 from the general fund to the hazardous waste remedial
17 fund, hazardous waste oversight and assistance account (31505).

18 7. \$25,000,000 from the environmental protection fund, environmental
19 protection transfer account (30451), to the general fund.

20 Family Assistance:

21 1. \$10,000,000 from any of the office of children and family services,
22 office of temporary and disability assistance, or department of health
23 special revenue federal funds and the general fund, in accordance with
24 agreements with social services districts, to the miscellaneous special
25 revenue fund, office of human resources development state match account
26 (21967).

27 2. \$3,000,000 from any of the office of children and family services
28 or office of temporary and disability assistance special revenue federal
29 funds to the miscellaneous special revenue fund, family preservation and
30 support services and family violence services account (22082).

31 3. \$18,670,000 from any of the office of children and family services,
32 office of temporary and disability assistance, or department of health
33 special revenue federal funds and any other miscellaneous revenues
34 generated from the operation of office of children and family services
35 programs to the general fund.

36 4. \$166,000,000 from any of the office of temporary and disability
37 assistance or department of health special revenue funds to the general
38 fund.

39 5. \$2,500,000 from any of the office of temporary and disability
40 assistance or office of children and family services special revenue
41 federal funds to the miscellaneous special revenue fund, office of
42 temporary and disability assistance program account (21980).

43 6. \$35,000,000 from any of the office of children and family services,
44 office of temporary and disability assistance, department of labor, and
45 department of health special revenue federal funds to the office of
46 children and family services miscellaneous special revenue fund, multi-
47 agency training contract account (21989).

48 7. \$65,000,000 from the miscellaneous special revenue fund, youth
49 facility per diem account (22186), to the general fund.

50 8. \$621,850 from the general fund to the combined gifts, grants, and
51 bequests fund, WB Hoyt Memorial account (20128).

52 9. \$3,100,000 from the miscellaneous special revenue fund, state
53 central registry (22028), to the general fund.

54 General Government:

55 1. \$1,566,000 from the miscellaneous special revenue fund, examination
56 and miscellaneous revenue account (22065) to the general fund.

1 2. \$12,500,000 from the general fund to the health insurance revolving
2 fund (55300).
3 3. \$192,400,000 from the health insurance reserve receipts fund
4 (60550) to the general fund.
5 4. \$150,000 from the general fund to the not-for-profit revolving loan
6 fund (20650).
7 5. \$150,000 from the not-for-profit revolving loan fund (20650) to the
8 general fund.
9 6. \$3,000,000 from the miscellaneous special revenue fund, surplus
10 property account (22036), to the general fund.
11 7. \$19,900,000 from the general fund to the miscellaneous special
12 revenue fund, alcoholic beverage control account (22033).
13 8. \$23,000,000 from the miscellaneous special revenue fund, revenue
14 arrearage account (22024), to the general fund.
15 9. \$1,826,000 from the miscellaneous special revenue fund, revenue
16 arrearage account (22024), to the miscellaneous special revenue fund,
17 authority budget office account (22138).
18 10. \$1,000,000 from the miscellaneous special revenue fund, parking
19 services account (22007), to the general fund, for the purpose of reim-
20 bursing the costs of debt service related to state parking facilities.
21 11. \$21,794,000 from the general fund to the internal service fund,
22 COPS account (55013).
23 12. \$8,360,000 from the general fund to the agencies internal service
24 fund, central technology services account (55069), for the purpose of
25 enterprise technology projects.
26 13. \$5,000,000 from the miscellaneous special revenue fund, workers'
27 compensation account (21995), to the miscellaneous capital projects
28 fund, workers' compensation board IT business process design fund.
29 Health:
30 1. \$30,000,000 from the miscellaneous special revenue fund, quality of
31 care account (21915), to the general fund.
32 2. \$1,000,000 from the general fund to the combined gifts, grants and
33 bequests fund, breast cancer research and education account (20155), an
34 amount equal to the monies collected and deposited into that account in
35 the previous fiscal year.
36 3. \$250,000 from the general fund to the combined gifts, grants and
37 bequests fund, prostate cancer research, detection, and education
38 account (20183), an amount equal to the moneys collected and deposited
39 into that account in the previous fiscal year.
40 4. \$500,000 from the general fund to the combined gifts, grants and
41 bequests fund, Alzheimer's disease research and assistance account
42 (20143), an amount equal to the moneys collected and deposited into that
43 account in the previous fiscal year.
44 5. \$30,295,000 from the HCRA resources fund (20800) to the miscella-
45 neous special revenue fund, empire state stem cell trust fund account
46 (22161).
47 6. \$30,000,000 from any of the department of health accounts within
48 the federal health and human services fund to the miscellaneous special
49 revenue fund, quality of care account (21915).
50 7. \$6,000,000 from the miscellaneous special revenue fund, certificate
51 of need account (21920), to the miscellaneous capital projects fund,
52 healthcare IT capital subfund.
53 8. \$1,000,000 from the miscellaneous special revenue fund, adminis-
54 tration program account (21982), to the miscellaneous capital projects
55 fund, healthcare IT capital account (32216).

1 9. \$1,000,000 from the miscellaneous special revenue fund, vital
2 records account (22103), to the miscellaneous capital projects fund,
3 healthcare IT capital account (32216).
4 10. \$55,000,000 from the HCRA resources fund (20800) to the capital
5 projects fund (30000).
6 11. \$3,700,000 from the miscellaneous New York state agency fund,
7 medical assistance account to the general fund.
8 12. \$6,740,000 from the general fund to the medical marihuana trust
9 fund, health operation and oversight account (23755).
10 13. \$4,096,000 from the HCRA resources fund (20800), to the miscella-
11 neous special revenue fund, cigarette strike force account.
12 14. \$3,086,000 from the miscellaneous special revenue fund, certif-
13 icate of need account (21920), to the general fund.
14 Labor:
15 1. \$400,000 from the miscellaneous special revenue fund, DOL fee and
16 penalty account (21923), to the child performer's protection fund, child
17 performer protection account (20401).
18 2. \$8,400,000 from the miscellaneous special revenue fund, DOL fee and
19 penalty account (21923), to the general fund.
20 3. \$3,300,000 from the unemployment insurance interest and penalty
21 fund, unemployment insurance special interest and penalty account
22 (23601), to the general fund.
23 Mental Hygiene:
24 1. \$10,000,000 from the miscellaneous special revenue fund, mental
25 hygiene patient income account (21909), to the miscellaneous special
26 revenue fund, federal salary sharing account (22056).
27 2. \$15,000,000 from the miscellaneous special revenue fund, mental
28 hygiene patient income account (21909), to the miscellaneous special
29 revenue fund, provider of service accounts (21903).
30 3. \$15,000,000 from the miscellaneous special revenue fund, mental
31 hygiene program fund account (21907), to the miscellaneous special
32 revenue fund, provider of service account (21903).
33 4. \$1,400,000,000 from the general fund to the miscellaneous special
34 revenue fund, mental hygiene patient income account (21909).
35 5. \$1,850,000,000 from the general fund to the miscellaneous special
36 revenue fund, mental hygiene program fund account (21907).
37 6. \$100,000,000 from the miscellaneous special revenue fund, mental
38 hygiene program fund account (21907), to the general fund.
39 7. \$100,000,000 from the miscellaneous special revenue fund, mental
40 hygiene patient income account (21909), to the general fund.
41 8. \$292,888,000 from the chemical dependence service fund, chemical
42 dependence service account (22700), to the general fund.
43 Public Protection:
44 1. \$1,350,000 from the miscellaneous special revenue fund, emergency
45 management account (21944), to the general fund.
46 2. \$3,300,000 from the general fund to the miscellaneous special
47 revenue fund, recruitment incentive account (22171).
48 3. \$13,000,000 from the general fund to the correctional industries
49 revolving fund, correctional industries internal service account
50 (55350).
51 4. \$3,000,000 from the federal miscellaneous operating grants fund,
52 DMNA damage account (25324), to the general fund.
53 5. \$14,300,000 from the general fund to the miscellaneous special
54 revenue fund, crimes against revenue program account (22015).
55 6. \$22,900,000 from the miscellaneous special revenue fund, criminal
56 justice improvement account (21945), to the general fund.

1 7. \$50,000,000 from the miscellaneous special revenue fund, statewide
2 public safety communications account (22123), to the general fund.
3 8. \$106,000,000 from the state police motor vehicle law enforcement
4 and motor vehicle theft and insurance fraud prevention fund, state
5 police motor vehicle enforcement account (22802), to the general fund
6 for state operation expenses of the division of state police.
7 9. \$21,500,000 from the general fund to the correctional facilities
8 capital improvement fund (32350).
9 10. \$5,000,000 from the general fund to the dedicated highway and
10 bridge trust fund (30050) for the purpose of work zone safety activities
11 provided by the division of state police for the department of transpor-
12 tation.
13 11. \$5,000,000 from the miscellaneous special revenue fund, statewide
14 public safety communications account (22123), to the capital projects
15 fund (30000).
16 12. \$2,900,000 from the miscellaneous special revenue fund, legal
17 services assistance account (22096), to the general fund.
18 13. \$300,000 from the state police motor vehicle law enforcement and
19 motor vehicle theft and insurance fraud prevention fund, motor vehicle
20 theft and insurance fraud account (22801), to the general fund.
21 Transportation:
22 1. \$17,672,000 from the federal miscellaneous operating grants fund to
23 the miscellaneous special revenue fund, New York Metropolitan Transpor-
24 tation Council account (21913).
25 2. \$20,147,000 from the federal capital projects fund to the miscella-
26 neous special revenue fund, New York Metropolitan Transportation Council
27 account (21913).
28 3. \$15,700,000 from the miscellaneous special revenue fund, compulsory
29 insurance account (22087), to the general fund.
30 4. \$14,878,096 from the general fund to the mass transportation oper-
31 ating assistance fund, public transportation systems operating assist-
32 ance account (21401), of which \$12,000,000 constitutes the base need for
33 operations.
34 5. \$728,507,000 from the general fund to the dedicated highway and
35 bridge trust fund (30050).
36 6. \$606,000 from the miscellaneous special revenue fund, accident
37 prevention course program account (22094), to the general fund.
38 7. \$6,000 from the miscellaneous special revenue fund, motorcycle
39 safety account (21976), to the general fund.
40 8. \$309,250,000 from the general fund to the MTA financial assistance
41 fund, mobility tax trust account (23651).
42 9. \$20,000,000 from the mass transportation operating assistance fund,
43 metropolitan mass transportation operating assistance account (21402),
44 to the general debt service fund (40151), for reimbursement of the
45 state's expenses in connection with payments of debt service and related
46 expenses for the metropolitan transportation authority's state service
47 contract bonds.
48 10. \$5,000,000 from the miscellaneous special revenue fund, transpor-
49 tation regulation account (22067) to the dedicated highway and bridge
50 trust fund (30050), for disbursements made from such fund for motor
51 carrier safety that are in excess of the amounts deposited in the dedi-
52 cated highway and bridge trust fund (30050) for such purpose pursuant to
53 section 94 of the transportation law.
54 11. \$121,548,000 from the mass transportation operating assistance
55 fund, metropolitan mass transportation operating assistance account
56 (21402), to the transit assistance for capital investments fund, metro-

politan transit assistance for capital investments account, for disbursements made from such fund pursuant to a chapter of the laws of 2015.

Miscellaneous:

1. \$200,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances.

2. \$500,000,000 from the general fund to the debt reduction reserve fund (40000).

3. \$450,000,000 from the New York state storm recovery capital fund (33000) to the revenue bond tax fund (40152).

4. \$15,500,000 from the general fund, community projects account GG (10256), to the general fund, state purposes account (10050).

5. \$4,550,000,000 from the general fund to the dedicated infrastructure investment fund infrastructure investment account.

6. Upon request of the director of the budget, up to \$850,000,000 from the general fund to any special revenue fund or account, agency fund or account, or any combination of funds or accounts.

S 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, on or before March 31, 2016:

1. Upon request of the commissioner of environmental conservation, up to \$11,354,000 from revenues credited to any of the department of environmental conservation special revenue funds, including \$3,285,400 from the environmental protection and oil spill compensation fund (21200), and \$1,779,600 from the conservation fund (21150), to the environmental conservation special revenue fund, indirect charges account (21060).

2. Upon request of the commissioner of agriculture and markets, up to \$3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the general fund, to pay appropriate administrative expenses.

3. Upon request of the commissioner of agriculture and markets, up to \$2,000,000 from the state exposition special fund, state fair receipts account (50051) to the miscellaneous capital projects fund, state fair capital improvement account (32208).

4. Upon request of the commissioner of the division of housing and community renewal, up to \$6,221,000 from revenues credited to any division of housing and community renewal federal or miscellaneous special revenue fund to the miscellaneous special revenue fund, housing indirect cost recovery account (22090).

5. Upon request of the commissioner of the division of housing and community renewal, up to \$5,500,000 may be transferred from any miscellaneous special revenue fund account, to any miscellaneous special revenue fund.

6. Upon request of the commissioner of health up to \$5,000,000 from revenues credited to any of the department of health's special revenue funds, to the miscellaneous special revenue fund, administration account (21982).

