

S. 2009--A

A. 3009--A

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

January 21, 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property tax law, in relation to the maximum amount of savings allowable under the STAR exemption program (Part A); to amend the state finance law, the tax law and the administrative code of the city of New York, in relation to the New York city personal income tax rates (Part B); to amend the real property tax law, the tax law, and section 3 of part B of chapter 59 of the laws of 2012 amending the real property tax law and the tax law relating to the suspension of STAR exemptions of property owned by persons with outstanding tax liabilities, in relation to the suspension of STAR exemptions of property owned by persons with outstanding tax liabilities (Part C); to amend the real property tax law and the tax law, in relation to transitioning the school tax relief (STAR) exemption into a personal income tax credit, and to repeal subdivision 5 of section 520 of the real property tax law relating thereto (Part D); to amend the real property tax law, in relation to establishing a state-administered recoupment provision to the STAR exemption program (Part E); to amend the state finance law, in relation to making technical corrections to the school tax relief fund; and to provide one-time relief to STAR registrants who failed to file timely STAR exemption applications (Part F); to amend the tax law, in relation to the real property tax relief credit (Part G); to amend the tax law and the administrative code of the city of New York, in relation to making the limitation on charitable contribution deductions for certain taxpayers permanent (Part H); to amend the tax law, the administrative code of the city of New York and the labor law, in relation to making certain technical corrections (Part I); to amend the tax law, in relation to a report regarding the empire state commercial production tax credit;

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

LBD12574-03-5

and to repeal section 9 of part V of chapter 62 of the laws of 2006, amending the tax law relating to the empire state commercial production tax credit, relating thereto (Part J); to amend the economic development law with relation to the eligibility of entertainment companies for the excelsior jobs program (Part K); to amend the tax law, in relation to costs includible in the investment credit base for the investment tax credit on masters for films, television shows and commercials (Part L); to amend the labor law and the tax law, in relation to a program to provide tax incentives for employers employing at risk youth (Part M); to amend the tax law, in relation to the business income base rate (Part N); to amend the economic development law and the tax law, in relation to establishing a tax credit for employers who procure skills training for employees necessary to cultivate a talented workforce (Part O); to amend the tax law, in relation to imposing tax on wireless telecommunications businesses pursuant to sections 184 and 184-a of such law (Part P); to amend the tax law, in relation to corporation tax refunds or credits (Part Q); to amend the environmental conservation law, the tax law and the general municipal law, in relation to eligibility for participation in the brownfield cleanup program, assignment of the brownfield redevelopment tax credits and brownfield opportunity areas; to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to tax credits for certain sites; to amend the environmental conservation law, in relation to hazardous waste generator fees and taxes; to amend the environmental conservation law and the state finance law, in relation to the environmental restoration program; and to repeal certain provisions of the environmental conservation law and the tax law relating thereto (Part R); to amend the business corporation law, the limited liability company law, the partnership law and the tax law, in relation to the biennial statements filed with the secretary of state (Part S); to amend the tax law in relation to making corrections to the corporate tax reform provisions; and repealing certain provisions of such law relating thereto (Part T); to amend the tax law, in relation to exempting certain items of tangible personal property furnished to customers by certain cider producers, breweries, and distilleries at tastings (Part U); to amend the tax law, in relation to the imposition of the sales and compensating use tax on prepaid mobile calling services (Part V); to amend the general municipal law, the public authorities law and the tax law, in relation to reforming the industrial development authority program and adding a tax clearance process (Part W); to amend the tax law, in relation to requiring marketplace providers collect sales tax (Part X); to amend the tax law, in relation to closing certain sales and compensating use tax avoidance strategies with regard to taxes imposed by and pursuant to the authority of articles 28 and 29 of the tax law (Part Y); to amend the tax law, in relation to exempting electricity provided by certain sources from the sales tax imposed by article 28 of the tax law and omitting such exemption from the taxes imposed pursuant to the authority of article 29 of the tax law, unless a locality elects otherwise; and to repeal subdivisions (n) and (p) of section 1210 of such law relating to tax exemptions imposed by resolution in cities having a population of one million or more persons (Part Z); to amend the tax law in relation to allowing a reimbursement of the petroleum business tax for highway diesel motor fuel used in

farm production (Part AA); to amend the tax law, in relation to calculating the estate tax imposed under the tax rate table, clarifying the phase out date for certain gift add backs and disallowing deductions relating to intangible personal property for estates of non-resident decedents (Part BB); to amend the tax law in relation to requiring wholesalers of motor fuel to register and file returns (Part CC); to amend part Q of chapter 59 of the laws of 2013 amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, in relation to the effectiveness thereof (Part DD); to amend the tax law, in relation to the suspension of driver's licenses of persons who are delinquent in the payment of past-due tax liabilities, by lowering the driver's license suspension delinquent past-due tax liability threshold from \$10,000 to \$5,000 (Part EE); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct; chapter 63 of the laws of 2001 amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, in relation to extending certain provisions concerning the hospital excess liability pool and requiring a tax clearance for doctors and dentists to be eligible for such excess coverage; and to amend the tax law, in relation to enforcement of delinquent tax liabilities through tax clearances (Part FF); to amend the public authorities law and the tax law, in relation to authorizing clearance of past-due tax liabilities for state or local authority grant applicants (Part GG); to amend the tax law and the state finance law, in relation to allowing the commissioner of taxation and finance to enter into reciprocal tax collection agreements with other states (Part HH); to amend the tax law, in relation to multi-agency disclosure of certain information to other state agencies to enhance tax enforcement and other enforcement initiatives (Part II); to amend the general obligations law and the tax law, in relation to authorizing electronic tax clearances for professional and business licenses (Part JJ); to amend the civil service law and the tax law, in relation to tax clearances for applicants for civil service employment (Part KK); to amend the social services law, in relation to the disclosure of certain information relating to a person receiving public assistance to the commissioner of the department of taxation and finance (Part LL); to amend the tax law, in relation to capital awards to vendor tracks (Part MM); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part NN); to amend the tax law and the penal law, in relation to video lottery gaming (Part OO); to amend the racing, pari-mutuel wagering and breeding law, in relation to a franchised corporation (Part PP); to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part QQ); and to amend the tax law, in relation to the credit for certain alternative

fuel vehicle refueling property and electric vehicle recharging property (Part RR)

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 RR. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of  
14 section 1306-a of the real property tax law, as amended by section 6 of  
15 part N of chapter 58 of the laws of 2011, is amended to read as follows:  
16 (i) The tax savings for each parcel receiving the exemption authorized  
17 by section four hundred twenty-five of this chapter shall be computed by  
18 subtracting the amount actually levied against the parcel from the  
19 amount that would have been levied if not for the exemption, provided  
20 however, that [beginning with] FOR the two thousand eleven-two thousand  
21 twelve THROUGH TWO THOUSAND FOURTEEN-TWO THOUSAND FIFTEEN school [year]  
22 YEARS, the tax savings applicable to any "portion" (which as used herein  
23 shall mean that part of an assessing unit located within a school  
24 district) shall not exceed the tax savings applicable to that portion in  
25 the prior school year multiplied by one hundred two percent, with the  
26 result rounded to the nearest dollar; AND PROVIDED FURTHER THAT BEGIN-  
27 NING WITH THE TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN SCHOOL YEAR, THE  
28 TAX SAVINGS APPLICABLE TO ANY PORTION SHALL NOT EXCEED THE TAX SAVINGS  
29 FOR THE PRIOR YEAR. The tax savings attributable to the basic and  
30 enhanced exemptions shall be calculated separately. It shall be the  
31 responsibility of the commissioner to calculate tax savings limitations  
32 for purposes of this subdivision.  
33 S 2. This act shall take effect immediately.

34 PART B

35 Section 1. Subdivision 1 of section 54-f of the state finance law, as  
36 amended by section 1 of part EE of chapter 57 of the laws of 2010, is  
37 amended to read as follows:  
38 1. Except as otherwise provided by law, the provisions of this section  
39 shall be utilized by the state to calculate the annual amount due to be  
40 paid to the city of New York by the state to reimburse such city for tax  
41 receipts foregone (a) as a result of [a] chapter THREE HUNDRED  
42 EIGHTY-NINE of the laws of nineteen hundred ninety-seven [that reduced  
43 the rates of tax imposed pursuant to authority granted under section  
44 thirteen hundred one of the tax law and that created a new "state school  
45 tax reduction credit" against liabilities imposed pursuant to the

1 authority granted the city by such section and other statutes authoriz-  
2 ing the imposition of a personal income tax on the residents of such  
3 city], and (b) as a result of the tax rate adjustments made by [a] chap-  
4 ter FIFTY-SEVEN of the laws of two thousand ten AND BY A CHAPTER OF THE  
5 LAWS OF TWO THOUSAND FIFTEEN, which amended this subdivision.

6 S 2. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the  
7 tax law, as amended by section 2 of part EE of chapter 57 of the laws of  
8 2010, are amended to read as follows:

9 (1) Resident married individuals filing joint returns and resident  
10 surviving spouses. The tax under this section for each taxable year on  
11 the city taxable income of every city resident married individual who  
12 makes a single return jointly with his or her spouse under subsection  
13 (b) of section thirteen hundred six of this article and on the city  
14 taxable income of every city resident surviving spouse shall be deter-  
15 mined in accordance with the following tables:

16 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:	
17 IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
18 NOT OVER \$21,600	2.55% OF THE CITY TAXABLE INCOME
19 OVER \$21,600 BUT NOT	\$551 PLUS 3.1% OF EXCESS
20 OVER \$45,000	OVER \$21,600
21 OVER \$45,000 BUT NOT	\$1,276 PLUS 3.15% OF EXCESS
22 OVER \$90,000	OVER \$45,000
23 OVER \$90,000 BUT NOT	\$2,694 PLUS 3.2% OF EXCESS
24 OVER \$500,000	OVER \$90,000
25 OVER \$500,000	\$16,803 PLUS 3.4% OF EXCESS
26	OVER \$500,000

27 (B) For taxable years beginning after two thousand nine AND BEFORE TWO	
28 THOUSAND FIFTEEN:	
29 If the city taxable income is:	The tax is:
30 Not over \$21,600	2.55% of the city taxable income
31 Over \$21,600 but not	\$551 plus 3.1% of excess
32 over \$45,000	over \$21,600
33 Over \$45,000 but not	\$1,276 plus 3.15% of excess
34 over \$90,000	over \$45,000
35 Over \$90,000 but not	\$2,694 plus 3.2% of excess
36 over \$500,000	over \$90,000
37 Over \$500,000	\$15,814 plus 3.4% of excess
38	over \$500,000

39 [(B) For taxable years beginning in two thousand one and two thousand  
40 two and for taxable years beginning after two thousand five and before  
41 two thousand ten:

42 If the city taxable income is:	The tax is:
43 Not over \$21,600	2.55% of the city taxable income
44 Over \$21,600 but not	\$551 plus 3.1% of excess
45 over \$45,000	over \$21,600
46 Over \$45,000 but not	\$1,276 plus 3.15% of excess
47 over \$90,000	over \$45,000
48 Over \$90,000	\$2,694 plus 3.2% of excess
49	over \$90,000]

(2) Resident heads of households. The tax under this section for each taxable year on the city taxable income of every city resident head of a household shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
NOT OVER \$14,400	2.55% OF THE CITY TAXABLE INCOME
OVER \$14,400 BUT NOT OVER \$30,000	\$367 PLUS 3.1% OF EXCESS OVER \$14,400
OVER \$30,000 BUT NOT OVER \$60,000	\$851 PLUS 3.15% OF EXCESS OVER \$30,000
OVER \$60,000 BUT NOT OVER \$500,000	\$1,796 PLUS 3.2% OF EXCESS OVER \$60,000
OVER \$500,000	\$16,869 PLUS 3.4% OF EXCESS OVER \$500,000

(B) For taxable years beginning after two thousand nine AND BEFORE TWO THOUSAND FIFTEEN:

If the city taxable income is:	The tax is:
Not over \$14,400	2.55% of the city taxable income
Over \$14,400 but not over \$30,000	\$367 plus 3.1% of excess over \$14,400
Over \$30,000 but not over \$60,000	\$851 plus 3.15% of excess over \$30,000
Over \$60,000 but not over \$500,000	\$1,796 plus 3.2% of excess over \$60,000
Over \$500,000	\$15,876 plus 3.4% of excess Over \$500,000

[(B) For taxable years beginning in two thousand one and two thousand two and for taxable years beginning after two thousand five and before two thousand ten:

If the city taxable income is:	The tax is:
Not over \$14,400	2.55% of the city taxable income
Over \$14,400 but not over \$30,000	\$367 plus 3.1% of excess over \$14,400
Over \$30,000 but not over \$60,000	\$851 plus 3.15% of excess over \$30,000
Over \$60,000	\$1,796 plus 3.2% of excess over \$60,000]

(3) Resident unmarried individuals, resident married individuals filing separate returns and resident estates and trusts. The tax under this section for each taxable year on the city taxable income of every city resident individual who is not a city resident married individual who makes a single return jointly with his or her spouse under subsection (b) of section thirteen hundred six of this article or a city resident head of household or a city resident surviving spouse, and on the city taxable income of every city resident estate and trust shall be determined in accordance with the following tables:

(A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

1 IF THE CITY TAXABLE INCOME IS: THE TAX IS:  
2 NOT OVER \$12,000 2.55% OF THE CITY TAXABLE INCOME  
3 OVER \$12,000 BUT NOT \$306 PLUS 3.1% OF EXCESS  
4 OVER \$25,000 OVER \$12,000  
5 OVER \$25,000 BUT NOT \$709 PLUS 3.15% OF EXCESS  
6 OVER \$50,000 OVER \$25,000  
7 OVER \$50,000 BUT NOT \$1,497 PLUS 3.2% OF EXCESS  
8 OVER \$500,000 OVER \$50,000  
9 OVER \$500,000 \$16,891 PLUS 3.4%  
10 OF EXCESS OVER \$500,000  
11 (B) For taxable years beginning after two thousand nine AND BEFORE TWO  
12 THOUSAND FIFTEEN:

13 If the city taxable income is: The tax is:  
14 Not over \$12,000 2.55% of the city taxable income  
15 Over \$12,000 but not \$306 plus 3.1% of excess  
16 over \$25,000 over \$12,000  
17 Over \$25,000 but not \$709 plus 3.15% of excess  
18 over \$50,000 over \$25,000  
19 Over \$50,000 but not \$1,497 plus 3.2% of excess  
20 over \$500,000 over \$50,000  
21 Over \$500,000 \$15,897 plus 3.4%  
22 of excess over \$500,000  
23 [(B) For taxable years beginning in two thousand one and two thousand  
24 two and for taxable years beginning after two thousand five and before  
25 two thousand ten:

26 If the city taxable income is: The tax is:  
27 Not over \$12,000 2.55% of the city taxable income  
28 Over \$12,000 but not \$306 plus 3.1% of excess  
29 over \$25,000 over \$12,000  
30 Over \$25,000 but not \$709 plus 3.15% of excess  
31 over \$50,000 over \$25,000  
32 Over \$50,000 \$1,497 plus 3.2% of excess  
33 over \$50,000]

34 S 3. Paragraphs 1, 2 and 3 of subdivision (a) of section 11-1701 of  
35 the administrative code of the city of New York, as amended by section 3  
36 of part EE of chapter 57 of the laws of 2010, are amended to read as  
37 follows:

38 (1) Resident married individuals filing joint returns and resident  
39 surviving spouses. The tax under this section for each taxable year on  
40 the city taxable income of every city resident married individual who  
41 makes a single return jointly with his or her spouse under subdivision  
42 (b) of section 11-1751 of this chapter and on the city taxable income of  
43 every city resident surviving spouse shall be determined in accordance  
44 with the following tables:

45 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

46 IF THE CITY TAXABLE INCOME IS: THE TAX IS:  
47 NOT OVER \$21,600 2.55% OF THE CITY TAXABLE INCOME  
48 OVER \$21,600 BUT NOT \$551 PLUS 3.1% OF EXCESS  
49 OVER \$45,000 OVER \$21,600  
50 OVER \$45,000 BUT NOT \$1,276 PLUS 3.15% OF EXCESS  
51 OVER \$90,000 OVER \$45,000

1 OVER \$90,000 BUT NOT \$2,694 PLUS 3.2% OF EXCESS  
2 OVER \$500,000 OVER \$90,000  
3 OVER \$500,000 \$16,803 PLUS 3.4% OF EXCESS  
4 OVER \$500,000  
5 (B) For taxable years beginning after two thousand nine AND BEFORE TWO  
6 THOUSAND FIFTEEN:

7 If the city taxable income is: The tax is:  
8 Not over \$21,600 2.55% of the city taxable income  
9 Over \$21,600 but not \$551 plus 3.1% of excess  
10 over \$45,000 over \$21,600  
11 Over \$45,000 but not \$1,276 plus 3.15% of excess  
12 over \$90,000 over \$45,000  
13 Over \$90,000 but not \$2,694 plus 3.2% of excess  
14 over \$500,000 over \$90,000  
15 Over \$500,000 \$15,814 plus 3.4% of excess  
16 over \$500,000  
17 [(B) For taxable years beginning in two thousand one and two thousand  
18 two and for taxable years beginning after two thousand five and before  
19 two thousand ten:

20 If the city taxable income is: The tax is:  
21 Not over \$21,600 2.55% of the city taxable income  
22 Over \$21,600 but not \$551 plus 3.1% of excess  
23 over \$45,000 over \$21,600  
24 Over \$45,000 but not \$1,276 plus 3.15% of excess  
25 over \$90,000 over \$45,000  
26 Over \$90,000 \$2,694 plus 3.2% of excess  
27 over \$90,000]

28 (2) Resident heads of households. The tax under this section for each  
29 taxable year on the city taxable income of every city resident head of a  
30 household shall be determined in accordance with the following tables:

31 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

32 IF THE CITY TAXABLE INCOME IS: THE TAX IS:  
33 NOT OVER \$14,400 2.55% OF THE CITY TAXABLE INCOME  
34 OVER \$14,400 BUT NOT \$367 PLUS 3.1% OF EXCESS  
35 OVER \$30,000 OVER \$14,400  
36 OVER \$30,000 BUT NOT \$851 PLUS 3.15% OF EXCESS  
37 OVER \$60,000 OVER \$30,000  
38 OVER \$60,000 BUT NOT \$1,796 PLUS 3.2% OF EXCESS  
39 OVER \$500,000 OVER \$60,000  
40 OVER \$500,000 \$16,869 PLUS 3.4% OF EXCESS  
41 OVER \$500,000

42 (B) For taxable years beginning after two thousand nine AND BEFORE TWO  
43 THOUSAND FIFTEEN:

44 If the city taxable income is: The tax is:  
45 Not over \$14,400 2.55% of the city taxable income  
46 Over \$14,400 but not \$367 plus 3.1% of excess  
47 over \$30,000 over \$14,400  
48 Over \$30,000 but not \$851 plus 3.15% of excess  
49 over \$60,000 over \$30,000  
50 Over \$60,000 but not \$1,796 plus 3.2% of excess



1	over \$500,000	over \$60,000
2	Over \$500,000	\$15,876 plus 3.4% of excess
3		over \$500,000

4 [(B) For taxable years beginning in two thousand one and two thousand  
5 two and for taxable years beginning after two thousand five and before  
6 two thousand ten:

7	If the city taxable income is:	The tax is:
8	Not over \$14,400	2.55% of the city taxable income
9	Over \$14,400 but not	\$367 plus 3.1% of excess
10	over \$30,000	over \$14,400
11	Over \$30,000 but not	\$851 plus 3.15% of excess
12	over \$60,000	over \$30,000
13	Over \$60,000	\$1,796
14		plus 3.2% of excess
15		over \$60,000]

16 (3) Resident unmarried individuals, resident married individuals  
17 filing separate returns and resident estates and trusts. The tax under  
18 this section for each taxable year on the city taxable income of every  
19 city resident individual who is not a married individual who makes a  
20 single return jointly with his or her spouse under subdivision (b) of  
21 section 11-1751 of this chapter or a city resident head of a household  
22 or a city resident surviving spouse, and on the city taxable income of  
23 every city resident estate and trust shall be determined in accordance  
24 with the following tables:

25 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

26	IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
27	NOT OVER \$12,000	2.55% OF THE CITY TAXABLE INCOME
28	OVER \$12,000 BUT NOT	\$306 PLUS 3.1% OF EXCESS
29	OVER \$25,000	OVER \$12,000
30	OVER \$25,000 BUT NOT	\$709 PLUS 3.15% OF EXCESS
31	OVER \$50,000	OVER \$25,000
32	OVER \$50,000 BUT NOT	\$1,497 PLUS 3.2% OF EXCESS
33	OVER \$500,000	OVER \$50,000
34	OVER \$500,000	\$16,891 PLUS 3.4% OF EXCESS
35		OVER \$500,000

36 (B) For taxable years beginning after two thousand nine AND BEFORE TWO  
37 THOUSAND FIFTEEN:

38	If the city taxable income is:	The tax is:
39	Not over \$12,000	2.55% of the city taxable income
40	Over \$12,000 but not	\$306 plus 3.1% of excess
41	over \$25,000	over \$12,000
42	Over \$25,000 but not	\$709 plus 3.15% of excess
43	over \$50,000	over \$25,000
44	Over \$50,000 but not	\$1,497 plus 3.2% of excess
45	over \$500,000	over \$50,000
46	Over \$500,000	\$15,897 plus 3.4% of excess
47		over \$500,000

1 [(B) For taxable years beginning in two thousand one and two thousand  
2 two and for taxable years beginning after two thousand five and before  
3 two thousand ten:

4 If the city taxable income is:	The tax is:
5 Not over \$12,000	2.55% of the city taxable income
6 Over \$12,000 but not	\$306 plus 3.1% of excess
7 over \$25,000	over \$12,000
8 Over \$25,000 but not	\$709 plus 3.15% of excess
9 over \$50,000	over \$25,000
10 Over \$50,000	\$1,497 plus 3.2% of excess
11	over \$50,000]

12 S 4. Notwithstanding any provision of law to the contrary, the method  
13 of determining the amount to be deducted and withheld from wages on  
14 account of taxes imposed by or pursuant to the authority of article 30  
15 of the tax law in connection with the implementation of the provisions  
16 of this act shall be prescribed by regulations of the commissioner of  
17 taxation and finance with due consideration to the effect such withhold-  
18 ing tables and methods would have on the receipt and amount of revenue.  
19 The commissioner of taxation and finance shall adjust such withholding  
20 tables and methods in regard to taxable years beginning in 2015 and  
21 after in such manner as to result, so far as practicable, in withholding  
22 from an employee's wages an amount substantially equivalent to the tax  
23 reasonably estimated to be due for such taxable years as a result of the  
24 provisions of this act. Provided, however, for tax year 2015 the with-  
25 holding tables shall reflect as accurately as practicable the full  
26 amount of tax year 2015 liability so that such amount is withheld by  
27 December 31, 2015. Any such regulations to implement a change in with-  
28 holding tables and methods for tax year 2015 shall be adopted and effec-  
29 tive as soon as practicable and the commissioner may adopt such regu-  
30 lations on an emergency basis notwithstanding anything to the contrary  
31 in section 202 of the state administrative procedure act. In carrying  
32 out his or her duties and responsibilities under this section, the  
33 commissioner of taxation and finance may accompany such a rule making  
34 procedure with a similar procedure with respect to the taxes required to  
35 be deducted and withheld by local laws imposing taxes pursuant to the  
36 authority of articles 30, 30-A and 30-B of the tax law, the provisions  
37 of any other law in relation to such a procedure to the contrary  
38 notwithstanding.

39 S 5. 1. Notwithstanding any provision of law to the contrary, no addi-  
40 tion to tax shall be imposed for failure to pay the estimated tax in  
41 subsection (c) of section 685 of the tax law and subdivision (c) of  
42 section 11-1785 of the administrative code of the city of New York with  
43 respect to any underpayment of a required installment due prior to, or  
44 within thirty days of, the effective date of this act to the extent that  
45 such underpayment was created or increased by the amendments made by  
46 this act, provided, however, that the taxpayer remits the amount of any  
47 underpayment prior to or with his or her next quarterly estimated tax  
48 payment.

49 2. The commissioner of taxation and finance shall take steps to publi-  
50 cize the necessary adjustments to estimated tax and, to the extent  
51 reasonably possible, to inform the taxpayer of the tax liability changes  
52 made by this act.

53 S 6. This act shall take effect immediately.

1 Section 1. The opening paragraph of paragraph (f) of subdivision 3 of  
2 section 425 of the real property tax law, as added by section 1 of part  
3 B of chapter 59 of the laws of 2012, is amended to read as follows:

4 Compliance with state tax obligations. [The] A PROPERTY SHALL NOT BE  
5 ELIGIBLE [property's eligibility] for the STAR exemption [must not be]  
6 IF THE PROPERTY'S ELIGIBILITY HAS BEEN suspended pursuant to section one  
7 hundred seventy-one-y of the tax law due to the past-due state tax  
8 liabilities of one or more of its owners. Notwithstanding any provision  
9 of law to the contrary, where a property's eligibility for a STAR  
10 exemption has been suspended pursuant to such section, the following  
11 provisions shall be applicable:

12 S 2. Paragraphs (h) and (i) of subdivision 2 and subdivision 7 of  
13 section 171-y of the tax law, as added by section 2 of part B of chapter  
14 59 of the laws of 2012, are amended to read as follows:

15 (h) [The procedures by which the department shall apply the amount of  
16 a taxpayer's lost STAR benefits as an offset against the amount of that  
17 taxpayer's past-due state tax liabilities.

18 (i)] Any other matter as the department shall deem necessary to carry  
19 out the provisions of this section.

20 7. Activities to collect state tax liabilities undertaken by the  
21 department pursuant to this section shall not in any way limit, restrict  
22 or impair the department from exercising any other authority to collect  
23 or enforce past-due state tax liabilities under any other applicable  
24 provision of law. [The amount by which a taxpayer's property tax liability  
25 increases as a result of the loss of the STAR exemption pursuant to  
26 paragraph (f) of subdivision three of section four hundred twenty-five  
27 of the real property tax law and this section shall be applied as an  
28 offset against the amount of the taxpayer's past-due state tax liability.]  
29 IF A TAXPAYER LOSES THE STAR EXEMPTION PURSUANT TO PARAGRAPH (F)  
30 OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL  
31 PROPERTY TAX LAW AND THIS SECTION, THE TAXPAYER SHALL LOSE ANY ENTITLE-  
32 MENT OR CLAIM OF RIGHT TO THE STAR EXEMPTION FOR THE APPLICABLE YEAR.

33 S 3. Section 3 of part B of chapter 59 of the laws of 2012, amending  
34 the real property tax law and the tax law relating to suspension of STAR  
35 exemptions of property owned by persons with outstanding tax liabilities,  
36 is amended to read as follows:

37 S 3. This act shall take effect immediately [and shall apply to the  
38 administration of the STAR exemption authorized by section 425 of the  
39 real property tax law for the 2013-2014, 2014-2015 and 2015-2016 school  
40 years].

41 S 4. This act shall take effect immediately.

42 PART D

43 Section 1. Paragraph (a) of subdivision 6 of section 425 of the real  
44 property tax law, as amended by chapter 6 of the laws of 2010, and as  
45 further amended by subdivision (b) of section 1 of part W of chapter 56  
46 of the laws of 2010, is amended to read as follows:

47 (a) Generally. All owners of the property who primarily reside thereon  
48 AND WHO ARE NOT SUBJECT TO THE PROVISIONS OF SUBDIVISION FIFTEEN OF THIS  
49 SECTION must jointly file an application for exemption with the assessor  
50 on or before the appropriate taxable status date. Such application may  
51 be filed by mail if it is enclosed in a postpaid envelope properly  
52 addressed to the appropriate assessor, deposited in a post office or  
53 official depository under the exclusive care of the United States postal  
54 service, and postmarked by the United States postal service on or before

1 the applicable taxable status date. Each such application shall be made  
2 on a form prescribed by the commissioner, which shall require the appli-  
3 cant or applicants to agree to notify the assessor if their primary  
4 residence changes while their property is receiving the exemption. The  
5 assessor may request that proof of residency be submitted with the  
6 application. If the applicant requests a receipt from the assessor as  
7 proof of submission of the application, the assessor shall provide such  
8 receipt. If such request is made by other than personal request, the  
9 applicant shall provide the assessor with a self-addressed postpaid  
10 envelope in which to mail the receipt.

11 S 2. Section 425 of the real property tax law is amended by adding a  
12 new subdivision 15 to read as follows:

13 15. TRANSITION TO PERSONAL INCOME TAX CREDIT. (A) BEGINNING WITH  
14 ASSESSMENT ROLLS USED TO LEVY SCHOOL DISTRICT TAXES FOR THE TWO THOUSAND  
15 FIFTEEN -- TWO THOUSAND SIXTEEN SCHOOL YEAR, NO APPLICATION FOR AN  
16 EXEMPTION UNDER THIS SECTION MAY BE FILED OR APPROVED IF NONE OF THE  
17 APPLICANTS HELD TITLE TO THE PROPERTY ON THE TAXABLE STATUS DATE OF THE  
18 ASSESSMENT ROLL THAT WAS USED TO LEVY SCHOOL DISTRICT TAXES FOR THE TWO  
19 THOUSAND FOURTEEN -- TWO THOUSAND FIFTEEN SCHOOL YEAR AND THE PROPERTY  
20 WAS GRANTED AN EXCEPTION PURSUANT TO THIS SECTION ON THAT ASSESSMENT  
21 ROLL. IN THE EVENT THAT AN APPLICATION IS SUBMITTED TO THE ASSESSOR  
22 THAT CANNOT BE APPROVED DUE TO THIS RESTRICTION, THE ASSESSOR SHALL  
23 NOTIFY THE APPLICANT THAT HE OR SHE IS REQUIRED BY LAW TO DENY THE  
24 APPLICATION, BUT THAT, IN LIEU OF A STAR EXEMPTION, THE APPLICANT MAY  
25 CLAIM THE PERSONAL INCOME TAX CREDIT AUTHORIZED BY SUBSECTION (CCC) OF  
26 SECTION SIX HUNDRED SIX OF THE TAX LAW IF ELIGIBLE, AND THAT THE APPLI-  
27 CANT MAY CONTACT THE DEPARTMENT OF TAXATION AND FINANCE FOR FURTHER  
28 INFORMATION. THE COMMISSIONER SHALL PROVIDE A FORM FOR ASSESSORS TO USE,  
29 AT THEIR OPTION, WHEN MAKING THIS NOTIFICATION. NO ASSESSOR, BOARD OF  
30 ASSESSMENT REVIEW OR SMALL CLAIMS HEARING OFFICER MAY GRANT A STAR  
31 EXEMPTION ON THE BASIS OF AN APPLICATION THAT IS NOT APPROVABLE DUE TO  
32 THIS RESTRICTION.

33 (B) IF THE OWNERS OF A PARCEL THAT IS RECEIVING THE STAR EXEMPTION  
34 AUTHORIZED BY THIS SECTION WANT TO CLAIM THE PERSONAL INCOME TAX CREDIT  
35 AUTHORIZED BY SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX LAW  
36 IN LIEU OF SUCH EXEMPTION, THEY ALL MUST RENOUNCE THAT EXEMPTION IN THE  
37 MANNER PROVIDED BY SECTION FOUR HUNDRED NINETY-SIX OF THIS CHAPTER, AND  
38 MUST PAY ANY REQUIRED TAXES, INTEREST AND PENALTIES, ON OR BEFORE DECEM-  
39 BER THIRTY-FIRST OF THE TAXABLE YEAR FOR WHICH THEY WANT TO CLAIM THE  
40 CREDIT. ANY SUCH RENUNCIATION SHALL BE IRREVOCABLE.

41 S 3. Subdivision 2 of section 496 of the real property tax law, as  
42 added by section 3 of part N of chapter 58 of the laws of 2011, is  
43 amended to read as follows:

44 2. An application to renounce an exemption shall be made on a form  
45 prescribed by the commissioner and shall be filed with the county direc-  
46 tor of real property tax services no later than ten years after the levy  
47 of taxes upon the assessment roll on which the renounced exemption  
48 appears. The county director, after consulting with the assessor as  
49 appropriate, shall compute the total amount owed on account of the  
50 renounced exemption as follows:

51 (a) For each assessment roll on which the renounced exemption appears,  
52 the assessed value that was exempted shall be multiplied by the tax rate  
53 or rates that were applied to that assessment roll. Interest shall then  
54 be added to each such product at the rate prescribed by section nine  
55 hundred twenty-four-a of this chapter or such other law as may be appli-

1 cable for each month or portion thereon since the levy of taxes upon  
2 such assessment roll.

3 (b) The sum of the calculations made pursuant to paragraph (a) of this  
4 subdivision with respect to all of the assessment rolls in question  
5 shall be determined.

6 (c) A processing fee of five hundred dollars shall be added to the sum  
7 determined pursuant to paragraph (b) of this subdivision, UNLESS THE  
8 PROVISIONS OF PARAGRAPH (D) OF THIS SUBDIVISION ARE APPLICABLE.

9 (D) IF THE APPLICANT IS RENOUNCING A STAR EXEMPTION IN ORDER TO QUALI-  
10 FY FOR THE PERSONAL INCOME TAX CREDIT AUTHORIZED BY SUBSECTION (CCC) OF  
11 SECTION SIX HUNDRED SIX OF THE TAX LAW, AND NO OTHER EXEMPTIONS ARE  
12 BEING RENOUNCED ON THE SAME APPLICATION, NO PROCESSING FEE SHALL BE  
13 APPLICABLE.

14 S 3-a. Subdivision 3 of section 520 of the real property tax law is  
15 amended to read as follows:

16 3. For purposes of any fiscal year or years during which title to such  
17 property is transferred, such property shall be deemed to have been  
18 omitted and the assessed value thereof shall be entered on the assess-  
19 ment roll to be used for the next tax levy by or for each municipal  
20 corporation in which such property is located in the same manner as  
21 provided by title three of article five of this chapter with respect to  
22 a parcel omitted from the assessment roll of the previous year. A pro  
23 rata tax shall be extended against the property for the unexpired  
24 portion of each fiscal year. Such real property shall be taxed at the  
25 tax rate or tax rates for the fiscal year during which the transfer  
26 occurred. The amount of tax or taxes levied pursuant to this subdivi-  
27 sion shall be deducted from the aggregate amount of taxes to be levied  
28 for the fiscal year immediately succeeding the fiscal year during which  
29 the transfer occurred. PROVIDED, HOWEVER, THAT TO THE EXTENT SUCH TAX  
30 OR TAXES RELATE TO STAR EXEMPTIONS THAT HAD BEEN GRANTED PURSUANT TO  
31 SECTION FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER, THE TAX TO BE EXTENDED  
32 SHALL BE THE PRORATED STAR TAX SAVINGS FOR THE UNEXPIRED PORTION OF THE  
33 FISCAL YEAR, AND THE AMOUNT OF THE TAX OR TAXES SO LEVIED SHALL BE  
34 APPLIED TO REDUCE THE AMOUNT OF AID PAYABLE TO THE SCHOOL DISTRICT UNDER  
35 SUBDIVISION THREE OF SECTION THIRTEEN HUNDRED SIX-A OF THIS CHAPTER.

36 S 4. Subdivision 5 of section 520 of the real property tax law is  
37 REPEALED.

38 S 5. Section 606 of the tax law is amended by adding a new subsection  
39 (ccc) to read as follows:

40 (CCC) SCHOOL TAX RELIEF (STAR) CREDIT. (1) DEFINITIONS. FOR PURPOSES  
41 OF THIS SUBSECTION:

42 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE, WHO  
43 MAINTAINED HIS OR HER PRIMARY RESIDENCE IN THIS STATE ON DECEMBER THIR-  
44 TY-FIRST OF THE TAXABLE YEAR, WHO WAS AN OWNER OF THAT PROPERTY ON THAT  
45 DATE, WHO IS PRECLUDED FROM RECEIVING THE STAR EXEMPTION BY VIRTUE OF  
46 THE PROVISIONS OF SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED  
47 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AND WHO IS REQUIRED OR CHOOSES  
48 TO FILE A RETURN UNDER THIS ARTICLE.

49 (B) "AFFILIATED INCOME" SHALL MEAN THE COMBINED INCOME OF ALL OF THE  
50 OWNERS OF THE PARCEL WHO RESIDED PRIMARILY THEREON AS OF DECEMBER THIR-  
51 TY-FIRST OF THE TAXABLE YEAR, AND OF ANY OWNERS' SPOUSES RESIDING PRIMA-  
52 RILY THEREON AS OF SUCH DATE; PROVIDED THAT THE INCOME TO BE SO COMBINED  
53 SHALL BE THE "ADJUSTED GROSS INCOME" FOR THE TAXABLE YEAR AS REPORTED  
54 FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED  
55 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,  
56 REDUCED BY DISTRIBUTIONS, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED

1 GROSS INCOME, RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT AND AN  
2 INDIVIDUAL RETIREMENT ANNUITY.

3 (C) "ASSOCIATED FISCAL YEAR" MEANS THE SCHOOL DISTRICT FISCAL YEAR  
4 THAT BEGAN ON JULY FIRST OF THE TAXABLE YEAR, OR, IN THE CASE OF A CITY  
5 SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION  
6 LAW, THE CITY FISCAL YEAR THAT BEGAN ON JULY FIRST OF THE TAXABLE YEAR,

7 (D) "OWNER" MEANS:

8 (I) A PERSON WHO OWNS A PARCEL IN FEE SIMPLE ABSOLUTE OR AS A TENANT  
9 IN COMMON, A JOINT TENANT OR A TENANT BY THE ENTIRETY,

10 (II) AN OWNER OF A PRESENT INTEREST IN A PARCEL UNDER A LIFE ESTATE,

11 (III) A VENDEE IN POSSESSION UNDER AN INSTALLMENT CONTRACT OF SALE,

12 (IV) A BENEFICIAL OWNER UNDER A TRUST,

13 (V) A TENANT-STOCKHOLDER OF A COOPERATIVE APARTMENT CORPORATION WHO  
14 RESIDES IN A PORTION OF REAL PROPERTY OWNED BY SUCH COOPERATIVE APART-  
15 MENT CORPORATION, TO THE EXTENT REPRESENTED BY HIS OR HER SHARE OR  
16 SHARES OF STOCK IN SUCH CORPORATION AS DETERMINED BY ITS OR THEIR  
17 PROPORTIONAL RELATIONSHIP TO THE TOTAL OUTSTANDING STOCK OF THE CORPO-  
18 RATION, INCLUDING THAT OWNED BY THE CORPORATION,

19 (VI) A RESIDENT OF A FARM DWELLING WHICH IS OWNED EITHER BY A CORPO-  
20 RATION OF WHICH THE RESIDENT IS A SHAREHOLDER, OR BY A PARTNERSHIP OF  
21 WHICH THE RESIDENT IS A PARTNER, OR

22 (VII) A RESIDENT OF A DWELLING, OTHER THAN A FARM DWELLING, WHICH IS  
23 OWNED BY A LIMITED PARTNERSHIP OF WHICH THE RESIDENT IS A PARTNER,  
24 PROVIDED THAT THE LIMITED PARTNERSHIP WHICH HOLDS TITLE TO THE PROPERTY  
25 DOES NOT ENGAGE IN ANY COMMERCIAL ACTIVITY, THAT THE LIMITED PARTNERSHIP  
26 WAS LAWFULLY CREATED TO HOLD TITLE SOLELY FOR ESTATE PLANNING AND ASSET  
27 PROTECTION PURPOSES, AND THAT THE PARTNER OR PARTNERS WHO PRIMARILY  
28 RESIDE THEREON PERSONALLY PAY ALL OF THE REAL PROPERTY TAXES AND OTHER  
29 COSTS ASSOCIATED WITH THE PROPERTY'S OWNERSHIP.