S 4. On or before March 31, 2016, the comptroller is hereby authorized and directed to deposit earnings that would otherwise accrue to the general fund that are attributable to the operation of section 98-a of the state finance law, to the agencies internal service fund, banking services account (55057), for the purpose of meeting direct payments from such account.

S 5. Notwithstanding any law to the contrary, upon the direction of the director of the budget and upon requisition by the state university of New York, the dormitory authority of the state of New York is

1 directed to transfer, up to \$22,000,000 in revenues generated from the
2 sale of notes or bonds, to the state university of New York for
3 reimbursement of bondable equipment for further transfer to the state's
4 general fund.

5 S 6. Notwithstanding any law to the contrary, and in accordance with
6 section 4 of the state finance law, the comptroller is hereby authorized
7 and directed to transfer, upon request of the director of the budget and
8 upon consultation with the state university chancellor or his or her
9 designee, on or before March 31, 2016, up to \$16,000,000 from the state
10 university income fund general revenue account (22653) to the state
11 general fund for debt service costs related to campus supported capital
12 project costs for the NY-SUNY 2020 challenge grant program at the
13 University at Buffalo.

14 S 7. Notwithstanding any law to the contrary, and in accordance with
15 section 4 of the state finance law, the comptroller is hereby authorized
16 and directed to transfer, upon request of the director of the budget and
17 upon consultation with the state university chancellor or his or her
18 designee, on or before March 31, 2016, up to \$6,500,000 from the state
19 university income fund general revenue account (22653) to the state
20 general fund for debt service costs related to campus supported capital
21 project costs for the NY-SUNY 2020 challenge grant program at the
22 University at Albany.

23 S 8. Notwithstanding any law to the contrary, the state university
24 chancellor or his or her designee is authorized and directed to transfer
25 estimated tuition revenue balances from the state university collection
26 fund (61000) to the state university income fund, state university
27 general revenue offset account (22655) on or before March 31, 2016.

28 S 9. Notwithstanding any law to the contrary, and in accordance with
29 section 4 of the state finance law, the comptroller is hereby authorized
30 and directed to transfer, upon request of the director of the budget, up
31 to \$87,864,000 from the general fund to the state university income
32 fund, state university hospitals income reimbursable account (22656)
33 during the period July 1, 2015 through June 30, 2016 to reflect ongoing
34 state subsidy of SUNY hospitals and to pay costs attributable to the
35 SUNY hospitals' state agency status.

36 S 10. Notwithstanding any law to the contrary, and in accordance with
37 section 4 of the state finance law, the comptroller is hereby authorized
38 and directed to transfer, upon request of the director of the budget, up
39 to \$1,004,249,800 from the general fund to the state university income
40 fund, state university general revenue offset account (22655) during the
41 period of July 1, 2015 through June 30, 2016 to support operations at
42 the state university.

43 S 11. Notwithstanding any law to the contrary, and in accordance with
44 section 4 of the state finance law, the comptroller is hereby authorized
45 and directed to transfer, upon request of the director of the budget, up
46 to \$3,370,000 from the general fund to the state university income fund,
47 state university general revenue offset account (22655) during the peri-
48 od of April 1, 2015 through June 30, 2015 to support operations at the
49 state university.

50 S 12. Notwithstanding any law to the contrary, and in accordance with
51 section 4 of the state finance law, the comptroller is hereby authorized
52 and directed to transfer, upon request of the state university chancel-
53 lor or his or her designee, up to \$55,000,000 from the state university
54 income fund, state university hospitals income reimbursable account
55 (22656), for services and expenses of hospital operations and capital
56 expenditures at the state university hospitals; and the state university

1 income fund, Long Island veterans' home account (22652) to the state
2 university capital projects fund (32400) on or before June 30, 2016.

3 S 12-a. Subdivision 2 of section 92-cc of the state finance law, as
4 amended by section 17 of part U of chapter 59 of the laws of 2012, is
5 amended to read as follows:

6 2. Such fund shall have a maximum balance not to exceed [three] FIVE
7 per centum of the aggregate amount projected to be disbursed from the
8 general fund during the fiscal year immediately following the then-cur-
9 rent fiscal year. At the request of the director of the budget, the
10 state comptroller shall transfer monies to the rainy day reserve fund up
11 to and including an amount equivalent to [three-tenths of] SEVENTY-FIVE
12 ONE-HUNDREDTHS OF one per centum of the aggregate amount projected to be
13 disbursed from the general fund during the then-current fiscal year,
14 unless such transfer would increase the rainy day reserve fund to an
15 amount in excess of [three] FIVE per centum of the aggregate amount
16 projected to be disbursed from the general fund during the fiscal year
17 immediately following the then-current fiscal year, in which event such
18 transfer shall be limited to such amount as will increase the rainy day
19 reserve fund to such [three] FIVE per centum limitation.

20 S 13. Notwithstanding any law to the contrary, and in accordance with
21 section 4 of the state finance law, the comptroller, after consultation
22 with the state university chancellor or his or her designee, is hereby
23 authorized and directed to transfer moneys, in the first instance, from
24 the state university collection fund, Stony Brook hospital collection
25 account (61006), Brooklyn hospital collection account (61007), and Syra-
26 cuse hospital collection account (61008) to the state university income
27 fund, state university hospitals income reimbursable account (22656) in
28 the event insufficient funds are available in the state university
29 income fund, state university hospitals income reimbursable account
30 (22656) to permit the full transfer of moneys authorized for transfer,
31 to the general fund for payment of debt service related to the SUNY
32 hospitals. Notwithstanding any law to the contrary, the comptroller is
33 also hereby authorized and directed, after consultation with the state
34 university chancellor or his or her designee, to transfer moneys from
35 the state university income fund to the state university income fund,
36 state university hospitals income reimbursable account (22656) in the
37 event insufficient funds are available in the state university income
38 fund, state university hospitals income reimbursable account (22656) to
39 pay hospital operating costs or to permit the full transfer of moneys
40 authorized for transfer, to the general fund for payment of debt service
41 related to the SUNY hospitals on or before March 31, 2016.

42 S 14. Notwithstanding any law to the contrary, upon the direction of
43 the director of the budget and the chancellor of the state university of
44 New York or his or her designee, and in accordance with section 4 of the
45 state finance law, the comptroller is hereby authorized and directed to
46 transfer monies from the state university dormitory income fund (40350)
47 to the state university residence hall rehabilitation fund (30100), and
48 from the state university residence hall rehabilitation fund (30100) to
49 the state university dormitory income fund (40350), in a net amount not
50 to exceed \$80 million.

51 S 15. Notwithstanding any law to the contrary, and in accordance with
52 section 4 of the state finance law, the comptroller is hereby authorized
53 and directed to transfer monies, upon request of the director of the
54 budget, on or before March 31, 2016, from and to any of the following
55 accounts: the miscellaneous special revenue fund, patient income account
56 (21909), the miscellaneous special revenue fund, mental hygiene program

1 fund account (21907), the miscellaneous special revenue fund, federal
2 salary sharing account (22056), or the general fund in any combination,
3 the aggregate of which shall not exceed \$350 million.

4 S 16. Notwithstanding any law to the contrary, and in accordance with
5 section 4 of the state finance law, the comptroller is hereby authorized
6 and directed to transfer, at the request of the director of the budget,
7 up to \$500 million from the unencumbered balance of any special revenue
8 fund or account, agency fund or account, internal service fund or
9 account, enterprise fund or account, or any combination of such funds
10 and accounts, to the general fund. The amounts transferred pursuant to
11 this authorization shall be in addition to any other transfers expressly
12 authorized in the 2015-16 budget. Transfers from federal funds, debt
13 service funds, capital projects funds, the community projects fund, or
14 funds that would result in the loss of eligibility for federal benefits
15 or federal funds pursuant to federal law, rule, or regulation as assent-
16 ed to in chapter 683 of the laws of 1938 and chapter 700 of the laws of
17 1951 are not permitted pursuant to this authorization.

18 S 16-a. Notwithstanding any law to the contrary, and in accordance
19 with section 4 of the state finance law, the comptroller is hereby
20 authorized and directed to transfer, at the request of the director of
21 the budget, up to 28 million dollars (\$28,000,000) from the unencumbered
22 balance of any special revenue fund or account, or combination of funds
23 and accounts, to the community projects fund. The amounts transferred
24 pursuant to this authorization shall be in addition to any other trans-
25 fers expressly authorized in the 2014-15 budget. Transfers from federal
26 funds, debt services funds, capital projects funds, or funds that would
27 result in the loss of eligibility for federal benefits or federal funds
28 pursuant to federal law, rule, or regulation as assented to in chapter
29 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not
30 permitted pursuant to this authorization. The director of the budget
31 shall (a) have received a request in writing from one or both houses of
32 the legislature, and (b) notify both houses of the legislature in writ-
33 ing prior to initiating transfers pursuant to this authorization. The
34 comptroller shall provide the director of the budget, the chair of the
35 senate finance committee, and the chair of the assembly ways and means
36 committee with an accurate accounting and report of any transfers that
37 occur pursuant to this section on or before the fifteenth day of the
38 following month in which such transfers occur.

39 S 17. Notwithstanding any law to the contrary, and in accordance with
40 section 4 of the state finance law, the comptroller is hereby authorized
41 and directed to transfer, at the request of the director of the budget,
42 up to \$100 million from any non-general fund or account, or combination
43 of funds and accounts, to the miscellaneous special revenue fund, tech-
44 nology financing account (22207) or the miscellaneous capital projects
45 fund, information technology capital financing account (32215), for the
46 purpose of consolidating technology procurement and services. The
47 amounts transferred to the miscellaneous special revenue fund, technolo-
48 gy financing account (22207) pursuant to this authorization shall be
49 equal to or less than the amount of such monies intended to support
50 information technology costs which are attributable, according to a
51 plan, to such account made in pursuance to an appropriation by law.
52 Transfers to the technology financing account shall be completed from
53 amounts collected by non-general funds or accounts pursuant to a fund
54 deposit schedule or permanent statute, and shall be transferred to the
55 technology financing account pursuant to a schedule agreed upon by the
56 affected agency commissioner. Transfers from funds that would result in

1 the loss of eligibility for federal benefits or federal funds pursuant
2 to federal law, rule, or regulation as assented to in chapter 683 of the
3 laws of 1938 and chapter 700 of the laws of 1951 are not permitted
4 pursuant to this authorization.

5 S 18. Notwithstanding any law to the contrary, and in accordance with
6 section 4 of the state finance law, the comptroller is hereby authorized
7 and directed to transfer, at the request of the director of the budget,
8 up to \$300 million from any non-general fund or account, or combination
9 of funds and accounts, to the general fund for the purpose of consol-
10 idating technology procurement and services. The amounts transferred
11 pursuant to this authorization shall be equal to or less than the amount
12 of such monies intended to support information technology costs which
13 are attributable, according to a plan, to such account made in pursuance
14 to an appropriation by law. Transfers to the general fund shall be
15 completed from amounts collected by non-general funds or accounts pursu-
16 ant to a fund deposit schedule. Transfers from funds that would result
17 in the loss of eligibility for federal benefits or federal funds pursu-
18 ant to federal law, rule, or regulation as assented to in chapter 683 of
19 the laws of 1938 and chapter 700 of the laws of 1951 are not permitted
20 pursuant to this authorization.

21 S 19. Notwithstanding any provision of law to the contrary, as deemed
22 feasible and advisable by its trustees, the power authority of the state
23 of New York is authorized and directed to (i) make a contribution to the
24 state treasury to the credit of the general fund, or as otherwise
25 directed in writing by the director of the budget, in an amount of up to
26 \$90,000,000 for the state fiscal year commencing April 1, 2015, the
27 proceeds of which will be utilized to support energy-related initiatives
28 of the state, or for economic development purposes, and (ii) transfer up
29 to \$25,000,000 of any such contribution by June 30, 2015 and the remain-
30 der of any such contribution by March 31, 2016. Such economic develop-
31 ment purposes may include, but shall not be limited to, efforts to
32 attract and expand business investment and job creation in New York
33 state through the Open for Business program as well as all expenses
34 associated with Global NY and trade missions, domestic and interna-
35 tional, promoting New York businesses; provided that in the event any
36 contributed funds are used by a state agency or public authority for the
37 purpose of advertising and promoting the benefits of the START-UP NY
38 program, no more than sixty percent of the contributed funds used for
39 such purpose shall be used for advertising and promotion outside the
40 state of New York.

41 S 20. Notwithstanding any provision of law, rule or regulation to the
42 contrary, the New York State energy research and development authority
43 is authorized and directed to make a contribution to the state treasury
44 to the credit of the general fund in the amount of \$41,000,000 from
45 proceeds collected by the authority from the auction or sale of carbon
46 dioxide emission allowances allocated by the department of environmental
47 conservation under the Regional Greenhouse Gas Initiative on or before
48 March 31, 2016.

49 S 21. Subdivision 5 of section 97-rrr of the state finance law, as
50 amended by section 20 of part I of chapter 55 of the laws of 2014, is
51 amended to read as follows:

52 5. Notwithstanding the provisions of section one hundred seventy-one-a
53 of the tax law, as separately amended by chapters four hundred eighty-
54 one and four hundred eighty-four of the laws of nineteen hundred eight-
55 y-one, and notwithstanding the provisions of chapter ninety-four of the
56 laws of two thousand eleven, or any other provisions of law to the

1 contrary, during the fiscal year beginning April first, two thousand
2 [fourteen] FIFTEEN, the state comptroller is hereby authorized and
3 directed to deposit to the fund created pursuant to this section from
4 amounts collected pursuant to article twenty-two of the tax law and
5 pursuant to a schedule submitted by the director of the budget, up to
6 [\$3,429,375,000] \$3,382,279,000, as may be certified in such schedule as
7 necessary to meet the purposes of such fund for the fiscal year begin-
8 ning April first, two thousand [fourteen] FIFTEEN.

9 S 22. The comptroller is authorized and directed to deposit to the
10 general fund-state purposes account reimbursements from moneys appropri-
11 ated or reappropriated to the correctional facilities capital improve-
12 ment fund by a chapter of the laws of 2015. Reimbursements shall be
13 available for spending from appropriations made to the department of
14 corrections and community supervision in the general fund-state purposes
15 accounts by a chapter of the laws of 2015 for costs associated with the
16 administration and security of capital projects and for other costs
17 which are attributable, according to a plan, to such capital projects.

18 S 23. Notwithstanding any other law, rule, or regulation to the
19 contrary, the state comptroller is hereby authorized and directed to use
20 any balance remaining in the mental health services fund debt service
21 appropriation, after payment by the state comptroller of all obligations
22 required pursuant to any lease, sublease, or other financing arrangement
23 between the dormitory authority of the state of New York as successor to
24 the New York state medical care facilities finance agency, and the
25 facilities development corporation pursuant to chapter 83 of the laws of
26 1995 and the department of mental hygiene for the purpose of making
27 payments to the dormitory authority of the state of New York for the
28 amount of the earnings for the investment of monies deposited in the
29 mental health services fund that such agency determines will or may have
30 to be rebated to the federal government pursuant to the provisions of
31 the internal revenue code of 1986, as amended, in order to enable such
32 agency to maintain the exemption from federal income taxation on the
33 interest paid to the holders of such agency's mental services facilities
34 improvement revenue bonds. Annually on or before each June 30th, such
35 agency shall certify to the state comptroller its determination of the
36 amounts received in the mental health services fund as a result of the
37 investment of monies deposited therein that will or may have to be
38 rebated to the federal government pursuant to the provisions of the
39 internal revenue code of 1986, as amended.

40 S 24. Subdivision 8 of section 68-b of the state finance law, as
41 amended by section 44 of part HH of chapter 57 of the laws of 2013, is
42 amended to read as follows:

43 8. Revenue bonds may only be issued for authorized purposes, as
44 defined in section sixty-eight-a of this article. Notwithstanding the
45 foregoing, the dormitory authority of the state of New York [and], the
46 urban development corporation AND THE NEW YORK STATE THRUWAY AUTHORITY
47 may issue revenue bonds for any authorized purpose of any other such
48 authorized issuer through March thirty-first, two thousand [fifteen]
49 TWENTY. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRUWAY
50 AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC
51 AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE PUBLIC
52 AUTHORITIES LAW. The authorized issuers shall not issue any revenue
53 bonds in an amount in excess of statutory authorizations for such
54 authorized purposes. Authorizations for such authorized purposes shall
55 be reduced in an amount equal to the amount of revenue bonds issued for
56 such authorized purposes under this article. Such reduction shall not be

made in relation to revenue bonds issued to fund reserve funds, if any, and costs of issuance, if these items are not counted under existing authorizations, nor shall revenue bonds issued to refund bonds issued under existing authorizations reduce the amount of such authorizations.

S 24-a. Subdivision 8 of section 69-n of the state finance law, as added by section 58 of part HH of chapter 57 of the laws of 2013, is amended to read as follows:

8. Revenue bonds may only be issued for authorized purposes, as defined in section sixty-nine-m of this article. Notwithstanding the foregoing, any authorized issuer may issue revenue bonds for any authorized purpose. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRU-WAY AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW. The authorized issuers shall not issue any revenue bonds in an amount in excess of statutory authorizations for such authorized purposes. Authorizations for such authorized purposes shall be reduced in an amount equal to the amount of revenue bonds issued for such authorized purposes under this article. Such reduction shall not be made in relation to revenue bonds issued to fund reserve funds, if any, and costs of issuance, if these items are not counted under existing authorizations, nor shall revenue bonds issued to refund bonds issued under existing authorizations reduce the amount of such authorizations.

S 25. Subdivision 1 of section 47 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 28 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [one] TWO hundred [eighty-two] SIXTY-NINE million [four] ONE hundred forty thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 26. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 51 to read as follows:

S 51. 1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION ARE HEREBY AUTHORIZED TO ISSUE BONDS OR NOTES IN ONE OR MORE SERIES FOR THE PURPOSE OF FUNDING PROJECT COSTS FOR THE NONPROFIT INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCIATED WITH SUCH CAPITAL PROJECTS. THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AUTHORIZED TO

1 BE ISSUED PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY MILLION
2 DOLLARS, EXCLUDING BONDS ISSUED TO FUND ONE OR MORE DEBT SERVICE RESERVE
3 FUNDS, TO PAY COSTS OF ISSUANCE OF SUCH BONDS, AND BONDS OR NOTES ISSUED
4 TO REFUND OR OTHERWISE REPAY SUCH BONDS OR NOTES PREVIOUSLY ISSUED. SUCH
5 BONDS AND NOTES OF THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT
6 CORPORATION SHALL NOT BE A DEBT OF THE STATE, AND THE STATE SHALL NOT BE
7 LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF ANY FUNDS OTHER THAN
8 THOSE APPROPRIATED BY THE STATE TO THE DORMITORY AUTHORITY AND THE URBAN
9 DEVELOPMENT CORPORATION FOR PRINCIPAL, INTEREST, AND RELATED EXPENSES
10 PURSUANT TO A SERVICE CONTRACT AND SUCH BONDS AND NOTES SHALL CONTAIN ON
11 THE FACE THEREOF A STATEMENT TO SUCH EFFECT. EXCEPT FOR PURPOSES OF
12 COMPLYING WITH THE INTERNAL REVENUE CODE, ANY INTEREST INCOME EARNED ON
13 BOND PROCEEDS SHALL ONLY BE USED TO PAY DEBT SERVICE ON SUCH BONDS.

14 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN
15 ORDER TO ASSIST THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPO-
16 RATION IN UNDERTAKING THE FINANCING FOR PROJECT COSTS FOR THE NONPROFIT
17 INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCI-
18 ATED WITH SUCH CAPITAL PROJECTS, THE DIRECTOR OF THE BUDGET IS HEREBY
19 AUTHORIZED TO ENTER INTO ONE OR MORE SERVICE CONTRACTS WITH THE DORMITO-
20 RY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, NONE OF WHICH SHALL
21 EXCEED THIRTY YEARS IN DURATION, UPON SUCH TERMS AND CONDITIONS AS THE
22 DIRECTOR OF THE BUDGET AND THE DORMITORY AUTHORITY AND THE URBAN DEVEL-
23 OPMENT CORPORATION AGREE, SO AS TO ANNUALLY PROVIDE TO THE DORMITORY
24 AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, IN THE AGGREGATE, A SUM
25 NOT TO EXCEED THE PRINCIPAL, INTEREST, AND RELATED EXPENSES REQUIRED FOR
26 SUCH BONDS AND NOTES. ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO THIS
27 SECTION SHALL PROVIDE THAT THE OBLIGATION OF THE STATE TO PAY THE AMOUNT
28 THEREIN PROVIDED SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE
29 MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED
30 EXECUTORY ONLY TO THE EXTENT OF MONIES AVAILABLE AND THAT NO LIABILITY
31 SHALL BE INCURRED BY THE STATE BEYOND THE MONIES AVAILABLE FOR SUCH
32 PURPOSE, SUBJECT TO ANNUAL APPROPRIATION BY THE LEGISLATURE. ANY SUCH
33 CONTRACT OR ANY PAYMENTS MADE OR TO BE MADE THEREUNDER MAY BE ASSIGNED
34 AND PLEDGED BY THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPO-
35 RATION AS SECURITY FOR ITS BONDS AND NOTES, AS AUTHORIZED BY THIS
36 SECTION.

37 S 27. Subdivision 1 of section 16 of part D of chapter 389 of the laws
38 of 1997, relating to the financing of the correctional facilities
39 improvement fund and the youth facility improvement fund, as amended by
40 section 29 of part I of chapter 55 of the laws of 2014, is amended to
41 read as follows:

42 1. Subject to the provisions of chapter 59 of the laws of 2000, but
43 notwithstanding the provisions of section 18 of section 1 of chapter 174
44 of the laws of 1968, the New York state urban development corporation is
45 hereby authorized to issue bonds, notes and other obligations in an
46 aggregate principal amount not to exceed seven billion one hundred
47 [forty-eight] SIXTY-THREE million THREE HUNDRED sixty-nine thousand
48 dollars [\$7,148,069,000] \$7,163,369,000, and shall include all bonds,
49 notes and other obligations issued pursuant to chapter 56 of the laws of
50 1983, as amended or supplemented. The proceeds of such bonds, notes or
51 other obligations shall be paid to the state, for deposit in the correc-
52 tional facilities capital improvement fund to pay for all or any portion
53 of the amount or amounts paid by the state from appropriations or reap-
54 propriations made to the department of corrections and community super-
55 vision from the correctional facilities capital improvement fund for
56 capital projects. The aggregate amount of bonds, notes or other obli-

1 gations authorized to be issued pursuant to this section shall exclude
2 bonds, notes or other obligations issued to refund or otherwise repay
3 bonds, notes or other obligations theretofore issued, the proceeds of
4 which were paid to the state for all or a portion of the amounts
5 expended by the state from appropriations or reappropriations made to
6 the department of corrections and community supervision; provided,
7 however, that upon any such refunding or repayment the total aggregate
8 principal amount of outstanding bonds, notes or other obligations may be
9 greater than seven billion one hundred [forty-eight] SIXTY-THREE million
10 THREE HUNDRED sixty-nine thousand dollars [\$7,148,069,000]
11 \$7,163,369,000, only if the present value of the aggregate debt service
12 of the refunding or repayment bonds, notes or other obligations to be
13 issued shall not exceed the present value of the aggregate debt service
14 of the bonds, notes or other obligations so to be refunded or repaid.
15 For the purposes hereof, the present value of the aggregate debt service
16 of the refunding or repayment bonds, notes or other obligations and of
17 the aggregate debt service of the bonds, notes or other obligations so
18 refunded or repaid, shall be calculated by utilizing the effective
19 interest rate of the refunding or repayment bonds, notes or other obli-
20 gations, which shall be that rate arrived at by doubling the semi-annual
21 interest rate (compounded semi-annually) necessary to discount the debt
22 service payments on the refunding or repayment bonds, notes or other
23 obligations from the payment dates thereof to the date of issue of the
24 refunding or repayment bonds, notes or other obligations and to the
25 price bid including estimated accrued interest or proceeds received by
26 the corporation including estimated accrued interest from the sale ther-
27 eof.

28 S 28. Paragraph (a) of subdivision 2 of section 47-e of the private
29 housing finance law, as amended by section 30 of part I of chapter 55 of
30 the laws of 2014, is amended to read as follows:

31 (a) Subject to the provisions of chapter fifty-nine of the laws of two
32 thousand, in order to enhance and encourage the promotion of housing
33 programs and thereby achieve the stated purposes and objectives of such
34 housing programs, the agency shall have the power and is hereby author-
35 ized from time to time to issue negotiable housing program bonds and
36 notes in such principal amount as shall be necessary to provide suffi-
37 cient funds for the repayment of amounts disbursed (and not previously
38 reimbursed) pursuant to law or any prior year making capital appropri-
39 ations or reappropriations for the purposes of the housing program;
40 provided, however, that the agency may issue such bonds and notes in an
41 aggregate principal amount not exceeding [two] THREE billion [nine] ONE
42 hundred [ninety-nine] FIFTY-THREE million SEVEN HUNDRED ninety-nine
43 thousand dollars, plus a principal amount of bonds issued to fund the
44 debt service reserve fund in accordance with the debt service reserve
45 fund requirement established by the agency and to fund any other
46 reserves that the agency reasonably deems necessary for the security or
47 marketability of such bonds and to provide for the payment of fees and
48 other charges and expenses, including underwriters' discount, trustee
49 and rating agency fees, bond insurance, credit enhancement and liquidity
50 enhancement related to the issuance of such bonds and notes. No reserve
51 fund securing the housing program bonds shall be entitled or eligible to
52 receive state funds apportioned or appropriated to maintain or restore
53 such reserve fund at or to a particular level, except to the extent of
54 any deficiency resulting directly or indirectly from a failure of the
55 state to appropriate or pay the agreed amount under any of the contracts
56 provided for in subdivision four of this section.