30 (E) "QUALIFYING TAXES" MEANS THE SCHOOL DISTRICT TAXES THAT WERE  
31 LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL  
32 YEAR THAT WERE ACTUALLY PAID BY THE TAXPAYER DURING THE TAXABLE YEAR;  
33 OR, IN THE CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE  
34 FIFTY-TWO OF THE EDUCATION LAW, THE COMBINED CITY AND SCHOOL DISTRICT  
35 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE  
36 ASSOCIATED FISCAL YEAR THAT WERE ACTUALLY PAID BY THE TAXPAYER DURING  
37 THE TAXABLE YEAR. IN NO CASE SHALL THE TERM "QUALIFYING TAXES" BE  
38 CONSTRUED TO INCLUDE PENALTIES OR INTEREST.

39 (F) "STAR EXEMPTION" MEANS THE SCHOOL TAX RELIEF (STAR) EXEMPTION  
40 AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX  
41 LAW.

42 (G) "STAR TAX SAVINGS" MEANS THE TAX SAVINGS ATTRIBUTABLE TO THE STAR  
43 EXEMPTION WITHIN A PORTION OF A SCHOOL DISTRICT, AS DETERMINED BY THE  
44 COMMISSIONER PURSUANT TO SUBDIVISION TWO OF SECTION THIRTEEN HUNDRED  
45 SIX-A OF THE REAL PROPERTY TAX LAW.

46 (H) "STAR TAX SAVINGS FACTOR" MEANS THE AVERAGE OF THE STAR TAX  
47 SAVINGS IN EACH PORTION OF A SCHOOL DISTRICT IN THE ASSOCIATED FISCAL  
48 YEAR, AS DETERMINED BY THE COMMISSIONER. TWO STAR TAX SAVINGS FACTORS  
49 SHALL BE DETERMINED FOR EACH SCHOOL DISTRICT, ONE RELATING TO THE BASIC  
50 STAR EXEMPTION, AND THE OTHER RELATING TO THE ENHANCED STAR EXEMPTION.

51 (2) ALLOWANCE OF CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CRED-  
52 IT AS PROVIDED IN PARAGRAPH THREE OR FOUR OF THIS SUBSECTION, WHICHEVER  
53 IS APPLICABLE, AGAINST THE TAXES IMPOSED BY THIS ARTICLE REDUCED BY THE  
54 CREDITS PERMITTED BY THIS ARTICLE, PROVIDED THAT THE REQUIREMENTS SET  
55 FORTH IN THE APPLICABLE SUBSECTION ARE SATISFIED. IF THE CREDIT EXCEEDS  
56 THE TAX AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL

1 BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED, WITHOUT INTER-  
2 EST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT  
3 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER  
4 MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CREDIT TO BE CREDITED OR  
5 REPAYED AS AN OVERPAYMENT, WITHOUT INTEREST.

6 (3) DETERMINATION OF BASIC STAR CREDIT. (A) BEGINNING WITH TAXABLE  
7 YEARS AFTER TWO THOUSAND FOURTEEN, A BASIC STAR CREDIT SHALL BE AVAIL-  
8 ABLE TO A QUALIFIED TAXPAYER IF THE AFFILIATED INCOME OF THE PARCEL THAT  
9 SERVES AS THE TAXPAYER'S PRIMARY RESIDENCE IS LESS THAN OR EQUAL TO FIVE  
10 HUNDRED THOUSAND DOLLARS.

11 (B) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,  
12 SUCH BASIC STAR CREDIT SHALL BE THE LESSER OF:

13 (I) THE BASIC STAR TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, OR

14 (II) THE TAXPAYER'S QUALIFYING TAXES.

15 (C) IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTITUTED ONLY A  
16 PORTION OF THE TOTAL SCHOOL DISTRICT TAXES THAT WERE LEVIED UPON THE  
17 TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL YEAR, OR IN THE  
18 CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF  
19 THE EDUCATION LAW, IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTI-  
20 TUTED ONLY A PORTION OF THE TOTAL COMBINED CITY AND SCHOOL DISTRICT  
21 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE  
22 ASSOCIATED FISCAL YEAR, THE CREDIT ALLOWABLE TO SUCH TAXPAYER SHALL BE  
23 EQUAL TO THE AMOUNT DETERMINED PURSUANT TO SUBPARAGRAPH (B) OF THIS  
24 PARAGRAPH MULTIPLIED BY THE PERCENTAGE WHICH SUCH PORTION REPRESENTS.

25 (4) DETERMINATION OF ENHANCED STAR CREDIT. (A) BEGINNING WITH TAXABLE  
26 YEARS AFTER TWO THOUSAND FOURTEEN, AN ENHANCED STAR CREDIT SHALL BE  
27 AVAILABLE TO A QUALIFIED TAXPAYER WHERE BOTH OF THE FOLLOWING CONDITIONS  
28 ARE SATISFIED:

29 (I) ALL OF THE OWNERS OF THE PARCEL THAT SERVES AS THE TAXPAYER'S  
30 PRIMARY RESIDENCE ARE AT LEAST SIXTY-FIVE YEARS OF AGE AS OF DECEMBER  
31 THIRTY-FIRST OF THE TAXABLE YEAR, OR IN THE CASE OF PROPERTY OWNED BY A  
32 MARRIED COUPLE OR BY SIBLINGS, AT LEAST ONE OF THE OWNERS IS AT LEAST  
33 SIXTY-FIVE YEARS OF AGE AS OF THAT DATE. THE TERM "SIBLINGS" AS USED  
34 HEREIN SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION FOUR HUNDRED  
35 SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW. IN THE CASE OF PROPERTY OWNED  
36 BY A MARRIED COUPLE, ONE OF WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER, THE  
37 CREDIT, ONCE ALLOWED, SHALL NOT BE DISALLOWED BECAUSE OF THE DEATH OF  
38 THE OLDER SPOUSE SO LONG AS THE SURVIVING SPOUSE IS AT LEAST SIXTY-TWO  
39 YEARS OF AGE AS OF DECEMBER THIRTY-FIRST OF THE TAXABLE YEAR.

40 (II) THE AFFILIATED INCOME OF THE PARCEL THAT SERVES AS THE TAXPAYER'S  
41 PRIMARY RESIDENCE IS LESS THAN OR EQUAL TO THE INCOME STANDARD FOR THE  
42 TAXABLE YEAR ESTABLISHED BY THE COMMISSIONER FOR THE CORRESPONDING  
43 "INCOME TAX YEAR" PURSUANT TO CLAUSE (C) OF SUBPARAGRAPH (I) OF PARA-  
44 GRAPH (B) OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE  
45 REAL PROPERTY TAX LAW FOR PURPOSES OF THE ENHANCED STAR EXEMPTION.

46 (B) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,  
47 SUCH CREDIT SHALL BE THE LESSER OF:

48 (I) THE ENHANCED STAR TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, OR

49 (II) THE TAXPAYER'S QUALIFYING TAXES.

50 (C) IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTITUTED ONLY A  
51 PORTION OF THE TOTAL SCHOOL DISTRICT TAXES THAT WERE LEVIED UPON THE  
52 TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL YEAR, OR IN THE  
53 CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF  
54 THE EDUCATION LAW, IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTI-  
55 TUTED ONLY A PORTION OF THE TOTAL COMBINED CITY AND SCHOOL DISTRICT  
56 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE

1 ASSOCIATED FISCAL YEAR, THE CREDIT ALLOWABLE TO SUCH TAXPAYER SHALL BE  
2 EQUAL TO THE AMOUNT DETERMINED PURSUANT TO SUBPARAGRAPH (B) OF THIS  
3 PARAGRAPH MULTIPLIED BY THE PERCENTAGE WHICH SUCH PORTION REPRESENTS.

4 (5) DISQUALIFICATION. A TAXPAYER SHALL NOT QUALIFY FOR THE CREDIT  
5 AUTHORIZED BY THIS SUBSECTION IF THE PARCEL THAT SERVES AS THE TAXPAY-  
6 ER'S PRIMARY RESIDENCE RECEIVED THE STAR EXEMPTION ON THE ASSESSMENT  
7 ROLL UPON WHICH SCHOOL DISTRICT TAXES FOR THE ASSOCIATED FISCAL YEAR  
8 WERE LEVIED. PROVIDED, HOWEVER, THAT THE TAXPAYER MAY REMOVE THIS  
9 DISQUALIFICATION BY RENOUNCING THE EXEMPTION AND MAKING ANY REQUIRED  
10 PAYMENTS BY DECEMBER THIRTY-FIRST OF THE TAXABLE YEAR, AS PROVIDED BY  
11 SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL  
12 PROPERTY TAX LAW.

13 (6) SPECIAL CASES. (A) IN THE CASE OF PROPERTY CONSISTING OF A COOPER-  
14 ATIVE APARTMENT CORPORATION THAT IS DESCRIBED BY PARAGRAPH (K) OF SUBDI-  
15 VISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX  
16 LAW, THE AMOUNT OF THE CREDIT ALLOWABLE WITH RESPECT TO A COOPERATIVE  
17 APARTMENT SHALL BE EQUAL TO SIXTY PERCENT OF THE BASIC STAR TAX SAVINGS  
18 FACTOR FOR THE SCHOOL DISTRICT, OR SIXTY PERCENT OF THE ENHANCED STAR  
19 TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, WHICHEVER IS APPLICABLE.  
20 PROVIDED, HOWEVER, THAT IN THE CASE OF A COOPERATIVE APARTMENT CORPO-  
21 RATION THAT IS DESCRIBED BY SUBPARAGRAPH (IV) OF PARAGRAPH (K) OF SUBDI-  
22 VISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX  
23 LAW, THE CREDIT ALLOWABLE WITH RESPECT TO A COOPERATIVE APARTMENT SHALL  
24 BE EQUAL TO TWENTY PERCENT OF SUCH FACTOR.

25 (B) IN THE CASE OF PROPERTY CONSISTING OF A MOBILE HOME THAT IS  
26 DESCRIBED BY PARAGRAPH (L) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED  
27 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, THE AMOUNT OF THE CREDIT  
28 ALLOWABLE WITH RESPECT TO SUCH MOBILE HOME SHALL BE EQUAL TO TWENTY-FIVE  
29 PERCENT OF THE BASIC STAR TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, OR  
30 TWENTY-FIVE PERCENT OF THE ENHANCED STAR TAX SAVINGS FACTOR FOR THE  
31 SCHOOL DISTRICT, WHICHEVER IS APPLICABLE.

32 (C) IN THE CASE OF A PRIMARY RESIDENCE THAT IS LOCATED IN TWO OR MORE  
33 SCHOOL DISTRICTS, THE APPLICABLE BASIC OR ENHANCED STAR TAX SAVINGS  
34 FACTOR SHALL BE DETERMINED AS FOLLOWS:

35 (I) DETERMINE THE SUM OF THE TOTAL SCHOOL DISTRICT TAXES THAT WERE  
36 LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL  
37 YEAR BY EACH OF THE SCHOOL DISTRICTS IN WHICH THE RESIDENCE IS LOCATED;

38 (II) FOR EACH SUCH SCHOOL DISTRICT, DIVIDE THE TOTAL SCHOOL DISTRICT  
39 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE BY THAT  
40 SCHOOL DISTRICT FOR THE ASSOCIATED FISCAL YEAR BY THE SUM DETERMINED IN  
41 CLAUSE (I) OF THIS SUBPARAGRAPH. EXPRESS THE RESULT AS A PERCENTAGE WITH  
42 TWO DECIMAL PLACES;

43 (III) FOR EACH SUCH SCHOOL DISTRICT, MULTIPLY THE PERCENTAGE DETER-  
44 MINED IN CLAUSE (II) OF THIS SUBPARAGRAPH BY THE BASIC OR ENHANCED STAR  
45 TAX SAVINGS FACTOR, WHICHEVER IS APPLICABLE; AND

46 (IV) ADD THE PRODUCTS DETERMINED IN CLAUSE (III) OF THIS SUBPARAGRAPH.

47 (7) WAIVER OF SECRECY. WHERE THE COMMISSIONER HAS DENIED A TAXPAYER'S  
48 CLAIM FOR THE CREDIT AUTHORIZED BY THIS SUBSECTION IN WHOLE OR IN PART  
49 ON THE GROUNDS THAT THE AFFILIATED INCOME OF THE PARCEL IN QUESTION  
50 EXCEEDS THE APPLICABLE LIMIT, THE COMMISSIONER SHALL HAVE THE AUTHORITY  
51 TO REVEAL TO THAT TAXPAYER THE NAMES AND INCOMES OF THE OTHER TAXPAYERS  
52 WHOSE INCOMES WERE INCLUDED IN THE COMPUTATION OF SUCH AFFILIATED  
53 INCOME.

54 (8) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER  
55 TO FURNISH THE FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR  
56 CREDIT UNDER THIS SUBSECTION: AFFILIATED INCOME, THE TOTAL SCHOOL



DISTRICT TAXES LEVIED ON THE PROPERTY FOR THE ASSOCIATED FISCAL YEAR, OR IN THE CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW, THE TOTAL COMBINED CITY AND SCHOOL DISTRICT TAXES LEVIED ON THE PROPERTY FOR THE ASSOCIATED FISCAL YEAR, THE QUALIFYING TAXES PAID BY THE TAXPAYER, THE NAMES AND TAXPAYER IDENTIFICATION NUMBERS OF ALL OWNERS OF THE PROPERTY AND SPOUSES WHO PRIMARILY RESIDE ON THE PROPERTY, THE PARCEL IDENTIFICATION NUMBER AND ALL OTHER INFORMATION THAT MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE CREDIT.

(9) RETURNS. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSUANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR ENDING ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHICH SHALL MAKE AVAILABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

(10) ADMINISTRATION. THE PROVISIONS OF THIS ARTICLE, INCLUDING THE PROVISIONS OF SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT, AND SIX HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE PROVISIONS OF PART SIX OF THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH OF SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A CLAIM FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARAGRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEVEN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS ARTICLE, SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS USED IN SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED NINETY-SEVEN OF THIS ARTICLE, WHERE A QUALIFIED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS NOT EXPIRED, HE SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER, RECEIVE SUCH INFORMATION (A) WHICH IS CONTAINED IN ANY RETURN FILED UNDER THIS ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, AND (B) WHICH THE COMMISSIONER FINDS IS RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY DENIED.

(11) IN THE CASE OF A TAXPAYER WHO HAS ITEMIZED DEDUCTIONS FROM FEDERAL ADJUSTED GROSS INCOME, AND WHOSE FEDERAL ITEMIZED DEDUCTIONS INCLUDE AN AMOUNT FOR REAL ESTATE TAXES PAID, THE NEW YORK ITEMIZED DEDUCTION OTHERWISE ALLOWABLE UNDER SECTION 615 OF THIS CHAPTER SHALL BE REDUCED BY THE AMOUNT OF THE CREDIT CLAIMED UNDER THIS SUBSECTION.

S 6. Paragraph 3 of subsection (bbb) of section 606 of the tax law, as added by section 1 of part FF of chapter 59 of the laws of 2014, is amended to read as follows:

(3) To be eligible for such credit, the taxpayer (or taxpayers filing joint returns) must meet the following criteria:

(A) For the two thousand fourteen taxable year, the taxpayer's primary residence must have qualified for the STAR exemption for the two thousand fourteen--two thousand fifteen school year, or would have so quali-

1 fied if an application for such exemption had been submitted in a timely  
2 manner.

3 (B) For the two thousand fifteen taxable year, the taxpayer's primary  
4 residence must have qualified for the STAR exemption for the two thou-  
5 sand fifteen--two thousand sixteen school year, or would have so quali-  
6 fied if an application for such exemption had been submitted in a timely  
7 manner. ALTERNATIVELY, THE TAXPAYER MUST HAVE QUALIFIED FOR THE SCHOOL  
8 TAX RELIEF CREDIT AUTHORIZED BY SUBSECTION (CCC) OF THIS SECTION FOR THE  
9 TWO THOUSAND FIFTEEN TAXABLE YEAR.

10 (C) For the two thousand sixteen taxable year, the taxpayer's primary  
11 residence must have qualified for the STAR exemption for the two thou-  
12 sand sixteen--two thousand seventeen school year, or would have so qual-  
13 ified if an application for such exemption had been submitted in a time-  
14 ly manner. ALTERNATIVELY, THE TAXPAYER MUST HAVE QUALIFIED FOR THE  
15 SCHOOL TAX RELIEF CREDIT AUTHORIZED BY SUBSECTION (CCC) OF THIS SECTION  
16 FOR THE TWO THOUSAND SIXTEEN TAXABLE YEAR.

17 S 7. This act shall take effect immediately, provided that the  
18 provisions of paragraph (b) of subdivision 15 of section 425 of the real  
19 property tax law as added by section two of this act shall apply to all  
20 applications for STAR exemptions beginning with assessment rolls used to  
21 levy school district taxes for the 2015-2016 school year, including  
22 those submitted prior to the effective date of this act; and provided  
23 further that in the event that any such application shall have been  
24 approved prior to the effective date of this act, such approval shall be  
25 deemed void. In such cases, the assessor shall provide the applicant  
26 with the notice required by paragraph (b) of subdivision 15 of section  
27 425 of the real property tax law as added by section two of this act.

28 PART E

29 Section 1. Section 425 of the real property tax law is amended by  
30 adding a new subdivision 15 to read as follows:

31 15. RECOUPMENT OF EXEMPTIONS BY COMMISSIONER. (A) GENERALLY. IF THE  
32 COMMISSIONER SHOULD DETERMINE, BASED UPON DATA COLLECTED UNDER THE STAR  
33 REGISTRATION PROGRAM, THAT PROPERTY IMPROPERLY RECEIVED THE BASIC STAR  
34 EXEMPTION ON ONE OR MORE OF THE SIX PRECEDING ASSESSMENT ROLLS, THE  
35 COMMISSIONER SHALL TREAT THE EXEMPTION AS AN IMPROPERLY GRANTED  
36 EXEMPTION AND PROCEED IN THE MANNER PROVIDED BY THIS SUBDIVISION;  
37 PROVIDED THAT FINAL ASSESSMENT ROLLS THAT WERE FILED PRIOR TO APRIL  
38 FIRST, TWO THOUSAND ELEVEN SHALL NOT BE SUBJECT TO THE PROVISIONS OF  
39 THIS SUBDIVISION.

40 (B) PROCEDURE. THE TAX SAVINGS ATTRIBUTABLE TO EACH SUCH IMPROPERLY  
41 GRANTED EXEMPTION SHALL BE COLLECTED FROM THE OWNERS WHOSE PROPERTY  
42 IMPROPERLY RECEIVED THE EXEMPTION FOR THE APPLICABLE YEAR, TOGETHER WITH  
43 INTEREST AND A PENALTY AS SPECIFIED IN THIS SUBDIVISION, BY UTILIZING  
44 ANY OF THE PROCEDURES FOR COLLECTION, LEVY, AND LIEN OF PERSONAL INCOME  
45 TAX SET FORTH IN ARTICLE TWENTY-TWO OF THE TAX LAW, ANY OTHER RELEVANT  
46 PROCEDURES REFERENCED WITHIN THE PROVISIONS OF THAT ARTICLE, AND ANY  
47 OTHER LAW AS MAY BE APPLICABLE, SO FAR AS PRACTICABLE WHEN RECOUPING THE  
48 EXEMPTION AMOUNT PURSUANT TO THIS SUBDIVISION, EXCEPT THAT:

49 (I) PRIOR TO DIRECTING THAT AN IMPROPERLY GRANTED EXEMPTION BE  
50 RECOUPED PURSUANT TO THIS SUBDIVISION, THE COMMISSIONER SHALL PROVIDE  
51 THE OWNERS WITH NOTICE AND AN OPPORTUNITY TO SHOW THE COMMISSIONER THAT  
52 THE EXEMPTION WAS PROPERLY GRANTED. IF THE OWNERS FAIL TO RESPOND TO  
53 SUCH NOTICE WITHIN FORTY-FIVE DAYS FROM THE MAILING THEREOF, OR IF THEIR  
54 RESPONSE DOES NOT SHOW TO THE COMMISSIONER'S SATISFACTION THAT THE

1 ELIGIBILITY REQUIREMENTS WERE IN FACT SATISFIED, THE COMMISSIONER SHALL  
2 PROCEED WITH THE RECOUPMENT OF THE IMPROPERLY GRANTED EXEMPTION IN  
3 ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION; AND

4 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION  
5 SIX OF THIS SECTION, NEITHER AN ASSESSOR NOR A BOARD OF ASSESSMENT  
6 REVIEW HAS THE AUTHORITY TO CONSIDER AN OBJECTION TO THE RECOUPMENT OF  
7 AN EXEMPTION PURSUANT TO THIS SUBDIVISION, NOR MAY SUCH AN ACTION BE  
8 REVIEWED IN A PROCEEDING TO REVIEW AN ASSESSMENT PURSUANT TO TITLE ONE  
9 OR ONE-A OF ARTICLE SEVEN OF THIS CHAPTER. SUCH AN ACTION MAY ONLY BE  
10 CHALLENGED BEFORE THE DEPARTMENT. IF AN OWNER IS DISSATISFIED WITH THE  
11 DEPARTMENT'S FINAL DETERMINATION, THE OWNER MAY APPEAL THAT DETERMI-  
12 NATION TO THE BOARD IN A FORM AND MANNER TO BE PRESCRIBED BY THE COMMIS-  
13 SIONER. SUCH APPEAL SHALL BE FILED WITHIN FORTY-FIVE DAYS FROM THE ISSU-  
14 ANCE OF THE DEPARTMENT'S FINAL DETERMINATION. IF DISSATISFIED WITH THE  
15 BOARD'S DETERMINATION, THE OWNER MAY SEEK JUDICIAL REVIEW THEREOF PURSU-  
16 ANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. THE  
17 OWNER SHALL OTHERWISE HAVE NO RIGHT TO CHALLENGE SUCH FINAL DETERMI-  
18 NATION IN A COURT ACTION, ADMINISTRATIVE PROCEEDING, INCLUDING BUT NOT  
19 LIMITED TO AN ADMINISTRATIVE PROCEEDING PURSUANT TO ARTICLE FORTY OF THE  
20 TAX LAW, OR ANY OTHER FORM OF LEGAL RECOURSE AGAINST THE COMMISSIONER,  
21 THE DEPARTMENT, THE BOARD, THE ASSESSOR, OR ANY OTHER PERSON, STATE  
22 AGENCY, OR LOCAL GOVERNMENT.

23 (C) THE AMOUNT TO BE RECOUPED FOR EACH IMPROPERLY RECEIVED EXEMPTION  
24 SHALL HAVE INTEREST ADDED AT THE RATE PRESCRIBED BY SECTION NINE HUNDRED  
25 TWENTY-FOUR-A OF THIS CHAPTER OR SUCH OTHER LAW AS MAY BE APPLICABLE FOR  
26 EACH MONTH OR PORTION THEREOF SINCE THE LEVY OF SCHOOL TAXES UPON SUCH  
27 ASSESSMENT ROLL. IN ADDITION, A PENALTY SHALL BE IMPOSED IN THE AMOUNT  
28 OF EITHER FIVE HUNDRED DOLLARS OR TWENTY PERCENT OF THE IMPROPERLY  
29 RECEIVED TAX SAVINGS, WHICHEVER IS GREATER, NOT TO EXCEED TWO THOUSAND  
30 FIVE HUNDRED DOLLARS, PROVIDED THAT THE COMMISSIONER MAY WAIVE SUCH  
31 PENALTY FOR GOOD CAUSE SHOWN.

32 (D) IN THE EVENT THAT A REVOCATION OF PRIOR EXEMPTION PURSUANT TO  
33 SUBDIVISION TWELVE OF THIS SECTION OR A VOLUNTARY RENUNCIATION OF THE  
34 STAR EXEMPTION PURSUANT TO SECTION FOUR HUNDRED NINETY-SIX OF THIS CHAP-  
35 TER HAS OCCURRED, THE PROVISIONS OF THIS SUBDIVISION SHALL NOT BE APPLI-  
36 CABLE TO THE EXEMPTIONS SO REVOKED OR VOLUNTARILY RENOUNCED.

37 S 2. This act shall take effect immediately.

38 PART F

39 Section 1. Subdivision 3 of section 97-rrr of the state finance law,  
40 as amended by section 8 of part F of chapter 109 of the laws of 2006, is  
41 amended to read as follows:

42 3. The monies in such fund shall be appropriated for school property  
43 tax exemptions [and local property tax rebates] granted pursuant to the  
44 real property tax law [and the tax law] and payable pursuant to section  
45 [thirty-six hundred nine] THIRTY-SIX HUNDRED NINE-E of the education  
46 law, AND for payments to the city of New York pursuant to section  
47 fifty-four-f of this chapter[, and pursuant to section one hundred  
48 seventy-eight of the tax law].

49 S 2. One-time relief for unenrolled registrants. (1) As used in this  
50 section, the term "unenrolled registrant" means a person who purchased  
51 or otherwise acquired a primary residence after the taxable status date  
52 for the 2013 assessment roll and who registered that property with the  
53 commissioner of taxation and finance in accordance with subdivision 14  
54 of section 425 of the real property tax law on or before the taxable

status date for the 2014 assessment roll, but who failed to file an application for the STAR exemption for that property in accordance with subdivision 6 of section 425 of the real property tax law on or before the taxable status date for the 2014 assessment roll.

(2) If the commissioner of taxation and finance is informed on or before October 1, 2015, that an owner of property is an unenrolled registrant, and if such commissioner finds that the unenrolled registrant's property would have qualified for the STAR exemption authorized by section 425 of the real property tax law on the 2014 assessment roll if a completed application had been filed with the appropriate assessor in a timely manner, then the commissioner of taxation and finance is authorized to remit directly to the property owner or owners the tax savings that the STAR exemption would have yielded if the STAR exemption had been granted on the 2014 assessment roll. When remitting such amount, the commissioner of taxation and finance shall advise the property owner or owners that such payment is subject to recovery by such commissioner if the property owner or owners do not apply for and qualify for the STAR exemption on the 2015 assessment roll, or if it should otherwise be found to have been erroneously remitted to such property owner or owners.

(3) The amounts payable under this act shall be paid from the account established for the payment of STAR benefits to late registrants pursuant to subparagraph (iii) of paragraph (a) of subdivision 14 of section 425 of the real property tax law.

(4) The provisions of part 6 of article 22 of the tax law relating to the collection of a tax imposed by such article that has been assessed and remains unpaid shall apply to the recovery authorized by subdivision two of this section of a payment found to have been erroneously made pursuant to this act to an ineligible property owner or owners in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this act except to the extent that any provision of such article is either inconsistent with a provision of this act or is not relevant to this act as determined by the commissioner of taxation and finance. Furthermore, for purposes of applying the provisions of part 6 of article 22 of the tax law, where the terms "tax" and "taxes" appear in such article, such terms shall be construed to mean "a payment or payments erroneously made pursuant to this act to an ineligible property owner or owners".

S 3. This act shall take effect immediately.

## PART G

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

(E-3) REAL PROPERTY TAX RELIEF CREDIT. (1) FOR PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO HAS OCCUPIED THE SAME RESIDENCE FOR SIX MONTHS OR MORE OF THE TAXABLE YEAR AS HIS OR HER PRIMARY RESIDENCE, AND IS REQUIRED OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE.

(B) "QUALIFIED GROSS INCOME" MEANS THE ADJUSTED GROSS INCOME OF THE QUALIFIED TAXPAYER FOR THE TAXABLE YEAR AS REPORTED FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED. IN COMPUTING QUALIFIED GROSS INCOME, THE NET AMOUNT OF LOSS REPORTED ON FEDERAL SCHEDULE C, D, E, OR F SHALL NOT EXCEED THREE THOUSAND DOLLARS PER SCHEDULE. IN

1 ADDITION, THE NET AMOUNT OF ANY OTHER SEPARATE CATEGORY OF LOSS SHALL  
2 NOT EXCEED THREE THOUSAND DOLLARS. THE AGGREGATE AMOUNT OF ALL LOSSES  
3 INCLUDED IN COMPUTING QUALIFIED GROSS INCOME SHALL NOT EXCEED FIFTEEN  
4 THOUSAND DOLLARS.

5 (C) "RESIDENCE" MEANS A DWELLING IN THIS STATE OWNED OR RENTED BY THE  
6 TAXPAYER AND USED BY THE TAXPAYER AS HIS OR HER PRIMARY RESIDENCE, AND  
7 SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE, AS IS REASON-  
8 ABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY CONSIST OF A  
9 PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A COOPER-  
10 ATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE DWELLING. RESI-  
11 DENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY FOR RESIDEN-  
12 TIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARAGRAPH (G) OF  
13 SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX  
14 LAW.

15 (D) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES,  
16 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-  
17 TIES AND INTEREST, LEVIED BY A TAXING JURISDICTION WITH A CAP-COMPLIANT  
18 BUDGET ON THE RESIDENCE OWNED AND OCCUPIED BY A QUALIFIED TAXPAYER AND  
19 PAID BY THE QUALIFIED TAXPAYER DURING THE TAXABLE YEAR, PROVIDED THAT TO  
20 THE EXTENT THE TOTAL AMOUNT OF REAL PROPERTY TAXES SO PAID INCLUDES  
21 SCHOOL DISTRICT TAXES, THE AMOUNT OF THE SCHOOL TAX RELIEF (STAR) CREDIT  
22 CLAIMED PURSUANT TO SUBSECTION (CCC) OF THIS SECTION, IF ANY, SHALL BE  
23 DEDUCTED FROM SUCH AMOUNT.

24 (I) FOR PURPOSES OF THIS SUBSECTION, A "CAP-COMPLIANT BUDGET" FOR A  
25 SCHOOL DISTRICT SUBJECT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THE  
26 EDUCATION LAW MEANS A BUDGET FOR WHICH THE CHIEF EXECUTIVE OFFICER OF  
27 SUCH SCHOOL DISTRICT HAS CERTIFIED, NO LATER THAN THE TWENTY-FIRST DAY  
28 OF THE FISCAL YEAR TO WHICH IT APPLIES, TO THE STATE COMPTROLLER, THE  
29 COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF EDUCATION,  
30 IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION  
31 WITH THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF  
32 EDUCATION, THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT  
33 PRESCRIBED BY SUCH SECTION. A "CAP-COMPLIANT BUDGET" FOR A LOCAL GOVERN-  
34 MENT SUBJECT TO SECTION THREE-C OF THE GENERAL MUNICIPAL LAW SHALL MEAN  
35 A BUDGET FOR WHICH THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF SUCH  
36 LOCAL GOVERNMENT UNIT HAS CERTIFIED, NO LATER THAN THE TWENTY-FIRST DAY  
37 OF THE FISCAL YEAR TO WHICH IT APPLIES, TO THE STATE COMPTROLLER AND THE  
38 COMMISSIONER OF TAXATION AND FINANCE, IN A FORM AND MANNER PRESCRIBED BY  
39 THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION  
40 AND FINANCE, THAT THE ADOPTED BUDGET OF SUCH LOCAL GOVERNMENT DID NOT  
41 REQUIRE, AND THE GOVERNING BODY OF SUCH LOCAL GOVERNMENT DID NOT ENACT  
42 OR APPROVE, A LOCAL LAW OR RESOLUTION TO OVERRIDE THE TAX LEVY LIMIT  
43 PRESCRIBED BY SUCH SECTION, OR, IF THE GOVERNING BODY OF THE LOCAL  
44 GOVERNMENT DID ENACT A LOCAL LAW OR APPROVE A RESOLUTION TO OVERRIDE  
45 SUCH TAX LEVY LIMIT, THAT SUCH LOCAL LAW OR RESOLUTION WAS SUBSEQUENTLY  
46 REPEALED. IF A CERTIFICATION REQUIRED BY THIS PARAGRAPH HAS BEEN MADE  
47 AND THE ACTUAL TAX LEVY OF THE TAXING JURISDICTION EXCEEDS THE APPLICA-  
48 BLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE PLACED IN RESERVE AND  
49 USED IN THE MANNER PRESCRIBED BY SUBDIVISION FIVE OF SECTION TWENTY  
50 THOUSAND TWENTY-THREE-A OF THE EDUCATION LAW OR SUBDIVISION SIX OF  
51 SECTION THREE-C OF THE GENERAL MUNICIPAL LAW, WHICHEVER IS APPLICABLE,  
52 EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN DULY AUTHOR-  
53 IZED FOR THE APPLICABLE FISCAL YEAR IN ACCORDANCE WITH SUCH SECTION.

54 (II) FOR TAX YEAR TWO THOUSAND FIFTEEN: (A) ONLY REAL PROPERTY TAXES  
55 LEVIED BY SCHOOL DISTRICTS WITH CAP-COMPLIANT BUDGETS SHALL CONSTITUTE  
56 QUALIFYING REAL PROPERTY TAXES; AND (B) FOR PROPERTY OWNERS WITH A QUAL-

IFYING RESIDENCE LOCATED IN A CITY CONTAINING A SCHOOL DISTRICT WHICH IS SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW TO ACCOUNT FOR THE FACT THAT THE SCHOOL DISTRICT IS FISCALLY DEPENDENT UPON THE CITY, REAL PROPERTY TAXES LEVIED BY SUCH SCHOOL DISTRICTS SHALL BE DETERMINED BY MULTIPLYING TOTAL REAL PROPERTY TAXES LEVIED BY A TAXING JURISDICTION WITH A CAP-COMPLIANT BUDGET AND PAID DURING THE TAXABLE YEAR BY SIXTY-SEVEN PERCENT, OR, IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, BY FIFTY PERCENT.

(III) IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE RESTRICTION IN CLAUSE (I) OF THIS SUBPARAGRAPH THAT TAXES MUST BE LEVIED BY A TAXING JURISDICTION WITH A CAP-COMPLIANT BUDGET DOES NOT APPLY. HOWEVER, REAL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES, AND SPECIAL ASSESSMENTS LEVIED BY SUCH CITY SHALL CONSTITUTE QUALIFYING REAL PROPERTY TAXES ONLY IF TAXES LEVIED IN THE STATE OUTSIDE SUCH CITY ARE REQUIRED FOR PURPOSES OF THIS CREDIT TO BE LEVIED BY TAXING JURISDICTIONS WITH CAP-COMPLIANT BUDGETS.

(IV) A QUALIFIED TAXPAYER MAY ELECT TO INCLUDE ANY ADDITIONAL AMOUNT THAT WOULD HAVE BEEN LEVIED BY A TAXING JURISDICTION AND PAID BY THE QUALIFIED TAXPAYER IN THE ABSENCE OF AN EXEMPTION FROM REAL PROPERTY TAXATION PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW. IF TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPORATION HAVE MET THE REQUIREMENTS OF SECTION TWO HUNDRED SIXTEEN OF THE INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A DEDUCTION FOR REAL ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR WHICH WOULD BE ALLOWABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH BASIS, SHALL BE QUALIFYING REAL PROPERTY TAXES. IF A RESIDENCE IS AN INTEGRAL PART OF A LARGER UNIT, QUALIFYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT AMOUNT OF SUCH TAXES PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESIDENCE. IF A TAXPAYER OWNS AND OCCUPIES TWO RESIDENCES DURING DIFFERENT PERIODS IN THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY TAXES SHALL BE THE SUM OF THE PRORATED QUALIFYING REAL PROPERTY TAXES ATTRIBUTABLE TO THE TAXPAYER DURING THE PERIODS SUCH TAXPAYER OCCUPIES EACH OF SUCH RESIDENCES. IF THE TAXPAYER OWNS AND OCCUPIES A RESIDENCE FOR PART OF THE TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME TAXABLE YEAR, IT MAY INCLUDE THE PRORATION OF QUALIFYING REAL PROPERTY TAXES ON THE RESIDENCE OWNED. PROVIDED, HOWEVER, FOR PURPOSES OF THE CREDIT ALLOWED UNDER THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY BE INCLUDED BY A QUALIFIED TAXPAYER ONLY TO THE EXTENT THAT SUCH TAXPAYER OR THE SPOUSE OF SUCH TAXPAYER, OCCUPYING SUCH RESIDENCE FOR ONE HUNDRED EIGHTY-THREE DAYS OR MORE OF THE TAXABLE YEAR, OWNS OR HAS OWNED THE RESIDENCE AND PAID SUCH TAXES.

(E) "REAL PROPERTY TAX EQUIVALENT" MEANS THIRTEEN AND THREE-QUARTERS PERCENT OF THE ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A TAXPAYER SOLELY FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH RESIDENCE, ONE OR MORE OF WHICH INDIVIDUALS SHARES SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF THIRTEEN AND THREE-QUARTERS PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR THAT REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE REAL PROPERTY TAX EQUIVALENT SHALL BE EQUAL TO SIXTY-SIX PERCENT OF THE REAL PROPERTY TAX EQUIVALENT AS OTHERWISE DEFINED IN THIS PARAGRAPH.

(F) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF A RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS OR BOARD ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THEREOF ARE NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR PURPOSES OF DETERMINING ADJUSTED RENT THE QUALIFIED TAXPAYER SHALL REDUCE RENTAL PAID AS FOLLOWS:

(I) FOR HEAT, OR HEAT AND GAS, DEDUCT SIX PERCENT OF RENTAL PAID.

(II) FOR HEAT, GAS AND ELECTRICITY, DEDUCT EIGHT PERCENT OF RENTAL PAID.

(III) FOR HEAT, GAS, ELECTRICITY AND FURNISHINGS, DEDUCT TEN PERCENT OF RENTAL PAID.

(IV) FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD, DEDUCT TWENTY PERCENT OF RENTAL PAID.

IF THE COMMISSIONER DETERMINES THAT THE ADJUSTED RENT SHOWN ON THE RETURN IS EXCESSIVE, THE COMMISSIONER MAY REDUCE SUCH RENT, FOR PURPOSES OF THE COMPUTATION OF THE CREDIT, TO AN AMOUNT SUBSTANTIALLY EQUIVALENT TO RENT FOR A COMPARABLE ACCOMMODATION.

(G) "EXCESS REAL PROPERTY TAX" MEANS THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OR THE EXCESS OF REAL PROPERTY TAX EQUIVALENT OVER THE FOLLOWING PERCENTAGE OF QUALIFIED GROSS INCOME:

FOR THE YEARS BEGINNING IN:	PERCENTAGE:
2015	3.75%
2016 AND AFTER	6.0%

(2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED, WITHOUT INTEREST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CREDIT TO BE CREDITED OR REPAYED AS AN OVERPAYMENT, WITHOUT INTEREST.

(3) DETERMINATION OF CREDIT. (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

(I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL BE FOURTEEN PERCENT.