1 S 29. Subdivision (b) of section 11 of chapter 329 of the laws of
2 1991, amending the state finance law and other laws relating to the
3 establishment of the dedicated highway and bridge trust fund, as amended
4 by section 31 of part I of chapter 55 of the laws of 2014, is amended to
5 read as follows:

6 (b) Any service contract or contracts for projects authorized pursuant
7 to sections 10-c, 10-f, 10-g and 80-b of the highway law and section
8 14-k of the transportation law, and entered into pursuant to subdivision
9 (a) of this section, shall provide for state commitments to provide
10 annually to the thruway authority a sum or sums, upon such terms and
11 conditions as shall be deemed appropriate by the director of the budget,
12 to fund, or fund the debt service requirements of any bonds or any obli-
13 gations of the thruway authority issued to fund or to reimburse the
14 state for funding such projects having a cost not in excess of
15 [\$8,120,728,000] \$8,658,881,000 cumulatively by the end of fiscal year
16 [2014-15] 2015-16.

17 S 30. Subdivision 1 of section 1689-i of the public authorities law,
18 as amended by section 32 of part I of chapter 55 of the laws of 2014, is
19 amended to read as follows:

20 1. The dormitory authority is authorized to issue bonds, at the
21 request of the commissioner of education, to finance eligible library
22 construction projects pursuant to section two hundred seventy-three-a of
23 the education law, in amounts certified by such commissioner not to
24 exceed a total principal amount of [one hundred twenty-six] ONE HUNDRED
25 FORTY million dollars.

26 S 31. Subdivision (a) of section 27 of part Y of chapter 61 of the
27 laws of 2005, providing for the administration of certain funds and
28 accounts related to the 2005-2006 budget, as amended by section 33 of
29 part I of chapter 55 of the laws of 2014, is amended to read as follows:

30 (a) Subject to the provisions of chapter 59 of the laws of 2000, but
31 notwithstanding any provisions of law to the contrary, the urban devel-
32 opment corporation is hereby authorized to issue bonds or notes in one
33 or more series in an aggregate principal amount not to exceed
34 [\$149,600,000] \$155,600,000, excluding bonds issued to finance one or
35 more debt service reserve funds, to pay costs of issuance of such bonds,
36 and bonds or notes issued to refund or otherwise repay such bonds or
37 notes previously issued, for the purpose of financing capital projects
38 including IT initiatives for the division of state police, debt service
39 and leases; and to reimburse the state general fund for disbursements
40 made therefor. Such bonds and notes of such authorized issuer shall not
41 be a debt of the state, and the state shall not be liable thereon, nor
42 shall they be payable out of any funds other than those appropriated by
43 the state to such authorized issuer for debt service and related
44 expenses pursuant to any service contract executed pursuant to subdivi-
45 sion (b) of this section and such bonds and notes shall contain on the
46 face thereof a statement to such effect. Except for purposes of comply-
47 ing with the internal revenue code, any interest income earned on bond
48 proceeds shall only be used to pay debt service on such bonds.

49 S 32. Section 44 of section 1 of chapter 174 of the laws of 1968,
50 constituting the New York state urban development corporation act, as
51 amended by section 34 of part I of chapter 55 of the laws of 2014, is
52 amended to read as follows:

53 S 44. Issuance of certain bonds or notes. 1. Notwithstanding the
54 provisions of any other law to the contrary, the dormitory authority and
55 the corporation are hereby authorized to issue bonds or notes in one or
56 more series for the purpose of funding project costs for the regional

1 economic development council initiative, the economic transformation
2 program, state university of New York college for nanoscale and science
3 engineering, projects within the city of Buffalo or surrounding envi-
4 rons, the New York works economic development fund, projects for the
5 retention of professional football in western New York, the empire state
6 economic development fund, the clarkson-trudeau partnership, the New
7 York genome center, the cornell university college of veterinary medi-
8 cine, the olympic regional development authority, a project at nano
9 Utica, onondaga county revitalization projects, BINGHAMTON UNIVERSITY
10 SCHOOL OF PHARMACY, NEW YORK POWER ELECTRONICS MANUFACTURING CONSORTIUM,
11 REGIONAL INFRASTRUCTURE PROJECTS, and other state costs associated with
12 such projects. The aggregate principal amount of bonds authorized to be
13 issued pursuant to this section shall not exceed two billion [two] EIGHT
14 hundred [three] EIGHTY-EIGHT million two hundred fifty-seven thousand
15 dollars, excluding bonds issued to fund one or more debt service reserve
16 funds, to pay costs of issuance of such bonds, and bonds or notes issued
17 to refund or otherwise repay such bonds or notes previously issued. Such
18 bonds and notes of the dormitory authority and the corporation shall not
19 be a debt of the state, and the state shall not be liable thereon, nor
20 shall they be payable out of any funds other than those appropriated by
21 the state to the dormitory authority and the corporation for principal,
22 interest, and related expenses pursuant to a service contract and such
23 bonds and notes shall contain on the face thereof a statement to such
24 effect. Except for purposes of complying with the internal revenue code,
25 any interest income earned on bond proceeds shall only be used to pay
26 debt service on such bonds.

27 2. Notwithstanding any other provision of law to the contrary, in
28 order to assist the dormitory authority and the corporation in undertak-
29 ing the financing for project costs for the regional economic develop-
30 ment council initiative, the economic transformation program, state
31 university of New York college for nanoscale and science engineering,
32 projects within the city of Buffalo or surrounding environs, the New
33 York works economic development fund, projects for the retention of
34 professional football in western New York, the empire state economic
35 development fund, the clarkson-trudeau partnership, the New York genome
36 center, the cornell university college of veterinary medicine, the olym-
37 pic regional development authority, a project at nano Utica, onondaga
38 county revitalization projects, BINGHAMTON UNIVERSITY SCHOOL OF PHARMA-
39 CY, NEW YORK POWER ELECTRONICS MANUFACTURING CONSORTIUM, REGIONAL
40 INFRASTRUCTURE PROJECTS and other state costs associated with such
41 projects, the director of the budget is hereby authorized to enter into
42 one or more service contracts with the dormitory authority and the
43 corporation, none of which shall exceed thirty years in duration, upon
44 such terms and conditions as the director of the budget and the dormito-
45 ry authority and the corporation agree, so as to annually provide to the
46 dormitory authority and the corporation, in the aggregate, a sum not to
47 exceed the principal, interest, and related expenses required for such
48 bonds and notes. Any service contract entered into pursuant to this
49 section shall provide that the obligation of the state to pay the amount
50 therein provided shall not constitute a debt of the state within the
51 meaning of any constitutional or statutory provision and shall be deemed
52 executory only to the extent of monies available and that no liability
53 shall be incurred by the state beyond the monies available for such
54 purpose, subject to annual appropriation by the legislature. Any such
55 contract or any payments made or to be made thereunder may be assigned

1 and pledged by the dormitory authority and the corporation as security
2 for its bonds and notes, as authorized by this section.

3 S 33. Subdivisions 1 and 3 of section 1285-p of the public authorities
4 law, subdivision 1 as amended by section 55 of part HH of chapter 57 of
5 the laws of 2013 and subdivision 3 as amended by section 35 of part I of
6 chapter 55 of the laws of 2014, are amended to read as follows:

7 1. Subject to chapter fifty-nine of the laws of two thousand, but
8 notwithstanding any other provisions of law to the contrary, in order to
9 assist the corporation in undertaking the administration and the financ-
10 ing of the design, acquisition, construction, improvement, installation,
11 and related work for all or any portion of any of the following environ-
12 mental infrastructure projects and for the provision of funds to the
13 state for any amounts disbursed therefor: (a) projects authorized under
14 the environmental protection fund, or for which appropriations are made
15 to the environmental protection fund including, but not limited to
16 municipal parks and historic preservation, stewardship, farmland
17 protection, non-point source, pollution control, Hudson River Park, land
18 acquisition, and waterfront revitalization; (b) department of environ-
19 mental conservation capital appropriations for Onondaga Lake for certain
20 water quality improvement projects in the same manner as set forth in
21 paragraph (d) of subdivision one of section 56-0303 of the environmental
22 conservation law; (c) for the purpose of the administration, management,
23 maintenance, and use of the real property at the western New York nucle-
24 ar service center; [and] (d) department of environmental conservation
25 capital appropriations for the administration, design, acquisition,
26 construction, improvement, installation, and related work on department
27 of environmental conservation environmental infrastructure projects;
28 [and] (e) office of parks, recreation and historic preservation appro-
29 priations or reappropriations from the state parks infrastructure fund;
30 [and] (f) capital grants for the cleaner, greener communities program
31 AND (G) CAPITAL COSTS OF WATER QUALITY INFRASTRUCTURE PROJECTS the
32 director of the division of budget and the corporation are each author-
33 ized to enter into one or more service contracts, none of which shall
34 exceed twenty years in duration, upon such terms and conditions as the
35 director and the corporation may agree, so as to annually provide to the
36 corporation in the aggregate, a sum not to exceed the annual debt
37 service payments and related expenses required for any bonds and notes
38 authorized pursuant to section twelve hundred ninety of this title. Any
39 service contract entered into pursuant to this section shall provide
40 that the obligation of the state to fund or to pay the amounts therein
41 provided for shall not constitute a debt of the state within the meaning
42 of any constitutional or statutory provision and shall be deemed execu-
43 tory only to the extent of moneys available for such purposes, subject
44 to annual appropriation by the legislature. Any such service contract or
45 any payments made or to be made thereunder may be assigned and pledged
46 by the corporation as security for its bonds and notes, as authorized
47 pursuant to section twelve hundred ninety of this title.

48 3. The maximum amount of bonds that may be issued for the purpose of
49 financing environmental infrastructure projects authorized by this
50 section shall be one billion [three] SEVEN hundred [ninety-eight] SEVEN-
51 TY-FIVE million [two] SEVEN hundred sixty thousand dollars, exclusive of
52 bonds issued to fund any debt service reserve funds, pay costs of issu-
53 ance of such bonds, and bonds or notes issued to refund or otherwise
54 repay bonds or notes previously issued. Such bonds and notes of the
55 corporation shall not be a debt of the state, and the state shall not be
56 liable thereon, nor shall they be payable out of any funds other than

1 those appropriated by the state to the corporation for debt service and
2 related expenses pursuant to any service contracts executed pursuant to
3 subdivision one of this section, and such bonds and notes shall contain
4 on the face thereof a statement to such effect.

5 S 34. Subdivision 1 of section 45 of section 1 of chapter 174 of the
6 laws of 1968, constituting the New York state urban development corpo-
7 ration act, as amended by section 37 of part I of chapter 55 of the laws
8 of 2014, is amended to read as follows:

9 1. Notwithstanding the provisions of any other law to the contrary,
10 the urban development corporation of the state of New York is hereby
11 authorized to issue bonds or notes in one or more series for the purpose
12 of funding project costs for the implementation of a NY-SUNY and NY-CUNY
13 2020 challenge grant program subject to the approval of a NY-SUNY and
14 NY-CUNY 2020 plan or plans by the governor and either the chancellor of
15 the state university of New York or the chancellor of the city universi-
16 ty of New York, as applicable. The aggregate principal amount of bonds
17 authorized to be issued pursuant to this section shall not exceed
18 [\$330,000,000] \$440,000,000, excluding bonds issued to fund one or more
19 debt service reserve funds, to pay costs of issuance of such bonds, and
20 bonds or notes issued to refund or otherwise repay such bonds or notes
21 previously issued. Such bonds and notes of the corporation shall not be
22 a debt of the state, and the state shall not be liable thereon, nor
23 shall they be payable out of any funds other than those appropriated by
24 the state to the corporation for principal, interest, and related
25 expenses pursuant to a service contract and such bonds and notes shall
26 contain on the face thereof a statement to such effect. Except for
27 purposes of complying with the internal revenue code, any interest
28 income earned on bond proceeds shall only be used to pay debt service on
29 such bonds.

30 S 35. Subdivision (a) of section 48 of part K of chapter 81 of the
31 laws of 2002, providing for the administration of certain funds and
32 accounts related to the 2002-2003 budget, as amended by section 38 of
33 part I of chapter 55 of the laws of 2014, is amended to read as follows:

34 (a) Subject to the provisions of chapter 59 of the laws of 2000 but
35 notwithstanding the provisions of section 18 of the urban development
36 corporation act, the corporation is hereby authorized to issue bonds or
37 notes in one or more series in an aggregate principal amount not to
38 exceed \$197,000,000 excluding bonds issued to fund one or more debt
39 service reserve funds, to pay costs of issuance of such bonds, and bonds
40 or notes issued to refund or otherwise repay such bonds or notes previ-
41 ously issued, for the purpose of financing capital costs related to
42 homeland security and training facilities for the division of state
43 police, the division of military and naval affairs, and any other state
44 agency, including the reimbursement of any disbursements made from the
45 state capital projects fund, and is hereby authorized to issue bonds or
46 notes in one or more series in an aggregate principal amount not to
47 exceed [\$317,800,000] \$469,800,000, excluding bonds issued to fund one
48 or more debt service reserve funds, to pay costs of issuance of such
49 bonds, and bonds or notes issued to refund or otherwise repay such bonds
50 or notes previously issued, for the purpose of financing improvements to
51 State office buildings and other facilities located statewide, including
52 the reimbursement of any disbursements made from the state capital
53 projects fund. Such bonds and notes of the corporation shall not be a
54 debt of the state, and the state shall not be liable thereon, nor shall
55 they be payable out of any funds other than those appropriated by the
56 state to the corporation for debt service and related expenses pursuant

1 to any service contracts executed pursuant to subdivision (b) of this
2 section, and such bonds and notes shall contain on the face thereof a
3 statement to such effect.

4 S 36. Subdivision 1 of section 386-b of the public authorities law, as
5 amended by section 39 of part I of chapter 55 of the laws of 2014, is
6 amended to read as follows:

7 1. Notwithstanding any other provision of law to the contrary, the
8 authority, the dormitory authority and the urban development corporation
9 are hereby authorized to issue bonds or notes in one or more series for
10 the purpose of financing peace bridge projects and capital costs of
11 state and local highways, parkways, bridges, the New York state thruway,
12 Indian reservation roads, and facilities, and transportation infrastruc-
13 ture projects including aviation projects, non-MTA mass transit
14 projects, and rail service preservation projects, including work appur-
15 tenant and ancillary thereto. The aggregate principal amount of bonds
16 authorized to be issued pursuant to this section shall not exceed [four]
17 ONE BILLION SIX hundred [sixty-five] NINETY million dollars
18 [(\$465,000,000)] \$1,690,000,000, excluding bonds issued to fund one or
19 more debt service reserve funds, to pay costs of issuance of such bonds,
20 and to refund or otherwise repay such bonds or notes previously issued.
21 Such bonds and notes of the authority, the dormitory authority and the
22 urban development corporation shall not be a debt of the state, and the
23 state shall not be liable thereon, nor shall they be payable out of any
24 funds other than those appropriated by the state to the authority, the
25 dormitory authority and the urban development corporation for principal,
26 interest, and related expenses pursuant to a service contract and such
27 bonds and notes shall contain on the face thereof a statement to such
28 effect. Except for purposes of complying with the internal revenue code,
29 any interest income earned on bond proceeds shall only be used to pay
30 debt service on such bonds.

31 S 37. Paragraph (c) of subdivision 19 of section 1680 of the public
32 authorities law, as amended by section 40 of part I of chapter 55 of the
33 laws of 2014, is amended to read as follows:

34 (c) Subject to the provisions of chapter fifty-nine of the laws of two
35 thousand, the dormitory authority shall not issue any bonds for state
36 university educational facilities purposes if the principal amount of
37 bonds to be issued when added to the aggregate principal amount of bonds
38 issued by the dormitory authority on and after July first, nineteen
39 hundred eighty-eight for state university educational facilities will
40 exceed [ten] ELEVEN billion [nine] TWO hundred [eighty-four]
41 TWENTY-EIGHT million dollars; provided, however, that bonds issued or to
42 be issued shall be excluded from such limitation if: (1) such bonds are
43 issued to refund state university construction bonds and state universi-
44 ty construction notes previously issued by the housing finance agency;
45 or (2) such bonds are issued to refund bonds of the authority or other
46 obligations issued for state university educational facilities purposes
47 and the present value of the aggregate debt service on the refunding
48 bonds does not exceed the present value of the aggregate debt service on
49 the bonds refunded thereby; provided, further that upon certification by
50 the director of the budget that the issuance of refunding bonds or other
51 obligations issued between April first, nineteen hundred ninety-two and
52 March thirty-first, nineteen hundred ninety-three will generate long
53 term economic benefits to the state, as assessed on a present value
54 basis, such issuance will be deemed to have met the present value test
55 noted above. For purposes of this subdivision, the present value of the
56 aggregate debt service of the refunding bonds and the aggregate debt

1 service of the bonds refunded, shall be calculated by utilizing the true
2 interest cost of the refunding bonds, which shall be that rate arrived
3 at by doubling the semi-annual interest rate (compounded semi-annually)
4 necessary to discount the debt service payments on the refunding bonds
5 from the payment dates thereof to the date of issue of the refunding
6 bonds to the purchase price of the refunding bonds, including interest
7 accrued thereon prior to the issuance thereof. The maturity of such
8 bonds, other than bonds issued to refund outstanding bonds, shall not
9 exceed the weighted average economic life, as certified by the state
10 university construction fund, of the facilities in connection with which
11 the bonds are issued, and in any case not later than the earlier of
12 thirty years or the expiration of the term of any lease, sublease or
13 other agreement relating thereto; provided that no note, including
14 renewals thereof, shall mature later than five years after the date of
15 issuance of such note. The legislature reserves the right to amend or
16 repeal such limit, and the state of New York, the dormitory authority,
17 the state university of New York, and the state university construction
18 fund are prohibited from covenanting or making any other agreements with
19 or for the benefit of bondholders which might in any way affect such
20 right.

21 S 38. Paragraph (c) of subdivision 14 of section 1680 of the public
22 authorities law, as amended by section 41 of part I of chapter 55 of the
23 laws of 2014, is amended to read as follows:

24 (c) Subject to the provisions of chapter fifty-nine of the laws of two
25 thousand, (i) the dormitory authority shall not deliver a series of
26 bonds for city university community college facilities, except to refund
27 or to be substituted for or in lieu of other bonds in relation to city
28 university community college facilities pursuant to a resolution of the
29 dormitory authority adopted before July first, nineteen hundred eighty-
30 five or any resolution supplemental thereto, if the principal amount of
31 bonds so to be issued when added to all principal amounts of bonds
32 previously issued by the dormitory authority for city university commu-
33 nity college facilities, except to refund or to be substituted in lieu
34 of other bonds in relation to city university community college facili-
35 ties will exceed the sum of four hundred twenty-five million dollars and
36 (ii) the dormitory authority shall not deliver a series of bonds issued
37 for city university facilities, including community college facilities,
38 pursuant to a resolution of the dormitory authority adopted on or after
39 July first, nineteen hundred eighty-five, except to refund or to be
40 substituted for or in lieu of other bonds in relation to city university
41 facilities and except for bonds issued pursuant to a resolution supple-
42 mental to a resolution of the dormitory authority adopted prior to July
43 first, nineteen hundred eighty-five, if the principal amount of bonds so
44 to be issued when added to the principal amount of bonds previously
45 issued pursuant to any such resolution, except bonds issued to refund or
46 to be substituted for or in lieu of other bonds in relation to city
47 university facilities, will exceed seven billion [two] THREE hundred
48 [seventy-three] NINETY-TWO million [three] SEVEN hundred [thirty-one]
49 FIFTY-THREE thousand dollars. The legislature reserves the right to
50 amend or repeal such limit, and the state of New York, the dormitory
51 authority, the city university, and the fund are prohibited from coven-
52 anting or making any other agreements with or for the benefit of bond-
53 holders which might in any way affect such right.

54 S 39. Subdivision 10-a of section 1680 of the public authorities law,
55 as amended by section 42 of part I of chapter 55 of the laws of 2014, is
56 amended to read as follows:

1 10-a. Subject to the provisions of chapter fifty-nine of the laws of
2 two thousand, but notwithstanding any other provision of the law to the
3 contrary, the maximum amount of bonds and notes to be issued after March
4 thirty-first, two thousand two, on behalf of the state, in relation to
5 any locally sponsored community college, shall be [seven] EIGHT hundred
6 [seventy-six] THIRTY-EIGHT million [three] FOUR hundred [five]
7 FIFTY-EIGHT thousand dollars. Such amount shall be exclusive of bonds
8 and notes issued to fund any reserve fund or funds, costs of issuance
9 and to refund any outstanding bonds and notes, issued on behalf of the
10 state, relating to a locally sponsored community college.

11 S 40. Section 1680-r of the public authorities law, as added by
12 section 43 of part I of chapter 55 of the laws of 2014, is amended to
13 read as follows:

14 S 1680-r. Authorization for the issuance of bonds for the capital
15 restructuring financing program AND THE HEALTH CARE FACILITY TRANSFORMA-
16 TION PROGRAM. 1. Notwithstanding the provisions of any other law to the
17 contrary, the dormitory authority and the urban development corporation
18 are hereby authorized to issue bonds or notes in one or more series for
19 the purpose of funding project costs for the capital restructuring
20 financing program for health care and related facilities licensed pursu-
21 ant to the public health law or the mental hygiene law and other state
22 costs associated with such capital projects AND THE HEALTH CARE FACILITY
23 TRANSFORMATION PROGRAM. The aggregate principal amount of bonds author-
24 ized to be issued pursuant to this section shall not exceed [one] TWO
25 billion two hundred million dollars, excluding bonds issued to fund one
26 or more debt service reserve funds, to pay costs of issuance of such
27 bonds, and bonds or notes issued to refund or otherwise repay such bonds
28 or notes previously issued. Such bonds and notes of the dormitory
29 authority and the urban development corporation shall not be a debt of
30 the state, and the state shall not be liable thereon, nor shall they be
31 payable out of any funds other than those appropriated by the state to
32 the dormitory authority and the urban development corporation for prin-
33 cipal, interest, and related expenses pursuant to a service contract and
34 such bonds and notes shall contain on the face thereof a statement to
35 such effect. Except for purposes of complying with the internal revenue
36 code, any interest income earned on bond proceeds shall only be used to
37 pay debt service on such bonds.

38 2. Notwithstanding any other provision of law to the contrary, in
39 order to assist the dormitory authority and the urban development corpo-
40 ration in undertaking the financing for project costs for the capital
41 restructuring financing program for health care and related facilities
42 licensed pursuant to the public health law or the mental hygiene law and
43 other state costs associated with such capital projects AND THE HEALTH
44 CARE FACILITY TRANSFORMATION PROGRAM, the director of the budget is
45 hereby authorized to enter into one or more service contracts with the
46 dormitory authority and the urban development corporation, none of which
47 shall exceed thirty years in duration, upon such terms and conditions as
48 the director of the budget and the dormitory authority and the urban
49 development corporation agree, so as to annually provide to the dormito-
50 ry authority and the urban development corporation, in the aggregate, a
51 sum not to exceed the principal, interest, and related expenses required
52 for such bonds and notes. Any service contract entered into pursuant to
53 this section shall provide that the obligation of the state to pay the
54 amount therein provided shall not constitute a debt of the state within
55 the meaning of any constitutional or statutory provision and shall be
56 deemed executory only to the extent of monies available and that no

liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

S 41. Subdivision 1 of section 17 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 44 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [four] SIX hundred [sixty-five] ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN thousand dollars [(\$465,365,000)] (\$611,215,000), which authorization increases the aggregate principal amount of bonds, notes and other obligations authorized by section 40 of chapter 309 of the laws of 1996, and shall include all bonds, notes and other obligations issued pursuant to chapter 211 of the laws of 1990, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the youth facilities improvement fund, to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the office of children and family services from the youth facilities improvement fund for capital projects. The aggregate amount of bonds, notes and other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the office of children and family services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [four] SIX hundred [sixty-five] ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN thousand dollars [(\$465,365,000)] (\$611,215,000), only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

S 42. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical

1 care facilities finance agency act, as amended by section 46 of part I
2 of chapter 55 of the laws of 2014, is amended to read as follows:

3 b. The agency shall have power and is hereby authorized from time to
4 time to issue negotiable bonds and notes in conformity with applicable
5 provisions of the uniform commercial code in such principal amount as,
6 in the opinion of the agency, shall be necessary, after taking into
7 account other moneys which may be available for the purpose, to provide
8 sufficient funds to the facilities development corporation, or any
9 successor agency, for the financing or refinancing of or for the design,
10 construction, acquisition, reconstruction, rehabilitation or improvement
11 of mental health services facilities pursuant to paragraph a of this
12 subdivision, the payment of interest on mental health services improve-
13 ment bonds and mental health services improvement notes issued for such
14 purposes, the establishment of reserves to secure such bonds and notes,
15 the cost or premium of bond insurance or the costs of any financial
16 mechanisms which may be used to reduce the debt service that would be
17 payable by the agency on its mental health services facilities improve-
18 ment bonds and notes and all other expenditures of the agency incident
19 to and necessary or convenient to providing the facilities development
20 corporation, or any successor agency, with funds for the financing or
21 refinancing of or for any such design, construction, acquisition, recon-
22 struction, rehabilitation or improvement and for the refunding of mental
23 hygiene improvement bonds issued pursuant to section 47-b of the private
24 housing finance law; provided, however, that the agency shall not issue
25 mental health services facilities improvement bonds and mental health
26 services facilities improvement notes in an aggregate principal amount
27 exceeding seven billion [four] SEVEN hundred [thirty-five] TWENTY-TWO
28 million eight hundred fifteen thousand dollars, excluding mental health
29 services facilities improvement bonds and mental health services facili-
30 ties improvement notes issued to refund outstanding mental health
31 services facilities improvement bonds and mental health services facili-
32 ties improvement notes; provided, however, that upon any such refunding
33 or repayment of mental health services facilities improvement bonds
34 and/or mental health services facilities improvement notes the total
35 aggregate principal amount of outstanding mental health services facili-
36 ties improvement bonds and mental health facilities improvement notes
37 may be greater than seven billion [four] SEVEN hundred [thirty-five]
38 TWENTY-TWO million eight hundred fifteen thousand dollars only if,
39 except as hereinafter provided with respect to mental health services
40 facilities bonds and mental health services facilities notes issued to
41 refund mental hygiene improvement bonds authorized to be issued pursuant
42 to the provisions of section 47-b of the private housing finance law,
43 the present value of the aggregate debt service of the refunding or
44 repayment bonds to be issued shall not exceed the present value of the
45 aggregate debt service of the bonds to be refunded or repaid. For
46 purposes hereof, the present values of the aggregate debt service of the
47 refunding or repayment bonds, notes or other obligations and of the
48 aggregate debt service of the bonds, notes or other obligations so
49 refunded or repaid, shall be calculated by utilizing the effective
50 interest rate of the refunding or repayment bonds, notes or other obli-
51 gations, which shall be that rate arrived at by doubling the semi-annual
52 interest rate (compounded semi-annually) necessary to discount the debt
53 service payments on the refunding or repayment bonds, notes or other
54 obligations from the payment dates thereof to the date of issue of the
55 refunding or repayment bonds, notes or other obligations and to the
56 price bid including estimated accrued interest or proceeds received by

1 the authority including estimated accrued interest from the sale there-
2 of. Such bonds, other than bonds issued to refund outstanding bonds,
3 shall be scheduled to mature over a term not to exceed the average
4 useful life, as certified by the facilities development corporation, of
5 the projects for which the bonds are issued, and in any case shall not
6 exceed thirty years and the maximum maturity of notes or any renewals
7 thereof shall not exceed five years from the date of the original issue
8 of such notes. Notwithstanding the provisions of this section, the agen-
9 cy shall have the power and is hereby authorized to issue mental health
10 services facilities improvement bonds and/or mental health services
11 facilities improvement notes to refund outstanding mental hygiene
12 improvement bonds authorized to be issued pursuant to the provisions of
13 section 47-b of the private housing finance law and the amount of bonds
14 issued or outstanding for such purposes shall not be included for
15 purposes of determining the amount of bonds issued pursuant to this
16 section. The director of the budget shall allocate the aggregate princi-
17 pal authorized to be issued by the agency among the office of mental
18 health, office for people with developmental disabilities, and the
19 office of alcoholism and substance abuse services, in consultation with
20 their respective commissioners to finance bondable appropriations previ-
21 ously approved by the legislature.