(II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) FOURTEEN PERCENT AND (B) FIVE PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AS DEFINED BY THIS SUBSECTION AND SEVENTY-FIVE THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

(III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) NINE PERCENT AND (B) SIX PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS.

(B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

(I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME EQUALS SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL BE TWENTY-THREE PERCENT.

(II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) TWENTY-THREE PERCENT AND (B) TEN PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

(III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) THIRTEEN PERCENT AND (B) SIX PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS.

(C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

(I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL BE THIRTY-SIX PERCENT.

(II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) THIRTY-SIX PERCENT AND (B) NINE PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

(III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) TWENTY-SEVEN PERCENT AND (B) SEVENTEEN PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS.

(D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

(I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL BE FIFTY PERCENT.

(II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFERENCE BETWEEN (A) FIFTY PERCENT AND (B) TEN PERCENT MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED



1 TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE THOUSAND DOLLARS, AND  
2 THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

3 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
4 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO  
5 HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE  
6 DIFFERENCE BETWEEN (A) FORTY PERCENT AND (B) TWENTY-FIVE PERCENT MULTI-  
7 PLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN  
8 THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY  
9 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND  
10 DOLLARS.

11 (4) MAXIMUM CREDIT FOR PROPERTY OWNERS. NOTWITHSTANDING THE PROVISIONS  
12 OF PARAGRAPH THREE OF THIS SUBSECTION, THE MAXIMUM CREDIT DETERMINED  
13 UNDER SUCH PARAGRAPH, AND THEREBY ALLOWED UNDER THIS SUBSECTION, SHALL  
14 NOT EXCEED THE AMOUNT CALCULATED UNDER THIS PARAGRAPH, FOR EACH RESPEC-  
15 TIVE YEAR AS INDICATED.

16 (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
17 SAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE MAXIMUM  
18 CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL BE CALCULATED AS  
19 FOLLOWS:

20 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS  
21 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL  
22 BE FIVE HUNDRED DOLLARS.

23 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
24 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED  
25 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-  
26 ENCE BETWEEN (A) FIVE HUNDRED DOLLARS AND (B) ONE HUNDRED FIFTY DOLLARS  
27 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE  
28 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE  
29 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND  
30 DOLLARS.

31 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
32 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO  
33 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE  
34 DIFFERENCE BETWEEN (A) THREE HUNDRED FIFTY DOLLARS AND (B) ONE HUNDRED  
35 FIFTY DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
36 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND  
37 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE  
38 HUNDRED THOUSAND DOLLARS.

39 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
40 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE MAXI-  
41 MUM CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL BE CALCULATED AS  
42 FOLLOWS:

43 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS  
44 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL  
45 BE ONE THOUSAND DOLLARS.

46 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
47 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED  
48 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-  
49 ENCE BETWEEN (A) ONE THOUSAND DOLLARS AND (B) TWO HUNDRED FIFTY DOLLARS  
50 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE  
51 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE  
52 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND  
53 DOLLARS.

54 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
55 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO  
56 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE

1 DIFFERENCE BETWEEN (A) SEVEN HUNDRED FIFTY DOLLARS AND (B) TWO HUNDRED  
2 FIFTY DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
3 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND  
4 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE  
5 HUNDRED THOUSAND DOLLARS.

6 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
7 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE  
8 MAXIMUM CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL BE CALCULATED  
9 AS FOLLOWS:

10 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS  
11 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL  
12 BE ONE THOUSAND SIX HUNDRED DOLLARS.

13 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
14 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED  
15 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-  
16 ENCE BETWEEN (A) ONE THOUSAND SIX HUNDRED DOLLARS AND (B) FOUR HUNDRED  
17 DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFER-  
18 ENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVEN-  
19 TY-FIVE THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE  
20 THOUSAND DOLLARS.

21 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
22 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO  
23 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE  
24 DIFFERENCE BETWEEN (A) ONE THOUSAND TWO HUNDRED DOLLARS AND (B) FOUR  
25 HUNDRED DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
26 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND  
27 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE  
28 HUNDRED THOUSAND DOLLARS.

29 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
30 SAND EIGHTEEN, THE MAXIMUM CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION  
31 SHALL BE CALCULATED AS FOLLOWS:

32 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME EQUALS SEVEN-  
33 TY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL BE  
34 TWO THOUSAND DOLLARS.

35 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
36 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED  
37 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-  
38 ENCE BETWEEN (A) TWO THOUSAND DOLLARS AND (B) FIVE HUNDRED DOLLARS  
39 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE  
40 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE  
41 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND  
42 DOLLARS.

43 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER  
44 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO  
45 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE  
46 DIFFERENCE BETWEEN (A) ONE THOUSAND FIVE HUNDRED DOLLARS AND (B) FIVE  
47 HUNDRED DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
48 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND  
49 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE  
50 HUNDRED THOUSAND DOLLARS.

51 (5) MAXIMUM CREDIT FOR TENANTS. NOTWITHSTANDING THE PROVISIONS OF  
52 PARAGRAPH THREE OF THIS SUBSECTION, FOR A QUALIFIED TAXPAYER WHO PAID  
53 RENT ON HIS OR HER QUALIFYING RESIDENCE THE MAXIMUM CREDIT DETERMINED  
54 UNDER PARAGRAPH THREE OF THIS SUBSECTION, AND THEREBY ALLOWED UNDER THIS  
55 SUBSECTION, SHALL NOT EXCEED THE AMOUNT CALCULATED UNDER THIS PARAGRAPH,  
56 FOR EACH RESPECTIVE YEAR AS INDICATED.

1 (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
2 SAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN AND QUALIFY-  
3 ING RESIDENCES LOCATED IN:

4 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-  
5 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT  
6 ALLOWED SHALL BE TWO HUNDRED DOLLARS;

7 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT ALLOWED SHALL  
8 BE ONE HUNDRED FIFTY DOLLARS.

9 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
10 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN AND QUALI-  
11 FYING RESIDENCES LOCATED IN:

12 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-  
13 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT  
14 ALLOWED SHALL BE FIVE HUNDRED DOLLARS;

15 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT ALLOWED SHALL  
16 BE THREE HUNDRED SEVENTY-FIVE DOLLARS.

17 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
18 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN AND QUAL-  
19 IFYING RESIDENCES LOCATED IN:

20 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-  
21 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT  
22 ALLOWED SHALL BE SIX HUNDRED FIFTY DOLLARS;

23 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT ALLOWED SHALL  
24 BE FOUR HUNDRED FIFTY DOLLARS.

25 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
26 SAND EIGHTEEN AND QUALIFYING RESIDENCES LOCATED IN:

27 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-  
28 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT  
29 ALLOWED SHALL BE SEVEN HUNDRED FIFTY DOLLARS;

30 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT SHALL BE FIVE  
31 HUNDRED DOLLARS.

32 (6) IF A QUALIFIED TAXPAYER OCCUPIES A RESIDENCE FOR A PERIOD OF LESS  
33 THAN TWELVE MONTHS DURING THE TAXABLE YEAR OR OCCUPIES TWO RESIDENCES  
34 DURING DIFFERENT PERIODS IN SUCH TAXABLE YEAR, THE CREDIT ALLOWED PURSU-  
35 ANT TO THIS SUBSECTION SHALL BE COMPUTED IN SUCH MANNER AS THE COMMIS-  
36 SIONER MAY, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT THE  
37 CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESIDENCES  
38 AND SUCH PERIOD OR PERIODS.

39 (7) THE COMMISSIONER MAY PRESCRIBE THAT THE CREDIT UNDER THIS  
40 SUBSECTION SHALL BE DETERMINED IN WHOLE OR IN PART BY THE USE OF TABLES  
41 PRESCRIBED BY SUCH COMMISSIONER. SUCH TABLES SHALL SET FORTH THE CREDIT  
42 TO THE NEAREST DOLLAR.

43 (8) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

44 (A) TO A PROPERTY OWNER IF QUALIFIED GROSS INCOME FOR THE TAXABLE YEAR  
45 EXCEEDS TWO HUNDRED FIFTY THOUSAND DOLLARS.

46 (B) TO A TENANT IF QUALIFIED GROSS INCOME FOR THE TAXABLE YEAR EXCEEDS  
47 ONE HUNDRED FIFTY THOUSAND DOLLARS.

48 (C) TO A PROPERTY OWNER UNLESS: (I) THE PROPERTY IS USED FOR RESIDEN-  
49 TIAL PURPOSES; (II) NOT MORE THAN TWENTY PERCENT OF THE RENTAL INCOME,  
50 IF ANY, FROM THE PROPERTY IS FROM RENTAL FOR NONRESIDENTIAL PURPOSES;  
51 AND (III) THE PROPERTY IS OCCUPIED AS A RESIDENCE IN WHOLE OR IN PART BY  
52 ONE OR MORE OF THE OWNERS OF THE PROPERTY.

53 (D) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SUBSECTION

54 (C) OF SECTION ONE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE IS  
55 ALLOWABLE TO ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

1 (E) WITH RESPECT TO A RESIDENCE THAT IS WHOLLY EXEMPTED FROM REAL  
2 PROPERTY TAXATION.

3 (F) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF THE STATE FOR  
4 THE ENTIRE TAXABLE YEAR.

5 (G) IN A TAXABLE YEAR IN WHICH (I) AS APPLICABLE TO A SCHOOL DISTRICT  
6 SUBJECT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THE EDUCATION LAW,  
7 SUCH SECTION IS NOT IN EFFECT; AND (II) AS APPLICABLE TO A LOCAL GOVERN-  
8 MENT SUBJECT TO SECTION THREE-C OF THE GENERAL MUNICIPAL LAW, SUCH  
9 SECTION IS NOT IN EFFECT.

10 (9) THE RIGHT TO CLAIM A CREDIT OR THE PORTION OF A CREDIT, WHERE SUCH  
11 CREDIT HAS BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE PERSONAL TO THE  
12 QUALIFIED TAXPAYER AND SHALL NOT SURVIVE HIS OR HER DEATH, BUT SUCH  
13 RIGHT MAY BE EXERCISED ON BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUAR-  
14 DIAN OR ATTORNEY IN FACT DURING HIS OR HER LIFETIME.

15 (10) IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT  
16 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A CREDIT  
17 MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS  
18 FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSU-  
19 ANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR ENDING  
20 ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH  
21 FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHO SHALL MAKE AVAIL-  
22 ABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

23 (11) THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER TO FURNISH THE  
24 FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER  
25 THIS SUBSECTION: QUALIFIED GROSS INCOME; REAL PROPERTY TAXES LEVIED OR  
26 THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION FROM REAL  
27 PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL  
28 PROPERTY TAX LAW; AND ALL OTHER INFORMATION WHICH MAY BE REQUIRED BY THE  
29 COMMISSIONER TO DETERMINE THE CREDIT.

30 (12) THE PROVISIONS OF THIS ARTICLE, INCLUDING THE PROVISIONS OF  
31 SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT, AND SIX  
32 HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE PROVISIONS OF PART SIX OF  
33 THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE  
34 JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH OF  
35 SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A CLAIM  
36 FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARA-  
37 GRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEV-  
38 EN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS ARTICLE,  
39 SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND  
40 WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS  
41 HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY  
42 REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION,  
43 EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH  
44 A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS  
45 USED IN SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A  
46 QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE  
47 PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED NINETY-SEVEN OF THIS  
48 ARTICLE, WHERE A QUALIFIED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM  
49 FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR  
50 REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS NOT EXPIRED, HE OR SHE  
51 SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER,  
52 RECEIVE SUCH INFORMATION WHICH THE COMMISSIONER FINDS IS RELEVANT AND  
53 MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY DENIED.

54 (13) THE COMMISSIONER SHALL PREPARE A WRITTEN REPORT AFTER DECEMBER  
55 THIRTY-FIRST OF EACH CALENDAR YEAR, WHICH SHALL CONTAIN STATISTICAL  
56 INFORMATION REGARDING THE CREDITS GRANTED ON OR BEFORE SUCH DATES UNDER

1 THIS SUBSECTION DURING SUCH CALENDAR YEAR. COPIES OF THE REPORT SHALL BE  
2 SUBMITTED BY THE COMMISSIONER TO THE GOVERNOR, THE TEMPORARY PRESIDENT  
3 OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIRMAN OF THE SENATE  
4 FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS  
5 COMMITTEE WITHIN FORTY-FIVE DAYS OF DECEMBER THIRTY-FIRST. SUCH REPORT  
6 SHALL CONTAIN, BUT NEED NOT BE LIMITED TO, THE NUMBER OF CREDITS AND THE  
7 AVERAGE AMOUNT OF SUCH CREDITS ALLOWED; AND OF THOSE, THE NUMBER OF  
8 CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED  
9 TAXPAYERS IN EACH COUNTY; AND OF THOSE, THE NUMBER OF CREDITS AND THE  
10 AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE  
11 QUALIFIED GROSS INCOME FALLS WITHIN EACH OF THE QUALIFIED GROSS INCOME  
12 RANGES SET FORTH IN THIS SUBSECTION.

13 (14) IN THE CASE OF A TAXPAYER WHO HAS ITEMIZED DEDUCTIONS FROM FEDER-  
14 AL ADJUSTED GROSS INCOME, AND WHOSE FEDERAL ITEMIZED DEDUCTIONS INCLUDE  
15 AN AMOUNT FOR REAL ESTATE TAXES PAID, THE NEW YORK ITEMIZED DEDUCTION  
16 OTHERWISE ALLOWABLE UNDER SECTION 615 OF THIS CHAPTER SHALL BE REDUCED  
17 BY THE AMOUNT OF THE CREDIT CLAIMED UNDER THIS SUBSECTION.

18 S 2. This act shall take effect immediately and shall apply to taxable  
19 years beginning on or after January 1, 2015.

20

## PART H

21 Section 1. Subsection (g) of section 615 of the tax law, as amended by  
22 section 1 of part D of chapter 59 of the laws of 2013, is amended to  
23 read as follows:

24 (g)(1) With respect to an individual whose New York adjusted gross  
25 income is over one million dollars and no more than ten million dollars,  
26 the New York itemized deduction shall be an amount equal to fifty  
27 percent of any charitable contribution deduction allowed under section  
28 one hundred seventy of the internal revenue code for taxable years  
29 beginning after two thousand nine [and before two thousand sixteen].  
30 With respect to an individual whose New York adjusted gross income is  
31 over one million dollars, the New York itemized deduction shall be an  
32 amount equal to fifty percent of any charitable contribution deduction  
33 allowed under section one hundred seventy of the internal revenue code  
34 for taxable years beginning in two thousand nine [or after two thousand  
35 fifteen].

36 (2) With respect to an individual whose New York adjusted gross income  
37 is over ten million dollars, the New York itemized deduction shall be an  
38 amount equal to twenty-five percent of any charitable contribution  
39 deduction allowed under section one hundred seventy of the internal  
40 revenue code for taxable years beginning after two thousand nine [and  
41 ending before two thousand sixteen].

42 S 2. Subdivision (g) of section 11-1715 of the administrative code of  
43 the city of New York, as added by section 2 of part D of chapter 59 of  
44 the laws of 2013, is amended to read as follows:

45 (g) (1) With respect to an individual whose New York adjusted gross  
46 income is over one million dollars but no more than ten million dollars,  
47 the New York itemized deduction shall be an amount equal to fifty  
48 percent of any charitable contribution deduction allowed under section  
49 one hundred seventy of the internal revenue code for taxable years  
50 beginning after two thousand nine [and before two thousand sixteen].  
51 With respect to an individual whose New York adjusted gross income is  
52 over one million dollars, the New York itemized deduction shall be an  
53 amount equal to fifty percent of any charitable contribution deduction  
54 allowed under section one hundred seventy of the internal revenue code

for taxable years beginning in two thousand nine [or after two thousand fifteen].

(2) With respect to an individual whose New York adjusted gross income is over ten million dollars, the New York itemized deduction shall be an amount equal to twenty-five percent of any charitable contribution deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning after two thousand nine [and ending before two thousand sixteen].

S 3. This act shall take effect immediately.

## PART I

Section 1. Paragraph 41 of subsection (c) of section 612 of the tax law, as added by section 1 of part KK of chapter 59 of the laws of 2014, is amended to read as follows:

(41) The amount of any award paid to a volunteer firefighter or volunteer ambulance worker from a length of service defined contribution plan or defined benefit plan as provided for in articles eleven-A, eleven-AA, eleven-AAA and eleven-AAAA of the general municipal law, to the extent that such award is includable in gross income for federal income tax purposes; provided, however, that such award is not distributed in the form of a lump sum distribution, as defined in subparagraph [(A)] (D) of paragraph four of subsection (e) of section four hundred two of the internal revenue code and taxed under section six hundred three of this article; and provided, further, that such award is not distributed to a taxpayer who has not attained the age of fifty-nine and one-half years.

S 2. Paragraph 37 of subdivision (c) of section 11-1712 of the administrative code of the city of New York, as added by section 2 of part KK of chapter 59 of the laws of 2014, is amended to read as follows:

(37) The amount of any award paid to a volunteer firefighter or volunteer ambulance worker from a length of service defined contribution plan or defined benefit plan as provided for in articles eleven-A, eleven-AA, eleven-AAA and eleven-AAAA of the general municipal law, to the extent that such award is includable in gross income for federal income tax purposes; provided, however, that such award is not distributed in the form of a lump sum distribution, as defined in subparagraph [(A)] (D) of paragraph four of subsection (e) of section four hundred two of the internal revenue code and taxed under section six hundred three of the tax law; and provided, further, that such award is not distributed to a taxpayer who has not attained the age of fifty-nine and one-half years.

S 3. Paragraph 3-a of subsection (c) of section 612 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

(3-a) Pensions and annuities received by an individual who has attained the age of fifty-nine and one-half, not otherwise excluded pursuant to paragraph three of this subsection, to the extent includible in gross income for federal income tax purposes, but not in excess of twenty thousand dollars, which are periodic payments attributable to personal services performed by such individual prior to his retirement from employment, which arise (i) from an employer-employee relationship or (ii) from contributions to a retirement plan which are deductible for federal income tax purposes. However, the term "pensions and annuities" shall also include distributions received by an individual who has attained the age of fifty-nine and one-half from an individual retirement account or an individual retirement annuity, as defined in section four hundred eight of the internal revenue code, and distributions

1 received by an individual who has attained the age of fifty-nine and  
2 one-half from self-employed individual and owner-employee retirement  
3 plans which qualify under section four hundred one of the internal  
4 revenue code, whether or not the payments are periodic in nature. Never-  
5 theless, the term "pensions and annuities" shall not include any lump  
6 sum distribution, as defined in subparagraph [(A)] (D) of paragraph four  
7 of subsection (e) of section four hundred two of the internal revenue  
8 code and taxed under section six hundred three of this article. Where a  
9 husband and wife file a joint state personal income tax return, the  
10 modification provided for in this paragraph shall be computed as if they  
11 were filing separate state personal income tax returns. Where a payment  
12 would otherwise come within the meaning of the term "pensions and annui-  
13 ties" as set forth in this paragraph, except that such individual is  
14 deceased, such payment shall, nevertheless, be treated as a pension or  
15 annuity for purposes of this paragraph if such payment is received by  
16 such individual's beneficiary.

17 S 4. Subparagraph (B) of paragraph 1 of subsection (e-1) of section  
18 606 of the tax law, as added by section 2 of part K of chapter 59 of the  
19 laws of 2014, is amended to read as follows:

20 (B) "Household" or "members of the household" means a qualified  
21 taxpayer and all other persons, not necessarily related, who have the  
22 same residence and share its furnishings, facilities and accommodations.  
23 Such terms shall not include a tenant, subtenant, roomer or boarder who  
24 is not related to the qualified taxpayer in any degree specified in  
25 [paragraphs one through eight of subsection (a)] SUBPARAGRAPHS (A)  
26 THROUGH (G) OF PARAGRAPH TWO OF SUBSECTION (D) of section one hundred  
27 fifty-two of the internal revenue code. Provided, however, no person may  
28 be a member of more than one household at one time.

29 S 5. Subparagraph (D) of paragraph 1 of subsection (e-1) of section  
30 606 of the tax law, as added by section 2 of part K of chapter 59 of the  
31 laws of 2014, is amended to read as follows:

32 (D) "Residence" means a dwelling in this state, IN A CITY WITH A POPU-  
33 LATION OF OVER ONE MILLION, owned or rented by the taxpayer, and so much  
34 of the land abutting it, not exceeding one acre, as is reasonably neces-  
35 sary for use of the dwelling as a home, and may consist of a part of a  
36 multi-dwelling or multi-purpose building including a cooperative or  
37 condominium, and rental units within a single dwelling. Residence  
38 includes a trailer or mobile home, used exclusively for residential  
39 purposes and defined as real property pursuant to paragraph (g) of  
40 subdivision twelve of section one hundred two of the real property tax  
41 law.

42 S 6. Subparagraph (B) of paragraph 1 of subsection (e) of section 606  
43 of the tax law, as amended by chapter 28 of the laws of 1987, is amended  
44 to read as follows:

45 (B) "Household" or "members of the household" means a qualified  
46 taxpayer and all other persons, not necessarily related, who have the  
47 same residence and share its furnishings, facilities and accommodations.  
48 Such terms shall not include a tenant, subtenant, roomer or boarder who  
49 is not related to the qualified taxpayer in any degree specified in  
50 [paragraphs one through eight of subsection (a)] SUBPARAGRAPHS (A)  
51 THROUGH (G) OF PARAGRAPH TWO OF SUBSECTION (D) of section one hundred  
52 fifty-two of the internal revenue code. Provided, however, no person may  
53 be a member of more than one household at one time.

54 S 7. Paragraph 1 of subsection (b) of section 806 of the tax law, as  
55 added by section 2 of part DD of chapter 59 of the laws of 2014, is  
56 amended to read as follows:

(1) The commissioner may require the filing of a combined return which, in addition to the return provided for in subsection (b) of section eight hundred four of this article, may also include any of the returns required to be filed by a [resident individual of New York state] TAXPAYER pursuant to the provisions of section six hundred fifty-one of this chapter and which may be required to be filed by such [individual] TAXPAYER pursuant to any local law enacted pursuant to the authority of article thirty, thirty-A or thirty-B of this chapter.

S 8. Paragraph 1 and clause (ii) of subparagraph (B) of paragraph 2 of subsection (xx) of section 606 of the tax law, as added by section 4 of part R of chapter 59 of the laws of 2014, are amended to read as follows:

(1) A qualified New York manufacturer will be allowed a credit equal to twenty percent of the real property tax it paid during the taxable year for real property owned by such manufacturer in New York which was principally used during the taxable year for manufacturing to the extent not deducted in computing [federal] NEW YORK adjusted gross income. This credit will not be allowed if the real property taxes that are the basis for this credit are included in the calculation of another credit claimed by the taxpayer.

(ii) In addition, the term real property tax includes taxes paid by the taxpayer upon real property principally used during the taxable year by the taxpayer in manufacturing where the taxpayer leases such real property from an unrelated third party if the following conditions are satisfied: (I) the tax must be paid by the taxpayer as lessee pursuant to explicit requirements in a written lease, and (II) the taxpayer as lessee has paid such taxes directly to the taxing authority and has received a written receipt for payment of taxes from the taxing authority. [In the case of a combined group that constitutes a qualified New York manufacturer, the conditions in the preceding sentence are satisfied if one corporation in the combined group is the lessee and another corporation in the combined group makes the payments to the taxing authority.]

S 9. Subsection (yy) of section 606 of the tax law, as added by section 4 of part T of chapter 59 of the laws of 2014, is amended to read as follows:

(yy) The tax-free NY area excise tax on telecommunication services credit. A taxpayer that is a business or owner of a business that is located in a tax-free NY area approved pursuant to article twenty-one of the economic development law shall be allowed a credit equal to the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter and passed through to such business during the taxable year to the extent not otherwise deducted in computing [federal] NEW YORK adjusted gross income. This credit may be claimed only where any tax imposed by such section one hundred eighty-six-e has been separately stated on a bill from the provider of telecommunication services and paid by such taxpayer with respect to such services rendered within a tax-free NY area during the taxable year. If the amount of the credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

S 10. Subparagraph (i) of paragraph 2 of subdivision (b) and subdivision (d) of section 25-b of the labor law, as added by section 1 of part MM of chapter 59 of the laws of 2014, are amended to read as follows:



(i) who is deemed to have a developmental disability, as that term is defined in subdivision twenty-two of section 1.03 of the mental hygiene law and who is certified by the education department or the office for people with developmental disabilities[:

(A)] as a person with a disability which constitutes or results in a substantial handicap to employment; and

[(B) as a person having completed or as receiving services under an individualized written rehabilitation plan approved by the education department or other state agency responsible for providing vocational rehabilitation services to such individual; and]

(d) To participate in the [developmentally disabled works] WORKERS WITH DISABILITIES tax credit program, an employer must submit an application (in a form prescribed by the commissioner) to the commissioner [no later than November thirtieth of the prior year]. The commissioner shall establish guidelines that specify requirements for employers to participate in the program including criteria for certifying qualified employees. Any regulations that the commissioner determines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state administrative procedure act. Such requirements may include the types of industries that the employers are engaged in.

S 11. This act shall take effect immediately, provided, however that:

(i) sections one and two of this act shall be deemed to have been in full force and effect on and after the effective date of part KK of chapter 59 of the laws of 2014;

(ii) sections four and five of this act shall be deemed to have been in full force and effect on and after the effective date of part K of chapter 59 of the laws of 2014, provided, however, that amendments to subsection (e-1) of section 606 of the tax law made by sections four and five of this act shall not affect the repeal of such subsection and shall be deemed repealed therewith;

(iii) section seven of this act shall be deemed to have been in full force and effect on and after the effective date of part DD of chapter 59 of the laws of 2014;

(iv) section eight of this act shall be deemed to have been in full force and effect on and after the effective date of part R of chapter 59 of the laws of 2014;

(v) section nine of this act shall be deemed to have been in full force and effect on and after the effective date of part T of chapter 59 of the laws of 2014;

(vi) section ten of this act shall be deemed to have been in full force and effect on and after the effective date of part MM of chapter 59 of the laws of 2014; and

(vii) the amendments to section 25-b of the labor law made by section ten of this act, shall not affect the repeal of such section and shall be deemed repealed therewith.

47

## PART J

48 Section 1. Section 9 of part V of chapter 62 of the laws of 2006,  
49 amending the tax law relating to the empire state commercial production  
50 tax credit, is REPEALED.

51 S 2. Subdivision (c) of section 28 of the tax law, as amended by  
52 section 45 of part A of chapter 59 of the laws of 2014, is relettered  
53 subdivision (d) and a new subdivision (c) is added to read as follows:

(C) THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL SUBMIT, ON OR BEFORE DECEMBER FIRST OF EACH YEAR, TO THE GOVERNOR, THE DIRECTOR OF THE DIVISION OF THE BUDGET, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY AN ANNUAL REPORT INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING INFORMATION REGARDING THE PREVIOUS CALENDAR YEAR:

(1) THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE NAME AND ADDRESS OF EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY ALLOCATED CREDITS UNDER THIS SECTION, THE TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY, THE TOTAL AMOUNT OF QUALIFIED PRODUCTION COSTS AND PRODUCTION COSTS FOR EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY, AND THE ESTIMATED NUMBER OF EMPLOYEES, CREDIT-ELIGIBLE MAN HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCIATED WITH EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY ALLOCATED CREDITS UNDER THIS SECTION;

(2) FOR QUALIFIED COMMERCIAL PRODUCTION COMPANIES THAT WERE ALLOCATED CREDIT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION: THE NAME AND ADDRESS OF EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY, THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY, TOTAL QUALIFIED PRODUCTION COSTS AND PRODUCTION COSTS FOR EACH QUALIFIED PRODUCTION COMPANY, AND THE ESTIMATED NUMBER OF EMPLOYEES, CREDIT-ELIGIBLE MAN HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCIATED WITH EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY THAT FILMED OR RECORDED A QUALIFIED COMMERCIAL WITHIN THE DISTRICT;

(3) FOR QUALIFIED COMMERCIAL PRODUCTION COMPANIES THAT WERE ALLOCATED CREDIT PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION: THE NAME AND ADDRESS OF EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY, THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY, TOTAL QUALIFIED PRODUCTION COSTS AND PRODUCTION COSTS FOR EACH QUALIFIED PRODUCTION COMPANY, AND THE ESTIMATED NUMBER OF EMPLOYEES, CREDIT-ELIGIBLE MAN HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCIATED WITH EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY THAT FILMED OR RECORDED A QUALIFIED COMMERCIAL OUTSIDE THE DISTRICT; AND

(4) THE AMOUNT OF CREDITS REALLOCATED TO ALL ELIGIBLE QUALIFIED COMMERCIAL PRODUCTION COMPANIES PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION.

(5) THE REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS FOR CHANGES IN THE CALCULATION OR ADMINISTRATION OF THE CREDIT, RECOMMENDATIONS REGARDING CONTINUING MODIFICATION OR REPEAL OF THIS CREDIT, AND ANY OTHER INFORMATION REGARDING THIS CREDIT AS MAY BE USEFUL AND APPROPRIATE.

S 3. This act shall take effect immediately with the first report being due December 1, 2016, with regard to credits allocated in calendar year 2015.

#### PART K

Section 1. Subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 of section 352 of the economic development law, as added by section 1 of part MM of chapter 59 of the laws of 2010, subdivision 12 as amended by section 1 of part G of chapter 61 of the laws of 2011, are amended to read as follows:

7. "ENTERTAINMENT COMPANY" MEANS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY PRINCIPALLY ENGAGED IN THE PRODUCTION OR POST PRODUCTION OF (I) MOTION PICTURES, WHICH SHALL INCLUDE FEATURE-LENGTH FILMS AND TELEVISION FILMS, (II) INSTRUCTIONAL VIDEOS, (III) TELEVISED COMMERCIAL ADVERTISEMENTS, (IV) ANIMATED FILMS OR

1 CARTOONS, (V) MUSIC VIDEOS, (VI) TELEVISION PROGRAMS, WHICH SHALL  
2 INCLUDE, BUT NOT BE LIMITED TO, TELEVISION SERIES, TELEVISION PILOTS,  
3 AND SINGLE TELEVISION EPISODES, (VII) VIDEO GAMES, OTHER THAN THOSE  
4 EMBEDDED AND USED EXCLUSIVELY IN ADVERTISING, PROMOTIONAL WEBSITES OR  
5 MICROSITES, OR (VIII) PROGRAMS PRIMARILY INTENDED FOR RADIO BROADCAST.  
6 "ENTERTAINMENT COMPANY" SHALL NOT INCLUDE AN ENTITY (I) PRINCIPALLY  
7 ENGAGED IN THE LIVE PERFORMANCE OF EVENTS, INCLUDING, BUT NOT LIMITED  
8 TO, THEATRICAL PRODUCTIONS, CONCERTS, CIRCUSES, AND SPORTING EVENTS,  
9 (II) PRINCIPALLY ENGAGED IN THE PRODUCTION OF CONTENT INTENDED PRIMARILY  
10 FOR INDUSTRIAL, CORPORATE OR INSTITUTIONAL END-USERS, (III) PRINCIPALLY  
11 ENGAGED IN THE PRODUCTION OF FUNDRAISING FILMS OR PROGRAMS, OR (IV)  
12 ENGAGED IN THE PRODUCTION OF CONTENT FOR WHICH RECORDS ARE REQUIRED  
13 UNDER SECTION 2257 OF TITLE 18, UNITED STATES CODE, TO BE MAINTAINED  
14 WITH RESPECT TO ANY PERFORMER IN SUCH PRODUCTION.

15 8. "Financial services data centers or financial services customer  
16 back office operations" means operations that manage the data or  
17 accounts of existing customers or provide product or service information  
18 and support to customers of financial services companies, including  
19 banks, other lenders, securities and commodities brokers and dealers,  
20 investment banks, portfolio managers, trust offices, and insurance  
21 companies.

22 [8.] 9. "Investment zone" shall mean an area within the state that had  
23 been designated under paragraph (i) of subdivision (a) and subdivision  
24 (d) of section nine hundred fifty-eight of the general municipal law  
25 that was wholly contained within up to four distinct and separate  
26 contiguous areas as of the date immediately preceding the date the  
27 designation of such area expired pursuant to section nine hundred  
28 sixty-nine of the general municipal law.

29 [9.] 10. "Manufacturing" means the process of working raw materials  
30 into products suitable for use or which gives new shapes, new quality or  
31 new combinations to matter which has already gone through some artifi-  
32 cial process by the use of machinery, tools, appliances, or other simi-  
33 lar equipment. "Manufacturing" does not include an operation that  
34 involves only the assembly of components, provided, however, the assem-  
35 bly of motor vehicles or other high value-added products shall be  
36 considered manufacturing.

37 [10.] 11. "Net new jobs" means [jobs created in this state that]:

38 (a) JOBS CREATED IN THIS STATE THAT (I) are new to the state[;],

39 [(b)] (II) have not been transferred from employment with another  
40 business located in this state including from a related person in this  
41 state[;],

42 [(c)] (III) are either full-time wage-paying jobs or equivalent to a  
43 full-time wage-paying job requiring at least thirty-five hours per  
44 week[;], and

45 [(d)] (IV) are filled for more than six months[.]; OR

46 (B) JOBS OBTAINED BY AN ENTERTAINMENT COMPANY IN THIS STATE (I) AS A  
47 RESULT OF THE TERMINATION OF A LICENSING AGREEMENT WITH ANOTHER ENTER-  
48 TAINMENT COMPANY, (II) THAT THE COMMISSIONER DETERMINES TO BE AT RISK OF  
49 LEAVING THE STATE AS A DIRECT RESULT OF THE TERMINATION, (III) THAT ARE  
50 EITHER FULL-TIME WAGE-PAYING JOBS OR EQUIVALENT TO A FULL-TIME WAGE-PAY-  
51 ING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK, AND (IV) THAT ARE  
52 FILLED FOR MORE THAN SIX MONTHS.

53 [11.] 12. "Participant" means a business entity that:

54 (a) has completed an application prescribed by the department to be  
55 admitted into the program;

56 (b) has been issued a certificate of eligibility by the department;

1 (c) has demonstrated that it meets the eligibility criteria in section  
2 three hundred fifty-three and subdivision two of section three hundred  
3 fifty-four of this article; and

4 (d) has been certified as a participant by the commissioner.

5 [12.] 13. "Preliminary schedule of benefits" means the maximum aggre-  
6 gate amount of each component of the tax credit that a participant in  
7 the excelsior jobs program is eligible to receive pursuant to this arti-  
8 cle. The schedule shall indicate the annual amount of each component of  
9 the credit a participant may claim in each of its ten years of eligibil-  
10 ity. The preliminary schedule of benefits shall be issued by the  
11 department when the department approves the application for admission  
12 into the program. The commissioner may amend that schedule, provided  
13 that the commissioner complies with the credit caps in section three  
14 hundred fifty-nine of this article.

15 [13.] 14. "Qualified investment" means an investment in tangible prop-  
16 erty (including a building or a structural component of a building)  
17 owned by a business enterprise which:

18 (a) is depreciable pursuant to section one hundred sixty-seven of the  
19 internal revenue code;

20 (b) has a useful life of four years or more;

21 (c) is acquired by purchase as defined in section one hundred seven-  
22 ty-nine (d) of the internal revenue code;

23 (d) has a situs in this state; and

24 (e) is placed in service in the state on or after the date the certif-  
25 icate of eligibility is issued to the business enterprise.

26 [14.] 15. "Regionally significant project" means (a) a manufacturer  
27 creating at least fifty net new jobs in the state and making significant  
28 capital investment in the state; (b) a business creating at least twenty  
29 net new jobs in agriculture in the state and making significant capital  
30 investment in the state, (c) a financial services firm, distribution  
31 center, or back office operation creating at least three hundred net new  
32 jobs in the state and making significant capital investment in the  
33 state, [or] (d) a scientific research and development firm creating at  
34 least twenty net new jobs in the state, and making significant capital  
35 investment in the state OR (E) AN ENTERTAINMENT COMPANY CREATING OR  
36 OBTAINING AT LEAST TWO HUNDRED NET NEW JOBS IN THE STATE AND MAKING  
37 SIGNIFICANT CAPITAL INVESTMENT IN THE STATE. Other businesses creating  
38 three hundred or more net new jobs in the state and making significant  
39 capital investment in the state may be considered eligible as a  
40 regionally significant project by the commissioner as well. The commis-  
41 sioner shall promulgate regulations pursuant to section three hundred  
42 fifty-six of this article to determine what constitutes significant  
43 capital investment for each of the project categories indicated in this  
44 subdivision and what additional criteria a business must meet to be  
45 eligible as a regionally significant project, including, but not limited  
46 to, whether a business exports a substantial portion of its products or  
47 services outside of the state or outside of a metropolitan statistical  
48 area or county within the state.

49 [15.] 16. "Related person" means a "related person" pursuant to  
50 subparagraph (c) of paragraph three of subsection (b) of section four  
51 hundred sixty-five of the internal revenue code.

52 [16.] 17. "Remuneration" means wages and benefits paid to an employee  
53 by a participant in the excelsior jobs program.

54 [17.] 18. "Research and development expenditures" mean the expenses of  
55 the business enterprise that are qualified research expenses under the  
56 federal research and development credit under section forty-one of the

1 internal revenue code and are attributable to activities conducted in  
2 the state. If the federal research and development credit has expired,  
3 then the research and development expenditures shall be calculated as if  
4 the federal research and development credit structure and definition in  
5 effect in federal tax year two thousand nine were still in effect.

6 [18.] 19. "Scientific research and development" means conducting  
7 research and experimental development in the physical, engineering, and  
8 life sciences, including but not limited to agriculture, electronics,  
9 environmental, biology, botany, biotechnology, computers, chemistry,  
10 food, fisheries, forests, geology, health, mathematics, medicine, ocean-  
11 ography, pharmacy, physics, veterinary, and other allied subjects. For  
12 the purposes of this article, scientific research and development does  
13 not include medical or veterinary laboratory testing facilities.

14 [19.] 20. "Software development" means the creation of coded computer  
15 instructions and includes new media as defined by the commissioner in  
16 regulations.

17 S 2. Subdivisions 1, 3, and 5 of section 353 of the economic develop-  
18 ment law, subdivisions 1 and 5 as amended by section 2 of part G of  
19 chapter 61 of the laws of 2011 and subdivision 3 as amended by section 1  
20 of part C of chapter 68 of the laws of 2013, are amended to read as  
21 follows:

22 1. To be a participant in the excelsior jobs program, a business enti-  
23 ty shall operate in New York state predominantly:

24 (a) as a financial services data center or a financial services back  
25 office operation;

26 (b) in manufacturing;

27 (c) in software development and new media;

28 (d) in scientific research and development;

29 (e) in agriculture;

30 (f) in the creation or expansion of back office operations in the  
31 state;

32 (g) in a distribution center; [or]

33 (h) in an industry with significant potential for private-sector  
34 economic growth and development in this state as established by the  
35 commissioner in regulations promulgated pursuant to this article. In  
36 promulgating such regulations the commissioner shall include job and  
37 investment criteria; OR

38 (I) AS AN ENTERTAINMENT COMPANY.

39 3. For the purposes of this article, in order to participate in the  
40 excelsior jobs program, a business entity operating predominantly in  
41 manufacturing must create at least ten net new jobs; a business entity  
42 operating predominately in agriculture must create at least five net new  
43 jobs; a business entity operating predominantly as a financial service  
44 data center or financial services customer back office operation must  
45 create at least fifty net new jobs; a business entity operating predomi-  
46 nantly in scientific research and development must create at least five  
47 net new jobs; a business entity operating predominantly in software  
48 development must create at least five net new jobs; a business entity  
49 creating or expanding back office operations must create at least fifty  
50 net new jobs; A BUSINESS ENTITY OPERATING PREDOMINANTLY AS AN ENTER-  
51 TAINMENT COMPANY MUST CREATE OR OBTAIN AT LEAST ONE HUNDRED NET NEW  
52 JOBS; or a business entity operating predominantly as a distribution  
53 center in the state must create at least seventy-five net new jobs,  
54 notwithstanding subdivision five of this section; or a business entity  
55 must be a regionally significant project as defined in this article; or

1 5. A not-for-profit business entity, a business entity whose primary  
2 function is the provision of services including personal services, busi-  
3 ness services, or the provision of utilities, and a business entity  
4 engaged predominantly in the retail or entertainment industry, OTHER  
5 THAN A BUSINESS OPERATING AS AN ENTERTAINMENT COMPANY AS DEFINED IN THIS  
6 ARTICLE, and a company engaged in the generation or distribution of  
7 electricity, the distribution of natural gas, or the production of steam  
8 associated with the generation of electricity are not eligible to  
9 receive the tax credit described in this article.

10 S 3. Subdivision 1 of section 354 of the economic development law, as  
11 amended by section 3 of part G of chapter 61 of the laws of 2011, is  
12 amended as follows:

13 1. A business enterprise must submit a completed application as  
14 prescribed by the commissioner. AN APPLICATION MADE BY AN ENTERTAINMENT  
15 COMPANY MUST BE SUBMITTED BY JUNE FIRST, TWO THOUSAND FIFTEEN. An appli-  
16 cation may be recommended by entities, including but not limited to,  
17 those created pursuant to subdivision (e) of section nine hundred  
18 fifty-seven of the general municipal law.

19 S 4. Subdivision 6 of section 355 of the economic development law, as  
20 amended by section 4 of part G of chapter 61 of the laws of 2011, is  
21 amended to read as follows:

22 6. Claim of tax credit. The business enterprise shall be allowed to  
23 claim the credit as prescribed in section thirty-one of the tax law. NO  
24 COSTS USED BY AN ENTERTAINMENT COMPANY AS THE BASIS FOR THE ALLOWANCE OF  
25 A TAX CREDIT DESCRIBED IN THIS SECTION SHALL BE USED BY SUCH ENTER-  
26 TAINMENT COMPANY TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THE TAX  
27 LAW.

28 S 5. This act shall take effect immediately.

29 PART L

30 Section 1. Paragraph (a) of subdivision 1 of section 210-B of the tax  
31 law, as added by section 17 of part A of chapter 59 of the laws of 2014,  
32 is amended to read as follows:

33 (a) A taxpayer shall be allowed a credit, to be computed as hereinaft-  
34 er provided, against the tax imposed by this article. The amount of the  
35 credit shall be the percent provided for hereinbelow of the investment  
36 credit base. The investment credit base is the cost or other basis for  
37 federal income tax purposes of tangible personal property and other  
38 tangible property, including buildings and structural components of  
39 buildings, described in paragraph (b) of this subdivision, less the  
40 amount of the nonqualified nonrecourse financing with respect to such  
41 property to the extent such financing would be excludible from the cred-  
42 it base pursuant to section 46(c)(8) of the internal revenue code  
43 (treating such property as section thirty-eight property irrespective of  
44 whether or not it in fact constitutes section thirty-eight property).  
45 If, at the close of a taxable year following the taxable year in which  
46 such property was placed in service, there is a net decrease in the  
47 amount of nonqualified nonrecourse financing with respect to such prop-  
48 erty, such net decrease shall be treated as if it were the cost or other  
49 basis of property described in paragraph (b) of this subdivision  
50 acquired, constructed, reconstructed or erected during the year of the  
51 decrease in the amount of nonqualified nonrecourse financing. PROVIDED,  
52 HOWEVER, THAT THE INVESTMENT CREDIT BASE OF A MASTER OF A FILM, TELE-  
53 VISION SHOW OR COMMERCIAL SHALL ONLY INCLUDE THOSE COSTS ASSOCIATED WITH  
54 THE CREATION, PRODUCTION OR REPRODUCTION OF SUCH FILM, TELEVISION SHOW

1 OR COMMERCIAL INCURRED WITHIN THE STATE; PROVIDED, FURTHER, THAT THE  
2 INVESTMENT CREDIT BASE OF A MASTER SHALL NOT INCLUDE THOSE COSTS USED BY  
3 THE TAXPAYER OR ANOTHER TAXPAYER IN THE CALCULATION OF ANY OTHER TAX  
4 CREDIT ALLOWED UNDER THIS CHAPTER. In the case of a combined report the  
5 term investment credit base shall mean the sum of the investment credit  
6 base of each corporation included on such report. The percentage to be  
7 used to compute the credit allowed pursuant to this subdivision shall be  
8 five percent with respect to the first three hundred fifty million  
9 dollars of the investment credit base, and four percent with respect to  
10 the investment credit base in excess of three hundred fifty million  
11 dollars, except that in the case of research and development property at  
12 the option of the taxpayer the applicable percentage shall be nine.

13 S 2. Section 211 of the tax law is amended by adding a new subdivision  
14 15 to read as follows:

15 15. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION EIGHT OF THIS  
16 SECTION, IN ORDER TO ADMINISTER THE LIMITATION IN SUBDIVISION ONE OF  
17 SECTION TWO HUNDRED TEN-B OF THIS ARTICLE REGARDING THE INVESTMENT CRED-  
18 IT BASE OF A MASTER OF A FILM, TELEVISION SHOW OR COMMERCIAL, THE  
19 COMMISSIONER MAY DISCLOSE TO A TAXPAYER CLAIMING THE INVESTMENT CREDIT  
20 FOR COSTS ASSOCIATED WITH THE CREATION, PRODUCTION OR REPRODUCTION OF A  
21 FILM, TELEVISION SHOW OR COMMERCIAL PURSUANT TO SUCH SECTION INFORMATION  
22 INCLUDED IN A REPORT OR A RETURN OF ANOTHER TAXPAYER FILED PURSUANT TO  
23 THIS CHAPTER CLAIMING A TAX CREDIT UNDER THIS CHAPTER RELATING TO COSTS  
24 ASSOCIATED WITH THE CREATION, PRODUCTION OR REPRODUCTION OF SUCH FILM,  
25 TELEVISION SHOW OR COMMERCIAL.

26 S 3. Paragraph 1 of subsection (a) of section 606 of the tax law, as  
27 amended by chapter 170 of the laws of 1994, is amended to read as  
28 follows:

29 (1) A taxpayer shall be allowed a credit, to be computed as hereinaft-  
30 er provided, against the tax imposed by this article. The amount of the  
31 credit shall be the per cent provided for hereinbelow of the investment  
32 credit base. The investment credit base is the cost or other basis, for  
33 federal income tax purposes, of tangible personal property and other  
34 tangible property, including buildings and structural components of  
35 buildings, described in paragraph two of this subsection, less the  
36 amount of the nonqualified nonrecourse financing with respect to such  
37 property to the extent such financing would be excludible from the cred-  
38 it base pursuant to section 46(c)(8) of the internal revenue code  
39 (treating such property as section thirty-eight property irrespective of  
40 whether or not it in fact constitutes section thirty-eight property).  
41 If, at the close of a taxable year following the taxable year in which  
42 such property was placed in service, there is a net decrease in the  
43 amount of nonqualified nonrecourse financing with respect to such prop-  
44 erty, such net decrease shall be treated as if it were the cost or other  
45 basis of property described in paragraph two of this subsection  
46 acquired, constructed, reconstructed or erected during the year of the  
47 decrease in the amount of nonqualified nonrecourse financing. PROVIDED,  
48 HOWEVER, THAT THE INVESTMENT CREDIT BASE OF A MASTER OF A FILM, TELE-  
49 VISION SHOW OR COMMERCIAL SHALL ONLY INCLUDE THOSE COSTS ASSOCIATED WITH  
50 THE CREATION, PRODUCTION OR REPRODUCTION OF SUCH FILM, TELEVISION SHOW  
51 OR COMMERCIAL INCURRED WITHIN THE STATE; PROVIDED, FURTHER, THAT THE  
52 INVESTMENT CREDIT BASE OF A MASTER SHALL NOT INCLUDE THOSE COSTS USED BY  
53 THE TAXPAYER OR ANOTHER TAXPAYER IN THE CALCULATION OF ANY OTHER TAX  
54 CREDIT ALLOWED UNDER THIS CHAPTER. The percentage to be used to compute  
55 the credit allowed pursuant to this subsection shall be that percentage  
56 appearing in column two which is opposite the appropriate period in

1 column one in which the tangible personal property was acquired,  
2 constructed, reconstructed or erected, as the case may be:

3 Column 1	Column 2
4 After December 31, 1968 and	
5 prior to January 1, 1974	one per cent
6 After December 31, 1973 and	
7 prior to January 1, 1978	two per cent
8 After December 31, 1977 and	
9 prior to January 1, 1979	three per cent
10 After December 31, 1978 and	
11 prior to June 1, 1981	four per cent
12 After May 31, 1981 and	
13 prior to July 1, 1982	five per cent
14 After June 30, 1982 and	
15 before January 1, 1987	six per cent
16 After December 31, 1986	four per cent, except that in the
17	case of research and development
18	property the applicable percentage
19	shall be seven

20 Provided, however, that in the case of an acquisition, construction,  
21 reconstruction or erection which was commenced in any one period and  
22 continued or completed in any subsequent period the credit shall be the  
23 sum of the portions of the investment credit base attributable to each  
24 such period, which portion with respect to each such period shall be  
25 ascertained by multiplying such investment credit base by a fraction the  
26 numerator of which shall be the expenditures paid or incurred during  
27 such period for such purposes and the denominator of which shall be the  
28 total of all expenditures paid or incurred for such acquisition,  
29 construction, reconstruction or erection, multiplied by the allowable  
30 percentage for each such period.

31 S 4. Subsection (e) of section 697 of the tax law is amended by adding  
32 a new paragraph 3-b to read as follows:

33 (3-B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS  
34 SUBSECTION, IN ORDER TO ADMINISTER THE LIMITATION IN PARAGRAPH ONE OF  
35 SUBSECTION (A) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE REGARDING THE  
36 INVESTMENT CREDIT BASE OF A MASTER OF A FILM, TELEVISION SHOW OR COMMER-  
37 CIAL, THE COMMISSIONER MAY DISCLOSE TO A TAXPAYER CLAIMING THE INVEST-  
38 MENT CREDIT FOR COSTS ASSOCIATED WITH THE CREATION, PRODUCTION OR  
39 REPRODUCTION OF A FILM, TELEVISION SHOW OR COMMERCIAL PURSUANT TO SUCH  
40 SECTION INFORMATION INCLUDED IN A REPORT OR A RETURN OF ANOTHER TAXPAYER  
41 FILED PURSUANT TO THIS CHAPTER CLAIMING A TAX CREDIT UNDER THIS CHAPTER  
42 RELATING TO COSTS ASSOCIATED WITH THE CREATION, PRODUCTION OR REPROD-  
43 UCTION OF SUCH FILM, TELEVISION SHOW OR COMMERCIAL.

44 S 5. Subparagraph (vi) of paragraph (a) of subdivision 1 of section  
45 210 of the tax law, as amended by section 12 of part A of chapter 59 of  
46 the laws of 2014, is amended to read as follows:

47 (vi) for taxable years beginning on or after January first, two thou-  
48 sand fourteen, the amount prescribed by this paragraph for a taxpayer  
49 which is a qualified New York manufacturer, shall be computed at the  
50 rate of zero percent of the taxpayer's business income base. The term  
51 "manufacturer" shall mean a taxpayer which during the taxable year is  
52 principally engaged in the production of goods by manufacturing, proc-  
53 essing, assembling, refining, mining, extracting, farming, agriculture,  
54 horticulture, floriculture, viticulture or commercial fishing. However,



1 the generation and distribution of electricity, the distribution of  
2 natural gas, and the production of steam associated with the generation  
3 of electricity shall not be qualifying activities for a manufacturer  
4 under this subparagraph. Moreover, the combined group shall be consid-  
5 ered a "manufacturer" for purposes of this subparagraph only if the  
6 combined group during the taxable year is principally engaged in the  
7 activities set forth in this paragraph, or any combination thereof. A  
8 taxpayer or a combined group shall be "principally engaged" in activ-  
9 ities described above if, during the taxable year, more than fifty  
10 percent of the gross receipts of the taxpayer or combined group, respec-  
11 tively, are derived from receipts from the sale of goods produced by  
12 such activities. HOWEVER, THE LICENSE OF A MASTER OF A FILM, TELEVISION  
13 SHOW OR COMMERCIAL SHALL NOT CONSTITUTE THE SALE OF A GOOD UNDER THIS  
14 SUBPARAGRAPH. In computing a combined group's gross receipts, intercor-  
15 porate receipts shall be eliminated. A "qualified New York manufacturer"  
16 is a manufacturer which has property in New York which is described in  
17 subdivision one of section two hundred ten-B of this article and either  
18 (I) the adjusted basis of such property for federal income tax purposes  
19 at the close of the taxable year is at least one million dollars or (II)  
20 all of its real and personal property is located in New York. A taxpayer  
21 or, in the case of a combined report, a combined group, that does not  
22 satisfy the principally engaged test may be a qualified New York  
23 manufacturer if the taxpayer or the combined group employs during the  
24 taxable year at least two thousand five hundred employees in manufactur-  
25 ing in New York and the taxpayer or the combined group has property in  
26 the state used in manufacturing, the adjusted basis of which for federal  
27 income tax purposes at the close of the taxable year is at least one  
28 hundred million dollars.

29 S 6. This act shall take effect immediately and shall apply to taxable  
30 years beginning on or after January 1, 2016.

31

## PART M

32 Section 1. Section 25-a of the labor law, as added by section 1 of  
33 part D of chapter 56 of the laws of 2011, subdivision (a) as amended by  
34 section 3, subdivision (c) as amended by section 4 and subdivision (f)  
35 as amended by section 5 of part U of chapter 59 of the laws of 2014, and  
36 subdivision (b) as amended by section 1 and subdivision (d) as amended  
37 by section 2 of part DD of chapter 59 of the laws of 2013, is amended to  
38 read as follows:

39 S 25-a. Power to administer the [New York] URBAN youth [works] JOBS  
40 PROGRAM tax credit [program]. (a) The commissioner is authorized to  
41 establish and administer the [New York youth works tax credit] program  
42 ESTABLISHED UNDER THIS SECTION to provide tax incentives to employers  
43 for employing at risk youth in part-time and full-time positions. There  
44 will be five distinct pools of tax incentives. Program one will cover  
45 tax incentives allocated for two thousand twelve and two thousand thir-  
46 teen. Program two will cover tax incentives allocated in two thousand  
47 fourteen [to be used in two thousand fourteen and fifteen]. Program  
48 three will cover tax incentives allocated in two thousand fifteen [to be  
49 used in two thousand fifteen and sixteen]. Program four will cover tax  
50 incentives allocated in two thousand sixteen [to be used in two thousand  
51 sixteen and seventeen]. Program five will cover tax incentives allocated  
52 in two thousand seventeen [to be used in two thousand seventeen and  
53 eighteen]. The commissioner is authorized to allocate up to twenty-five  
54 million dollars of tax credits under program one, ten million dollars of

1 tax credits under program two, AND ten million dollars of tax credits  
2 FOR A BASE CREDIT ALLOCATION AND AN ADDITIONAL TEN MILLION DOLLARS OF  
3 TAX CREDITS FOR AN INCREMENTAL ALLOCATION under [program] EACH OF  
4 PROGRAMS three, [ten million dollars of tax credits under program] four,  
5 [ten million dollars of tax credits under program] AND FIVE.

6 (b) Definitions. (1) The term "qualified employer" means an employer  
7 that has been certified by the commissioner to participate in the [New  
8 York youth works tax credit] program ESTABLISHED UNDER THIS SECTION and  
9 that employs one or more qualified employees.

10 (2) The term "qualified employee" means an individual:

11 (i) who is between the age of sixteen and twenty-four;

12 (ii) who resides in a [city with a population of fifty-five thousand  
13 or more or a town with a population of four hundred eighty thousand or  
14 more] TARGETED LOCALITY;

15 (iii) who is low-income or at-risk, as those terms are defined by the  
16 commissioner;

17 (iv) who is unemployed prior to being hired by the qualified employer;  
18 and

19 (v) who will be working for the qualified employer in a full-time or  
20 part-time position that pays wages that are equivalent to the wages paid  
21 for similar jobs, with appropriate adjustments for experience and train-  
22 ing, and for which no other employee has been terminated, or where the  
23 employer has not otherwise reduced its workforce by involuntary termi-  
24 nations with the intention of filling the vacancy by creating a new  
25 hire.

26 (3) THE TERM "LOCALITY" MEANS A CITY WITH A POPULATION OF FIFTY-FIVE  
27 THOUSAND OR MORE OR A TOWN WITH A POPULATION OF FOUR HUNDRED EIGHTY  
28 THOUSAND OR MORE.

29 (4) THE TERM "LOCALITY WITH HIGH UNEMPLOYMENT" MEANS A LOCALITY THAT  
30 IS LOCATED IN ONE OR MORE COUNTIES THAT ARE RANKED AMONG THE TOP SIX  
31 COUNTIES CONTAINING A LOCALITY FOR THE TWELVE-MONTH ANNUAL AVERAGE UNEM-  
32 PLOYMENT RATE, AS DETERMINED BY THE COMMISSIONER USING THE MOST CURRENT  
33 AVAILABLE DATA, PROVIDED, HOWEVER, THAT MULTIPLE COUNTIES THAT COMPRISE  
34 A SINGLE LOCALITY SHALL NOT BE SEPARATELY RANKED AND SHALL BE CONSIDERED  
35 AS ONE FOR PURPOSES OF DETERMINING THE TOP SIX.

36 (5) THE TERM "LOCALITY WITH HIGH YOUTH POVERTY" MEANS A LOCALITY THAT  
37 IS RANKED AMONG THE TOP SIX IN NEW YORK STATE FOR INDIVIDUALS BETWEEN  
38 THE AGES OF EIGHTEEN AND TWENTY-FOUR LIVING BELOW THE POVERTY LINE, AS  
39 DETERMINED BY THE UNITED STATES CENSUS BUREAU 5-YEAR AMERICAN COMMUNITY  
40 SURVEY, USING THE MOST CURRENT DATA AVAILABLE.

41 (6) THE TERM "TARGETED LOCALITY" MEANS A LOCALITY, PROVIDED, HOWEVER,  
42 THAT FOR PURPOSES OF THE INCREMENTAL ALLOCATIONS IN PROGRAMS THREE,  
43 FOUR, AND FIVE, SUCH TERM SHALL BE LIMITED TO A LOCALITY WITH HIGH UNEM-  
44 PLOYMENT THAT IS ALSO A LOCALITY WITH HIGH YOUTH POVERTY.

45 (c) A qualified employer shall be entitled to a tax credit equal to  
46 (1) five hundred dollars per month for up to six months for each quali-  
47 fied employee the employer employs in a full-time job or two hundred  
48 fifty dollars per month for up to six months for each qualified employee  
49 the employer employs in a part-time job of at least twenty hours per  
50 week or ten hours per week when the qualified employee is enrolled in  
51 high school full-time, (2) one thousand dollars for each qualified  
52 employee who is employed for at least an additional six months by the  
53 qualified employer in a full-time job or five hundred dollars for each  
54 qualified employee who is employed for at least an additional six months  
55 by the qualified employer in a part-time job of at least twenty hours  
56 per week or ten hours per week when the qualified employee is enrolled

1 in high school full-time, and (3) an additional one thousand dollars for  
2 each qualified employee who is employed for at least an additional year  
3 after the first year of the employee's employment by the qualified  
4 employer in a full-time job or five hundred dollars for each qualified  
5 employee who is employed for at least an additional year after the first  
6 year of the employee's employment by the qualified employer in a part-  
7 time job of at least twenty hours per week or ten hours per week when  
8 the qualified employee is enrolled in high school full time. The tax  
9 credits shall be claimed by the qualified employer as specified in  
10 subdivision [forty-four] THIRTY-SIX of section two hundred [ten] TEN-B  
11 and subsection (tt) of section six hundred six of the tax law.

12 (d) To participate in the [New York youth works tax credit] program  
13 ESTABLISHED UNDER THIS SECTION, an employer must submit an application  
14 (in a form prescribed by the commissioner) to the commissioner after  
15 January first, two thousand twelve but no later than November thirtieth,  
16 two thousand twelve for program one, after January first, two thousand  
17 fourteen but no later than November thirtieth, two thousand fourteen for  
18 program two, after January first, two thousand fifteen but no later than  
19 November thirtieth, two thousand fifteen for program three, after Janu-  
20 ary first, two thousand sixteen but no later than November thirtieth,  
21 two thousand sixteen for program four, and after January first, two  
22 thousand seventeen but no later than November thirtieth, two thousand  
23 seventeen for program five. The qualified employees must start their  
24 employment on or after January first, two thousand twelve but no later  
25 than December thirty-first, two thousand twelve for program one, on or  
26 after January first, two thousand fourteen but no later than December  
27 thirty-first, two thousand fourteen for program two, on or after January  
28 first, two thousand fifteen but no later than December thirty-first, two  
29 thousand fifteen for program three, on or after January first, two thou-  
30 sand sixteen but no later than December thirty-first, two thousand  
31 sixteen for program four, and on or after January first, two thousand  
32 seventeen but no later than December thirty-first, two thousand seven-  
33 teen for program five. The commissioner shall establish guidelines and  
34 criteria that specify requirements for employers to participate in the  
35 program including criteria for certifying qualified employees. Any regu-  
36 lations that the commissioner determines are necessary may be adopted on  
37 an emergency basis notwithstanding anything to the contrary in section  
38 two hundred two of the state administrative procedure act. Such require-  
39 ments may include the types of industries that the employers are engaged  
40 in. The commissioner may give preference to employers that are engaged  
41 in demand occupations or industries, or in regional growth sectors,  
42 including those identified by the regional economic development coun-  
43 cils, such as clean energy, healthcare, advanced manufacturing and  
44 conservation. In addition, the commissioner shall give preference to  
45 employers who offer advancement and employee benefit packages to the  
46 qualified individuals.

47 (e) If, after reviewing the application submitted by an employer, the  
48 commissioner determines that such employer is eligible to participate in  
49 the [New York youth works tax credit] program ESTABLISHED UNDER THIS  
50 SECTION, the commissioner shall issue the employer a certificate of  
51 eligibility that establishes the employer as a qualified employer. The  
52 certificate of eligibility shall specify the maximum amount of [New York  
53 youth works] tax credit that the employer will be allowed to claim.

54 (f) The commissioner shall annually publish a report. Such report must  
55 contain the names and addresses of any employer issued a certificate of  
56 eligibility under this section, and the maximum amount of New York youth

1 works tax credit allowed to the employer as specified on such certifi-  
2 cate of eligibility.

3 S 2. The subdivision heading and paragraph (a) of subdivision 36 of  
4 section 210-B of the tax law, as added by section 17 of part A of chap-  
5 ter 59 of the laws of 2014, is amended to read as follows:

6 [New York] URBAN youth [works] JOBS PROGRAM tax credit. (a) A taxpayer  
7 that has been certified by the commissioner of labor as a qualified  
8 employer pursuant to section twenty-five-a of the labor law shall be  
9 allowed a credit against the tax imposed by this article equal to (i)  
10 five hundred dollars per month for up to six months for each qualified  
11 employee the employer employs in a full-time job or two hundred fifty  
12 dollars per month for up to six months for each qualified employee the  
13 employer employs in a part-time job of at least twenty hours per week or  
14 ten hours per week when the qualified employee is enrolled in high  
15 school full-time, (ii) one thousand dollars for each qualified employee  
16 who is employed for at least an additional six months by the qualified  
17 employer in a full-time job or five hundred dollars for each qualified  
18 employee who is employed for at least an additional six months by the  
19 qualified employer in a part-time job of at least twenty hours per week  
20 or ten hours per week when the qualified employee is enrolled in high  
21 school full-time, and (iii) an additional one thousand dollars for each  
22 qualified employee who is employed for at least an additional year after  
23 the first year of the employee's employment by the qualified employer in  
24 a full-time job or five hundred dollars for each qualified employee who  
25 is employed for at least an additional year after the first year of the  
26 employee's employment by the qualified employer in a part-time job of at  
27 least twenty hours per week or ten hours per week when the qualified  
28 employee is enrolled in high school full-time. For purposes of this  
29 subdivision, the term "qualified employee" shall have the same meaning  
30 as set forth in subdivision (b) of section twenty-five-a of the labor  
31 law. The portion of the credit described in subparagraph (i) of this  
32 paragraph shall be allowed for the taxable year in which the wages are  
33 paid to the qualified employee, [and] the portion of the credit  
34 described in subparagraph (ii) of this paragraph shall be allowed in the  
35 taxable year in which the additional six month period ends, AND THE  
36 PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH  
37 SHALL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ADDITIONAL YEAR AFTER  
38 THE FIRST YEAR OF EMPLOYMENT ENDS.

39 S 3. The subdivision heading and paragraph 1 of subsection (tt) of  
40 section 606 of the tax law, the subdivision heading as added by section  
41 3 of part D of chapter 56 of the laws of 2011 and paragraph 1 as amended  
42 by section 2 of part U of chapter 59 of the laws of 2014, are amended to  
43 read as follows:

44 [New York] URBAN youth [works] JOBS PROGRAM tax credit. (1) A taxpay-  
45 er that has been certified by the commissioner of labor as a qualified  
46 employer pursuant to section twenty-five-a of the labor law shall be  
47 allowed a credit against the tax imposed by this article equal to (A)  
48 five hundred dollars per month for up to six months for each qualified  
49 employee the employer employs in a full-time job or two hundred fifty  
50 dollars per month for up to six months for each qualified employee the  
51 employer employs in a part-time job of at least twenty hours per week or  
52 ten hours per week when the qualified employee is enrolled in high  
53 school full-time, and (B) one thousand dollars for each qualified  
54 employee who is employed for at least an additional six months by the  
55 qualified employer in a full-time job or five hundred dollars for each  
56 qualified employee who is employed for at least an additional six months

1 by the qualified employer in a part-time job of at least twenty hours  
2 per week or ten hours per week when the qualified employee is enrolled  
3 in high school full-time, and (C) an additional one thousand dollars for  
4 each qualified employee who is employed for at least an additional year  
5 after the first year of the employee's employment by the qualified  
6 employer in a full-time job or five hundred dollars for each qualified  
7 employee who is employed for at least an additional year after the first  
8 year of the employee's employment by the qualified employer in a part-  
9 time job of at least twenty hours per week or ten hours per week when  
10 the qualified employee is enrolled in high school full-time. A taxpayer  
11 that is a partner in a partnership, member of a limited liability compa-  
12 ny or shareholder in an S corporation that has been certified by the  
13 commissioner of labor as a qualified employer pursuant to section twen-  
14 ty-five-a of the labor law shall be allowed its pro rata share of the  
15 credit earned by the partnership, limited liability company or S corpo-  
16 ration. For purposes of this subsection, the term "qualified employee"  
17 shall have the same meaning as set forth in subdivision (b) of section  
18 twenty-five-a of the labor law. The portion of the credit described in  
19 subparagraph (A) of this paragraph shall be allowed for the taxable year  
20 in which the wages are paid to the qualified employee, [and] the portion  
21 of the credit described in subparagraph (B) of this paragraph shall be  
22 allowed in the taxable year in which the additional six month period  
23 ends, AND THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (C) OF  
24 THIS PARAGRAPH SHALL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ADDI-  
25 TIONAL YEAR AFTER THE FIRST YEAR OF EMPLOYMENT ENDS.

26 S 4. Clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection  
27 (i) of section 606 of the tax law, as amended by section 68 of part A of  
28 chapter 59 of the laws of 2014, is amended to read as follows:

29 (xxxiii) [New York] URBAN youth	Amount of credit under
30 [works] JOBS PROGRAM	subdivision thirty-six
31 tax credit	of section two hundred ten-B

32 S 5. This act shall take effect immediately.

33 PART N

34 Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of  
35 section 210 of the tax law, as amended by section 12 of part A of chap-  
36 ter 59 of the laws of 2014, is amended to read as follows:

37 (iv) (A) for taxable years beginning before January first, two thou-  
38 sand sixteen, if the business income base is not more than two hundred  
39 ninety thousand dollars the amount shall be six and one-half percent of  
40 the business income base; if the business income base is more than two  
41 hundred ninety thousand dollars but not over three hundred ninety thou-  
42 sand dollars the amount shall be the sum of (1) eighteen thousand eight  
43 hundred fifty dollars, (2) seven and one-tenth percent of the excess of  
44 the business income base over two hundred ninety thousand dollars but  
45 not over three hundred ninety thousand dollars and (3) four and thirty-  
46 five hundredths percent of the excess of the business income base over  
47 three hundred fifty thousand dollars but not over three hundred ninety  
48 thousand dollars;

49 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-  
50 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, IF THE  
51 BUSINESS INCOME BASE IS NOT MORE THAN TWO HUNDRED NINETY THOUSAND  
52 DOLLARS THE AMOUNT SHALL BE THREE AND ONE-QUARTER PERCENT OF THE BUSI-

NESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) NINE THOUSAND FOUR HUNDRED TWENTY FIVE DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS AND (3) TWENTY-THREE AND FIFTY-SIX HUNDREDTHS PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER THREE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS;

(C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND NINE-TENTHS PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) EIGHT THOUSAND FOUR HUNDRED TEN DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS AND (3) TWENTY-SIX AND ONE-TENTH PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER THREE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS;

(D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND ONE-HALF PERCENT OF THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) SEVEN THOUSAND TWO HUNDRED FIFTY DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS AND (3) TWENTY-NINE PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE OVER THREE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS;

S 2. This act shall take effect immediately.

## PART O

Section 1. The economic development law is amended by adding a new article 22 to read as follows:

### ARTICLE 22

#### EMPLOYEE TRAINING INCENTIVE PROGRAM

SECTION 441. DEFINITIONS.

442. ELIGIBILITY CRITERIA.

443. APPLICATION AND APPROVAL PROCESS.

444. POWERS AND DUTIES OF THE COMMISSIONER.

445. RECORDKEEPING REQUIREMENTS.

446. CAP ON TAX CREDIT.

S 441. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "APPROVED PROVIDER" MEANS AN ENTITY MEETING SUCH CRITERIA AS SHALL BE ESTABLISHED BY THE COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, THAT MAY PROVIDE ELIGIBLE TRAINING TO EMPLOYEES OF A BUSINESS ENTITY PARTICIPATING IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM. SUCH CRITERIA SHALL ENSURE THAT ANY APPROVED PROVIDER POSSESS

1 ADEQUATE CREDENTIALS TO PROVIDE THE TRAINING DESCRIBED IN AN APPLICATION  
2 BY A BUSINESS ENTITY TO THE COMMISSIONER TO PARTICIPATE IN THE EMPLOYEE  
3 TRAINING INCENTIVE PROGRAM.

4 2. "COMMISSIONER" MEANS THE COMMISSIONER OF ECONOMIC DEVELOPMENT.

5 3. "ELIGIBLE TRAINING" MEANS TRAINING PROVIDED BY AN APPROVED PROVIDER  
6 THAT IS:

7 (A) TO UPGRADE, RETRAIN OR IMPROVE THE PRODUCTIVITY OF EMPLOYEES;

8 (B) PROVIDED TO EMPLOYEES FILLING NET NEW JOBS, OR TO EXISTING EMPLOY-  
9 EES IN CONNECTION WITH A SIGNIFICANT CAPITAL INVESTMENT BY A PARTICIPAT-  
10 ING BUSINESS ENTITY;

11 (C) DETERMINED BY THE COMMISSIONER TO SATISFY A BUSINESS NEED ON THE  
12 PART OF A PARTICIPATING BUSINESS ENTITY;

13 (D) NOT DESIGNED TO TRAIN OR UPGRADE SKILLS AS REQUIRED BY A FEDERAL  
14 OR STATE ENTITY;

15 (E) NOT TRAINING THE COMPLETION OF WHICH MAY RESULT IN THE AWARDING OF  
16 A LICENSE OR CERTIFICATE REQUIRED BY LAW IN ORDER TO PERFORM A JOB FUNC-  
17 TION; AND

18 (F) NOT CULTURALLY FOCUSED TRAINING.

19 4. "NET NEW JOB" MEANS A JOB CREATED IN THIS STATE THAT:

20 (A) IS NEW TO THE STATE;

21 (B) HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER BUSINESS  
22 LOCATED IN THIS STATE THROUGH AN ACQUISITION, MERGER, CONSOLIDATION OR  
23 OTHER REORGANIZATION OF BUSINESSES OR THE ACQUISITION OF ASSETS OF  
24 ANOTHER BUSINESS, AND HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH A  
25 RELATED PERSON IN THIS STATE;

26 (C) IS EITHER A FULL-TIME WAGE-PAYING JOB OR EQUIVALENT TO A FULL-TIME  
27 WAGE-PAYING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK;

28 (D) IS FILLED FOR MORE THAN SIX MONTHS;

29 (E) IS FILLED BY A PERSON WHO HAS RECEIVED ELIGIBLE TRAINING; AND

30 (F) IS COMPRISED OF TASKS THE PERFORMANCE OF WHICH REQUIRED THE PERSON  
31 FILLING THE JOB TO UNDERGO ELIGIBLE TRAINING.

32 5. "SIGNIFICANT CAPITAL INVESTMENT" MEANS A CAPITAL INVESTMENT OF AT  
33 LEAST ONE MILLION DOLLARS IN NEW BUSINESS PROCESSES OR EQUIPMENT.

34 6. "STRATEGIC INDUSTRY" MEANS AN INDUSTRY IN THIS STATE, AS ESTAB-  
35 LISHED BY THE COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT TO THIS  
36 ARTICLE, BASED UPON THE FOLLOWING CRITERIA:

37 (A) SHORTAGES OF WORKERS TRAINED TO WORK WITHIN THE INDUSTRY;

38 (B) TECHNOLOGICAL DISRUPTION IN THE INDUSTRY, REQUIRING SIGNIFICANT  
39 CAPITAL INVESTMENT FOR EXISTING BUSINESSES TO REMAIN COMPETITIVE;

40 (C) THE ABILITY OF BUSINESSES IN THE INDUSTRY TO RELOCATE OUTSIDE OF  
41 THE STATE IN ORDER TO ATTRACT TALENT;

42 (D) THE POTENTIAL FOR MINORITIES OR WOMEN TO BE TRAINED TO WORK IN THE  
43 INDUSTRY; AND

44 (E) SUCH OTHER CRITERIA AS SHALL BE DEVELOPED BY THE COMMISSIONER IN  
45 CONSULTATION WITH THE COMMISSIONER OF LABOR.

46 S 442. ELIGIBILITY CRITERIA. 1. IN ORDER TO PARTICIPATE IN THE EMPLOY-  
47 EE TRAINING INCENTIVE PROGRAM, A BUSINESS ENTITY MUST SATISFY ALL OF THE  
48 FOLLOWING CRITERIA:

49 (A) THE BUSINESS ENTITY MUST OPERATE IN THE STATE PREDOMINANTLY IN A  
50 STRATEGIC INDUSTRY;

51 (B) THE BUSINESS ENTITY MUST DEMONSTRATE THAT IT IS OBTAINING ELIGIBLE  
52 TRAINING FROM AN APPROVED PROVIDER;

53 (C) THE BUSINESS ENTITY MUST CREATE AT LEAST TEN NET NEW JOBS OR MAKE  
54 A SIGNIFICANT CAPITAL INVESTMENT IN CONNECTION WITH THE ELIGIBLE TRAIN-  
55 ING; AND

(D) THE BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, THE BUSINESS ENTITY MAY NOT OWE PAST DUE STATE TAXES OR LOCAL PROPERTY TAXES.

S 443. APPLICATION AND APPROVAL PROCESS. 1. A BUSINESS ENTITY MUST SUBMIT A COMPLETED APPLICATION IN SUCH FORM AND WITH SUCH INFORMATION AS PRESCRIBED BY THE COMMISSIONER.

2. AS PART OF SUCH APPLICATION, EACH BUSINESS ENTITY MUST:

(A) PROVIDE SUCH DOCUMENTATION AS THE COMMISSIONER MAY REQUIRE IN ORDER FOR THE COMMISSIONER TO DETERMINE THAT THE BUSINESS ENTITY INTENDS TO PROCURE ELIGIBLE TRAINING FOR ITS EMPLOYEES FROM AN APPROVED PROVIDER;

(B) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS TAX INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW;

(C) AGREE TO ALLOW THE DEPARTMENT OF LABOR TO SHARE ITS TAX AND EMPLOYER INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW;

(D) ALLOW THE DEPARTMENT AND ITS AGENTS ACCESS TO ANY AND ALL BOOKS AND RECORDS THE DEPARTMENT MAY REQUIRE TO MONITOR COMPLIANCE;

(E) PROVIDE A CLEAR AND DETAILED PRESENTATION OF ALL RELATED PERSONS TO THE APPLICANT TO ASSURE THE DEPARTMENT THAT JOBS ARE NOT BEING SHIFTED WITHIN THE STATE; AND

(F) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE, AND FEDERAL TAX LAWS.

3. THE COMMISSIONER MAY APPROVE AN APPLICATION FROM A BUSINESS ENTITY UPON DETERMINING THAT SUCH BUSINESS ENTITY MEETS THE ELIGIBILITY CRITERIA ESTABLISHED IN SECTION FOUR HUNDRED FORTY-TWO OF THIS ARTICLE. FOLLOWING APPROVAL BY THE COMMISSIONER OF AN APPLICATION BY A BUSINESS ENTITY TO PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM, THE COMMISSIONER SHALL ISSUE A CERTIFICATE OF TAX CREDIT TO THE BUSINESS ENTITY UPON ITS DEMONSTRATING SUCCESSFUL COMPLETION OF SUCH ELIGIBLE TRAINING TO THE SATISFACTION OF THE COMMISSIONER. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF ELIGIBLE TRAINING COSTS, UP TO TEN THOUSAND DOLLARS PER EMPLOYEE RECEIVING ELIGIBLE TRAINING. THE TAX CREDITS SHALL BE CLAIMED BY THE QUALIFIED EMPLOYER AS SPECIFIED IN SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN-B AND SUBSECTION (DDD) OF SECTION SIX HUNDRED SIX OF THE TAX LAW.