22 S 43. Paragraph (b) of subdivision 3 of section 1 and clause (B) of
23 subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of
24 part D of chapter 63 of the laws of 2005 relating to the composition and
25 responsibilities of the New York state higher education capital matching
26 grant board, as amended by section 46-c of part I of chapter 55 of the
27 laws of 2014, is amended to read as follows:

28 (b) Within amounts appropriated therefor, the board is hereby author-
29 ized and directed to award matching capital grants totaling [180] 210
30 million dollars. Each college shall be eligible for a grant award amount
31 as determined by the calculations pursuant to subdivision five of this
32 section. In addition, such colleges shall be eligible to compete for
33 additional funds pursuant to paragraph (h) of subdivision four of this
34 section.

35 (B) The dormitory authority shall not issue any bonds or notes in an
36 amount in excess of [180] 210 million dollars for the purposes of this
37 section; excluding bonds or notes issued to fund one or more debt
38 service reserve funds, to pay costs of issuance of such bonds, and bonds
39 or notes issued to refund or otherwise repay such bonds or notes previ-
40 ously issued. Except for purposes of complying with the internal revenue
41 code, any interest on bond proceeds shall only be used to pay debt
42 service on such bonds.

43 S 44. Subdivision 1 of section 49 of section 1 of chapter 174 of the
44 laws of 1968, constituting the New York state urban development corpo-
45 ration act, as amended by section 46-a of part I of chapter 55 of the
46 laws of 2014, is amended to read as follows:

47 1. Notwithstanding the provisions of any other law to the contrary,
48 the dormitory authority and the corporation are hereby authorized to
49 issue bonds or notes in one or more series for the purpose of funding
50 project costs for the state and municipal facilities program and other
51 state costs associated with such capital projects. The aggregate princi-
52 pal amount of bonds authorized to be issued pursuant to this section
53 shall not exceed [seven hundred seventy] ONE BILLION ONE HUNDRED FIFTY-
54 FIVE million dollars, excluding bonds issued to fund one or more debt
55 service reserve funds, to pay costs of issuance of such bonds, and bonds
56 or notes issued to refund or otherwise repay such bonds or notes previ-

ously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 45. Intentionally omitted.

S 46. Subdivision 1 of section 386-a of the public authorities law, as added by section 46 of part U of chapter 59 of the laws of 2012, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of assisting the metropolitan transportation authority in the financing of transportation facilities as defined in subdivision seventeen of section twelve hundred sixty-one of this chapter. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed ONE BILLION [seven] FIVE hundred [seventy] TWENTY million dollars [(\$770,000,000)] (\$1,520,000,000), excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 47. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015; provided, however, that the provisions of sections one through eight and sections thirteen through twenty of this act shall expire March 31, 2016, when upon such date the provisions of such sections shall be deemed repealed.

PART J

Section 1. The public health law is amended by adding a new section 2825-a to read as follows:

S 2825-A. HEALTH CARE FACILITY TRANSFORMATION PROGRAM: KINGS COUNTY PROJECT. 1. A KINGS COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM IS HEREBY ESTABLISHED UNDER THE JOINT ADMINISTRATION OF THE COMMISSIONER AND THE PRESIDENT OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK FOR THE PURPOSE OF STRENGTHENING AND PROTECTING CONTINUED ACCESS TO HEALTH CARE SERVICES IN COMMUNITIES. THE PROGRAM SHALL PROVIDE CAPITAL FUNDING IN SUPPORT OF PROJECTS THAT REPLACE INEFFICIENT AND OUTDATED FACILITIES AS PART OF A MERGER, CONSOLIDATION, ACQUISITION OR OTHER SIGNIFICANT CORPORATE RESTRUCTURING ACTIVITY INTENDED TO CREATE A FINANCIALLY SUSTAINABLE SYSTEM OF CARE. THE ISSUANCE OF ANY BONDS OR NOTES HEREUNDER SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND ANY PROJECTS FUNDED THROUGH THE ISSUANCE OF

1 BONDS OR NOTES HEREUNDER SHALL BE APPROVED BY THE NEW YORK STATE PUBLIC
2 AUTHORITIES CONTROL BOARD, AS REQUIRED UNDER SECTION FIFTY-ONE OF THE
3 PUBLIC AUTHORITIES LAW.

4 2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER
5 INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET,
6 AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORI-
7 TIES LAW, FOR THE PURPOSES OF AWARDING, DISTRIBUTING, AND ADMINISTERING
8 THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE
9 DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR
10 CAPITAL GRANTS TO GENERAL HOSPITALS, RESIDENTIAL HEALTH CARE FACILITIES,
11 DIAGNOSTIC AND TREATMENT CENTERS, PRIMARY CARE PROVIDERS, AND HOME CARE
12 PROVIDERS, CERTIFIED OR LICENSED PURSUANT TO ARTICLE THIRTY-SIX OF THIS
13 CHAPTER, FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE
14 PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY
15 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE
16 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE
17 DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO
18 THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS
19 PROGRAM. PROJECTS AWARDED UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE
20 OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAIL-
21 ABLE UNDER THIS SECTION.

22 3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE
23 FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO
24 SEVEN HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM
25 SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-
26 ESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLICANTS")
27 LOCATED IN THE COUNTY OF KINGS.

28 (A) ELIGIBLE APPLICANTS SHALL SERVE COMMUNITIES WHOSE RESIDENTS ARE
29 EXPERIENCING SIGNIFICANT LEVELS OF HEALTH CARE DISPARITIES AND HEALTH
30 CARE NEEDS COMPARED TO OTHER COMMUNITIES WITHIN THE COUNTY OF KINGS AS
31 EVIDENCED BY:

32 (I) A HIGH NUMBER OF MEDICAID ENROLLEES AND UNINSURED INDIVIDUALS;

33 (II) ELEVATED BLOOD LEAD LEVEL RATES AMONG CHILDREN, HIGH RATES OF
34 DIABETES, HIGH BLOOD PRESSURE, ASTHMA, OBESITY, INFANT DEATH OR PREMA-
35 TURE BIRTH, HEART FAILURE, BEHAVIORAL HEALTH CONDITIONS, SUBSTANCE
36 ABUSE;

37 (III) LOW LEVELS OF INCOME, HIGH RATES OF UNEMPLOYMENT, DISTRESSED
38 HOUSING CONDITIONS, AND POOR NUTRITIONAL STATUS;

39 (IV) OTHER RISK FACTORS AS DETERMINED BY THE COMMISSIONER AND THE
40 PRESIDENT OF THE AUTHORITY; AND

41 (B) SUCH ELIGIBLE APPLICANT SHALL:

42 (I) (A) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE
43 PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

44 (B) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH
45 OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATE-
46 MENTS; AND

47 (C) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSEC-
48 UTIVE PRECEDING YEARS; OR

49 (II) BE DEEMED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY TO
50 BE A PROVIDER THAT FULFILLS OR WILL FULFILL AN UNMET HEALTH CARE NEED
51 FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR RESIDENTIAL HEALTH CARE
52 SERVICES IN A COMMUNITY.

53 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,
54 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER
55 CRITERIA INCLUDING, BUT NOT LIMITED TO:

1 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE
2 TO THE LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF
3 ESSENTIAL HEALTH SERVICES IN THE COMMUNITY OR COMMUNITIES SERVED BY THE
4 APPLICANT;

5 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
6 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
7 AND OBJECTIVES;

8 (C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-
9 FIED COMMUNITY NEED;

10 (D) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOP-
11 MENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

12 (E) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID
13 ENROLLEES AND UNINSURED INDIVIDUALS;

14 (F) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY
15 AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMU-
16 NITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

17 (G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTEN-
18 TIAL RISK TO PATIENT SAFETY AND WELFARE.

19 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
20 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
21 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
22 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL CONFORM TO THE
23 REPORTING REQUIREMENTS OF SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT
24 HUNDRED SEVEN OF THIS ARTICLE, AS APPLICABLE.

25 S 2. The public health law is amended by adding a new section 2825-b
26 to read as follows:

27 S 2825-B. ONEIDA COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM:
28 ONEIDA COUNTY PROJECT. 1. AN ONEIDA COUNTY HEALTH CARE FACILITY TRANS-
29 FORMATION PROGRAM IS HEREBY ESTABLISHED UNDER THE JOINT ADMINISTRATION
30 OF THE COMMISSIONER AND THE PRESIDENT OF THE DORMITORY AUTHORITY OF THE
31 STATE OF NEW YORK FOR THE PURPOSE OF STRENGTHENING AND PROTECTING
32 CONTINUED ACCESS TO HEALTH CARE SERVICES IN COMMUNITIES. THE PROGRAM
33 SHALL PROVIDE CAPITAL FUNDING IN SUPPORT OF PROJECTS LOCATED IN THE
34 LARGEST POPULATION CENTER IN ONEIDA COUNTY THAT CONSOLIDATE MULTIPLE
35 LICENSED HEALTH CARE FACILITIES INTO AN INTEGRATED SYSTEM OF CARE. THE
36 ISSUANCE OF ANY BONDS OR NOTES HEREUNDER SHALL BE SUBJECT TO THE
37 APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND ANY PROJECTS
38 FUNDED THROUGH THE ISSUANCE OF BONDS OR NOTES HEREUNDER SHALL BE
39 APPROVED BY THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, AS
40 REQUIRED UNDER SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW.

41 2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER
42 INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET,
43 AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORI-
44 TIES LAW, FOR THE PURPOSES OF AWARDING, DISTRIBUTING, AND ADMINISTERING
45 THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE
46 DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR
47 CAPITAL GRANTS TO GENERAL HOSPITALS FOR THE PURPOSES OF CONSOLIDATING
48 MULTIPLE LICENSED HEALTH CARE FACILITIES INTO AN INTEGRATED SYSTEM OF
49 CARE FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE
50 PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY
51 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE
52 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE
53 DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO
54 THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS
55 PROGRAM. PROJECTS AWARDED UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE

1 OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAIL-
2 ABLE UNDER THIS SECTION.

3 3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE
4 FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO
5 THREE HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM
6 SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-
7 ESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLICANTS")
8 LOCATED IN THE COUNTY OF ONEIDA.

9 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,
10 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER
11 CRITERIA INCLUDING, BUT NOT LIMITED TO:

12 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE
13 TO THE INTEGRATION OF HEALTH CARE SERVICES AND LONG TERM SUSTAINABILITY
14 OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH SERVICES IN THE
15 COMMUNITY OR COMMUNITIES SERVED BY THE APPLICANT;

16 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
17 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
18 AND OBJECTIVES;

19 (C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-
20 FIED COMMUNITY NEED;

21 (D) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOP-
22 MENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

23 (E) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID
24 ENROLLEES AND UNINSURED INDIVIDUALS;

25 (F) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY
26 AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMU-
27 NITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

28 (G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTEN-
29 TIAL RISK TO PATIENT SAFETY AND WELFARE.

30 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
31 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
32 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
33 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL CONFORM TO THE
34 REPORTING REQUIREMENTS OF SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT
35 HUNDRED SEVEN OF THIS ARTICLE, AS APPLICABLE.