S 444. POWERS AND DUTIES OF THE COMMISSIONER. 1. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE COMMISSIONER OF LABOR, PROMULGATE REGULATIONS CONSISTENT WITH THE PURPOSES OF THIS ARTICLE THAT, NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE ACT, MAY BE ADOPTED ON AN EMERGENCY BASIS. SUCH REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ELIGIBILITY CRITERIA FOR BUSINESS ENTITIES DESIRING TO PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM, PROCEDURES FOR THE RECEIPT AND EVALUATION OF APPLICATIONS FROM BUSINESS ENTITIES TO PARTICIPATE IN THE PROGRAM, AND SUCH OTHER PROVISIONS AS THE COMMISSIONER DEEMS TO BE APPROPRIATE IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE DEPARTMENT OF TAXATION AND FINANCE, DEVELOP A CERTIFICATE OF TAX CREDIT THAT SHALL BE ISSUED BY THE COMMISSIONER TO PARTICIPATING BUSINESS ENTITIES. PARTICIPANTS MAY BE REQUIRED BY THE COMMISSIONER OF TAXATION AND FINANCE TO



1 INCLUDE THE CERTIFICATE OF TAX CREDIT WITH THEIR TAX RETURN TO RECEIVE  
2 ANY TAX BENEFITS UNDER THIS ARTICLE.

3 3. THE COMMISSIONER SHALL SOLELY DETERMINE THE ELIGIBILITY OF ANY  
4 APPLICANT APPLYING FOR ENTRY INTO THE PROGRAM AND SHALL REMOVE ANY  
5 PARTICIPANT FROM THE PROGRAM FOR FAILING TO MEET ANY OF THE REQUIREMENTS  
6 SET FORTH IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-TWO OF THIS  
7 ARTICLE OR FOR MAKING A MATERIAL MISREPRESENTATION WITH RESPECT TO ITS  
8 PARTICIPATION IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM.

9 S 445. RECORDKEEPING REQUIREMENTS. EACH BUSINESS ENTITY PARTICIPATING  
10 IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM SHALL MAINTAIN ALL RELEVANT  
11 RECORDS FOR THE DURATION OF ITS PROGRAM PARTICIPATION PLUS THREE YEARS.

12 S 446. CAP ON TAX CREDIT. THE TOTAL AMOUNT OF TAX CREDITS LISTED ON  
13 CERTIFICATES OF TAX CREDIT ISSUED BY THE COMMISSIONER FOR ANY TAXABLE  
14 YEAR MAY NOT EXCEED FIVE MILLION DOLLARS, AND SHALL BE ALLOTTED FROM THE  
15 FUNDS AVAILABLE FOR TAX CREDITS UNDER THE EXCELSIOR JOBS PROGRAM ACT  
16 PURSUANT TO SECTION THREE HUNDRED FIFTY-NINE OF THIS CHAPTER.

17 S 2. Section 210-B of the tax law is amended by adding a new subdivi-  
18 sion 50 to read as follows:

19 50. EMPLOYEE TRAINING INCENTIVE PROGRAM TAX CREDIT. (A) A TAXPAYER  
20 THAT HAS BEEN APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO  
21 PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM AND HAS BEEN  
22 ISSUED A CERTIFICATE OF TAX CREDIT PURSUANT TO SECTION FOUR HUNDRED  
23 FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED TO CLAIM A  
24 CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT SHALL EQUAL  
25 FIFTY PERCENT OF A TAXPAYER'S ELIGIBLE TRAINING COSTS, UP TO TEN THOU-  
26 SAND DOLLARS PER EMPLOYEE RECEIVING ELIGIBLE TRAINING. IN NO EVENT SHALL  
27 A TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF CREDIT LISTED  
28 ON THE CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC  
29 DEVELOPMENT. THE CREDIT WILL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE  
30 ELIGIBLE TRAINING FOR ALL EMPLOYEES IS COMPLETED.

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

43 (C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS  
44 CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVEL-  
45 OPMENT PURSUANT TO SECTION FOUR HUNDRED FORTY-THREE OF THE ECONOMIC  
46 DEVELOPMENT LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT  
47 GREATER THAN THE AMOUNT OF THE CREDIT LISTED IN THE CERTIFICATE OF TAX  
48 CREDIT, OR IN THE CASE OF A TAXPAYER WHO IS A PARTNER IN A PARTNERSHIP  
49 OR A MEMBER OF A LIMITED LIABILITY COMPANY, ITS PRO RATA SHARE OF THE  
50 AMOUNT OF CREDIT LISTED IN THE CERTIFICATE OF TAX CREDIT ISSUED TO THE  
51 PARTNERSHIP OR LIMITED LIABILITY COMPANY.

52 S 3. Section 606 of the tax law is amended to add a new subsection  
53 (ddd) to read as follows:

54 (DDD) EMPLOYEE TRAINING INCENTIVE PROGRAM TAX CREDIT. (1) A TAXPAYER  
55 THAT HAS BEEN APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO  
56 PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM AND HAS BEEN

1 ISSUED A CERTIFICATE OF TAX CREDIT PURSUANT TO SECTION FOUR HUNDRED  
2 FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED TO CLAIM A  
3 CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT SHALL EQUAL  
4 FIFTY PERCENT OF A TAXPAYER'S ELIGIBLE TRAINING COSTS, UP TO TEN THOU-  
5 SAND DOLLARS PER EMPLOYEE RECEIVING ELIGIBLE TRAINING. IN NO EVENT SHALL  
6 A TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT LISTED ON THE  
7 CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVEL-  
8 OPMENT. IN THE CASE OF A TAXPAYER WHO IS A PARTNER IN A PARTNERSHIP,  
9 MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPO-  
10 RATION, THE TAXPAYER SHALL BE ALLOWED ITS PRO RATA SHARE OF THE CREDIT  
11 EARNED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY OR S CORPORATION.  
12 THE CREDIT WILL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ELIGIBLE  
13 TRAINING FOR ALL EMPLOYEES IS COMPLETED.

14 (2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY  
15 TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, THE EXCESS  
16 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN  
17 ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS  
18 ARTICLE, PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

19 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606  
20 of the tax law is amended by adding a new clause (xlII) to read as  
21 follows:

22 (XLII) EMPLOYEE TRAINING INCENTIVE	AMOUNT OF CREDIT UNDER
23 PROGRAM CREDIT UNDER	SUBDIVISION FIFTY OF
24 SUBSECTION (DDD)	SECTION TWO HUNDRED TEN-B

25 S 5. This act shall take effect immediately and apply to taxable years  
26 beginning on or after January 1, 2015.

27 PART P

28 Section 1. Subdivision 1 of section 184 of the tax law, as amended by  
29 section 62 of part A of chapter 59 of the laws of 2014, is amended to  
30 read as follows:

31 1. The term "corporation" as used in this section shall include an  
32 association, within the meaning of paragraph three of subsection (a) of  
33 section seventy-seven hundred one of the internal revenue code (includ-  
34 ing a limited liability company), a publicly traded partnership treated  
35 as a corporation for purposes of the internal revenue code pursuant to  
36 section seventy-seven hundred four thereof.

37 Every corporation, joint-stock company or association formed for or  
38 principally engaged in the conduct of canal, steamboat, ferry (except a  
39 ferry company operating between any of the boroughs of the city of New  
40 York under a lease granted by the city), express, navigation, pipe line,  
41 transfer, baggage express, omnibus, taxicab, telegraph, MOBILE TELECOM-  
42 MUNICATIONS or local telephone business, or formed for or principally  
43 engaged in the conduct of two or more of such businesses, and every  
44 corporation, joint-stock company or association formed for or principal-  
45 ly engaged in the conduct of surface railroad, whether or not operated  
46 by steam, subway railroad, elevated railroad, palace car, sleeping car  
47 or trucking business or formed for or principally engaged in the conduct  
48 of two or more such businesses and which has made an election pursuant  
49 to subdivision ten of section one hundred eighty-three of this article,  
50 and every other corporation, joint-stock company or association formed  
51 for or principally engaged in the conduct of a transportation or trans-  
52 mission business (other than a telephone business), except a corpo-  
53 ration, joint-stock company or association formed for or principally  
54 engaged in the conduct of a surface railroad, whether or not operated by

1 steam, subway railroad, elevated railroad, palace car, sleeping car or  
2 trucking business or formed for or principally engaged in the conduct of  
3 two or more of such businesses and which has not made the election  
4 provided for in subdivision ten of section one hundred eighty-three of  
5 this article, and, except a corporation, joint-stock company or associ-  
6 ation principally engaged in the conduct of aviation (including air  
7 freight forwarders acting as principal and like indirect air carriers)  
8 and except a corporation principally engaged in providing telecommuni-  
9 cation services between aircraft and dispatcher, aircraft and air traf-  
10 fic control or ground station and ground station (or any combination of  
11 the foregoing), at least ninety percent of the voting stock of which  
12 corporation is owned, directly or indirectly, by air carriers and which  
13 corporation's principal function is to fulfill the requirements of (i)  
14 the federal aviation administration (or the successor thereto) or (ii)  
15 the international civil aviation organization (or the successor there-  
16 to), relating to the existence of a communication system between  
17 aircraft and dispatcher, aircraft and air traffic control or ground  
18 station and ground station (or any combination of the foregoing) for the  
19 purposes of air safety and navigation and for the privilege of exercis-  
20 ing its corporate franchise, or of doing business, or of employing capi-  
21 tal, or of owning or leasing property in this state in a corporate or  
22 organized capacity, or maintaining an office in this state, shall pay a  
23 franchise tax which shall be equal to three-eighths of one percent for  
24 taxable years commencing after two thousand, upon its gross earnings  
25 from all sources within this state; except that, for taxable years  
26 commencing on or after January first, nineteen hundred ninety, every  
27 corporation, joint-stock company or association formed for or principal-  
28 ly engaged in the conduct of A MOBILE TELECOMMUNICATIONS BUSINESS, local  
29 telephone business, or telegraph business shall pay a franchise tax  
30 which shall be equal to three-eighths of one percent for taxable years  
31 commencing after two thousand, upon its gross earnings from all sources  
32 within this state, except that a corporation, joint-stock company or  
33 association formed for or principally engaged in the conduct of a local  
34 telephone business shall exclude the following earnings (but not in any  
35 event earnings derived by such taxpayer from the provision of carrier  
36 access services) derived by such taxpayer from sales for ultimate  
37 consumption of telecommunications service to its customers (i) thirty  
38 percent of separately charged intra-LATA toll service (which shall also  
39 include interregion regional calling plan service) and (ii) one hundred  
40 percent of separately charged inter-LATA, interstate or international  
41 telecommunications service; and except that corporations, joint-stock  
42 companies or associations formed for or principally engaged in the  
43 conduct of canal, steamboat, ferry (except a ferry company operating  
44 between any of the boroughs of the city of New York under a lease grant-  
45 ed by the city), navigation or any corporation formed for or principally  
46 engaged in the operation of vessels, shall pay a franchise tax which  
47 shall be equal to three-quarters of one per centum upon its gross earn-  
48 ings from all sources within this state, excluding earnings derived from  
49 business of an interstate or foreign character; except that for taxable  
50 years beginning in nineteen hundred ninety-seven or thereafter, in the  
51 case of a corporation, joint-stock company or association which, with  
52 respect to taxable years beginning after nineteen hundred ninety-seven,  
53 has made an election pursuant to subdivision ten of section one hundred  
54 eighty-three of this article and which is formed for or principally  
55 engaged in the conduct of surface railroad, whether or not operated by  
56 steam, subway railroad, elevated railroad, palace car, sleeping car or

1 trucking business or formed for or principally engaged in the conduct of  
2 two or more of such businesses, such corporation, joint-stock company or  
3 association shall pay a franchise tax which shall be equal to three-  
4 eighths of one percent for taxable years commencing after two thousand,  
5 upon its gross earnings from all sources within this state, provided  
6 that in the case of a corporation, joint-stock company or association  
7 formed for or principally engaged in the conduct of surface railroad,  
8 whether or not operated by steam, subway railroad, elevated railroad,  
9 palace car or sleeping car business, or formed for or principally  
10 engaged in the conduct of two or more of such businesses, such gross  
11 earnings shall not include earnings derived from business of an inter-  
12 state or foreign character.

13 Provided, however, with respect to railroad, elevated railroad, palace  
14 car or sleeping car business or any other corporation formed for or  
15 principally engaged in the conduct of a railroad business and canal,  
16 steamboat, ferry (except a ferry company operating between any of the  
17 boroughs of the city of New York under a lease granted by the city),  
18 navigation or any corporation formed for or principally engaged in the  
19 operation of vessels where the gross earnings from such transportation  
20 business both originating and terminating within this state and travers-  
21 ing both this state and another state or states or country shall be  
22 subject to the franchise tax imposed by this section (except where such  
23 corporation, joint-stock company or association is formed for or princi-  
24 pally engaged in the conduct of a railroad (including surface railroad,  
25 whether or not operated by steam, subway railroad or elevated railroad),  
26 palace car or sleeping car business or formed for or principally engaged  
27 in the conduct of two or more of such businesses, and has not made the  
28 election provided for under subdivision ten of section one hundred  
29 eighty-three of this article) and such earnings shall be allocated to  
30 this state in the same ratio that the mileage within the state bears to  
31 the total mileage of such business. Provided, further, a corporation,  
32 joint-stock company or association formed for or principally engaged in  
33 the transportation, transmission or distribution of gas, electricity or  
34 steam shall not be subject to tax under this section or section one  
35 hundred eighty-three of this article.

36 The term "local telephone business" means the provision or furnishing  
37 of telecommunication services for hire wherein the service furnished by  
38 the provider thereof consists of carrier access service or the service  
39 originates and terminates within the same local access and transport  
40 area ("LATA"), a local access and transport area being that geographic  
41 area as established and approved, and as so set and in existence on July  
42 first, nineteen hundred ninety-four, pursuant to the modification of  
43 final judgment in United States v. Western Electric Company (civil  
44 action no. 82-0192) in the United States district court for the District  
45 of Columbia or within the LATA-like Rochester non-associated independent  
46 area.

47 THE TERM "MOBILE TELECOMMUNICATIONS BUSINESS" MEANS THE PROVISION OR  
48 FURNISHING OF "MOBILE TELECOMMUNICATIONS SERVICE" AS SUCH TERM IS  
49 DEFINED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (B) OF SECTION ELEVEN  
50 HUNDRED ONE OF THIS CHAPTER.

51 The term "telecommunication services" shall have the meaning ascribed  
52 to such term in section one hundred eighty-six-e of this article.

53 S 2. Subdivision 1 of section 184-a of the tax law, as amended by  
54 section 2 of part C of chapter 60 of the laws of 2004, the opening para-  
55 graph as amended by section 63 of part A of chapter 59 of the laws of  
56 2014, is amended to read as follows:

1     1. The term "corporation" as used in this section shall include an  
2 association, within the meaning of paragraph three of subsection (a) of  
3 section seventy-seven hundred one of the internal revenue code (includ-  
4 ing a limited liability company), and a publicly traded partnership  
5 treated as a corporation for purposes of the internal revenue code  
6 pursuant to section seventy-seven hundred four thereof. Every corpo-  
7 ration, joint-stock company or association formed for or principally  
8 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-  
9 ny operating between any of the boroughs of the city of New York under a  
10 lease granted by the city), express, navigation, pipe line, transfer,  
11 baggage express, omnibus, taxicab, telegraph, MOBILE TELECOMMUNICATIONS  
12 or local telephone business, or formed for or principally engaged in the  
13 conduct of two or more such businesses, and every corporation, joint-  
14 stock company or association formed for or principally engaged in the  
15 conduct of a surface railroad, whether or not operated by steam, subway  
16 railroad, elevated railroad, palace car, sleeping car or trucking busi-  
17 ness or principally engaged in the conduct of two or more such busi-  
18 nesses and which has made an election pursuant to subdivision ten of  
19 section one hundred eighty-three of this article, and every other corpo-  
20 ration, joint-stock company or association formed for or principally  
21 engaged in the conduct of a transportation or transmission business  
22 (other than a telephone business) except a corporation, joint-stock  
23 company or association formed for or principally engaged in the conduct  
24 of a surface railroad, whether or not operated by steam, subway rail-  
25 road, elevated railroad, palace car, sleeping car or trucking business  
26 or principally engaged in the conduct of two or more such businesses and  
27 which has not made the election provided for in subdivision ten of  
28 section one hundred eighty-three of this article, and except a corpo-  
29 ration, joint-stock company or association principally engaged in the  
30 conduct of aviation (including air freight forwarders acting as princi-  
31 pal and like indirect air carriers) and except a corporation principally  
32 engaged in providing telecommunication services between aircraft and  
33 dispatcher, aircraft and air traffic control or ground station and  
34 ground station (or any combination of the foregoing), at least ninety  
35 percent of the voting stock of which corporation is owned, directly or  
36 indirectly, by air carriers and which corporation's principal function  
37 is to fulfill the requirements of (i) the federal aviation adminis-  
38 tration (or the successor thereto) or (ii) the international civil  
39 aviation organization (or the successor thereto), relating to the exist-  
40 ence of a communication system between aircraft and dispatcher, aircraft  
41 and air traffic control or ground station and ground station (or any  
42 combination of the foregoing) for the purposes of air safety and naviga-  
43 tion, shall pay for the privilege of exercising its corporate franchise,  
44 or of doing business, or of employing capital, or of owning or leasing  
45 property in the metropolitan commuter transportation district in such  
46 corporate or organized capacity, or of maintaining an office in such  
47 district, a tax surcharge, which tax surcharge, in addition to the tax  
48 imposed by section one hundred eighty-four of this article, shall be  
49 computed at the rate of seventeen percent of the tax imposed under such  
50 section for such taxable years or any part of such taxable years after  
51 the deduction of any credits otherwise allowable under this article;  
52 provided, however, that such rates of tax surcharge shall be applied  
53 only to that portion of the tax imposed under section one hundred eight-  
54 y-four of this article after the deduction of any credits otherwise  
55 allowable under this article which is attributable to the taxpayer's  
56 business activity carried on within the metropolitan commuter transpor-

1 tation district. Provided, however, that for taxable years beginning in  
2 two thousand and thereafter, for purposes of this subdivision the tax  
3 imposed under section one hundred eighty-four of this article shall be  
4 deemed to have been imposed at the rate of three-quarters of one  
5 percent, except that in the case of a corporation, joint-stock company  
6 or association which has made an election pursuant to subdivision ten of  
7 section one hundred eighty-three of this article, for purposes of this  
8 subdivision the tax imposed under section one hundred eighty-four of  
9 this article shall be deemed to have been imposed at the rate of six-  
10 tenths of one percent.

11 The term "local telephone business" shall have the same meaning as  
12 such term is used in section one hundred eighty-four of this article.  
13 The term "telecommunication services" shall have the meaning ascribed to  
14 such term in section one hundred eighty-six-e of this article.

15 THE TERM "MOBILE TELECOMMUNICATIONS BUSINESS" MEANS THE PROVISION OR  
16 FURNISHING OF "MOBILE TELECOMMUNICATIONS SERVICE" AS SUCH TERM IS  
17 DEFINED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (B) OF SECTION ELEVEN  
18 HUNDRED ONE OF THIS CHAPTER.

19 S 3. This act shall take effect immediately and shall apply to taxable  
20 years beginning on and after January 1, 2015.

21 PART Q

22 Section 1. The tax law is amended by adding a new section 195 to read  
23 as follows:

24 S 195. LIMITATION ON REFUNDS OR CREDITS. WHERE ANY PERSON SUBJECT TO  
25 TAX UNDER THIS ARTICLE PASSES THROUGH THE ECONOMIC INCIDENCE OF ANY TAX  
26 IMPOSED BY THIS ARTICLE AS A SEPARATELY STATED AMOUNT ON A BILL OR  
27 INVOICE FURNISHED TO ITS CUSTOMER, NO REFUND OR CREDIT SHALL BE MADE TO  
28 SUCH PERSON OF ANY SUCH AMOUNT UNLESS SUCH PERSON SHALL FIRST ESTABLISH  
29 TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH AMOUNT HAD BEEN REPAID  
30 TO SUCH CUSTOMER. FOR PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL  
31 HAVE THE SAME MEANING THAT IS ASCRIBED TO IT IN PARAGRAPH (C) OF SUBDI-  
32 VISION ONE OF SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS ARTICLE.

33 S 2. This act shall take effect immediately and shall apply to any  
34 amended return or claim for refund submitted on and after January 1,  
35 2015.

36 PART R

37 Section 1. Subdivision (b) of section 27-1318 of the environmental  
38 conservation law, as amended by section 2 of part E of chapter 577 of  
39 the laws of 2004, is amended to read as follows:

40 (b) Within [sixty] ONE HUNDRED EIGHTY days of commencement of the  
41 remedial design, the owner of an inactive hazardous waste disposal site,  
42 and/or any person responsible for implementing a remedial program at  
43 such site, where institutional or engineering controls are employed  
44 pursuant to this title, shall execute an environmental easement pursuant  
45 to title thirty-six of article seventy-one of this chapter.

46 S 2. Subdivision 2 of section 27-1405 of the environmental conserva-  
47 tion law, as amended by section 2 of part A of chapter 577 of the laws  
48 of 2004, is amended and a new subdivision 29 is added to read as  
49 follows:

50 2. "Brownfield site" or "site" shall mean any real property[, the  
51 redevelopment or reuse of which may be complicated by the presence or  
52 potential presence of] WHERE a contaminant IS PRESENT AT LEVELS EXCEED-

1 ING THE SOIL CLEANUP OBJECTIVES OR OTHER HEALTH-BASED OR ENVIRONMENTAL  
2 STANDARDS, CRITERIA OR GUIDANCE ADOPTED BY THE DEPARTMENT THAT ARE  
3 APPLICABLE BASED ON THE REASONABLY ANTICIPATED USE OF THE PROPERTY, AS  
4 DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH APPLICABLE REGULATIONS.  
5 Such term shall not include real property:

6 (a) listed in the registry of inactive hazardous waste disposal sites  
7 under section 27-1305 of this article at the time of application to this  
8 program and given a classification as described in subparagraph one or  
9 two of paragraph b of subdivision two of section 27-1305 of this arti-  
10 cle; provided, however [except until July first, two thousand five],  
11 real property listed in the registry of inactive hazardous waste  
12 disposal sites under subparagraph two of paragraph b of subdivision two  
13 of section 27-1305 of this article [prior to the effective date of this  
14 article], where such real property is owned by a volunteer OR UNDER  
15 CONTRACT TO BE TRANSFERRED TO A VOLUNTEER, shall not be deemed ineligi-  
16 ble to participate, PROVIDED THAT, PRIOR TO THE SITE BEING ACCEPTED INTO  
17 THE BROWNFIELD CLEANUP PROGRAM, THE DEPARTMENT HAS NOT IDENTIFIED ANY  
18 RESPONSIBLE PARTY FOR THAT PROPERTY HAVING THE ABILITY TO PAY FOR THE  
19 INVESTIGATION OR CLEANUP OF THE PROPERTY and further provided that the  
20 status of any such site as listed in the registry shall not be altered  
21 prior to the issuance of a certificate of completion pursuant to section  
22 27-1419 of this title. THE DEPARTMENT'S ASSESSMENT OF ELIGIBILITY UNDER  
23 THIS PARAGRAPH SHALL NOT CONSTITUTE A FINDING CONCERNING LIABILITY WITH  
24 RESPECT TO THE PROPERTY;

25 (b) listed on the national priorities list established under authority  
26 of 42 U.S.C. section 9605;

27 (c) subject to an enforcement action under title seven or nine of this  
28 article, [except] OR PERMITTED OR REQUIRED TO BE PERMITTED AS a treat-  
29 ment, storage or disposal facility [subject to a permit]; provided, that  
30 nothing herein contained shall be deemed otherwise to exclude from the  
31 scope of the term "brownfield site" a hazardous waste treatment, storage  
32 or disposal facility having interim status according to regulations  
33 promulgated by the commissioner;

34 (d) subject to an order for cleanup pursuant to article twelve of the  
35 navigation law or pursuant to title ten of article seventeen of this  
36 chapter except such property shall not be deemed ineligible if it is  
37 subject to a stipulation agreement; or

38 (e) subject to any other on-going state or federal environmental  
39 enforcement action related to the contamination which is at or emanating  
40 from the site subject to the present application.

41 29. "AFFORDABLE HOUSING PROJECT" MEANS A PROJECT SUBJECT TO A REGULA-  
42 TORY AGREEMENT WITH A FEDERAL, STATE OR LOCAL GOVERNMENT HOUSING AGENCY  
43 THAT IS (A) A RENTAL BUILDING IN WHICH AT LEAST TWENTY PERCENT OF THE  
44 DWELLING UNITS ARE RESTRICTED BY THE REGULATORY AGREEMENT FOR OCCUPANCY  
45 BY TENANTS WHOSE ANNUAL INCOMES UPON INITIAL OCCUPANCY DO NOT EXCEED  
46 NINETY PERCENT OF THE AREA MEDIAN INCOME AND IN WHICH AT LEAST AN ADDI-  
47 TIONAL THIRTY PERCENT OF THE DWELLING UNITS ARE RESTRICTED BY THE REGU-  
48 LATORY AGREEMENT FOR OCCUPANCY BY TENANTS WHOSE ANNUAL INCOMES UPON  
49 INITIAL OCCUPANCY DO NOT EXCEED ONE HUNDRED THIRTY PERCENT OF THE AREA  
50 MEDIAN INCOME; (B) A COOPERATIVE OR CONDOMINIUM PROJECT WITH AT LEAST  
51 TEN DWELLING UNITS WHERE AT LEAST FIFTY PERCENT OF THE DWELLING UNITS  
52 ARE INTENDED FOR BUYERS WHOSE AVERAGE ANNUAL INCOMES UPON INITIAL OCCU-  
53 PANCY DO NOT EXCEED ONE HUNDRED THIRTY PERCENT OF THE AREA MEDIAN  
54 INCOME; OR (C) A SINGLE-FAMILY HOME-OWNERSHIP PROJECT WITH ONE TO THREE  
55 UNITS, CONSISTING OF NOT LESS THAN TWENTY FEE-SIMPLE PROPERTIES WHERE AT  
56 LEAST FIFTY PERCENT OF THE HOMES ARE INTENDED FOR BUYERS WHOSE ANNUAL

INCOMES UPON INITIAL OCCUPANCY DO NOT EXCEED ONE HUNDRED THIRTY PERCENT OF THE AREA MEDIAN INCOME. AREA MEDIAN INCOME MEANS THE AREA MEDIAN INCOME FOR THE PRIMARY METROPOLITAN STATISTICAL AREA, OR FOR THE COUNTY IF LOCATED OUTSIDE A METROPOLITAN STATISTICAL AREA, AS DETERMINED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OR ITS SUCCESSOR, FOR A FAMILY OF FOUR, AS ADJUSTED FOR FAMILY SIZE.

S 3. Subdivision 1 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws of 2004, is amended and two new subdivisions 1-a and 1-b are added to read as follows:

1. A person who seeks to participate in this program shall submit a request to the department on a form provided by the department. Such form shall include information to be determined by the department sufficient to allow the department to determine eligibility and the current, intended and reasonably anticipated future land use of the site pursuant to section 27-1415 of this title. ANY SUCH PERSON SHALL SUBMIT AN INVESTIGATION REPORT SUFFICIENT TO DEMONSTRATE THAT THE SITE REQUIRES REMEDIATION IN ORDER TO MEET THE REMEDIAL REQUIREMENTS OF THIS TITLE.

1-A. IF THE PERSON IS ALSO SEEKING TO RECEIVE THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SUCH PERSON SHALL SUBMIT INFORMATION SUFFICIENT TO DEMONSTRATE THAT: (A) AT LEAST HALF OF THE SITE AREA IS LOCATED IN AN ENVIRONMENTAL ZONE AS DEFINED IN SECTION TWENTY-ONE OF THE TAX LAW; (B) THE PROJECTED COST OF THE INVESTIGATION AND REMEDIATION WHICH IS PROTECTIVE FOR THE ANTICIPATED USE OF THE SITE EXCEEDS THE CERTIFIED APPRAISED VALUE OF THE PROPERTY ABSENT CONTAMINATION; OR (C) THE PROJECT IS AN AFFORDABLE HOUSING PROJECT. FOR ANY SITE LOCATED WITHIN A BROWNFIELD OPPORTUNITY AREA DESIGNATED BY THE SECRETARY OF STATE PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW SUCH PERSONS MUST ALSO CERTIFY THAT THE DEVELOPMENT OF THE SITE WILL BE IN CONFORMANCE WITH SUCH BROWNFIELD OPPORTUNITY AREA PLAN. AN APPLICANT MAY REQUEST AN ELIGIBILITY DETERMINATION FOR TANGIBLE PROPERTY CREDITS AT ANY TIME FROM APPLICATION UNTIL THE SITE RECEIVES A CERTIFICATE OF COMPLETION PURSUANT TO SECTION 27-1419 OF THIS TITLE.

SITES ARE NOT ELIGIBLE FOR TANGIBLE PROPERTY TAX CREDITS IF: (A) THE CONTAMINATION IS SOLELY EMANATING FROM PROPERTY OTHER THAN THE SITE SUBJECT TO THE PRESENT APPLICATION; OR (B) THE DEPARTMENT HAS DETERMINED THAT THE PROPERTY HAS PREVIOUSLY BEEN REMEDIATED SUCH THAT IT MAY BE DEVELOPED FOR ITS THEN INTENDED USE.

1-B. THE DEPARTMENT IS AUTHORIZED TO ACCEPT THE REQUEST OF AN APPLICANT WHICH IS CURRENTLY ACTIVE IN ITS ADMINISTRATIVE VOLUNTARY CLEANUP PROGRAM FOR PARTICIPATION IN THIS PROGRAM, PROVIDED, HOWEVER, THAT:

(A) THE APPLICANT SHALL NOT BE ELIGIBLE FOR TAX CREDITS PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW; AND

(B) THE APPLICANT COMMITS TO PROMPT AND DILIGENT IMPLEMENTATION OF ALL REMAINING INVESTIGATION AND/OR REMEDIATION OF THE CONTAMINATION.

S 4. Subdivision 3 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

3. The department shall notify the person requesting participation in this program within [ten] THIRTY days after receiving such request that such request is either complete or incomplete. In the event the application is determined to be incomplete the department shall specify in writing the missing necessary information required pursuant to this article to complete the application and shall have ten days after



1 receipt of the missing information to issue a written determination if  
2 the application is complete.

3 S 5. Subdivision 6 of section 27-1407 of the environmental conserva-  
4 tion law, as added by section 1 of part A of chapter 1 of the laws of  
5 2003, is amended to read as follows:

6 6. The department shall use all best efforts to expeditiously notify  
7 the applicant within forty-five days after receiving [their request] A  
8 COMPLETE APPLICATION for participation that such request is either  
9 accepted or rejected, AND, FOR ANY APPLICANT SEEKING TO RECEIVE THE  
10 TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX  
11 CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWEN-  
12 TY-ONE OF THE TAX LAW, SHALL CONCURRENTLY NOTIFY THE APPLICANT WHETHER  
13 THE CRITERIA FOR RECEIVING SUCH COMPONENT AS SET FORTH IN SUBDIVISION  
14 ONE OF THIS SECTION HAVE BEEN MET.

15 S 6. Subdivision 9 of section 27-1407 of the environmental conserva-  
16 tion law is amended by adding a new paragraph (g) to read as follows:

17 (G) THE PERSON'S PARTICIPATION IN ANY REMEDIAL PROGRAM UNDER THE  
18 DEPARTMENT'S OVERSIGHT WAS TERMINATED BY THE DEPARTMENT OR BY A COURT  
19 FOR FAILURE TO SUBSTANTIALLY COMPLY WITH AN AGREEMENT OR ORDER.

20 S 7. Subdivision 2 of section 27-1409 of the environmental conserva-  
21 tion law, as amended by section 4 of part A of chapter 577 of the laws  
22 of 2004, is amended to read as follows:

23 2. One requiring: (A) the [applicant] PARTICIPANT to pay for state  
24 costs, INCLUDING THE RECOVERY OF STATE COSTS INCURRED BEFORE THE EFFEC-  
25 TIVE DATE OF SUCH AGREEMENT; provided, however, that SUCH COSTS MAY BE  
26 BASED ON A REASONABLE FLAT-FEE FOR OVERSIGHT, WHICH SHALL REFLECT THE  
27 PROJECTED FUTURE STATE COSTS INCURRED IN NEGOTIATING AND OVERSEEING  
28 IMPLEMENTATION OF SUCH AGREEMENT; AND

29 (B) with respect to a brownfield site which the department has deter-  
30 mined constitutes a significant threat to the public health or environ-  
31 ment the department may include a provision requiring the applicant to  
32 provide a technical assistance grant, as described in subdivision four  
33 of section 27-1417 of this title and under the conditions described  
34 therein, to an eligible party in accordance with procedures established  
35 under such program, with the cost of such a grant incurred by a volun-  
36 teer serving as an offset against such state costs[. Where the appli-  
37 cant is a participant, the department shall include provisions relating  
38 to recovery of state costs incurred before the effective date of such  
39 agreement];

40 S 8. Section 27-1411 of the environmental conservation law is amended  
41 by adding a new subdivision 6 to read as follows:

42 6. AN APPLICANT SHALL COMMENCE IMPLEMENTATION OF ANY WORK PLAN WITHIN  
43 NINETY DAYS OF APPROVAL OF THE PLAN BY THE DEPARTMENT AND COMPLETE THE  
44 ACTIVITIES PROVIDED FOR IN SUCH WORK PLAN IN ACCORDANCE WITH THE SCHED-  
45 ULE SET FORTH THEREIN, OR AS OTHERWISE APPROVED BY THE DEPARTMENT IN  
46 WRITING.

47 S 9. Subdivision 2 of section 27-1413 of the environmental conserva-  
48 tion law, as amended by section 6 of part A of chapter 577 of the laws  
49 of 2004, is amended to read as follows:

50 2. For all [other] sites SEEKING TO RECEIVE THE TANGIBLE PROPERTY  
51 CREDIT COMPONENT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF  
52 SECTION TWENTY-ONE OF THE TAX LAW AND ALL SITES ACCEPTED PURSUANT TO  
53 SUBDIVISION ONE-B OF SECTION 27-1407 OF THIS TITLE, the applicant shall  
54 develop and evaluate at least two remedial alternatives, one of which  
55 would achieve a Track 1 cleanup. The department shall have the  
56 discretion to require the evaluation of additional alternatives at a

1 site that has been determined to pose a significant threat. The appli-  
2 cant shall submit the alternatives analysis [as a part of the remedial  
3 work plan to the department] WITHIN SIXTY DAYS OF THE ACCEPTANCE OF THE  
4 REMEDIAL INVESTIGATION BY THE DEPARTMENT for review, approval, modifica-  
5 tion or rejection BY THE DEPARTMENT.

6 S 10. Subdivision 4 of section 27-1415 of the environmental conserva-  
7 tion law, as amended by section 7 of part A of chapter 577 of the laws  
8 of 2004, is amended to read as follows:

9 4. Tracks. The commissioner, in consultation with the commissioner of  
10 health, shall propose within twelve months and thereafter timely promul-  
11 gate regulations which create a multi-track approach for the remediation  
12 of contamination, and, commencing on the effective date of such regu-  
13 lations, utilize such multi-track approach. Such regulations shall  
14 provide that groundwater use in Tracks 2, 3 or 4 can be either  
15 restricted or unrestricted. The tracks shall be as follows:

16 Track 1: The remedial program shall achieve a cleanup level that will  
17 allow the site to be used for any purpose without restriction and with-  
18 out reliance on the long-term employment of institutional or engineering  
19 controls, and shall achieve contaminant-specific remedial action objec-  
20 tives for soil which conform with those contained in the generic table  
21 of contaminant-specific remedial action objectives for unrestricted use  
22 developed pursuant to subdivision six of this section. Provided, howev-  
23 er, that volunteers whose proposed remedial program [for the remediation  
24 of groundwater] (A) (I) may require the long-term employment of institu-  
25 tional or engineering controls FOR THE REMEDIATION OF GROUNDWATER after  
26 the bulk reduction of groundwater contamination to asymptotic levels has  
27 been achieved OR (II) MAY REQUIRE AN INSTITUTIONAL OR ENGINEERING  
28 CONTROL FOR MORE THAN FIVE YEARS SOLELY TO ADDRESS SOIL VAPOR INTRUSION  
29 but (B) whose program would otherwise conform with the requirements  
30 necessary to qualify for Track 1, shall qualify for Track 1.

31 Track 2: The remedial program may include restrictions on the use of  
32 the site or reliance on the long-term employment of engineering and/or  
33 institutional controls, but shall achieve contaminant-specific remedial  
34 action objectives for soil which conform with those contained in one of  
35 the generic tables developed pursuant to subdivision six of this section  
36 without the use of institutional or engineering controls to reach such  
37 objectives.

38 Track 3: The remedial program shall achieve contaminant-specific reme-  
39 dial action objectives for soil which conform with the criteria used to  
40 develop the generic tables for such objectives developed pursuant to  
41 subdivision six of this section but may use site specific data to deter-  
42 mine such objectives.

43 Track 4: The remedial program shall achieve a cleanup level that will  
44 be protective for the site's current, intended or reasonably anticipated  
45 residential, commercial, or industrial use with restrictions and with  
46 reliance on the long-term employment of institutional or engineering  
47 controls to achieve such level. The regulations shall include a  
48 provision requiring that a cleanup level which poses a risk in excee-  
49 dence of an excess cancer risk of one in one million for carcinogenic  
50 end points and a hazard index of one for non-cancer end points for a  
51 specific contaminant at a specific site may be approved by the depart-  
52 ment without requiring the use of institutional or engineering controls  
53 to eliminate exposure only upon a site specific finding by the commis-  
54 sioner, in consultation with the commissioner of health, that such level  
55 shall be protective of public health and environment. Such finding shall

1 be included in the draft remedial work plan for the site and fully  
2 described in the notice and fact sheet provided for such work plan.

3 S 11. Paragraphs (b), (c) and (d) of subdivision 7 of section 27-1415  
4 of the environmental conservation law are relettered paragraphs (c), (d)  
5 and (e) and a new paragraph (b) is added to read as follows:

6 (B) WITHIN ONE HUNDRED EIGHTY DAYS OF COMMENCEMENT OF THE REMEDIAL  
7 DESIGN OR AT LEAST THREE MONTHS PRIOR TO THE DATE OF THE ANTICIPATED  
8 ISSUANCE OF THE CERTIFICATE OF COMPLETION, THE OWNER OF A BROWNFIELD  
9 SITE, AND/OR ANY PERSON RESPONSIBLE FOR IMPLEMENTING A REMEDIAL PROGRAM  
10 AT SUCH SITE, WHERE INSTITUTIONAL OR ENGINEERING CONTROLS ARE EMPLOYED  
11 PURSUANT TO THIS TITLE, SHALL EXECUTE AN ENVIRONMENTAL EASEMENT PURSUANT  
12 TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER.

13 S 12. Paragraph (h) of subdivision 3 of section 27-1417 of the envi-  
14 ronmental conservation law is REPEALED, paragraph (i) is relettered  
15 paragraph (h) and paragraph (f), as amended by section 8 of part A of  
16 chapter 577 of the laws of 2004, is amended to read as follows:

17 (f) Before the department [finalizes] SELECTS a proposed [remedial  
18 work plan] REMEDY FROM THE ALTERNATIVES SET FORTH IN THE ALTERNATIVES  
19 ANALYSIS AS PRESCRIBED BY SECTION 27-1413 OF THIS TITLE or makes a  
20 determination that site conditions meet the requirements of this title  
21 without the necessity for remediation pursuant to section 27-1411 of  
22 this title, the department, in consultation with the applicant, must  
23 notify individuals on the brownfield site contact list. Such notice  
24 shall include a fact sheet describing such plan and provide for a  
25 forty-five day public comment period. The commissioner shall hold a  
26 public meeting if requested by the affected community and the commis-  
27 sioner has found that the site constitutes a significant threat to the  
28 public health or the environment. Further, the affected community may  
29 request a public meeting at sites that do not constitute a significant  
30 threat. (1) To the extent that the department has determined that site  
31 conditions do not pose a significant threat and the site is being  
32 addressed by a volunteer, the notice shall state that the department has  
33 determined that no remediation is required for the off-site areas and  
34 that the department's determination of a significant threat is subject  
35 to this forty-five day comment period. (2) If the [remedial work plan]  
36 REMEDY includes a Track 2, Track 3 or Track 4 remedy at a non-signifi-  
37 cant threat site, such comment period shall apply both to the approval  
38 of the alternatives analysis by the department, IF APPLICABLE, and the  
39 proposed remedy selected by the applicant.

40 S 13. Paragraph (a) of subdivision 2 and subdivision 3 of section  
41 27-1419 of the environmental conservation law, paragraph (a) of subdivi-  
42 sion 2 as added by section 1 of part A of chapter 1 of the laws of 2003,  
43 subdivision 3 as amended by chapter 390 of the laws of 2008, are amended  
44 to read as follows:

45 (a) a description of the remediation activities completed pursuant to  
46 the remedial work plan AND ANY INTERIM REMEDIAL MEASURES for the brown-  
47 field site AND THE COSTS PAID FOR THOSE ACTIVITIES;

48 3. Upon receipt of the final engineering report, the department shall  
49 review such report and the data submitted pursuant to the brownfield  
50 site cleanup agreement as well as any other relevant information regard-  
51 ing the brownfield site. Upon satisfaction of the commissioner that the  
52 remediation requirements set forth in this title have been or will be  
53 achieved in accordance with the timeframes, if any, established in the  
54 remedial work plan, the commissioner shall issue a written certificate  
55 of completion[, such]. THE certificate shall include such information as  
56 determined by the department of taxation and finance, including but not

1 limited to the brownfield site boundaries included in the final engi-  
2 neering report, the date of the brownfield site CLEANUP agreement  
3 [pursuant to section 27-1409 of this title], IDENTIFICATION OF THE ENTI-  
4 TY OR ENTITIES ELIGIBLE FOR CREDITS PURSUANT TO SECTIONS TWENTY-ONE,  
5 TWENTY-TWO OR TWENTY-THREE OF THE TAX LAW, and the applicable percent-  
6 ages available AS OF THE DATE OF THE CERTIFICATE OF COMPLETION for that  
7 site for purposes of section twenty-one of the tax law[, with such  
8 percentages to be determined as follows with respect to such qualified  
9 site]. FOR THOSE SITES FOR WHICH THE DEPARTMENT HAS ISSUED A NOTICE TO  
10 THE APPLICANT ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS  
11 REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF  
12 SECTION 27-1407 OF THIS TITLE, THE TANGIBLE PROPERTY CREDIT COMPONENT OF  
13 THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF  
14 SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SHALL ONLY BE  
15 AVAILABLE TO THE TAXPAYER IF THE CRITERIA FOR RECEIVING SUCH TAX COMPO-  
16 NENT HAVE BEEN MET. FOR THOSE SITES for which the department has issued  
17 a notice to the taxpayer after June twenty-third, two thousand eight  
18 that its request for participation has been accepted under subdivision  
19 six of section 27-1407 of this title[:  
20

For the purposes of calculating], THE APPLICABLE PERCENTAGE FOR the  
21 site preparation credit component pursuant to paragraph two of subdivi-  
22 sion (a) of section twenty-one of the tax law, and the on-site groundwa-  
23 ter remediation credit component pursuant to paragraph four of subdivi-  
24 sion (a) of section twenty-one of the tax law[, the applicable  
25 percentage] shall be based on the level of cleanup achieved pursuant to  
26 subdivision four of section 27-1415 of this title and the level of  
27 cleanup of soils to contaminant-specific soil cleanup objectives promul-  
28 gated pursuant to subdivision six of section 27-1415 of this title, up  
29 to a maximum of fifty percent, as follows:

30 (a) soil cleanup for unrestricted use, the protection of groundwater  
31 or the protection of ecological resources, the applicable percentage  
32 shall be fifty percent;

33 (b) soil cleanup for residential use, the applicable percentage shall  
34 be forty percent, except for Track 4 which shall be twenty-eight  
35 percent;

36 (c) soil cleanup for commercial use, the applicable percentage shall  
37 be thirty-three percent, except for Track 4 which shall be twenty-five  
38 percent;

39 (d) soil cleanup for industrial use, the applicable percentage shall  
40 be twenty-seven percent, except for Track 4 which shall be twenty-two  
41 percent.

42 S 14. Subdivision 5 of section 27-1419 of the environmental conserva-  
43 tion law, as amended by section 9 of part A of chapter 577 of the laws  
44 of 2004, is amended to read as follows:

45 5. A certificate of completion issued pursuant to this section may be  
46 transferred [to the applicant's successors or assigns upon transfer or  
47 sale of the brownfield site] BY THE APPLICANT OR SUBSEQUENT HOLDER OF  
48 THE CERTIFICATE OF COMPLETION TO A SUCCESSOR TO A REAL PROPERTY INTER-  
49 EST, INCLUDING LEGAL TITLE, EQUITABLE TITLE OR LEASEHOLD, IN ALL OR A  
50 PART OF THE BROWNFIELD SITE FOR WHICH THE CERTIFICATE OF COMPLETION WAS  
51 ISSUED. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, A  
52 CERTIFICATE OF COMPLETION SHALL NOT BE TRANSFERRED TO A RESPONSIBLE  
53 PARTY. Further, a certificate of completion may be modified or revoked  
54 by the commissioner upon a finding that:

1 (a) Either the applicant, or the applicant's successors or assigns,  
2 has failed to comply with the terms and conditions of the brownfield  
3 site cleanup agreement;

4 (b) The applicant made a misrepresentation of a material fact tending  
5 to demonstrate that: (I) it was qualified as a volunteer; OR (II) MET  
6 THE CRITERIA SET FORTH IN SUBDIVISION ONE-A OF SECTION 27-1407 OF THIS  
7 TITLE FOR THE PURPOSE OF RECEIVING THE TANGIBLE PROPERTY CREDIT COMPO-  
8 NENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH  
9 THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW;

10 (c) Either the applicant, or the applicant's successors or assigns,  
11 made a misrepresentation of a material fact tending to demonstrate that  
12 the cleanup levels identified in the brownfield site cleanup agreement  
13 were reached; [or]

14 (d) THE ENVIRONMENTAL EASEMENT CREATED AND RECORDED PURSUANT TO TITLE  
15 THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER NO LONGER PROVIDES AN  
16 EFFECTIVE OR ENFORCEABLE MEANS OF ENSURING THE PERFORMANCE OF MAINTENANCE,  
17 MONITORING OR OPERATING REQUIREMENTS, OR THE RESTRICTIONS ON  
18 FUTURE USES, INCLUDING RESTRICTIONS ON DRILLING FOR OR WITHDRAWING  
19 GROUNDWATER; OR

20 (E) There is good cause for such modification or revocation.

21 S 15. Section 27-1423 of the environmental conservation law is  
22 REPEALED.

23 S 16. Section 27-1429 of the environmental conservation law, as  
24 amended by section 13 of part A of chapter 577 of the laws of 2004, is  
25 amended to read as follows:

26 S 27-1429. Permit waivers.

27 The department[, by and through the commissioner,] shall be EXEMPT,  
28 AND SHALL BE authorized to exempt a person from the requirement to  
29 obtain any state or local permit or other authorization for any activity  
30 needed to implement a program for the investigation and/or remediation  
31 of contamination AT OR EMANATING FROM A BROWNFIELD SITE; provided that  
32 the activity is conducted in a manner which satisfies all substantive  
33 technical requirements applicable to like activity conducted pursuant to  
34 a permit.

35 S 17. Subdivision 1 of section 27-1431 of the environmental conserva-  
36 tion law is amended by adding a new paragraph c to read as follows:

37 C. TO INSPECT FOR COMPLIANCE WITH THE SITE MANAGEMENT PLAN APPROVED BY  
38 THE DEPARTMENT, INCLUDING (I) INSPECTION OF THE PERFORMANCE OF MAINTENANCE,  
39 MONITORING AND OPERATIONAL ACTIVITIES REQUIRED AS PART OF THE  
40 REMEDIAL PROGRAM FOR THE SITE, (II) INSPECTION FOR THE PURPOSE OF ASCER-  
41 TAINING CURRENT USES OF THE SITE, AND (III) TAKING SAMPLES IN ACCORDANCE  
42 WITH PARAGRAPH (A) OF THIS SUBDIVISION.

43 S 17-a. Section 27-1435 of the environmental conservation law is  
44 REPEALED.

45 S 18. The environmental conservation law is amended by adding a new  
46 section 27-1437 to read as follows:

47 S 27-1437. BCP-EZ PROGRAM.

48 1. NOTWITHSTANDING THE PROVISIONS OF THIS TITLE OR ANY OTHER PROVISION  
49 OF LAW, THE DEPARTMENT SHALL PROMULGATE REGULATIONS WHICH AUTHORIZE THE  
50 DEPARTMENT TO EXEMPT AN APPLICANT FROM PROCEDURAL REQUIREMENTS OF THIS  
51 TITLE AS THE DEPARTMENT MAY SPECIFY WHICH ARE OTHERWISE APPLICABLE TO  
52 IMPLEMENTATION OF AN INVESTIGATION AND/OR REMEDIATION OF CONTAMINATION,  
53 PROVIDED THAT:

54 (A) AT THE TIME OF THE APPLICATION, THE DEPARTMENT HAS NOT DETERMINED  
55 THAT THE BROWNFIELD SITE POSES A SIGNIFICANT THREAT PURSUANT TO SECTION  
56 27-1411 OF THIS TITLE;

1 (B) THE APPLICANT HAS WAIVED IN WRITING ANY CLAIM FOR TAX CREDITS  
2 PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW ON A FORM PRESCRIBED BY  
3 THE DEPARTMENT; AND

4 (C) THE ACTIVITY IS CONDUCTED IN A MANNER WHICH SATISFIES ALL SUBSTAN-  
5 TIVE TECHNICAL REQUIREMENTS APPLICABLE TO LIKE ACTIVITY CONDUCTED PURSU-  
6 ANT TO THIS TITLE, INCLUDING MEETING APPLICABLE SOIL CLEANUP OBJECTIVES  
7 ESTABLISHED PURSUANT TO SUBDIVISION SIX OF SECTION 27-1417 OF THIS TITLE  
8 EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

9 2. WHERE AN EXEMPTION HAS BEEN GRANTED PURSUANT TO SUBDIVISION ONE OF  
10 THIS SECTION, THE APPROVED WORK PLAN FOR A BROWNFIELD SITE SHALL INCLUDE  
11 THE PROCEDURAL REQUIREMENTS THE DEPARTMENT DETERMINES APPROPRIATE BASED  
12 ON SITE SPECIFIC CONSIDERATIONS AND CONSIDERATION OF SECTION 27-1417 OF  
13 THIS TITLE.

14 3. FOR ANY SITE ACCEPTED INTO THE BCP-EZ PROGRAM PURSUANT TO THIS  
15 SECTION WHICH IS PURSUING A TRACK 4 REMEDIATION, IF A CONTAMINANT IS  
16 IDENTIFIED IN SOIL IN EXCESS OF THE REMEDIAL ACTION OBJECTIVES CONTAINED  
17 IN AN APPLICABLE GENERIC TABLE DEVELOPED PURSUANT TO SUBDIVISION SIX OF  
18 SECTION 27-1415 OF THIS TITLE, THE APPLICANT MAY USE SITE-SPECIFIC DATA  
19 TO DEMONSTRATE TO THE DEPARTMENT THAT THE CONCENTRATION OF THE CONTAM-  
20 INANT IN THE SOILS REFLECTS BACKGROUND CONDITIONS AND, IN THAT CASE, A  
21 CONTAMINANT-SPECIFIC ACTION OBJECTIVE FOR SUCH CONTAMINANT EQUAL TO SUCH  
22 BACKGROUND CONCENTRATION MAY BE ESTABLISHED PROVIDED THAT SUCH OBJECTIVE  
23 IS PROTECTIVE OF THE PUBLIC HEALTH AND THE ENVIRONMENT AND IS DETERMINED  
24 IN A MANNER ACCEPTABLE TO THE DEPARTMENT.

25 4. UPON THE DEPARTMENT'S ACCEPTANCE OF THE CERTIFICATION BY THE APPLI-  
26 CANT THAT THE REMEDIATION REQUIREMENTS OF THIS TITLE HAVE BEEN ACHIEVED  
27 FOR THE BROWNFIELD SITE AND AN ENVIRONMENTAL EASEMENT, IF NECESSARY, HAS  
28 BEEN CREATED AND FILED PURSUANT TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-  
29 ONE OF THIS CHAPTER, A SITE IN THE BCP-EZ SHALL BE ELIGIBLE TO RECEIVE A  
30 CERTIFICATE OF COMPLETION IN ACCORDANCE WITH SECTION 27-1419 OF THIS  
31 TITLE; PROVIDED, HOWEVER, THAT SUCH CERTIFICATE OF COMPLETION SHALL NOT  
32 ENTITLE THE HOLDER TO ANY TAX CREDITS PROVIDED BY SECTION TWENTY-ONE OF  
33 THE TAX LAW.

34 S 19. The opening paragraph of subdivision 10 of section 71-3605 of  
35 the environmental conservation law, as added by section 2 of part A of  
36 chapter 1 of the laws of 2003, is amended to read as follows:

37 An environmental easement may be enforced in law or equity by its  
38 grantor, by the state, or any affected local government as defined in  
39 section 71-3603 of this title. Such easement is enforceable against the  
40 owner of the burdened property, any lessees, and any person using the  
41 land. Enforcement shall not be defeated because of any subsequent  
42 adverse possession, laches, estoppel, REVERSION or waiver. No general  
43 law of the state which operates to defeat the enforcement of any inter-  
44 est in real property shall operate to defeat the enforcement of any  
45 environmental easement unless such general law expressly states the  
46 intent to defeat the enforcement of such easement or provides for the  
47 exercise of the power of eminent domain. It is not a defense in any  
48 action to enforce an environmental easement that:

49 S 20. Paragraph 2 of subdivision (a) of section 21 of the tax law, as  
50 amended by section 1 of part H of chapter 577 of the laws of 2004, is  
51 amended to read as follows:

52 (2) Site preparation credit component. The site preparation credit  
53 component shall be equal to the applicable percentage of the site prepa-  
54 ration costs paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS  
55 incurred by the taxpayer with respect to a qualified site. The credit  
56 component amount so determined with respect to a site's qualification

1 for a certificate of completion shall be allowed for the taxable year in  
2 which the effective date of the certificate of completion occurs. The  
3 credit component amount determined other than with respect to such qual-  
4 ification shall be allowed for the taxable year in which the improvement  
5 to which the applicable costs apply is placed in service for up to five  
6 taxable years after the issuance of such certificate of completion.

7 S 21. Paragraph 3 of subdivision (a) of section 21 of the tax law, as  
8 amended by chapter 390 of the laws of 2008, is amended to read as  
9 follows:

10 (3) Tangible property credit component.

11 (I) The tangible property credit component shall be equal to the  
12 applicable percentage of the cost or other basis for federal income tax  
13 purposes of tangible personal property and other tangible property,  
14 including buildings and structural components of buildings, which  
15 constitute qualified tangible property; provided[, however,] that in  
16 determining the cost or other basis of such property, the taxpayer shall  
17 exclude the acquisition cost of any item of property with respect to  
18 which a credit under this section was allowable to another taxpayer. The  
19 credit component amount so determined shall be allowed for the taxable  
20 year in which such qualified tangible property is FIRST placed in  
21 service on a qualified site with respect to which a certificate of  
22 completion has been issued to the taxpayer, OR FOR THE TAXABLE YEAR IN  
23 WHICH THE CERTIFICATE OF COMPLETION IS ISSUED IF THE QUALIFIED TANGIBLE  
24 PROPERTY IS PLACED IN SERVICE PRIOR TO THE ISSUANCE OF THE CERTIFICATE  
25 OF COMPLETION. THIS CREDIT COMPONENT SHALL ONLY BE ALLOWED for up to  
26 [ten] FIVE CONSECUTIVE taxable years [after] FROM THE START OF THE REDE-  
27 VELOPMENT OF THE SITE PROVIDED THAT ALL CREDITS MUST BE CLAIMED WITHIN  
28 TEN YEARS OF the date of the issuance of such certificate of completion.

29 (II) The tangible property credit component shall be allowed with  
30 respect to property leased to a second party only if such second party  
31 is either [(i)] (A) not a party responsible for the disposal of hazard-  
32 ous waste or the discharge of petroleum at the site according to appli-  
33 cable principles of statutory or common law liability, or [(ii)] (B) a  
34 party responsible according to applicable principles of statutory or  
35 common law liability if such party's liability arises solely from opera-  
36 tion of the site subsequent to the disposal of hazardous waste or the  
37 discharge of petroleum, and is so certified by the commissioner of envi-  
38 ronmental conservation at the request of the taxpayer, pursuant to  
39 section 27-1419 of the environmental conservation law. Notwithstanding  
40 any other provision of law to the contrary, in the case of allowance of  
41 credit under this section to such a lessor, the commissioner shall have  
42 the authority to reveal to such lessor any information, with respect to  
43 the issue of qualified use of property by the lessee, which is the basis  
44 for the denial in whole or in part, or for the recapture, of the credit  
45 claimed by such lessor. For purposes of the tangible property credit  
46 component allowed under this section the taxpayer to whom the certif-  
47 icate of completion is issued, as provided for under subdivision five of  
48 section 27-1419 of the environmental conservation law, may transfer the  
49 benefits and burdens of the certificate of completion, which run with  
50 the land and to the applicant's successors or assigns upon transfer or  
51 sale of all or any portion of an interest or estate in the qualified  
52 site. However, the taxpayer to whom certificate's benefits and burdens  
53 are transferred shall not include the cost of acquiring all or any  
54 portion of an interest or estate in the site and the amounts included in  
55 the cost or other basis for federal income tax purposes of qualified

1 tangible property already claimed by the previous taxpayer pursuant to  
2 this section.

3 (III) THE TANGIBLE PROPERTY CREDIT COMPONENT SHALL NOT INCLUDE COSTS  
4 PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM "RELATED PERSON" IS  
5 DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBDIVISION (B) OF  
6 SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE.

7 (IV) ELIGIBLE COSTS FOR THE TANGIBLE PROPERTY CREDIT COMPONENT ARE  
8 LIMITED TO COSTS ASSOCIATED WITH ACTUAL CONSTRUCTION OF TANGIBLE PROPER-  
9 TY INCORPORATED AS PART OF THE PHYSICAL STRUCTURE, AND COSTS ASSOCIATED  
10 WITH THE FOUNDATION OF ANY BUILDINGS CONSTRUCTED AS PART OF THE SITE  
11 COVER THAT ARE NOT PROPERLY INCLUDED IN THE SITE PREPARATION COMPONENT.

12 (V) WITH RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT OF  
13 ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER ON OR  
14 AFTER APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS REQUEST FOR PARTIC-  
15 IPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF  
16 THE ENVIRONMENTAL CONSERVATION LAW, AND THE SITE IS ELIGIBLE FOR THE  
17 TANGIBLE PROPERTY CREDIT COMPONENT BECAUSE IT IS AN AFFORDABLE HOUSING  
18 PROJECT PURSUANT TO SUBDIVISION ONE-A OF SECTION 27-1407 OF THE ENVIRON-  
19 MENTAL CONSERVATION LAW, THE PORTION OF ELIGIBLE COSTS TO BE INCLUDED IN  
20 THE CALCULATION OF THE TANGIBLE PROPERTY CREDIT COMPONENT WILL BE DETER-  
21 MINED BY MULTIPLYING THE TOTAL COSTS QUALIFIED FOR THE TANGIBLE PROPERTY  
22 CREDIT COMPONENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE  
23 SQUARE FOOTAGE OF SPACE OF THE AFFORDABLE HOUSING UNITS DEDICATED TO  
24 RESIDENTIAL OCCUPANCY AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL  
25 SQUARE FOOTAGE OF THE BUILDING TOGETHER WITH THE TOTAL SQUARE FOOTAGE OF  
26 ANY OTHER IMPROVEMENTS ON THE SITE.

27 S 22. Subparagraphs (A) and (B) of paragraph 3-a of subdivision (a) of  
28 section 21 of the tax law, as added by chapter 390 of the laws of 2008,  
29 are amended to read as follows:

30 (A) Notwithstanding any other provision of law to the contrary, the  
31 tangible property credit component available for any qualified site  
32 pursuant to paragraph three of this subdivision shall not exceed thir-  
33 ty-five million dollars or three times the SUM OF THE costs included in  
34 the calculation of the site preparation credit component and the on-site  
35 groundwater remediation credit component under paragraphs two and four,  
36 respectively, of this subdivision, AND THE COSTS THAT WOULD HAVE BEEN  
37 INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT TREATED AS AN  
38 EXPENSE AND DEDUCTED PURSUANT TO SECTION ONE HUNDRED NINETY-EIGHT OF THE  
39 INTERNAL REVENUE CODE, whichever is less; provided, however, that: (1)  
40 in the case of a qualified site to be used primarily for manufacturing  
41 activities, the tangible property credit component available for any  
42 qualified site pursuant to paragraph three of this subdivision shall not  
43 exceed forty-five million dollars or six times the SUM OF THE costs  
44 included in the calculation of the site preparation credit component and  
45 the on-site groundwater remediation credit component under paragraphs  
46 two and four, respectively, of this subdivision, AND THE COSTS THAT  
47 WOULD HAVE BEEN INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT  
48 TREATED AS AN EXPENSE AND DEDUCTED PURSUANT TO SECTION ONE HUNDRED NINE-  
49 TY-EIGHT OF THE INTERNAL REVENUE CODE, whichever is less; and (2) the  
50 provisions of this paragraph shall not apply to any qualified site for  
51 which the department of environmental conservation has issued a notice  
52 to the taxpayer before June twenty-third, two thousand eight that its  
53 request for participation has been accepted under subdivision six of  
54 section 27-1407 of the environmental conservation law.

55 (B) For the purposes of this paragraph, the term "manufacturing activ-  
56 ities" means the production of goods by manufacturing, processing,



1 assembling, refining, mining, extracting, farming, agriculture, horti-  
2 culture, floriculture, viticulture or commercial fishing[, and shall  
3 also include the activities of a qualified emerging technology company  
4 as defined in paragraph (c) of subdivision one of section thirty-one  
5 hundred two-e of the public authorities law regardless of the ten  
6 million dollar limitation expressed in subparagraph one of such para-  
7 graph]; provided however, that the generation and distribution of elec-  
8 tricity, the distribution of natural gas, and the production of steam  
9 associated with the generation of electricity, shall not constitute  
10 manufacturing activities.

11 S 22-a. Subparagraph (C) of paragraph 3-a of subdivision (a) of  
12 section 21 of the tax law, as added by chapter 390 of the laws of 2008,  
13 is amended to read as follows:

14 (C) In order to properly administer the [credit] CREDITS set forth in  
15 [paragraph three of] this subdivision, the department may disclose  
16 information about the calculation and the amounts of the credits claimed  
17 under [paragraph three of] this subdivision on a taxpayer's return to  
18 the department of environmental conservation and other taxpayers claim-  
19 ing tax credits under this section with respect to the same qualifying  
20 site.

21 S 23. Subparagraph (D) of paragraph 3-a of subdivision (a) of section  
22 21 of the tax law, as added by chapter 390 of the laws of 2008, is  
23 amended to read as follows:

24 (D) [If] WITH RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT  
25 OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE  
26 APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS REQUEST FOR PARTICIPATION HAS  
27 BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRON-  
28 MENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR  
29 RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION  
30 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW BEFORE APRIL FIRST, TWO  
31 THOUSAND FIFTEEN, IF the qualifying site is located in a brownfield  
32 opportunity area and is developed in conformance with the goals and  
33 priorities established for that applicable brownfield opportunity area  
34 as designated pursuant to section nine hundred seventy-r of the general  
35 municipal law, the applicable percentage of the tangible property credit  
36 component will be increased by two percent.

37 S 24. Paragraph 4 of subdivision (a) of section 21 of the tax law, as  
38 amended by section 1 of part H of chapter 577 of the laws of 2004, is  
39 amended to read as follows:

40 (4) On-site groundwater remediation credit component. The on-site  
41 groundwater remediation credit component shall be equal to the applica-  
42 ble percentage of the on-site groundwater remediation costs paid [or]  
43 WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred by the taxpayer  
44 with respect to a qualified site (to the extent that such groundwater  
45 remediation costs are not included in the determination of the site  
46 preparation credit or the cost or other basis included in the determi-  
47 nation of the tangible property credit). The credit component so deter-  
48 mined for costs [incurred and] paid with respect to and prior to the  
49 issuance of a certificate of completion shall be allowed for the taxable  
50 year in which the effective date of the issuance of a certificate of  
51 completion occurs. The credit component amount determined in taxable  
52 years after the effective date of the issuance of a certificate of  
53 completion shall be allowed in the taxable year such qualified costs are  
54 [incurred and] paid for up to five taxable years after the issuance of  
55 such certificate of completion.

1 S 25. Paragraph 5 of subdivision (a) of section 21 of the tax law, as  
2 amended by section 39 of part A of chapter 59 of the laws of 2014, is  
3 amended to read as follows:

4 (5) Applicable percentage. (A) For purposes of COMPUTING THE SITE  
5 PREPARATION AND ON-SITE GROUNDWATER REMEDIATION CREDIT COMPONENTS PURSU-  
6 ANT TO paragraphs two[, three] and four of this subdivision, WITH  
7 RESPECT TO SUCH QUALIFIED SITES FOR WHICH THE DEPARTMENT OF ENVIRON-  
8 MENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE JUNE  
9 TWENTY-THIRD, TWO THOUSAND EIGHT THAT ITS REQUEST FOR PARTICIPATION HAS  
10 BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRON-  
11 MENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR  
12 RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION  
13 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW FOR SUCH A SITE, AND, FOR  
14 PURPOSES OF COMPUTING THE TANGIBLE PROPERTY COMPONENT PURSUANT TO PARA-  
15 GRAPH THREE OF THIS SUBDIVISION WITH RESPECT TO SUCH QUALIFIED SITES FOR  
16 WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE  
17 TO THE TAXPAYER BEFORE APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS  
18 REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF  
19 SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, OR WHERE THE  
20 TAXPAYER HAS EITHER BEEN ISSUED OR RECEIVED A CERTIFICATE OF COMPLETION  
21 FROM ANOTHER TAXPAYER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSER-  
22 VATION LAW FOR SUCH A SITE, the applicable percentage shall be twelve  
23 percent in the case of credits claimed under article nine, nine-A or  
24 thirty-three of this chapter, and ten percent in the case of credits  
25 claimed under article twenty-two of this chapter, except that where at  
26 least fifty percent of the area of the qualified site relating to the  
27 credit provided for in this section is located in an environmental zone  
28 as defined in paragraph six of subdivision (b) of this section, the  
29 applicable percentage shall be increased by an additional eight percent.  
30 Provided, however, as afforded in section 27-1419 of the environmental  
31 conservation law, if the certificate of completion indicates that the  
32 qualified site has been remediated to Track 1 as that term is described  
33 in subdivision four of section 27-1415 of the environmental conservation  
34 law, the applicable percentage set forth in the first sentence of this  
35 paragraph shall be increased by an additional two percent.

36 (B) WITH RESPECT TO SUCH QUALIFIED SITE FOR WHICH THE DEPARTMENT OF  
37 ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER ON OR  
38 AFTER APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS REQUEST FOR PARTIC-  
39 IPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF  
40 THE ENVIRONMENTAL CONSERVATION LAW, THE APPLICABLE PERCENTAGE FOR THE  
41 TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX  
42 CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION  
43 SHALL BE THE SUM OF TEN PERCENT AND THE FOLLOWING ADDITIONAL PERCENT-  
44 AGES, PROVIDED THAT THE TOTAL PERCENTAGE OF THE TANGIBLE PROPERTY CREDIT  
45 COMPONENT SHALL NOT EXCEED TWENTY-FOUR PERCENT AND IS OTHERWISE SUBJECT  
46 TO THE LIMITATIONS SET FORTH IN PARAGRAPHS THREE AND THREE-A OF SUBDIVI-  
47 SION (A) OF THIS SECTION:

48 (I) FIVE PERCENT FOR A SITE WITHIN AN ENVIRONMENTAL ZONE;

49 (II) FIVE PERCENT FOR A SITE LOCATED WITHIN A DESIGNATED BROWNFIELD  
50 OPPORTUNITY AREA;

51 (III) FIVE PERCENT FOR A SITE DEVELOPED AS AFFORDABLE HOUSING, AS  
52 DEFINED IN SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVATION LAW; AND

53 (IV) FIVE PERCENT FOR A SITE TO BE USED PRIMARILY FOR MANUFACTURING  
54 ACTIVITIES AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH  
55 THREE-A OF THIS SUBDIVISION.

(C) THE TAXPAYER SHALL SUBMIT, IN THE MANNER PRESCRIBED BY THE COMMISSIONER, INFORMATION SUFFICIENT TO DEMONSTRATE THAT THE SITE QUALIFIES FOR ANY CREDIT COMPONENTS AVAILABLE UNDER SUBPARAGRAPH (B) OF THIS PARAGRAPH. IF THE SITE IS LOCATED WITHIN A DESIGNATED BROWNFIELD OPPORTUNITY AREA, THE TAXPAYER SHALL SUBMIT A CERTIFICATION FROM THE SECRETARY OF STATE THAT THE DEVELOPMENT IS IN CONFORMANCE WITH SUCH BROWNFIELD OPPORTUNITY AREA PLAN PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW.

S 26. Paragraph 6 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(6) Site preparation costs and on-site groundwater remediation costs paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred by the taxpayer with respect to a qualified site and the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property shall only include costs paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred by the taxpayer on or after the date of the brownfield site cleanup agreement executed by the taxpayer and the department of environmental conservation pursuant to section 27-1409 of the environmental conservation law.

S 27. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as amended by section 1 of part G of chapter 62 of the laws of 2006, are amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly [chargeable] CHARGED to a capital account, (i) which are paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred in connection with a site's qualification for a certificate of completion, and (ii) all other site preparation costs paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred in connection with [preparing a site for the erection of a building or a component of a building, or otherwise] THE REQUIREMENTS OF SITE REMEDIATION to establish a site as usable for its industrial, commercial (including the commercial development of residential housing), recreational or conservation purposes. Site preparation costs shall ONLY include[, but not be limited to,] the costs ASSOCIATED WITH ALL REQUIREMENTS OF SITE REMEDIATION AND EASEMENTS REQUIRED PURSUANT TO TITLE FOURTEEN OF ARTICLE TWENTY-SEVEN AND TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THE ENVIRONMENTAL CONSERVATION LAW SUCH AS ARCHITECTURAL AND ENGINEERING FEES, APPRAISAL, SURVEYS, SOIL BORINGS/OTHER INVESTIGATIONS, LEGAL FEES ASSOCIATED WITH ANY ENVIRONMENTAL EASEMENT REQUIRED, OPERATION, MAINTENANCE AND MONITORING OF TREATMENT SYSTEMS, LEGAL FEES ASSOCIATED WITH CONSTRUCTION LOAN CLOSING, COST CERTIFICATION AND INSURANCE, INCLUDING THE COSTS of excavation, temporary electric wiring, scaffolding, demolition costs, and the costs of fencing and security facilities NECESSARY FOR SITE REMEDIATION UNTIL SUCH TIME AS THE CERTIFICATE OF COMPLETION HAS BEEN ISSUED AND SHALL INCLUDE COSTS ATTRIBUTABLE TO ACTIVITIES UNDERTAKEN UNDER THE OVERSIGHT OF THE DEPARTMENT OF LABOR OR IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE DEPARTMENT OF HEALTH TO REMEDIATE REGULATED MATERIALS INCLUDING ASBESTOS, LEAD OR POLYCHLORINATED BIPHENYLS IN BUILDINGS WHICH WILL REMAIN ON THE SITE. FOR A BUILDING FOUNDATION, ONLY COSTS EQUIVALENT TO THE COST OF A SITE COVER FOR THE AREA COVERED BY THE FOUNDATION SHALL BE INCLUDED IN SITE PREPARATION COSTS.

1 Site preparation costs shall not include the cost of acquiring the site  
2 and shall not include amounts included in the cost or other basis for  
3 federal income tax purposes of qualified tangible property, as described  
4 in paragraph three of this subdivision. "SITE PREPARATION COSTS" SHALL  
5 NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM  
6 "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF  
7 SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL  
8 REVENUE CODE. ELIGIBLE SITE PREPARATION COSTS ARE LIMITED TO COSTS  
9 DIRECTLY ASSOCIATED WITH ACTUAL SITE PREPARATION-RELATED CONSTRUCTION.

10 (4) On-site groundwater remediation costs. The term "on-site groundwa-  
11 ter remediation costs" shall mean all amounts properly [chargeable]  
12 CHARGED to a capital account, (i) which are paid [or] WITHIN SIX MONTHS  
13 OF THE DATE THE EXPENSE IS incurred in connection with a site's quali-  
14 fication for a certificate of completion, and (ii) include costs which  
15 are paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred in  
16 connection with the remediation of on-site groundwater contamination and  
17 [incurred] PAID to implement a requirement of the remedial work plan or  
18 an interim remedial measure work plan for a qualified site which are  
19 imposed pursuant to subdivisions two and three of section 27-1411 of the  
20 environmental conservation law. "ON-SITE GROUNDWATER REMEDIATION COSTS"  
21 SHALL NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM  
22 "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF  
23 SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL  
24 REVENUE CODE. ON SITE GROUNDWATER REMEDIATION COSTS ARE LIMITED TO  
25 COSTS DIRECTLY ASSOCIATED WITH ACTUAL GROUNDWATER REMEDIATION ACTIV-  
26 ITIES, INCLUDING COSTS ASSOCIATED WITH ALL REQUIREMENTS OF SITE REMEDI-  
27 ATION AND EASEMENTS REQUIRED PURSUANT TO TITLE FOURTEEN OF ARTICLE TWEN-  
28 TY-SEVEN AND TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THE  
29 ENVIRONMENTAL CONSERVATION LAW SUCH AS ARCHITECTURAL AND ENGINEERING  
30 FEES, APPRAISAL, SURVEYS, SOIL BORING/OTHER INVESTIGATIONS, LEGAL FEES  
31 ASSOCIATED WITH ANY ENVIRONMENTAL EASEMENT REQUIRED, OPERATION, MAINTEN-  
32 NANCE AND MONITORING OF TREATMENT SYSTEMS, TESTING FOR ASBESTOS OR LEAD  
33 PAINT, LEGAL FEES ASSOCIATED WITH CONSTRUCTION LOAN CLOSING, COST  
34 CERTIFICATION AND INSURANCE.

35 (6) Environmental zones (EN-Zones). An "environmental zone" shall mean  
36 an area designated as such by the commissioner of [economic development]  
37 LABOR. Such areas [so designated are areas which are] SHALL BE census  
38 tracts [and block numbering areas which, as of the two thousand census,]  
39 THAT satisfy either of the following criteria:

40 (A) areas that have both:

41 (i) a poverty rate of at least twenty percent [for the year to which  
42 the data relate] BASED ON THE MOST RECENT FIVE YEAR AMERICAN COMMUNITY  
43 SURVEY; and

44 (ii) an unemployment rate of at least one and one-quarter times the  
45 statewide unemployment rate [for the year to which the data relate]  
46 BASED ON THE MOST RECENT FIVE YEAR AMERICAN COMMUNITY SURVEY, or;

47 (B) areas that have a poverty rate of at least two times the poverty  
48 rate for the county in which the areas are located [for the year to  
49 which the data relate provided, however, that a qualified site shall  
50 only be deemed to be located in an environmental zone under this subpar-  
51 agraph (B) if such site was the subject of a brownfield site cleanup  
52 agreement pursuant to section 27-1409 of the environmental conservation  
53 law that was entered into prior to September first, two thousand ten]  
54 BASED ON THE MOST RECENT FIVE YEAR AMERICAN COMMUNITY SURVEY.

55 Such designation shall be made and a list of all such environmental  
56 zones shall be established by the commissioner of [economic development

1 no later than December thirty-first, two thousand four provided, howev-  
2 er, that a qualified site shall only be deemed to be located in an envi-  
3 ronmental zone under subparagraph (B) of this paragraph if such site was  
4 the subject of a brownfield site cleanup agreement pursuant to section  
5 27-1409 of the environmental conservation law that was entered into  
6 prior to September first, two thousand ten] LABOR BASED ON THE TWO THOU-  
7 SAND NINE THROUGH TWO THOUSAND THIRTEEN AMERICAN COMMUNITY SURVEY ESTI-  
8 MATE. UPON REQUEST OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION,  
9 THE COMMISSIONER OF LABOR SHALL UPDATE SUCH DESIGNATION BASED ON THE  
10 MOST RECENT AMERICAN COMMUNITY SURVEY, OR ITS SUCCESSOR.

11 THE DETERMINATION OF WHETHER A SITE IS LOCATED IN AN ENVIRONMENTAL  
12 ZONE SHALL BE BASED ON THE DATE THE DEPARTMENT OF ENVIRONMENTAL CONSER-  
13 VATION ISSUED A NOTICE TO THE TAXPAYER THAT ITS REQUEST FOR PARTICI-  
14 PATION IN THE BROWNFIELD CLEANUP PROGRAM HAS BEEN DEEMED COMPLETE  
15 PURSUANT TO SUBDIVISION THREE OF SECTION 27-1407 OF THE ENVIRONMENTAL  
16 CONSERVATION LAW.

17 S 28. Section 171-r of the tax law is amended by adding a new subdivi-  
18 sion (e) to read as follows:

19 (E) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF ENVI-  
20 RONMENTAL CONSERVATION, SHALL PUBLISH BY JANUARY THIRTY-FIRST, TWO THOU-  
21 SAND SIXTEEN A SUPPLEMENTAL BROWNFIELD CREDIT REPORT CONTAINING THE  
22 INFORMATION REQUIRED BY THIS SECTION ABOUT THE CREDITS CLAIMED FOR THE  
23 YEARS TWO THOUSAND FIVE, TWO THOUSAND SIX, AND TWO THOUSAND SEVEN.