36 S 3. The public health law is amended by adding a new section 2825-c
37 to read as follows:

38 S 2825-C. ESSENTIAL HEALTH CARE PROVIDER SUPPORT PROGRAM. 1. NOTWITH-
39 STANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR
40 ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, WITHIN AMOUNTS APPRO-
41 PRIATED, FUNDS MAY BE ALLOCATED AND DISTRIBUTED BY THE COMMISSIONER
42 WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, FOR GRANTS TO
43 ESSENTIAL HEALTH CARE PROVIDERS TO SUPPORT DEBT RETIREMENT, CAPITAL
44 PROJECTS OR NON-CAPITAL PROJECTS THAT FACILITATE HEALTH CARE TRANSFORMA-
45 TION, INCLUDING MERGERS, CONSOLIDATION, AND RESTRUCTURING ACTIVITIES
46 INTENDED TO CREATE A FINANCIALLY SUSTAINABLE SYSTEM OF CARE. GRANTS
47 SHALL NOT BE AVAILABLE TO SUPPORT GENERAL OPERATING EXPENSES. FOR
48 PURPOSES OF THIS SECTION, AN ESSENTIAL HEALTH CARE PROVIDER IS A HOSPI-
49 TAL OR HOSPITAL SYSTEM THAT, IN THE DISCRETION OF THE COMMISSIONER,
50 OFFERS HEALTH CARE SERVICES WITHIN A DEFINED GEOGRAPHIC REGION WHERE
51 SUCH SERVICES WOULD OTHERWISE BE UNAVAILABLE TO THE POPULATION OF SUCH
52 REGION.

53 2. THE COMMISSIONER SHALL AWARD GRANTS FOR PROJECTS CONSISTENT WITH
54 THE PURPOSES OF THIS SECTION. ELIGIBLE APPLICANTS SHALL MEET THE FOLLOW-
55 ING CRITERIA:

1 (A) (I) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE
2 PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

3 (II) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH
4 OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATE-
5 MENTS; AND

6 (III) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSEC-
7 UTIVE PRECEDING YEARS; OR

8 (B) BE DEEMED BY THE COMMISSIONER TO BE A PROVIDER THAT FULFILLS OR
9 WILL FULFILL AN UNMET NEED FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR
10 RESIDENTIAL HEALTH CARE SERVICES IN A DEFINED GEOGRAPHIC REGION WHERE
11 SUCH SERVICES WOULD BE OTHERWISE UNAVAILABLE TO THE POPULATION OF SUCH
12 REGION.

13 3. SUCH AWARDS SHALL BE DISTRIBUTED PURSUANT TO CRITERIA, INCLUDING
14 BUT NOT LIMITED TO:

15 (A) THE EXTENT TO WHICH THE PROPOSED PROJECT WILL CONTRIBUTE TO THE
16 LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF ESSENTIAL
17 HEALTH CARE SERVICES IN A COMMUNITY;

18 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
19 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
20 AND OBJECTIVES;

21 (C) CONSIDERATION OF GEOGRAPHIC DISTRIBUTION OF FUNDS;

22 (D) THE RELATIONSHIP BETWEEN THE PROPOSED PROJECT AND AN IDENTIFIED
23 COMMUNITY NEED;

24 (E) THE EXTENT TO WHICH THE APPLICANT HAS ACCESS TO ALTERNATIVE
25 FINANCING;

26 (F) THE EXTENT TO WHICH THE PROPOSED PROJECT FURTHERS THE DEVELOPMENT
27 OF PRIMARY CARE;

28 (G) THE EXTENT TO WHICH THE PROPOSED PROJECT BENEFITS MEDICAID ENROL-
29 LEES AND UNINSURED INDIVIDUALS;

30 (H) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY
31 AFFECTED BY THE PROPOSED PROJECT AND THE MANNER IN WHICH THE COMMUNITY
32 ENGAGEMENT HAS SHAPED SUCH PROJECT; AND

33 (I) THE EXTENT TO WHICH THE PROPOSED PROJECT ADDRESSES POTENTIAL RISK
34 TO PATIENT SAFETY AND WELFARE.

35 4. DISBURSEMENT OF AWARDS MADE PURSUANT TO THIS SECTION SHALL BE
36 CONDITIONED ON THE AWARDEE ACHIEVING CERTAIN PROCESS AND PERFORMANCE
37 METRICS AND MILESTONES AS DETERMINED IN THE SOLE DISCRETION OF THE
38 COMMISSIONER. SUCH METRICS AND MILESTONES SHALL BE STRUCTURED TO ENSURE
39 THAT THE HEALTH CARE TRANSFORMATION AND PROVIDER SUSTAINABILITY GOALS OF
40 THE PROJECT ARE ACHIEVED, AND SUCH METRICS AND MILESTONES SHALL BE
41 INCLUDED IN GRANT DISBURSEMENT AGREEMENTS OR OTHER CONTRACTUAL DOCUMENTS
42 AS REQUIRED BY THE COMMISSIONER.

43 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
44 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
45 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
46 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE, FOR
47 EACH AWARD, THE NAME OF THE APPLICANT, A DESCRIPTION OF THE PROJECT OR
48 PURPOSE, THE AMOUNT OF THE AWARD, DISBURSEMENT DATE, AND STATUS OF
49 ACHIEVEMENT OF PROCESS AND PERFORMANCE METRICS AND MILESTONES PURSUANT
50 TO SUBDIVISION FOUR OF THIS SECTION.

51 S 4. The opening paragraph of subdivision 3 of section 2825 of the
52 public health law, as added by section 8 of part A of chapter 60 of the
53 laws of 2014, is amended to read as follows:

54 The commissioner and the president of the authority shall enter into
55 an agreement, subject to approval by the director of the budget and
56 subject to section sixteen hundred eighty-r of the public authorities

law, as added by a chapter of the laws of two thousand fourteen, for the purposes of awarding, distributing, and administering the funds made available pursuant to this section. TO THE EXTENT PRACTICABLE, FUNDS SHALL BE AWARDED REGIONALLY IN PROPORTION TO THE APPLICATIONS RECEIVED FROM THE REQUEST FOR APPLICATION ISSUED BY OR BEFORE MAY FIRST, TWO THOUSAND FIFTEEN. PROJECTS AWARDED UNDER SECTIONS TWENTY-EIGHT HUNDRED TWENTY-FIVE-A AND TWENTY-EIGHT HUNDRED TWENTY-FIVE-B OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAILABLE UNDER THIS SECTION.

S 5. The public health law is amended by adding a new section 2815-a to read as follows:

S 2815-A. COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING IS PLAINLY REQUIRED BY THE CONTEXT:

A. "ADMINISTRATOR" SHALL MEAN A NOT FOR PROFIT COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION CDFI THAT IS CERTIFIED BY THE U.S. TREASURY COMMUNITY DEVELOPMENT FINANCIAL FUND, HAS EXPERIENCE FINANCING PROJECTS IN THE NEW YORK STATE HEALTHCARE SECTOR AND OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

B. "DORMITORY AUTHORITY" OR "AUTHORITY" SHALL MEAN THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK CREATED BY TITLE FOUR OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW WHICH HAS SUCCEEDED TO THE POWERS, FUNCTIONS AND DUTIES OF THE MEDICAL CARE FACILITIES FINANCE AGENCY PURSUANT TO CHAPTER EIGHTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETEEN FIVE.

C. "PARTICIPATING BORROWER" SHALL MEAN A COMMUNITY-BASED HEALTH CARE PROVIDER, WHICH FOR THE PURPOSES OF THIS SECTION, SHALL BE DEFINED AS DIAGNOSTIC AND TREATMENT CENTER LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, A MENTAL HEALTH CLINIC LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-ONE OF THE MENTAL HEALTH LAW; OR AN ALCOHOL AND SUBSTANCE ABUSE TREATMENT CLINIC LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-TWO OF THE MENTAL HYGIENE LAW, EACH ORGANIZED UNDER THE LAWS OF THIS STATE.

D. "REVOLVING CAPITAL FUND" SHALL MEAN COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND AUTHORIZED TO BE ESTABLISHED BY THE DORMITORY AUTHORITY AND ADMINISTERED PURSUANT TO THIS SECTION.

2. REVOLVING CAPITAL FUND. THE DORMITORY AUTHORITY SHALL, WITHIN AMOUNTS APPROPRIATED, ESTABLISH THE COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND. MONIES IN THE REVOLVING CAPITAL FUND SHALL BE UTILIZED FOR THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS TO IMPROVE ACCESS TO AFFORDABLE CAPITAL FINANCING TO EXPAND AND IMPROVE CAPACITY TO PROVIDE HEALTH CARE IN THE STATE. FUNDS SHALL BE TRANSFERRED BY THE COMMISSIONER TO THE DORMITORY AUTHORITY FOR DEPOSIT IN THE REVOLVING CAPITAL FUND IN AN AMOUNT AS AUTHORIZED BY APPROPRIATION. MONIES IN THE FUND SHALL BE: (A) HELD BY THE AUTHORITY PURSUANT TO THIS SECTION AS CUSTODIAN PURSUANT TO AN AGREEMENT WITH THE COMMISSIONER UNTIL TRANSFERRED TO THE ADMINISTRATOR PURSUANT TO THIS SECTION, AND (B) INVESTED BY THE AUTHORITY IN ACCORDANCE WITH THE INVESTMENT GUIDELINES OF THE AUTHORITY DURING SAID CUSTODIAL PERIOD. ALL INVESTMENT INCOME SHALL BE CREDITED TO, AND SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL FUND.

3. ADMINISTRATION AGREEMENT. THE COMMISSIONER AND THE AUTHORITY SHALL ENTER INTO AN AGREEMENT, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, FOR THE PURPOSE OF ADMINISTERING THE FUNDS IN THE REVOLVING CAPITAL FUND THROUGH AN ADMINISTRATOR. A COPY OF SUCH AGREEMENT, AND ANY

1 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE
2 COMMITTEE, THE DIRECTOR OF THE DIVISION OF BUDGET, AND THE CHAIR OF THE
3 ASSEMBLY WAYS AND MEANS COMMITTEE. THE AGREEMENT SHALL SPECIFY THAT THE
4 ADMINISTRATOR SHALL ADMINISTER THE COMMUNITY HEALTH CARE REVOLVING CAPI-
5 TAL FUND IN A MANNER THAT WILL BENEFIT THE PUBLIC HEALTH BY ENCOURAGING
6 IMPROVEMENTS IN THE COMMUNITY HEALTH CARE DELIVERY SYSTEM IN THE STATE,
7 IN COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER
8 REQUIREMENTS.

9 4. AGREEMENT WITH THE ADMINISTRATOR. THE DORMITORY AUTHORITY SHALL, IN
10 CONSULTATION WITH THE COMMISSIONER, ENTER INTO AN AGREEMENT WITH THE
11 ADMINISTRATOR. SUCH AGREEMENT SHALL PROVIDE FOR THE ADMINISTRATION OF
12 THE REVOLVING CAPITAL FUND ADMINISTRATOR, IN ACCORDANCE WITH THE
13 REQUIREMENTS OF THIS SECTION, THE COMMISSIONER AND DORMITORY AUTHORITY
14 AND ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER REQUIREMENTS. UPON
15 THE EFFECTIVE DATE OF THE AGREEMENT, CUSTODY OF, AND RESPONSIBILITY FOR,
16 THE REVOLVING CAPITAL FUND SHALL BE TRANSFERRED FROM THE DORMITORY
17 AUTHORITY TO THE ADMINISTRATOR, SUBJECT TO THE REQUIREMENTS OF THE
18 AGREEMENT. SUCH AGREEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
19 FOLLOWING PROVISIONS:

20 A. THAT THE ADMINISTRATOR SHALL BE RESPONSIBLE FOR THE RECEIPT,
21 MANAGEMENT AND EXPENDITURE OF MONIES HELD IN THE REVOLVING CAPITAL FUND;

22 B. THAT THE ADMINISTRATOR SHALL MAINTAIN BOOKS AND RECORDS PERTAINING
23 TO ALL MONIES RECEIVED AND DISBURSED PURSUANT TO THIS SECTION AND THE
24 AGREEMENT;

25 C. THAT MONIES IN SUCH REVOLVING CAPITAL FUND SHALL BE UTILIZED FOR
26 THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS, TO
27 PROVIDE PARTICIPATING BORROWERS WITH IMPROVED ACCESS TO AFFORDABLE CAPI-
28 TAL TO EXPAND AND IMPROVE PREVENTIVE OR PRIMARY CARE CAPACITY;

29 D. THAT PARTICIPATING BORROWERS SHALL BE CHOSEN BY THE ADMINISTRATOR
30 THROUGH AN APPLICATION PROCESS APPROVED BY THE AUTHORITY AND THE COMMIS-
31 SIONER;