24 S 29. Section 171-s of the tax law is REPEALED.

25 S 30. Paragraph b of subdivision 2 of section 970-r of the general  
26 municipal law, as added by section 1 of part F of chapter 1 of the laws  
27 of 2003, is amended to read as follows:

28 b. Activities eligible to receive such assistance shall include, but  
29 are not limited to, the assembly and development of basic information  
30 about:

31 (1) the borders of the [proposed] brownfield opportunity area;

32 (2) the number and size of KNOWN OR SUSPECTED brownfield sites;

33 (3) current and anticipated uses of the properties in the [proposed]  
34 BROWNFIELD OPPORTUNITY area;

35 (4) current and anticipated future conditions of groundwater in the  
36 [proposed] BROWNFIELD OPPORTUNITY area;

37 (5) known data about the environmental conditions of the properties in  
38 the [proposed] BROWNFIELD OPPORTUNITY area;

39 (6) ownership of the properties in the [proposed] BROWNFIELD OPPORTU-  
40 NITY area AND WHETHER THE OWNERS ARE PARTICIPATING IN THE BROWNFIELD  
41 OPPORTUNITY AREA PLANNING PROCESS; and

42 (7) preliminary descriptions of possible remediation strategies, reuse  
43 opportunities, necessary infrastructure improvements and other public or  
44 private measures needed to stimulate investment, promote revitalization,  
45 and enhance community health and environmental conditions.

46 S 31. Subparagraphs 2 and 5 of paragraph c of subdivision 2 of section  
47 970-r of the general municipal law, as added by section 1 of part F of  
48 chapter 1 of the laws of 2003, are amended to read as follows:

49 (2) areas with concentrations of KNOWN OR SUSPECTED brownfield sites;

50 (5) areas with KNOWN OR SUSPECTED brownfield sites presenting strate-  
51 gic opportunities to stimulate economic development, community revitali-  
52 zation or the siting of public amenities.

53 S 32. Paragraph a of subdivision 3 of section 970-r of the general  
54 municipal law, as amended by chapter 390 of the laws of 2008, is amended  
55 to read as follows:

1 a. Within the limits of appropriations therefor, the secretary is  
2 authorized to provide, on a competitive basis, financial assistance to  
3 municipalities, to community based organizations, to community boards,  
4 or to municipalities and community based organizations acting in cooper-  
5 ation to prepare a [pre-nomination] NOMINATION study for a brownfield  
6 opportunity area [designation]. Such financial assistance shall not  
7 exceed ninety percent of the costs of such [pre-nomination] NOMINATION  
8 study for any such area. A NOMINATION STUDY MUST INCLUDE SUFFICIENT  
9 INFORMATION TO DESIGNATE THE BROWNFIELD OPPORTUNITY AREA. THE CONTENTS  
10 OF THE NOMINATION STUDY SHALL BE DEVELOPED BASED ON PRE-NOMINATION STUDY  
11 INFORMATION, WHICH SHALL PRINCIPALLY CONSIST OF AN AREA-WIDE STUDY,  
12 DOCUMENTING THE HISTORIC BROWNFIELD USES IN THE AREA PROPOSED FOR DESIG-  
13 NATION. A NOMINATION STUDY IS NOT INTENDED TO BE EQUIVALENT TO OR TO  
14 SERVE AS A MASTER PLAN, COMPREHENSIVE PLAN, OR OTHER EQUIVALENT LAND USE  
15 STUDY, BUT RATHER IS INTENDED TO BE A BASIC PLAN FOR DESIGNATION OF THE  
16 BROWNFIELD OPPORTUNITY AREA BASED ON HISTORIC BROWNFIELD USE INFORMATION  
17 AND THE COMMUNITY PARTICIPATION REQUIRED IN THIS SECTION. A MASTER PLAN,  
18 COMPREHENSIVE PLAN OR EQUIVALENT LAND USE STUDY MAY BE SEPARATELY DEVEL-  
19 OPED UNDER THIS PROGRAM AS AN IMPLEMENTATION STRATEGY FOR THE FINAL  
20 BROWNFIELD OPPORTUNITY AREA PLAN. SINCE A NOMINATION STUDY IS NOT EQUIV-  
21 ALENT TO A FINAL LAND USE PLAN, THE PREPARATION OF THE NOMINATION STUDY  
22 DOES NOT REQUIRE REVIEW UNDER THE ENVIRONMENTAL QUALITY REVIEW ACT  
23 PURSUANT TO ARTICLE EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, AND A  
24 BROWNFIELD OPPORTUNITY AREA CAN BE DESIGNATED BASED EXCLUSIVELY ON A  
25 NOMINATION STUDY. IN THE EVENT THE MUNICIPALITY AND/OR COMMUNITY BASED  
26 ORGANIZATION ELECT TO DEVELOP IMPLEMENTATION STRATEGIES, INCLUDING BUT  
27 NOT LIMITED TO A MASTER PLAN, COMPREHENSIVE PLAN OR URBAN RENEWAL PLAN,  
28 REVIEW UNDER THE ENVIRONMENTAL QUALITY REVIEW ACT UNDER ARTICLE EIGHT OF  
29 THE ENVIRONMENTAL CONSERVATION LAW IS REQUIRED. NO SUCH NOMINATION STUDY  
30 SHALL SUPERSEDE AN EXISTING MASTER PLAN OR EQUIVALENT LAND AND USE  
31 STUDY.

32 S 33. Subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdi-  
33 vision 4 of section 970-r of the general municipal law, subparagraphs 2  
34 and 5 of paragraph e of subdivision 3 as added by section 1 of part F of  
35 chapter 1 of the laws of 2003 and subdivision 4 as amended by chapter  
36 390 of the laws of 2008, are amended to read as follows:

37 (2) areas with concentrations of KNOWN OR SUSPECTED brownfield sites;

38 (5) areas with KNOWN OR SUSPECTED brownfield sites presenting strate-  
39 gic opportunities to stimulate economic development, community revitali-  
40 zation or the siting of public amenities.

41 4. Designation of brownfield opportunity area. Upon completion of a  
42 nomination for designation of a brownfield opportunity area, it shall be  
43 forwarded by the applicant to the secretary, who shall determine whether  
44 it is consistent with the provisions of this section. THE SECRETARY MAY  
45 REVIEW AND APPROVE A NOMINATION FOR DESIGNATION OF A BROWNFIELD OPPORTU-  
46 NITY AREA AT ANY TIME. If the secretary determines that the nomination  
47 is consistent with the provisions of this section, the brownfield oppor-  
48 tunity area shall be designated. If the secretary determines that the  
49 nomination is not consistent with the provisions of this section, the  
50 secretary shall make recommendations in writing to the applicant of the  
51 manner and nature in which the nomination should be amended.

52 S 34. The subdivision heading, paragraph a and subparagraphs 2 and 5  
53 of paragraph e of subdivision 6 of section 970-r of the general municip-  
54 al law, the subdivision heading and subparagraphs 2 and 5 of paragraph  
55 e as added by section 1 of part F of chapter 1 of the laws of 2003, and

paragraph a as amended by chapter 386 of the laws of 2007, are amended to read as follows:

State assistance for brownfield site assessments in PROPOSED OR DESIGNATED brownfield opportunity areas. a. Within the limits of appropriations therefor, [the commissioner, in consultation with] the secretary of state, is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to conduct brownfield site assessments [in a brownfield opportunity area designated pursuant to this section]. Such financial assistance shall not exceed ninety percent of the costs of such brownfield site assessment.

(2) areas with concentrations of KNOWN OR SUSPECTED brownfield sites;

(5) areas with KNOWN OR SUSPECTED brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

S 35. Section 970-r of the general municipal law is amended by adding a new subdivision 10 to read as follows:

10. THE SECRETARY SHALL ESTABLISH CRITERIA FOR BROWNFIELD OPPORTUNITY AREA CONFORMANCE DETERMINATIONS FOR PURPOSES OF THE BROWNFIELD CLEANUP PROGRAM PURSUANT TO TITLE FOURTEEN OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW AND THE BROWNFIELD REDEVELOPMENT TAX CREDITS PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW. IN ESTABLISHING CRITERIA, THE SECRETARY SHALL BE GUIDED BY, BUT NOT LIMITED TO, THE FOLLOWING CONSIDERATIONS: HOW THE PROPOSED USE AND DEVELOPMENT ADVANCES THE DESIGNATED BROWNFIELD OPPORTUNITY AREA PLAN'S VISION STATEMENT, GOALS AND OBJECTIVES FOR REVITALIZATION; HOW THE DENSITY OF DEVELOPMENT AND ASSOCIATED BUILDINGS AND STRUCTURES ADVANCES THE PLAN'S OBJECTIVES, DESIRED REDEVELOPMENT AND PRIORITIES FOR INVESTMENT; AND HOW THE PROJECT COMPLIES WITH ZONING AND OTHER LOCAL LAWS AND STANDARDS TO GUIDE AND ENSURE APPROPRIATE USE OF THE PROJECT SITE.

S 36. Section 31 of part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, as amended by chapter 474 of the laws of 2012, is amended to read as follows:

S 31. The tax credits allowed under section [21,] 22 or 23 of the tax law and the corresponding provisions in articles 9, 9-A, 22[, 32] and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable [if] TO ANY SITE ACCEPTED INTO THE BROWNFIELD CLEANUP PROGRAM ON AND AFTER APRIL 1, 2015. THE TAX CREDITS ALLOWED UNDER SECTION 21 OF THE TAX LAW AND THE CORRESPONDING PROVISIONS IN ARTICLES 9, 9-A, 22 AND 33 OF THE TAX LAW, AS ADDED BY THE PROVISIONS OF SECTIONS ONE THROUGH TWENTY-NINE OF THIS ACT, SHALL NOT BE APPLICABLE TO ANY SITE ACCEPTED INTO THE BROWNFIELD CLEANUP PROGRAM AFTER DECEMBER 31, 2022, PROVIDED, HOWEVER THAT ANY SITES ACCEPTED ON OR BEFORE DECEMBER 31, 2022 MUST HAVE RECEIVED the [remediation] certificate OF COMPLETION required to qualify for any of such credits [is issued after] ON OR BEFORE December 31, [2015] 2025.

S 37. Any site for which a brownfield cleanup agreement with the department of environmental conservation was entered into prior to April 1, 2015 which has not received a certificate of completion by December 31, 2017, shall only be eligible for brownfield [remediation] REDEVELOPMENT tax credits available pursuant to section 21 of the tax law as if the site was accepted into the brownfield cleanup program on and after April 1, 2015 and shall be subject to the eligibility requirements for

1 the tangible property credit component set forth in subdivision 1-a of  
2 section 27-1407 of the environmental conservation law.

3 S 38. Paragraph c of subdivision 3 of section 27-0923 of the environ-  
4 mental conservation law, as amended by section 5 of part I of chapter  
5 577 of the laws of 2004, is amended to read as follows:

6 c. For the purpose of this section, generation of hazardous waste  
7 shall not include retrieval or creation of hazardous waste which must be  
8 disposed of under an order of or agreement with the department pursuant  
9 to title thirteen or title fourteen of this article or under a contract  
10 with the department pursuant to title five of article fifty-six of this  
11 chapter OR UNDER AN ORDER OF OR AGREEMENT WITH THE UNITED STATES ENVI-  
12 RONMENTAL PROTECTION AGENCY OR AN ORDER OF A COURT OF COMPETENT JURIS-  
13 DICTION, RELATED TO A FACILITY ADDRESSED PURSUANT TO THE COMPREHENSIVE  
14 ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (42 U.S.C. 9601  
15 ET SEQ.) OR UNDER A WRITTEN AGREEMENT WITH A MUNICIPALITY WHICH IS  
16 SUBJECT TO A MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT RELATED TO THE  
17 REMEDIATION OF BROWNFIELD SITES.

18 S 39. Subparagraphs (i) and (vi) of paragraph d of subdivision 1 of  
19 section 72-0402 of the environmental conservation law, as amended by  
20 chapter 99 of the laws of 2010, are amended to read as follows:

21 (i) under a contract with the department, or with the department's  
22 written approval and in compliance with department regulations, or  
23 pursuant to an order of the department, the United States environmental  
24 protection agency or a court OF COMPETENT JURISDICTION, related to the  
25 cleanup or remediation of a hazardous materials or hazardous waste  
26 spill, discharge, or surficial cleanup, pursuant to this chapter; or

27 (vi) under a brownfield site cleanup agreement with the department  
28 pursuant to section 27-1409 of this chapter OR UNDER AN AGREEMENT WITH A  
29 MUNICIPALITY WHICH IS SUBJECT TO A MEMORANDUM OF AGREEMENT WITH THE  
30 DEPARTMENT RELATED TO THE REMEDIATION OF BROWNFIELD SITES; or

31 S 40. Section 56-0501 of the environmental conservation law, as added  
32 by chapter 413 of the laws of 1996, is amended to read as follows:

33 S 56-0501. Allocation of moneys.

34 1. Of the moneys received by the state from the sale of bonds pursuant  
35 to the Clean Water/Clean Air Bond Act of 1996, two hundred million  
36 dollars (\$200,000,000) shall be available for disbursements for environ-  
37 mental restoration projects.

38 2. ENVIRONMENTAL RESTORATION PROJECTS MAY BE FUNDED USING THE PROCEEDS  
39 OF BONDS ISSUED PURSUANT TO SECTION TWELVE HUNDRED EIGHTY-FIVE-Q OF THE  
40 PUBLIC AUTHORITIES LAW.

41 S 41. Subdivision 6 of section 56-0502 of the environmental conserva-  
42 tion law, as amended by section 2 of part D of chapter 577 of the laws  
43 of 2004, is amended to read as follows:

44 6. "State assistance", for purposes of this title, shall mean in the  
45 case of a contract authorized by subdivision one of section 56-0503 of  
46 this title, payments made to a municipality to reimburse the municipi-  
47 pality for the state share of the costs incurred by the municipality to  
48 undertake an environmental restoration project OR IN THE CASE OF AN  
49 AGREEMENT AUTHORIZED BY SUBDIVISION THREE OF SECTION 56-0503 OF THIS  
50 TITLE, COSTS INCURRED BY THE STATE TO UNDERTAKE AN ENVIRONMENTAL RESTO-  
51 RATION PROJECT BUT NOT REIMBURSED BY A MUNICIPALITY.

52 S 42. Paragraph (c) of subdivision 2 of section 56-0503 of the envi-  
53 ronmental conservation law, as amended by section 4 of part D of chapter  
54 1 of the laws of 2003, is amended and a new subdivision 3 is added to  
55 read as follows:



1 (c) A provision that THE MUNICIPALITY SHALL ASSIST IN IDENTIFYING A  
2 RESPONSIBLE PARTY BY SEARCHING LOCAL RECORDS, INCLUDING PROPERTY TAX  
3 ROLLS, OR DOCUMENT REVIEWS, AND if, in accordance with the required  
4 departmental approval of any settlement with a responsible party, any  
5 responsible party payments become available to the municipality, before,  
6 during or after the completion of an environmental restoration project,  
7 which were not included when the state share was calculated pursuant to  
8 this section, the state assistance share shall be recalculated, and the  
9 municipality shall pay to the state, for deposit into the environmental  
10 restoration project account of the hazardous waste remedial fund estab-  
11 lished under section ninety-seven-b of the state finance law, the  
12 difference between the original state assistance payment and the recal-  
13 culated state share. Recalculation of the state share shall be done each  
14 time a payment from a responsible party is received by the municipality;

15 3. THE DEPARTMENT MAY UNDERTAKE AN ENVIRONMENTAL RESTORATION PROJECT  
16 ON BEHALF OF A MUNICIPALITY UPON REQUEST. IF THE DEPARTMENT UNDERTAKES  
17 THE PROJECT ON BEHALF OF THE MUNICIPALITY, THE STATE SHALL ENTER INTO AN  
18 AGREEMENT WITH THE MUNICIPALITY AND THE AGREEMENT SHALL REQUIRE THE  
19 MUNICIPALITY TO PERIODICALLY PROVIDE ITS SHARE TO THE STATE FOR COSTS  
20 INCURRED DURING THE PROGRESS OF SUCH PROJECT. THE MUNICIPALITY'S SHARE  
21 SHALL BE THE SAME AS WOULD BE REQUIRED UNDER SUBDIVISION ONE OF THIS  
22 SECTION. THE AGREEMENT SHALL INCLUDE ALL PROVISIONS SPECIFIED IN SUBDI-  
23 VISION TWO OF THIS SECTION AS APPROPRIATE. FOR PURPOSES OF PROJECTS  
24 SUBJECT TO AGREEMENTS UNDER THIS SUBDIVISION, ALL REFERENCES TO  
25 CONTRACTS IN THIS TITLE SHALL ALSO APPLY TO AGREEMENTS UNDER THIS SUBDI-  
26 VISION AS APPROPRIATE.

27 S 43. Subdivision 4 of section 56-0505 of the environmental conserva-  
28 tion law, as amended by section 5 part of part D of chapter 1 of the  
29 laws of 2003, is amended to read as follows:

30 4. After completion of such project, the municipality may use the  
31 property for public purposes or may dispose of it. If the municipality  
32 shall dispose of such property by sale to a responsible party, such  
33 party shall pay to such municipality, in addition to such other consid-  
34 eration, an amount of money constituting the amount of state assistance  
35 provided [to the municipality] under this title plus accrued interest  
36 and transaction costs and the municipality shall deposit that money into  
37 the environmental restoration project account of the hazardous waste  
38 remedial fund established under section ninety-seven-b of the state  
39 finance law.

40 S 44. Subdivisions 3 and 4 of section 56-0508 of the environmental  
41 conservation law, as added by section 7 of part D of chapter 1 of the  
42 laws of 2003, are amended to read as follows:

43 3. such temporary incidents of ownership by such taxing district shall  
44 also qualify it as being the owner of such property [for the purposes of  
45 obtaining] TO BE ELIGIBLE FOR funding from the state of New York for  
46 such environmental restoration investigation project under this article  
47 or for such funding from any source pursuant to any other state, feder-  
48 al, or local law, but such incidents of ownership shall not be suffi-  
49 cient to qualify it as the owner of such property for the purposes of  
50 holding it wholly or partially liable for any damages, past, present, or  
51 future from any release of any hazardous material, substance, or contam-  
52 inant into the air, ground, or water, unless such release was caused by  
53 such taxing district.

54 4. within thirty days of the completion of the environmental restora-  
55 tion investigation project and the receipt by the taxing jurisdiction of  
56 the final report of such investigation, such taxing jurisdiction shall

1 file such report with the court on notice to the court and all other  
2 parties of record, and the stay of the foreclosure shall be lifted  
3 (unless lifted earlier by a prior court order), and all incidents of  
4 temporary ownership of the taxing jurisdiction that was awarded such  
5 taxing district, except any right [to receive funding] for the environ-  
6 mental restoration investigation project TO BE FUNDED, shall cease to  
7 exist, and nothing in this subdivision shall preclude the taxing juris-  
8 diction that conducted the environmental restoration investigation  
9 project or the taxing jurisdiction that commenced the foreclosure  
10 action, if it is a different taxing jurisdiction than the taxing juris-  
11 diction which conducted the investigation, from withdrawing the parcel  
12 from foreclosure pursuant to section eleven hundred thirty-eight of the  
13 real property tax law.

14 S 45. Subdivision 2 and paragraph (f) of subdivision 3 of section 97-b  
15 of the state finance law, as amended by section 4 of part I of chapter 1  
16 of the laws of 2003, are amended to read as follows:

17 2. Such fund shall consist of all of the following:

18 (a) moneys appropriated for transfer to the fund's site investigation  
19 and construction account; (b) all fines and other sums accumulated in  
20 the fund prior to April first, nineteen hundred eighty-eight pursuant to  
21 section 71-2725 of the environmental conservation law for deposit in the  
22 fund's site investigation and construction account; (c) all moneys  
23 collected or received by the department of taxation and finance pursuant  
24 to section 27-0923 of the environmental conservation law for deposit in  
25 the fund's industry fee transfer account; (d) all moneys paid into the  
26 fund pursuant to section 72-0201 of the environmental conservation law  
27 which shall be deposited in the fund's industry fee transfer account;  
28 (e) all moneys paid into the fund pursuant to section one hundred eight-  
29 y-six of the navigation law which shall be deposited in the fund's  
30 industry fee transfer account; (f) [all moneys paid into the fund by  
31 municipalities for repayment of landfill closure loans made pursuant to  
32 title five of article fifty-two of the environmental conservation law  
33 for deposit in the fund's site investigation and construction account;  
34 (g)] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of  
35 the environmental conservation law into the fund's environmental resto-  
36 ration project account; [(h) all] (G) fees paid into the fund pursuant  
37 to section [72-0403] 72-0402 of the environmental conservation law which  
38 shall be deposited in the fund's industry fee transfer account; [(i)]  
39 (H) payments received for all state costs incurred in negotiating and  
40 overseeing the implementation of brownfield site cleanup agreements  
41 pursuant to title fourteen OF ARTICLE TWENTY-SEVEN of the environmental  
42 conservation law shall be deposited in the hazardous waste remediation  
43 oversight and assistance account; and [(j)] (I) other moneys credited or  
44 transferred thereto from any other fund or source for deposit in the  
45 fund's site investigation and construction account.

46 (f) to undertake such remedial measures as the department of environ-  
47 mental conservation may determine necessary due to environmental condi-  
48 tions related to the property subject to an agreement [to provide state  
49 assistance] OR CONTRACT under title five of article fifty-six of the  
50 environmental conservation law [that were unknown to such department at  
51 the time of its approval of such agreement which indicates that condi-  
52 tions on such property are not sufficiently protective of human health  
53 for its reasonably anticipated uses or due to information received, in  
54 whole or in part, after such department's approval of such agreement's  
55 final engineering report and certification], which indicates that such  
56 agreement's remedial activities are not sufficiently protective of human

1 health for such property's reasonably anticipated uses; and, [respecting  
2 the monies in the environmental restoration project account in excess of  
3 ten million dollars,] shall provide state assistance under title five of  
4 article fifty-six of the environmental conservation law;

5 S 46. Severability. If any clause, sentence, paragraph, subdivision,  
6 section or part of this act shall be adjudged by any court of competent  
7 jurisdiction to be invalid, such judgment shall not affect, impair or  
8 invalidate the remainder thereof, but shall be confined in its operation  
9 to the clause, sentence, paragraph, subdivision, section or part thereof  
10 directly involved in the controversy in which such judgment shall have  
11 been rendered. It is hereby declared to be the intent of the legislature  
12 that this act would have been enacted even if such invalid provisions  
13 had not been included herein.

14 S 47. This act shall take affect April 1, 2015; provided, however,  
15 that the department of environmental conservation shall not charge  
16 volunteers in the brownfield cleanup program for oversight costs for any  
17 sites in the program incurred on or after April 1, 2015; provided,  
18 however, that the amendments made by section two of this act relating to  
19 the definition of brownfield site, section twenty-one of this act relat-  
20 ing to the length of time a taxpayer may claim the tangible property  
21 credit component, and all amendments to the brownfield redevelopment tax  
22 credits made by sections twenty, twenty-one, twenty-two, twenty-three,  
23 twenty-four, twenty-five, twenty-six and twenty-seven of this act shall  
24 apply only to sites for which the department of environmental conserva-  
25 tion has issued a notice to the applicant on or after April 1, 2015 that  
26 its request for participation has been accepted under subdivision six of  
27 section 27-1407 of the environmental conservation law; provided,  
28 further, that the department of labor shall update the environmental  
29 zones as required by section twenty-seven of this act within ninety days  
30 of this act becoming law.

31 PART S

32 Section 1. Paragraph (r) of section 104-A of the business corporation  
33 law, as amended by chapter 172 of the laws of 2000, is amended to read  
34 as follows:

35 (r) For filing a statement or amendment pursuant to section four  
36 hundred eight of this chapter WITH THE DEPARTMENT OF STATE, nine  
37 dollars.

38 S 2. Paragraphs (b) and (c) of section 306-A of the business corpo-  
39 ration law, as added by chapter 469 of the laws of 1997, are amended to  
40 read as follows:

41 (b) Upon the failure of the designating corporation to file a certifi-  
42 cate of amendment or change providing for the designation by the corpo-  
43 ration of the new address after the filing of a certificate of resigna-  
44 tion for receipt of process with the secretary of state, its authority  
45 to do business in this state shall be suspended unless the corporation  
46 has previously filed a statement [of addresses and directors] under  
47 section four hundred eight of this chapter, IN WHICH CASE the address of  
48 the principal executive office stated in the last filed statement [of  
49 addresses and directors], shall constitute the new address for process  
50 of the corporation PROVIDED SUCH ADDRESS IS DIFFERENT FROM THE PREVIOUS  
51 ADDRESS FOR PROCESS, and the corporation shall not be deemed suspended.

52 (c) The filing by the department of state of a certificate of amend-  
53 ment or change OR STATEMENT UNDER SECTION FOUR HUNDRED EIGHT OF THIS  
54 CHAPTER providing for a new address by a designating corporation shall

annul the suspension and its authority to do business in this state shall be restored and continue as if no suspension had occurred.

S 3. Section 408 of the business corporation law, as added by chapter 55 of the laws of 1992, the section heading as amended by chapter 375 of the laws of 1998, subparagraph (a) of paragraph 1 and paragraph 2 as amended by chapter 172 of the laws of 1999, subparagraph (b) of paragraph 3 as amended by chapter 170 of the laws of 1994, paragraph 6 as added by chapter 469 of the laws of 1997, and paragraph 7 as added by chapter 172 of the laws of 2000, is amended to read as follows:

S 408. [Biennial statement] STATEMENT; filing.

1. [Each] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, EACH domestic corporation, and each foreign corporation authorized to do business in this state, shall, during the applicable filing period as determined by subdivision three of this section, file a statement setting forth:

(a) The name and business address of its chief executive officer.

(b) The street address of its principal executive office.

(c) The post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her. Such address shall supersede any previous address on file with the department of state for this purpose.

2. [Such] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, SUCH statement shall be made on forms prescribed by the secretary of state, and the information therein contained shall be given as of the date of the execution of the statement. Such statement shall only request reporting of information required under paragraph one of this section. It shall be signed and delivered to the department of state.

3. [For] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, FOR the purpose of this section the applicable filing period for a corporation shall be the calendar month during which its original certificate of incorporation or application for authority were filed or the effective date thereof if stated. The applicable filing period shall only occur: (a) annually, during the period starting on April 1, 1992 and ending on March 31, 1994; and (b) biennially, during a period starting on April 1 and ending on March 31 thereafter. Those corporations that filed between April 1, 1992 and June 30, 1994 shall not be required to file such statements again until such time as they would have filed, had this subdivision not been amended.

4. The provisions of [subdivision eleven of section ninety-six of the executive law and] paragraph (g) of section one hundred four of this chapter shall not be applicable to filings pursuant to this section.

5. The provisions of this section and section 409 of this article shall not apply to a farm corporation. For the purposes of this subdivision, the term "farm corporation" shall mean any domestic corporation or foreign corporation authorized to do business in this state under this chapter engaged in the production of crops, livestock and livestock products on land used in agricultural production, as defined in section 301 of the agriculture and markets law. HOWEVER, THIS EXCEPTION FOR FARM CORPORATIONS SHALL NOT BE APPLICABLE IF AN AGREEMENT IS MADE PURSUANT TO PARAGRAPH EIGHT OF THIS SECTION SO THAT THESE STATEMENTS WILL BE FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE.

6. No such statement shall be accepted for filing when a certificate of resignation for receipt of process has been filed under section three hundred six-A of this chapter unless the corporation has stated a different address for process which does not include the name of the

1 party previously designated in the address for process in such certifi-  
2 cate.

3 7. A domestic corporation or foreign corporation may amend its state-  
4 ment to change the information required by [subdivisions] SUBPARAGRAPHS  
5 (a) and (b) of paragraph one of this section. Such amendment shall be  
6 made on forms prescribed by the secretary of state. It shall be signed  
7 and delivered to the department of state.

8 8. (A) THE COMMISSIONER OF TAXATION AND FINANCE AND THE SECRETARY OF  
9 STATE MAY AGREE TO ALLOW CORPORATIONS TO PROVIDE THE STATEMENT SPECIFIED  
10 IN PARAGRAPH ONE OF THIS SECTION ON TAX REPORTS FILED WITH THE DEPART-  
11 MENT OF TAXATION AND FINANCE IN LIEU OF BIENNIAL REPORTS. THIS AGREEMENT  
12 MAY APPLY TO TAX REPORTS DUE FOR TAX YEARS STARTING ON OR AFTER JANUARY  
13 FIRST, TWO THOUSAND SIXTEEN.

14 (B) IF THE AGREEMENT DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH  
15 IS MADE, EACH CORPORATION REQUIRED TO FILE THE STATEMENT SPECIFIED IN  
16 PARAGRAPH ONE OF THIS SECTION THAT IS ALSO SUBJECT TO TAX UNDER ARTICLE  
17 NINE OR NINE-A OF THE TAX LAW SHALL INCLUDE SUCH STATEMENT ANNUALLY ON  
18 ITS TAX REPORT FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU  
19 OF FILING A STATEMENT UNDER THIS SECTION WITH THE DEPARTMENT OF STATE  
20 AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE.  
21 HOWEVER, EACH CORPORATION REQUIRED TO FILE A STATEMENT UNDER THIS  
22 SECTION MUST CONTINUE TO FILE THE BIENNIAL STATEMENT REQUIRED BY THIS  
23 SECTION WITH THE DEPARTMENT OF STATE UNTIL THE CORPORATION IN FACT HAS  
24 FILED A TAX REPORT WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT  
25 INCLUDES ALL REQUIRED INFORMATION. AFTER THAT TIME, THE CORPORATION  
26 SHALL CONTINUE TO DELIVER ANNUALLY THE STATEMENT SPECIFIED IN PARAGRAPH  
27 ONE OF THIS SECTION ON ITS TAX REPORT IN LIEU OF THE BIENNIAL STATEMENT  
28 REQUIRED BY THIS SECTION.

29 (C) IF THE AGREEMENT DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH  
30 IS MADE, THE DEPARTMENT OF TAXATION AND FINANCE SHALL DELIVER TO THE  
31 DEPARTMENT OF STATE FOR FILING THE STATEMENT SPECIFIED IN PARAGRAPH ONE  
32 OF THIS SECTION FOR EACH CORPORATION THAT FILES A TAX REPORT CONTAINING  
33 SUCH STATEMENT. THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE  
34 EXTENT FEASIBLE, ALSO INCLUDE THE CURRENT NAME OF THE CORPORATION,  
35 DEPARTMENT OF STATE IDENTIFICATION NUMBER FOR SUCH CORPORATION, THE  
36 NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE STATEMENT, NAME AND  
37 STREET ADDRESS OF THE FILER OF THE STATEMENT, AND THE EMAIL ADDRESS, IF  
38 ANY, OF THE FILER OF THE STATEMENT.

39 S 4. Section 409 of the business corporation law is amended by adding  
40 a new paragraph 4 to read as follows:

41 4. THIS SECTION SHALL NOT APPLY TO A FAILURE TO FILE A STATEMENT FOR  
42 ANY SITUATION FOR WHICH A PENALTY UNDER SUBDIVISION (V) OF SECTION ONE  
43 THOUSAND EIGHTY-FIVE OF THE TAX LAW IS APPLICABLE.

44 S 5. Subdivision (e) of section 301 of the limited liability company  
45 law, as amended by chapter 643 of the laws of 1995, is amended to read  
46 as follows:

47 (e) [Every] (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,  
48 EVERY limited liability company to which this chapter applies, shall  
49 biennially in the calendar month during which its articles of organiza-  
50 tion or application for authority were filed, or effective date thereof  
51 if stated, file on forms prescribed by the secretary of state, a state-  
52 ment setting forth the post office address within or without this state  
53 to which the secretary of state shall mail a copy of any process  
54 accepted against it served upon him or her. Such address shall supersede  
55 any previous address on file with the department of state for this  
56 purpose.

1 (2) THE COMMISSIONER OF TAXATION AND FINANCE AND THE SECRETARY OF  
2 STATE MAY AGREE TO ALLOW LIMITED LIABILITY COMPANIES TO INCLUDE THE  
3 STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION ON TAX REPORTS  
4 FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU OF BIENNIAL  
5 REPORTS AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND  
6 FINANCE. IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE YEARS BEGIN-  
7 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH LIMITED  
8 LIABILITY COMPANY REQUIRED TO FILE THE STATEMENT SPECIFIED IN PARAGRAPH  
9 ONE OF THIS SUBDIVISION THAT IS SUBJECT TO THE FILING FEE IMPOSED BY  
10 PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF  
11 THE TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE  
12 PAYMENT FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU  
13 OF FILING A STATEMENT UNDER THIS SECTION WITH THE DEPARTMENT OF STATE.  
14 HOWEVER, EACH LIMITED LIABILITY COMPANY REQUIRED TO FILE A STATEMENT  
15 UNDER THIS SECTION MUST CONTINUE TO FILE THE BIENNIAL STATEMENT REQUIRED  
16 BY THIS SECTION WITH THE DEPARTMENT OF STATE UNTIL THE LIMITED LIABILITY  
17 COMPANY IN FACT HAS FILED A FILING FEE PAYMENT FORM WITH THE DEPARTMENT  
18 OF TAXATION AND FINANCE THAT INCLUDES ALL REQUIRED INFORMATION. AFTER  
19 THAT TIME, THE LIMITED LIABILITY COMPANY SHALL CONTINUE TO PROVIDE ANNU-  
20 ALLY THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION ON ITS  
21 FILING FEE PAYMENT FORM IN LIEU OF THE BIENNIAL STATEMENT REQUIRED BY  
22 THIS SUBDIVISION.

23 (3) IF THE AGREEMENT DESCRIBED IN PARAGRAPH TWO OF THIS SUBDIVISION IS  
24 MADE, THE DEPARTMENT OF TAXATION AND FINANCE SHALL DELIVER TO THE  
25 DEPARTMENT OF STATE THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS  
26 SUBDIVISION CONTAINED ON FILING FEE PAYMENT FORMS. THE DEPARTMENT OF  
27 TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE THE  
28 CURRENT NAME OF THE LIMITED LIABILITY COMPANY, DEPARTMENT OF STATE IDEN-  
29 TIFICATION NUMBER FOR SUCH LIMITED LIABILITY COMPANY, THE NAME, SIGNA-  
30 TURE AND CAPACITY OF THE SIGNER OF THE STATEMENT, NAME AND STREET  
31 ADDRESS OF THE FILER OF THE STATEMENT, AND THE EMAIL ADDRESS, IF ANY, OF  
32 THE FILER OF THE STATEMENT.

33 S 6. Subdivision (c) of section 301-A of the limited liability company  
34 law, as added by chapter 448 of the laws of 1998, is amended to read as  
35 follows:

36 (c) The filing by the department of state of a certificate of amend-  
37 ment or certificate of change OR THE FILING OF A STATEMENT UNDER SECTION  
38 THREE HUNDRED ONE OF THIS ARTICLE providing for a new address by a  
39 designating limited liability company shall annul the suspension and its  
40 authority to do business in this state shall be restored and continued  
41 as if no suspension had occurred.

42 S 7. Subdivision (c) of section 1101 of the limited liability company  
43 law is amended to read as follows:

44 (c) For the statement of address of the post office address to which  
45 the secretary of state shall mail a copy of any process against the  
46 limited liability company served upon him or her pursuant to section  
47 three hundred one of this chapter, nine dollars. THIS FEE SHALL NOT  
48 APPLY IF THIS STATEMENT IS FILED DIRECTLY WITH THE DEPARTMENT OF TAXA-  
49 TION AND FINANCE.

50 S 8. Subdivision (g) of section 121-1500 of the partnership law, as  
51 amended by chapter 643 of the laws of 1995, is amended to read as  
52 follows:

53 (g) Each registered limited liability partnership shall, within sixty  
54 days prior to the fifth anniversary of the effective date of its regis-  
55 tration and every five years thereafter, furnish a statement to the  
56 department of state setting forth: (i) the name of the registered limit-

1 ed liability partnership, (ii) the address of the principal office of  
2 the registered limited liability partnership, (iii) the post office  
3 address within or without this state to which the secretary of state  
4 shall mail a copy of any process accepted against it served upon him or  
5 her, which address shall supersede any previous address on file with the  
6 department of state for this purpose, and (iv) a statement that it is  
7 eligible to register as a registered limited liability partnership  
8 pursuant to subdivision (a) of this section. The statement shall be  
9 executed by one or more partners of the registered limited liability  
10 partnership. The statement shall be accompanied by a fee of twenty  
11 dollars IF SUBMITTED DIRECTLY TO THE DEPARTMENT OF STATE. THE COMMIS-  
12 SIONER OF TAXATION AND FINANCE AND THE SECRETARY OF STATE MAY AGREE TO  
13 ALLOW REGISTERED LIMITED LIABILITY PARTNERSHIPS TO PROVIDE THE STATEMENT  
14 SPECIFIED IN THIS SUBDIVISION ON TAX REPORTS FILED WITH THE DEPARTMENT  
15 OF TAXATION AND FINANCE IN LIEU OF STATEMENTS FILED DIRECTLY WITH THE  
16 SECRETARY OF STATE AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF  
17 TAXATION AND FINANCE. IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE  
18 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH  
19 LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE THE STATEMENT SPECIFIED  
20 IN THIS SUBDIVISION THAT IS SUBJECT TO THE FILING FEE IMPOSED BY PARA-  
21 GRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF THE  
22 TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE PAYMENT  
23 FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU OF FILING  
24 A STATEMENT UNDER THIS SUBDIVISION WITH THE DEPARTMENT OF STATE. HOWEV-  
25 ER, EACH REGISTERED LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE A  
26 STATEMENT UNDER THIS SECTION MUST CONTINUE TO FILE A STATEMENT WITH THE  
27 DEPARTMENT OF STATE AS REQUIRED BY THIS SECTION UNTIL THE REGISTERED  
28 LIMITED LIABILITY PARTNERSHIP IN FACT HAS FILED A FILING FEE PAYMENT  
29 FORM WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT INCLUDES ALL  
30 REQUIRED INFORMATION. AFTER THAT TIME, THE LIMITED LIABILITY PARTNERSHIP  
31 SHALL CONTINUE TO PROVIDE ANNUALLY THE STATEMENT SPECIFIED IN THIS  
32 SUBDIVISION ON ITS FILING FEE PAYMENT FORM IN LIEU OF THE STATEMENT  
33 REQUIRED BY THIS SUBDIVISION. THE COMMISSIONER OF TAXATION AND FINANCE  
34 SHALL DELIVER THE COMPLETED STATEMENT SPECIFIED IN THIS SUBDIVISION TO  
35 THE DEPARTMENT OF STATE FOR FILING. THE DEPARTMENT OF TAXATION AND  
36 FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE IN SUCH DELIVERY THE  
37 CURRENT NAME OF THE REGISTERED LIMITED LIABILITY PARTNERSHIP, DEPARTMENT  
38 OF STATE IDENTIFICATION NUMBER FOR SUCH REGISTERED LIMITED LIABILITY  
39 PARTNERSHIP, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE  
40 STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE STATEMENT, AND  
41 THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT. If a regis-  
42 tered limited liability partnership shall not timely file the statement  
43 required by this subdivision, the department of state may, upon sixty  
44 days' notice mailed to the address of such registered limited liability  
45 partnership as shown in the last registration or statement or certifi-  
46 cate of amendment filed by such registered limited liability partner-  
47 ship, make a proclamation declaring the registration of such registered  
48 limited liability partnership to be revoked pursuant to this subdivi-  
49 sion. The department of state shall file the original proclamation in  
50 its office and shall publish a copy thereof in the state register no  
51 later than three months following the date of such proclamation. Upon  
52 the publication of such proclamation in the manner aforesaid, the regis-  
53 tration of each registered limited liability partnership named in such  
54 proclamation shall be deemed revoked without further legal proceedings.  
55 Any registered limited liability partnership whose registration was so  
56 revoked may file in the department of state a [certificate of consent

1 certifying that either a] statement required by this subdivision [has  
2 been filed or accompanies the certificate of consent and all fees  
3 imposed under this chapter on the registered limited liability partner-  
4 ship have been paid]. The filing of such [certificate of consent] STATE-  
5 MENT shall have the effect of annulling all of the proceedings thereto-  
6 fore taken for the revocation of the registration of such registered  
7 limited liability partnership under this subdivision and (1) the regis-  
8 tered limited liability partnership shall thereupon have such powers,  
9 rights, duties and obligations as it had on the date of the publication  
10 of the proclamation, with the same force and effect as if such proclama-  
11 tion had not been made or published and (2) such publication shall not  
12 affect the applicability of the provisions of subdivision (b) of section  
13 twenty-six of this chapter to any debt, obligation or liability  
14 incurred, created or assumed from the date of publication of the procla-  
15 mation through the date of the filing of the [certificate of consent.  
16 The filing of a certificate of consent shall be accompanied by a fee of  
17 fifty dollars and if accompanied by a statement, the fee required by  
18 this subdivision] STATEMENT WITH THE DEPARTMENT OF STATE. If, after the  
19 publication of such proclamation, it shall be determined by the depart-  
20 ment of state that the name of any registered limited liability partner-  
21 ship was erroneously included in such proclamation, the department of  
22 state shall make appropriate entry on its records, which entry shall  
23 have the effect of annulling all of the proceedings theretofore taken  
24 for the revocation of the registration of such registered limited  
25 liability partnership under this subdivision and (A) such registered  
26 limited liability partnership shall have such powers, rights, duties and  
27 obligations as it had on the date of the publication of the proclama-  
28 tion, with the same force and effect as if such proclamation had not  
29 been made or published and (B) such publication shall not affect the  
30 applicability of the provisions of subdivision (b) of section twenty-six  
31 of this chapter to any debt, obligation or liability incurred, created  
32 or assumed from the date of publication of the proclamation through the  
33 date of the making of the entry on the records of the department of  
34 state. Whenever a registered limited liability partnership WHOSE REGIS-  
35 TRATION WAS REVOKED shall have filed a [certificate of consent] STATE-  
36 MENT pursuant to this subdivision or if the name of a registered limited  
37 liability partnership was erroneously included in a proclamation and  
38 such proclamation was annulled, the department of state shall publish a  
39 notice thereof in the state register.