32 E. THAT ELIGIBLE USES OF FUNDS SO LOANED TO PARTICIPATING BORROWERS
33 SHALL INCLUDE BUT NOT BE LIMITED TO: (I) ELIGIBLE COSTS AS DESCRIBED IN
34 PARAGRAPH (F) OF THIS SUBDIVISION, ATTRIBUTABLE TO THE PROPOSED
35 CONSTRUCTION, RECONSTRUCTION, RENOVATION, REHABILITATION, REFURBISHING,
36 EXPANSION, UPGRADING AND EQUIPPING OF A PARTICIPATING BORROWER'S COMMU-
37 NITY-BASED HEALTH CARE FACILITY; (II) RESERVES FOR CREDIT ENHANCEMENT
38 INCLUDING LOAN GUARANTEES; (III) LOAN LOSS AND DEBT SERVICE RESERVES AND
39 SUBORDINATED LOANS; AND (IV) FACILITY FINANCING, INCLUDING LOANS FOR
40 PREDEVELOPMENT, ACQUISITION AND CONSTRUCTION, PERMANENT FINANCING AND
41 BRIDGE LOANS;

42 F. THAT ELIGIBLE COSTS UNDER THIS SECTION SHALL INCLUDE, BUT NOT BE
43 LIMITED TO, ALL HARD CONSTRUCTION COSTS AND ASSOCIATED PROFESSIONAL AND
44 OTHER COSTS, FURNITURE, FIXTURES AND EQUIPMENT, INCLUDING HEALTH INFOR-
45 MATION TECHNOLOGY, ACQUISITION, PREDEVELOPMENT DUE DILIGENCE, INITIAL
46 OPERATING EXPENSES AND WORKING CAPITAL;

47 G. THAT THE ADMINISTRATOR ADMINISTERING THE REVOLVING CAPITAL FUND
48 SHALL REPORT QUARTERLY ON THE TRANSACTIONS IN THE REVOLVING CAPITAL FUND
49 IN A FORM AND MANNER SPECIFIED BY THE AUTHORITY IN CONSULTATION WITH THE
50 COMMISSIONER, INCLUDING BUT NOT LIMITED TO: RECEIPTS OR DEPOSITS TO THE
51 FUND, DISBURSEMENTS, LOANS OR CREDIT ENHANCEMENT MADE FROM THE FUND,
52 INVESTMENT INCOME, AND THE BALANCE ON HAND AS OF THE END OF THE MONTH
53 FOR EACH SUCH QUARTER;

54 H. THAT THE ADMINISTRATOR SHALL BE REQUIRED TO INVEST MONIES ON DEPOS-
55 IT IN THE FUND IN ACCORDANCE WITH INVESTMENT GUIDELINES MEETING THE
56 REQUIREMENTS OF THE DEPARTMENT AND DORMITORY AUTHORITY, AND ALL INVEST-

MENT INCOME SHALL BE CREDITED TO, AND ANY REPAYMENT OF LOANS AS HEREIN-AFTER PROVIDED SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL FUND, AND SPENT THEREFROM ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION;

I. THAT ONLY THE REASONABLE EXPENSES OF THE ADMINISTRATOR, AS DETERMINED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY, INCURRED IN THE ESTABLISHMENT AND ADMINISTRATION OF THE REVOLVING CAPITAL LOAN PROGRAM (INCLUDING THE RETENTION OF PROFESSIONALS AND CONSULTANTS, IF ANY) MAY BE PAID OR REIMBURSED FROM THE REVOLVING CAPITAL FUND;

J. THAT REVOLVING CAPITAL FUND MONIES SHALL BE HELD IN TRUST AND USED FOR THE BENEFIT OF ELIGIBLE COMMUNITY-BASED HEALTH CARE FACILITY CAPITAL PROJECTS; AND

K. ANY OTHER TERM OR CONDITION AS DETERMINED BY THE AUTHORITY, IN CONSULTATION WITH THE COMMISSIONER.

5. LOAN DOCUMENTATION. LOANS FROM THE REVOLVING CAPITAL FUND SHALL BE MADE PURSUANT TO A WRITTEN LOAN AGREEMENT BETWEEN THE ADMINISTRATOR AND THE PARTICIPATING BORROWER, SPECIFYING THE TERMS THEREOF INCLUDING REPAYMENT TERMS. THE LOAN AGREEMENT SHALL BE IN SUCH FORM AND CONTENT AS SHALL BE ACCEPTABLE TO THE COMMISSIONER AND DORMITORY AUTHORITY, AND MAY INCLUDE SUCH OTHER ANY FURTHER WRITTEN DOCUMENTATION AND/OR AGREEMENTS AS SHALL BE REQUIRED IN THE JUDGMENT OF THE COMMISSIONER AND DORMITORY AUTHORITY, INCLUDING BUT NOT LIMITED TO ALL REQUIRED FILINGS UNDER THE UNIFORM COMMERCIAL CODE.

S 6. Section 2826 of the public health law is amended by adding a new subdivision (g) to read as follows:

(G) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, AND WITHIN AMOUNTS APPROPRIATED FOR SUCH PURPOSES AS DESCRIBED HEREIN, FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND FIFTEEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN, THE COMMISSIONER MAY AWARD A TEMPORARY ADJUSTMENT TO THE NON-CAPITAL COMPONENTS OF RATES, OR MAKE TEMPORARY LUMP-SUM MEDICAID PAYMENTS TO ELIGIBLE GENERAL HOSPITALS IN SEVERE FINANCIAL DISTRESS TO ENABLE SUCH FACILITIES TO MAINTAIN OPERATIONS AND VITAL SERVICES WHILE SUCH FACILITIES ESTABLISH LONG TERM SOLUTIONS TO ACHIEVE SUSTAINABLE HEALTH SERVICES.

(I) ELIGIBLE GENERAL HOSPITALS SHALL INCLUDE:

(A) A PUBLIC HOSPITAL, WHICH FOR PURPOSES OF THIS SUBDIVISION, SHALL MEAN A GENERAL HOSPITAL OPERATED BY A COUNTY OR MUNICIPALITY, BUT SHALL EXCLUDE ANY SUCH HOSPITAL OPERATED BY A PUBLIC BENEFIT CORPORATION;

(B) A FEDERALLY DESIGNATED CRITICAL ACCESS HOSPITAL;

(C) A FEDERALLY DESIGNATED SOLE COMMUNITY HOSPITAL; OR

(D) A GENERAL HOSPITAL THAT IS A SAFETY NET HOSPITAL, WHICH FOR PURPOSES OF THIS SUBDIVISION SHALL MEAN:

(1) SUCH HOSPITAL HAS AT LEAST THIRTY PERCENT OF ITS INPATIENT DISCHARGES MADE UP OF MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALY ELIGIBLE INDIVIDUALS AND WITH AT LEAST THIRTY-FIVE PERCENT OF ITS OUTPATIENT VISITS MADE UP OF MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALY-ELIGIBLE INDIVIDUALS; OR

(2) SUCH HOSPITAL SERVES AT LEAST THIRTY PERCENT OF THE RESIDENTS OF A COUNTY OR A MULTI-COUNTY AREA WHO ARE MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALY-ELIGIBLE INDIVIDUALS.

(II) ELIGIBLE APPLICANTS MUST DEMONSTRATE THAT WITHOUT SUCH AWARD, THEY WILL BE IN SEVERE FINANCIAL DISTRESS THROUGH MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN, AS EVIDENCED BY:

(A) CERTIFICATION THAT SUCH APPLICANT HAS LESS THAN FIFTEEN DAYS CASH AND EQUIVALENTS;

1 (B) SUCH APPLICANT HAS NO ASSETS THAT CAN BE MONETIZED OTHER THAN
2 THOSE VITAL TO OPERATIONS; AND

3 (C) SUCH APPLICANT HAS EXHAUSTED ALL EFFORTS TO OBTAIN RESOURCES FROM
4 CORPORATE PARENTS AND AFFILIATED ENTITIES TO SUSTAIN OPERATIONS.

5 (III) AWARDS UNDER THIS SUBDIVISION SHALL BE MADE UPON APPLICATION TO
6 THE DEPARTMENT.

7 (A) APPLICATIONS UNDER THIS SUBDIVISION SHALL INCLUDE A MULTI-YEAR
8 TRANSFORMATION PLAN THAT IS ALIGNED WITH THE DELIVERY SYSTEM REFORM
9 INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES. SUCH PLAN
10 SHALL BE APPROVED BY THE DEPARTMENT AND SHALL DEMONSTRATE A PATH TOWARDS
11 LONG TERM SUSTAINABILITY AND IMPROVED PATIENT CARE.

12 (B) THE DEPARTMENT MAY AUTHORIZE INITIAL AWARD PAYMENTS TO ELIGIBLE
13 APPLICANTS BASED SOLELY ON THE CRITERIA PURSUANT TO PARAGRAPHS (I) AND
14 (II) OF THIS SUBDIVISION.

15 (C) NOTWITHSTANDING SUBPARAGRAPH (B) OF THIS PARAGRAPH, THE DEPARTMENT
16 MAY SUSPEND OR REPEAL AN AWARD IF AN ELIGIBLE APPLICANT FAILS TO SUBMIT
17 A MULTI-YEAR TRANSFORMATION PLAN PURSUANT TO SUBPARAGRAPH (A) OF THIS
18 PARAGRAPH THAT IS ACCEPTABLE TO THE DEPARTMENT BY NO LATER THAN THE
19 THIRTIETH DAY OF SEPTEMBER TWO THOUSAND FIFTEEN.

20 (D) APPLICANTS UNDER THIS SUBDIVISION SHALL DETAIL THE EXTENT TO WHICH
21 THE AFFECTED COMMUNITY HAS BEEN ENGAGED AND CONSULTED ON POTENTIAL
22 PROJECTS OF SUCH APPLICATION, AS WELL AS ANY OUTREACH TO STAKEHOLDERS
23 AND HEALTH PLANS.

24 (E) THE DEPARTMENT SHALL REVIEW ALL APPLICATIONS UNDER THIS SUBDIVI-
25 SION, AND A DETERMINE:

26 (1) APPLICANT ELIGIBILITY;

27 (2) EACH APPLICANT'S PROJECTED FINANCIAL STATUS;

28 (3) EACH APPLICANT'S PROPOSED USE OF FUNDS TO MAINTAIN CRITICAL
29 SERVICES NEEDED BY ITS COMMUNITY; AND

30 (4) THE ANTICIPATED IMPACT OF THE LOSS OF SUCH SERVICES.

31 (F) AFTER REVIEW OF ALL APPLICATIONS UNDER THIS SUBDIVISION, AND A
32 DETERMINATION OF THE AGGREGATE AMOUNT OF REQUESTED FUNDS, THE DEPARTMENT
33 SHALL MAKE AWARDS TO ELIGIBLE APPLICANTS; PROVIDED, HOWEVER, THAT SUCH
34 AWARDS MAY BE IN AN AMOUNT LOWER THAN SUCH REQUESTED FUNDING, ON A PER
35 APPLICANT OR AGGREGATE BASIS.

36 (IV) AWARDS UNDER THIS SUBDIVISION MAY NOT BE USED FOR:

37 (A) CAPITAL EXPENDITURES, INCLUDING, BUT NOT LIMITED TO: CONSTRUCTION,
38 RENOVATION AND ACQUISITION OF CAPITAL EQUIPMENT, INCLUDING MAJOR MEDICAL
39 EQUIPMENT;

40 (B) CONSULTANT FEES;

41 (C) RETIREMENT OF LONG TERM DEBT; OR

42 (D) BANKRUPTCY-RELATED COSTS.

43 (V) PAYMENTS MADE TO AWARDEES PURSUANT TO THIS SUBDIVISION SHALL BE
44 MADE ON A MONTHLY BASIS. SUCH PAYMENTS WILL BE BASED ON THE APPLICANT'S
45 ACTUAL MONTHLY FINANCIAL PERFORMANCE DURING SUCH PERIOD AND THE REASON-
46 ABLE CASH AMOUNT NECESSARY TO SUSTAIN OPERATIONS FOR THE FOLLOWING
47 MONTH. THE APPLICANT'S MONTHLY FINANCIAL PERFORMANCE SHALL BE MEASURED
48 BY SUCH APPLICANT'S MONTHLY FINANCIAL AND ACTIVITY REPORTS, WHICH SHALL
49 INCLUDE, BUT NOT BE LIMITED TO, ACTUAL REVENUE AND EXPENSES FOR THE
50 PRIOR MONTH, PROJECTED CASH NEED FOR THE CURRENT MONTH, AND PROJECTED
51 CASH NEED FOR THE FOLLOWING MONTH.

52 (VI) THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
53 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
54 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
55 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE FOR
56 EACH AWARD, THE NAME OF THE APPLICANT, THE AMOUNT OF THE AWARD, PAYMENTS

1 TO DATE, AND A DESCRIPTION OF THE STATUS OF THE MULTI-YEAR TRANSFORMA-
2 TION PLAN PURSUANT TO PARAGRAPH (III) OF THIS SUBDIVISION.
3 S 7. This act shall take effect immediately.
4 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
5 sion, section or part of this act shall be adjudged by any court of
6 competent jurisdiction to be invalid, such judgment shall not affect,
7 impair, or invalidate the remainder thereof, but shall be confined in
8 its operation to the clause, sentence, paragraph, subdivision, section
9 or part thereof directly involved in the controversy in which such judg-
10 ment shall have been rendered. It is hereby declared to be the intent of
11 the legislature that this act would have been enacted even if such
12 invalid provisions had not been included herein.
13 S 3. This act shall take effect immediately provided, however, that
14 the applicable effective date of Parts A through J of this act shall be
15 as specifically set forth in the last section of such Parts.