40 S 9. Paragraph (I) of subdivision (f) of section 121-1502 of the part-  
41 nership law, as amended by chapter 643 of the laws of 1995 and as desig-  
42 nated by chapter 767 of the laws of 2005, is amended to read as follows:

43 (I) Each New York registered foreign limited liability partnership  
44 shall, within sixty days prior to the fifth anniversary of the effective  
45 date of its notice and every five years thereafter, furnish a statement  
46 to the department of state setting forth:

47 (i) the name under which the New York registered foreign limited  
48 liability partnership is carrying on or conducting or transacting busi-  
49 ness or activities in this state, (ii) the address of the principal  
50 office of the New York registered foreign limited liability partnership,  
51 (iii) the post office address within or without this state to which the  
52 secretary of state shall mail a copy of any process accepted against it  
53 served upon him or her, which address shall supersede any previous  
54 address on file with the department of state for this purpose, and (iv)  
55 a statement that it is a foreign limited liability partnership. The  
56 statement shall be executed by one or more partners of the New York



1 registered foreign limited liability partnership. The statement shall be  
2 accompanied by a fee of fifty dollars IF SUBMITTED DIRECTLY TO THE  
3 DEPARTMENT OF STATE. THE COMMISSIONER OF TAXATION AND FINANCE AND THE  
4 SECRETARY OF STATE MAY AGREE TO ALLOW NEW YORK REGISTERED FOREIGN LIMIT-  
5 ED LIABILITY PARTNERSHIPS TO PROVIDE THE STATEMENT SPECIFIED IN THIS  
6 PARAGRAPH ON TAX REPORTS FILED WITH THE DEPARTMENT OF TAXATION AND  
7 FINANCE IN LIEU OF STATEMENTS FILED DIRECTLY WITH THE SECRETARY OF STATE  
8 AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE.  
9 IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE YEARS BEGINNING ON OR  
10 AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH NEW YORK REGISTERED  
11 FOREIGN LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE THE STATEMENT  
12 SPECIFIED IN THIS PARAGRAPH THAT IS SUBJECT TO THE FILING FEE IMPOSED BY  
13 PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF  
14 THE TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE  
15 PAYMENT FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU  
16 OF FILING A STATEMENT UNDER THIS PARAGRAPH DIRECTLY WITH THE DEPARTMENT  
17 OF STATE. HOWEVER, EACH NEW YORK REGISTERED FOREIGN LIMITED LIABILITY  
18 PARTNERSHIP REQUIRED TO FILE A STATEMENT UNDER THIS SECTION MUST CONTIN-  
19 UE TO FILE A STATEMENT WITH THE DEPARTMENT OF STATE AS REQUIRED BY THIS  
20 SECTION UNTIL THE NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNER-  
21 SHIP IN FACT HAS FILED A FILING FEE PAYMENT FORM WITH THE DEPARTMENT OF  
22 TAXATION AND FINANCE THAT INCLUDES ALL REQUIRED INFORMATION. AFTER THAT  
23 TIME, THE NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP  
24 SHALL CONTINUE TO PROVIDE ANNUALLY THE STATEMENT SPECIFIED IN THIS PARA-  
25 GRAPH ON ITS FILING FEE PAYMENT FORM IN LIEU OF FILING THE STATEMENT  
26 REQUIRED BY THIS PARAGRAPH DIRECTLY WITH THE DEPARTMENT OF STATE. THE  
27 COMMISSIONER OF TAXATION AND FINANCE SHALL DELIVER THE COMPLETED STATE-  
28 MENT SPECIFIED IN THIS PARAGRAPH TO THE DEPARTMENT OF STATE FOR FILING.  
29 THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE,  
30 ALSO INCLUDE IN SUCH DELIVERY THE CURRENT NAME OF THE NEW YORK REGIS-  
31 TERED FOREIGN LIMITED LIABILITY PARTNERSHIP, DEPARTMENT OF STATE IDEN-  
32 TIFICATION NUMBER FOR SUCH NEW YORK REGISTERED FOREIGN LIMITED LIABILITY  
33 PARTNERSHIP, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE  
34 STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE STATEMENT, AND  
35 THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT. If a New York  
36 registered foreign limited liability partnership shall not timely file  
37 the statement required by this subdivision, the department of state may,  
38 upon sixty days' notice mailed to the address of such New York regis-  
39 tered foreign limited liability partnership as shown in the last notice  
40 or statement or certificate of amendment filed by such New York regis-  
41 tered foreign limited liability partnership, make a proclamation declar-  
42 ing the status of such New York registered foreign limited liability  
43 partnership to be revoked pursuant to this subdivision. The department  
44 of state shall file the original proclamation in its office and shall  
45 publish a copy thereof in the state register no later than three months  
46 following the date of such proclamation. Upon the publication of such  
47 proclamation in the manner aforesaid, the status of each New York regis-  
48 tered foreign limited liability partnership named in such proclamation  
49 shall be deemed revoked without further legal proceedings. Any New York  
50 registered foreign limited liability partnership whose status was so  
51 revoked may file in the department of state a [certificate of consent  
52 certifying that either a] statement required by this subdivision [has  
53 been filed or accompanies the certificate of consent and all fees  
54 imposed under this chapter on the New York registered foreign limited  
55 liability partnership have been paid]. The filing of such [certificate  
56 of consent] STATEMENT shall have the effect of annulling all of the

1 proceedings theretofore taken for the revocation of the status of such  
2 New York registered foreign limited liability partnership under this  
3 subdivision and (1) the New York registered foreign limited liability  
4 partnership shall thereupon have such powers, rights, duties and obli-  
5 gations as it had on the date of the publication of the proclamation,  
6 with the same force and effect as if such proclamation had not been made  
7 or published and (2) such publication shall not affect the applicability  
8 of the laws of the jurisdiction governing the agreement under which such  
9 New York registered foreign limited liability partnership is operating  
10 (including laws governing the liability of partners) to any debt, obli-  
11 gation or liability incurred, created or assumed from the date of publi-  
12 cation of the proclamation through the date of the filing of the  
13 [certificate of consent. The filing of a certificate of consent shall be  
14 accompanied by a fee of fifty dollars and if accompanied by a statement,  
15 the fee required by this subdivision] STATEMENT WITH THE DEPARTMENT OF  
16 STATE. If, after the publication of such proclamation, it shall be  
17 determined by the department of state that the name of any New York  
18 registered foreign limited liability partnership was erroneously  
19 included in such proclamation, the department of state shall make appro-  
20 priate entry on its records, which entry shall have the effect of  
21 annulling all of the proceedings theretofore taken for the revocation of  
22 the status of such New York registered foreign limited liability part-  
23 nership under this subdivision and (1) such New York registered foreign  
24 limited liability partnership shall have such powers, rights, duties and  
25 obligations as it had on the date of the publication of the proclama-  
26 tion, with the same force and effect as if such proclamation had not  
27 been made or published and (2) such publication shall not affect the  
28 applicability of the laws of the jurisdiction governing the agreement  
29 under which such New York registered foreign limited liability partner-  
30 ship is operating (including laws governing the liability of partners)  
31 to any debt, obligation or liability incurred, created or assumed from  
32 the date of publication of the proclamation through the date of the  
33 making of the entry on the records of the department of state. Whenever  
34 a New York registered foreign limited liability partnership WHOSE STATUS  
35 WAS REVOKED shall have filed a [certificate of consent] STATEMENT pursu-  
36 ant to this subdivision or if the name of a New York registered foreign  
37 limited liability partnership was erroneously included in a proclamation  
38 and such proclamation was annulled, the department of state shall  
39 publish a notice thereof in the state register.

40 S 10. Subdivision (d) of section 121-1506 of the partnership law, as  
41 amended by chapter 172 of the laws of 1999, is amended to read as  
42 follows:

43 (d) The filing by the department of state of a certificate of amend-  
44 ment OR THE FILING OF A STATEMENT providing for a new address by a  
45 designating limited liability partnership shall annul the suspension and  
46 its authority to do business in this state shall be restored and contin-  
47 ued as if no suspension had occurred.

48 S 11. Section 192 of the tax law is amended by adding a new subdivi-  
49 sion 5 to read as follows:

50 5. NOTWITHSTANDING THE PROVISIONS OF SECTION TWO HUNDRED TWO OF THIS  
51 ARTICLE, THE COMMISSIONER SHALL PROVIDE THE STATEMENTS AND OTHER  
52 REQUIRED INFORMATION REQUESTED ON TAX REPORTS UNDER SECTION FOUR HUNDRED  
53 EIGHT OF THE BUSINESS CORPORATION LAW TO THE SECRETARY OF STATE FOR  
54 FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY OR IMAGE OF THAT PORTION  
55 OF THE REPORT SOLELY PERTINENT TO SUCH INFORMATION TO THE EXTENT FEASI-  
56 BLE. THE COMMISSIONER MAY ALSO PROVIDE INFORMATION ON NONCOMPLIANCE.

1 S 12. Section 211 of the tax law is amended by adding a new subdivi-  
2 sion 15 to read as follows:

3 15. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION EIGHT OF THIS  
4 SECTION, THE COMMISSIONER SHALL PROVIDE THE STATEMENTS AND OTHER  
5 REQUIRED INFORMATION REQUESTED ON TAX REPORTS UNDER SECTION FOUR HUNDRED  
6 EIGHT OF THE BUSINESS CORPORATION LAW TO THE SECRETARY OF STATE FOR  
7 FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY OR IMAGE OF THAT PORTION  
8 OF THE REPORT SOLELY PERTINENT TO SUCH INFORMATION TO THE EXTENT FEASI-  
9 BLE. THE COMMISSIONER ANY ALSO PROVIDE INFORMATION ON NONCOMPLIANCE.

10 S 13. Paragraph 3 of subsection (c) of section 658 of the tax law is  
11 amended by adding a new subparagraph (E) to read as follows:

12 (E) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX  
13 HUNDRED NINETY-SEVEN OF THIS ARTICLE, THE COMMISSIONER SHALL PROVIDE THE  
14 STATEMENTS AND OTHER REQUIRED INFORMATION INCLUDED ON THE FILING FEE  
15 PAYMENT FORM UNDER SECTION THREE HUNDRED ONE OF THE LIMITED LIABILITY  
16 COMPANY LAW, SUBDIVISION (F) OF SECTION 121-1502 OF THE PARTNERSHIP LAW,  
17 AND SUBDIVISION (D) OF SECTION 121-1506 OF THE PARTNERSHIP LAW TO THE  
18 SECRETARY OF STATE FOR FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY  
19 OR IMAGE OF THAT PORTION OF THE REPORT SOLELY PERTINENT TO SUCH INFORMA-  
20 TION TO THE EXTENT FEASIBLE. THE COMMISSIONER MAY ALSO PROVIDE INFORMA-  
21 TION ON NONCOMPLIANCE.

22 S 14. Section 1085 of the tax law is amended by adding a new  
23 subsection (v) to read as follows:

24 (V) FAILURE TO SUPPLY ALL THE INFORMATION REQUIRED OR TO PROVIDE  
25 CORRECT INFORMATION IN SECRETARY OF STATE STATEMENTS. UNLESS IT IS SHOWN  
26 THAT SUCH FAILURE TO PROVIDE THE STATEMENT AND INFORMATION REQUIRED BY  
27 SECTION FOUR HUNDRED EIGHT OF THE BUSINESS CORPORATION LAW IS DUE TO  
28 REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THERE SHALL, UPON NOTICE  
29 AND DEMAND BY THE COMMISSIONER AND IN THE SAME MANNER AS TAX, BE PAID BY  
30 THE TAXPAYER FAILING TO SUPPLY COMPLETE AND CORRECT INFORMATION, A  
31 PENALTY OF TWO HUNDRED FIFTY DOLLARS PER TAXPAYER REQUIRED TO PROVIDE  
32 SUCH INFORMATION.

33 S 15. Section 685 of the tax law is amended by adding a new subsection  
34 (dd) to read as follows:

35 (DD) FAILURE TO SUPPLY ALL THE INFORMATION REQUIRED OR TO PROVIDE  
36 CORRECT INFORMATION IN SECRETARY OF STATE STATEMENTS. UNLESS IT IS SHOWN  
37 THAT SUCH FAILURE TO PROVIDE THE STATEMENT AND INFORMATION REQUIRED BY  
38 SUBDIVISION (E) OF SECTION THREE HUNDRED ONE OF THE LIMITED LIABILITY  
39 COMPANY LAW, SUBDIVISION (F) OF SECTION 121-1502 OF THE PARTNERSHIP LAW,  
40 OR SUBDIVISION (D) OF SECTION 121-1506 OF THE PARTNERSHIP LAW IS DUE TO  
41 REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THERE SHALL, UPON NOTICE  
42 AND DEMAND BY THE COMMISSIONER AND IN THE SAME MANNER AS TAX, BE PAID BY  
43 THE TAXPAYER FAILING TO SUPPLY COMPLETE AND CORRECT INFORMATION, A  
44 PENALTY OF TWO HUNDRED AND FIFTY DOLLARS PER LIMITED LIABILITY COMPANY  
45 REQUIRED TO PROVIDE SUCH INFORMATION ON ITS FILING FEE PAYMENT FORM.

46 S 16. This act shall take effect immediately.

47 PART T

48 Section 1. Paragraph (a) of subdivision 5 of section 208 of the tax  
49 law, as amended by section 4 of part A of chapter 59 of the laws of  
50 2014, is amended to read as follows:

51 (a) The term "investment capital" means investments in stocks that are  
52 held by the taxpayer for more than six consecutive months but are not  
53 [held for sale to customers] AND HAVE NEVER BEEN USED BY THE TAXPAYER in  
54 the regular course of business, or, if the taxpayer makes the election

1 provided for in subparagraph one of paragraph (a) of subdivision five of  
2 section two hundred ten-A of this article, are not qualified financial  
3 instruments as described in subdivision five of section two hundred  
4 ten-A of this article. Stock in a corporation that is conducting a  
5 unitary business with the taxpayer, stock in a corporation that is  
6 included in a combined report with the taxpayer pursuant to the commonly  
7 owned group election in subdivision three of section two hundred ten-C  
8 of this article, and stock issued by the taxpayer shall not constitute  
9 investment capital. For purposes of this subdivision, if the taxpayer  
10 owns or controls, directly or indirectly, less than twenty percent of  
11 the voting power of the stock of a corporation, that corporation will be  
12 presumed to be conducting a business that is not unitary with the busi-  
13 ness of the taxpayer.

14 S 2. Paragraph (d) of subdivision 5 of section 208 of the tax law, as  
15 added by section 4 of part A of chapter 59 of the laws of 2014, is  
16 amended to read as follows:

17 (d) If a taxpayer acquires stock during the second half of its taxable  
18 year and owns that stock on the last day of the taxable year, it will be  
19 presumed, SOLELY FOR PURPOSES OF DETERMINING WHETHER THAT STOCK SHOULD  
20 BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, that the  
21 taxpayer held that stock for more than six consecutive months during the  
22 taxable year. THIS PRESUMPTION SHALL APPLY ONLY IF THE TAXPAYER IN FACT  
23 OWNS THE STOCK AT THE TIME IT FILES ITS ORIGINAL REPORT FOR THE TAXABLE  
24 YEAR IN WHICH IT ACQUIRES THE STOCK. However, if the taxpayer does not  
25 in fact hold that stock AS INVESTMENT CAPITAL for more than six consec-  
26 utive months, the taxpayer must increase its total business capital in  
27 the immediately succeeding taxable year by the amount included in  
28 investment capital for that stock, net of any liabilities attributable  
29 to that stock computed as provided in paragraph (b) of this subdivision  
30 and must increase its business income in the immediately succeeding  
31 taxable year by the amount of income and net gains (but not less than  
32 zero) from that stock included in investment income, less any interest  
33 deductions directly or indirectly attributable to that stock, as  
34 provided in subdivision six of this section.

35 S 3. Paragraph (e) of subdivision 5 of section 208 of the tax law, as  
36 added by section 4 of part A of chapter 59 of the laws of 2014, is  
37 amended to read as follows:

38 (e) When income or gain from a debt obligation or other security  
39 cannot be apportioned to the state using the [business allocation  
40 percentage] APPORTIONMENT FACTOR DETERMINED UNDER SECTION TWO HUNDRED  
41 TEN-A OF THIS ARTICLE as a result of United States constitutional prin-  
42 ciples, the debt obligation or other security will be included in  
43 investment capital.

44 S 4. Paragraph (f) of subdivision 5 of section 208 of the tax law is  
45 REPEALED.

46 S 5. Paragraph (a) of subdivision 6 of section 208 of the tax law, as  
47 amended by section 4 of part A of chapter 59 of the laws of 2014, is  
48 amended to read as follows:

49 (a) The term "investment income" means income, including capital gains  
50 in excess of capital losses, from investment capital, to the extent  
51 included in computing entire net income, less, (i) in the discretion of  
52 the commissioner, any interest deductions allowable in computing entire  
53 net income which are directly or indirectly attributable to investment  
54 capital or investment income, [and (ii) the taxpayer's loss, deduction  
55 and/or expense attributable to any transaction, or series of trans-  
56 actions, entered into to manage the risk of price changes or currency

1 fluctuations with respect to any item of investment capital that is held  
2 or to be held by the taxpayer, or the aggregate investment capital that  
3 is held or to be held by the taxpayer, if all of the risk, or all but a  
4 de minimis amount of the risk, is with respect to investment capital,]  
5 provided, however, that in no case shall investment income exceed entire  
6 net income. (II) If the amount OF INTEREST DEDUCTIONS subtracted under  
7 [subparagraph (i) or subparagraph (ii) of this paragraph or under both  
8 of those subparagraphs] SUBPARAGRAPH (I) OF THIS PARAGRAPH exceeds  
9 investment income, the excess of such amount over investment income must  
10 be added back to entire net income.

11 S 6. Subclause (ii) of clause (B) of subparagraph 1 of paragraph (r)  
12 of subdivision 9 of section 208 of the tax law, as added by section 4 of  
13 part A of chapter 59 of the laws of 2014, is amended to read as follows:

14 (ii) Measurement of assets. FOR PURPOSES OF THIS PARAGRAPH: (I) Total  
15 assets are those assets that are properly reflected on a balance sheet,  
16 computed in the same manner as is required by the banking regulator of  
17 the taxpayers included in the combined return.

18 (II) Assets will only be included if the income or expenses of which  
19 are properly reflected (or would have been properly reflected if not  
20 fully depreciated or expensed, or depreciated or expensed to a nominal  
21 amount) in the computation of the combined group's entire net income for  
22 the taxable year. Assets will not include deferred tax assets and intan-  
23 gible assets identified as "goodwill".

24 (III) Tangible real and personal property, such as buildings, land,  
25 machinery, and equipment shall be valued at cost. Leased assets will be  
26 valued at the annual lease payment multiplied by eight. Intangible prop-  
27 erty, such as loans and investments, shall be valued at book value  
28 exclusive of reserves.

29 (IV) Intercompany stockholdings and bills, notes and accounts  
30 receivable, and other intercompany indebtedness between the corpo-  
31 rations included in the combined report shall be eliminated.

32 (V) Average assets are computed using the assets measured on the first  
33 day of the taxable year, and on the last day of each subsequent quarter  
34 of the taxable year or month or day during the taxable year.

35 S 7. Clause (B) of subparagraph 2 and clause (B) of subparagraph 2-a  
36 of paragraph (s) of subdivision 9 of section 208 of the tax law, as  
37 added by section 4 of part A of chapter 59 of the laws of 2014, are  
38 amended to read as follows:

39 (B) The average value during the taxable year of the assets of the  
40 taxpayer, or, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, the  
41 assets of the combined reporting group of the taxpayer under section two  
42 hundred ten-C of this article, must not exceed eight billion dollars.

43 (B) The average value during the taxable year of the assets of the  
44 taxpayer, or, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, the  
45 assets of the combined reporting group of the taxpayer under section two  
46 hundred ten-C of this article, must not exceed eight billion dollars.

47 S 8. Paragraph (d) of subdivision 1 of section 209 of the tax law, as  
48 added by section 5 of part A of chapter 59 of the laws of 2014, is  
49 amended to read as follows:

50 (d)(i) A corporation with less than one million dollars but at least  
51 ten thousand dollars of receipts within this state in a taxable year  
52 that is part of a [combined reporting] UNITARY group THAT MEETS THE  
53 OWNERSHIP TEST under section two hundred ten-C of this article is deriv-  
54 ing receipts from activity in this state if the receipts within this  
55 state of the members of the [combined reporting] UNITARY group that have  
56 at least ten thousand dollars of receipts within this state in the

1 aggregate meet the threshold set forth in paragraph (b) of this subdivi-  
2 sion.

3 (ii) A corporation that does not meet any of the thresholds set forth  
4 in paragraph (c) of this subdivision but has at least ten customers, or  
5 locations, or customers and locations, as described in paragraph (c) of  
6 this subdivision, and is part of a [combined reporting] UNITARY group  
7 THAT MEETS THE OWNERSHIP TEST under section two hundred ten-C of this  
8 article [that] is doing business in this state if the number of custom-  
9 ers, locations, or customers and locations, within this state of the  
10 members of the [combined reporting] UNITARY group that have at least ten  
11 customers, locations, or customers and locations, within this state in  
12 the aggregate meets any of the thresholds set forth in paragraph (c) of  
13 this subdivision.

14 S 9. Paragraph (d) of subdivision 1 of section 209-B of the tax law,  
15 as added by section 7 of part A of chapter 59 of the laws of 2014, is  
16 amended to read as follows:

17 (d)(i) A corporation with less than one million dollars but at least  
18 ten thousand dollars of receipts within the metropolitan commuter trans-  
19 portation district in a taxable year that is part of a [combined report-  
20 ing] UNITARY group THAT MEETS THE OWNERSHIP TEST under section two  
21 hundred ten-C of this article is deriving receipts from activity in the  
22 metropolitan commuter transportation district if the receipts within the  
23 metropolitan commuter transportation district of the members of the  
24 [combined reporting] UNITARY group that have at least ten thousand  
25 dollars of receipts within the metropolitan commuter transportation  
26 district in the aggregate meet the threshold set forth in paragraph (b)  
27 of this subdivision.

28 (ii) A corporation that does not meet any of the thresholds set forth  
29 in paragraph (c) of this subdivision but has at least ten customers, or  
30 locations, or customers and locations, as described in paragraph (c),  
31 and is part of a [combined reporting] UNITARY group THAT MEETS THE  
32 OWNERSHIP TEST under section two hundred ten-C of this article [that] is  
33 doing business in the metropolitan commuter transportation district if  
34 the number of customers, locations, or customers and locations, within  
35 the metropolitan commuter transportation district of the members of the  
36 [combined reporting] UNITARY group that have at least ten customers,  
37 locations, or customers and locations, within the metropolitan commuter  
38 transportation district in the aggregate meets any of the thresholds set  
39 forth in paragraph (c) of this subdivision.

40 S 10. The opening paragraph of paragraph (a) of subdivision 1 of  
41 section 210 of the tax law, as amended by section 12 of part A of chap-  
42 ter 59 of the laws of 2014, is amended to read as follows:

43 For taxable years beginning before January first, two thousand  
44 sixteen, the amount prescribed by this paragraph shall be computed at  
45 the rate of seven and one-tenth percent of the taxpayer's business  
46 income base. For taxable years beginning on or after January first, two  
47 thousand sixteen, the amount prescribed by this paragraph shall be six  
48 and one-half percent of the taxpayer's business income base. The taxpay-  
49 er's business income base shall mean the portion of the taxpayer's busi-  
50 ness income allocated within the state as hereinafter provided. However,  
51 in the case of a small business taxpayer, as defined in paragraph (f) of  
52 this subdivision, the amount prescribed by this paragraph shall be  
53 computed pursuant to subparagraph (iv) of this paragraph and in the case  
54 of a manufacturer, as defined in subparagraph (vi) of this paragraph,  
55 the amount prescribed by this paragraph shall be computed pursuant to  
56 subparagraph (vi) of this paragraph, AND, IN THE CASE OF A QUALIFIED

1 EMERGING TECHNOLOGY COMPANY, AS DEFINED IN SUBPARAGRAPH (VII) OF THIS  
2 PARAGRAPH, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED  
3 PURSUANT TO SUBPARAGRAPH (VII) OF THIS PARAGRAPH.

4 S 11. Subparagraph (vi) of paragraph (a) of subdivision 1 of section  
5 210 of the tax law, as amended by section 12 of part A of chapter 59 of  
6 the laws of 2014, is amended to read as follows:

7 (vi) for taxable years beginning on or after January first, two thou-  
8 sand fourteen, the amount prescribed by this paragraph for a taxpayer  
9 which is a qualified New York manufacturer, shall be computed at the  
10 rate of zero percent of the taxpayer's business income base. The term  
11 "manufacturer" shall mean a taxpayer which during the taxable year is  
12 principally engaged in the production of goods by manufacturing, proc-  
13 essing, assembling, refining, mining, extracting, farming, agriculture,  
14 horticulture, floriculture, viticulture or commercial fishing. However,  
15 the generation and distribution of electricity, the distribution of  
16 natural gas, and the production of steam associated with the generation  
17 of electricity shall not be qualifying activities for a manufacturer  
18 under this subparagraph. Moreover, IN THE CASE OF A COMBINED REPORT, the  
19 combined group shall be considered a "manufacturer" for purposes of this  
20 subparagraph only if the combined group during the taxable year is prin-  
21 cipally engaged in the activities set forth in this paragraph, or any  
22 combination thereof. A taxpayer or, IN THE CASE OF A COMBINED REPORT, a  
23 combined group shall be "principally engaged" in activities described  
24 above if, during the taxable year, more than fifty percent of the gross  
25 receipts of the taxpayer or combined group, respectively, are derived  
26 from receipts from the sale of goods produced by such activities. In  
27 computing a combined group's gross receipts, intercorporate receipts  
28 shall be eliminated. A "qualified New York manufacturer" is a manufac-  
29 turer which has property in New York which is described in CLAUSE (A) OF  
30 SUBPARAGRAPH (I) OF PARAGRAPH (B) OF subdivision one of section two  
31 hundred ten-B of this article and either (I) the adjusted basis of such  
32 property for federal income tax purposes at the close of the taxable  
33 year is at least one million dollars or (II) all of its real and  
34 personal property is located in New York. A taxpayer or, in the case of  
35 a combined report, a combined group, that does not satisfy the princi-  
36 pally engaged test may be a qualified New York manufacturer if the  
37 taxpayer or the combined group employs during the taxable year at least  
38 two thousand five hundred employees in manufacturing in New York and the  
39 taxpayer or the combined group has property in the state used in manu-  
40 facturing, the adjusted basis of which for federal income tax purposes  
41 at the close of the taxable year is at least one hundred million  
42 dollars.

43 S 12. Subparagraph (vii) of paragraph (a) of subdivision 1 of section  
44 210 of the tax law, as amended by section 12 of part A of chapter 59 of  
45 the laws of 2014, is amended to read as follows:

46 (vii) For a taxpayer that is defined as a qualified emerging technolo-  
47 gy company under paragraph (c) of subdivision one of section thirty-one  
48 hundred two-e of the public authorities law regardless of the ten  
49 million dollar limitation expressed in subparagraph one of such para-  
50 graph (c) the AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED AT  
51 THE rate [at which the tax is computed in effect for taxable years  
52 beginning on or after January first, two thousand thirteen and before  
53 January first, two thousand fourteen for such qualified emerging tech-  
54 nology companies shall be reduced by nine and two-tenths percent for  
55 taxable years commencing on or after January first, two thousand four-  
56 teen and before January first, two thousand fifteen, twelve and three-

1 tenths percent for taxable years commencing on or after January first,  
2 two thousand fifteen and before January first, two thousand sixteen,  
3 fifteen and four-tenths percent for taxable years commencing on or after  
4 January first, two thousand sixteen and before January first, two thou-  
5 sand eighteen, and twenty-five percent for taxable years beginning on or  
6 after January first, two thousand eighteen] OF 5.7 PERCENT FOR TAXABLE  
7 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND  
8 BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, 5.5 PERCENT FOR TAXABLE  
9 YEARS BEGINNING ON OR AFTER JANUARY FIRST TWO THOUSAND SIXTEEN AND  
10 BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND 4.875 PERCENT FOR TAXA-  
11 BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN. IN  
12 THE CASE OF A COMBINED REPORT, EACH CORPORATION INCLUDED IN THE COMBINED  
13 REPORT MUST QUALIFY AS A QUALIFIED EMERGING TECHNOLOGY COMPANY IN ORDER  
14 FOR THE TAX RATES PROVIDED BY THIS SUBPARAGRAPH TO APPLY.

15 S 13. Item (IV) of subclause 2 of clause (B) of subparagraph (viii) of  
16 paragraph (a) of subdivision 1 of section 210 of the tax law, as added  
17 by section 12 of part A of chapter 59 of the laws of 2014, is amended to  
18 read as follows:

19 (IV) In lieu of the subtraction described in item (III) of this  
20 subclause, if the taxpayer so elects, the taxpayer's prior net operating  
21 loss conversion subtraction for the tax years beginning on or after  
22 January first, two thousand fifteen and before January first, two thou-  
23 sand seventeen shall equal in each year, not more than one-half of its  
24 net operating loss conversion subtraction pool UNTIL THE POOL IS  
25 EXHAUSTED. IF THE POOL IS NOT EXHAUSTED AT THE END OF SUCH TIME PERIOD,  
26 THE REMAINDER OF THE POOL SHALL BE FORFEITED. The taxpayer shall make  
27 such election on its FIRST return for the tax year beginning on or after  
28 January first, two thousand fifteen and before January first, two thou-  
29 sand sixteen by the due date for such return (determined with regard to  
30 extensions).

31 S 14. Subclause 4 of clause (B) of subparagraph (viii) of paragraph  
32 (a) of subdivision 1 of section 210 of the tax law, as added by section  
33 12 of part A of chapter 59 of the laws of 2014, is amended to read as  
34 follows:

35 (4) The prior net operating loss conversion subtraction may be used to  
36 reduce the taxpayer's tax on allocated business income to the higher of  
37 the tax on the capital base under paragraph (b) of this subdivision or  
38 the fixed dollar minimum under paragraph (d) of this subdivision. [Any]  
39 UNLESS THE TAXPAYER HAS MADE THE ELECTION PROVIDED FOR IN ITEM (IV) OF  
40 SUBCLAUSE TWO OF THIS CLAUSE, ANY amount of unused subtraction shall be  
41 carried forward to subsequent tax year or years until [tax] THE PRIOR  
42 NET OPERATING LOSS CONVERSION SUBTRACTION POOL IS EXHAUSTED, BUT FOR NO  
43 LONGER THAN TWENTY TAXABLE years OR THE TAXABLE YEAR beginning on or  
44 after January first, TWO THOUSAND THIRTY-FIVE BUT BEFORE JANUARY FIRST,  
45 two thousand thirty-six, WHICHEVER COMES FIRST. Such amount carried  
46 forward shall not be subject to the one-tenth limitation for the subse-  
47 quent tax year or years. However, if the taxpayer elects to compute its  
48 prior net operating loss conversion subtraction pursuant to item (IV) of  
49 subclause two of this clause, the taxpayer shall not carry forward any  
50 UNUSED amount of such subtraction [beyond its] TO ANY tax year beginning  
51 on or after [January first, two thousand sixteen and before] January  
52 first, two thousand seventeen.

53 S 15. The opening paragraph of subparagraph (ix) of paragraph (a) of  
54 subdivision 1 of section 210 of the tax law, as added by section 12 of  
55 part A of chapter 59 of the laws of 2014, is amended to read as follows:



1 In computing the business income base, a net operating loss deduction  
2 shall be allowed. A net operating loss deduction is the amount of net  
3 operating loss or losses from one or more taxable years that are carried  
4 forward OR CARRIED BACK to a particular [income] TAXABLE year. A net  
5 operating loss is the amount of a business loss incurred in a particular  
6 tax year multiplied by the apportionment factor for that year as deter-  
7 mined under section two hundred ten-A of this article. The maximum net  
8 operating LOSS deduction that is allowed in a taxable year is the amount  
9 that reduces the taxpayer's tax on [allocated] APPORTIONED business  
10 income to the higher of the tax on the capital base or the fixed dollar  
11 minimum. Such deduction and loss are determined in accordance with the  
12 following:

13 S 16. Clauses 4 and 6 of subparagraph (ix) of paragraph (a) of subdi-  
14 vision 1 or section 210 of the tax law, as added by section 12 of part A  
15 of chapter 59 of the laws of 2014, are amended to read as follows:

16 (4) [A net operating loss may be carried forward to each of the twenty  
17 taxable years following the taxable year of the loss. A net operating  
18 loss may be carried back to each of the three taxable years preceding  
19 the taxable year of the loss; provided, however no loss can be carried  
20 back to a tax year prior to a tax year beginning on or after January,  
21 first, two thousand fifteen. A taxpayer must apply both of these limita-  
22 tions in computing such net operating loss deduction.] A NET OPERATING  
23 LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR  
24 OF THE LOSS. HOWEVER NO LOSS CAN BE CARRIED BACK TO A TAXABLE YEAR  
25 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN. THE LOSS IS FIRST  
26 CARRIED TO THE EARLIEST OF THE THREE TAXABLE YEARS. IF IT IS NOT ENTIRE-  
27 LY USED IN THAT YEAR, IT IS CARRIED TO THE SECOND TAXABLE YEAR PRECEDING  
28 THE LOSS YEAR, AND ANY REMAINING AMOUNT IS CARRIED TO THE TAXABLE YEAR  
29 IMMEDIATELY PRECEDING THE LOSS YEAR. ANY UNUSED AMOUNT OF LOSS THEN  
30 REMAINING MAY BE CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS  
31 FOLLOWING THE LOSS YEAR. LOSSES CARRIED FORWARD ARE CARRIED FORWARD  
32 FIRST TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE LOSS YEAR, THEN TO  
33 THE SECOND TAXABLE YEAR FOLLOWING THE LOSS YEAR, AND THEN TO THE NEXT  
34 IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL THE LOSS IS USED UP  
35 OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE LOSS YEAR, WHICHEVER COMES  
36 FIRST.

37 (6) Where there are two or more allocated net operating losses, or  
38 portions thereof, carried BACK OR CARRIED forward to be deducted in one  
39 particular tax year from allocated business income, the earliest allo-  
40 cated loss incurred must be applied first.

41 S 17. Subparagraph (ix) of paragraph (a) of subdivision 1 of section  
42 210 of the tax law is amended by adding a new clause 7 to read as  
43 follows:

44 (7) A TAXPAYER MAY ELECT TO WAIVE THE ENTIRE CARRYBACK PERIOD WITH  
45 RESPECT TO A NET OPERATING LOSS. SUCH ELECTION MUST BE MADE ON THE  
46 TAXPAYER'S ORIGINAL TIMELY FILED RETURN (DETERMINED WITH REGARD TO  
47 EXTENSIONS) FOR THE TAXABLE YEAR OF THE NET OPERATING LOSS FOR WHICH THE  
48 ELECTION IS TO BE IN EFFECT. ONCE AN ELECTION IS MADE FOR A TAXABLE  
49 YEAR, IT SHALL BE IRREVOCABLE FOR THAT TAXABLE YEAR. A SEPARATE ELECTION  
50 MUST BE MADE FOR EACH LOSS YEAR. THIS ELECTION APPLIES TO ALL MEMBERS OF  
51 A COMBINED GROUP.

52 S 18. Paragraph (b) of subdivision 1 of section 210 of the tax law, as  
53 amended by section 12 of part A of chapter 59 of the laws of 2014, is  
54 amended to read as follows:

55 (b) Capital base. (1) The amount prescribed by this paragraph shall be  
56 computed at .15 percent for each dollar of the taxpayer's total business

1 capital, or the portion thereof allocated within the state as hereinaft-  
2 er provided for taxable years beginning before January first, two thou-  
3 sand sixteen. However, in the case of a cooperative housing corporation  
4 as defined in the internal revenue code, the applicable rate shall be  
5 .04 percent until taxable years beginning on or after January first, two  
6 thousand twenty. The rate of tax for subsequent tax years shall be as  
7 follows: .125 percent for taxable years beginning on or after January  
8 first, two thousand sixteen and before January first, two thousand  
9 seventeen; .100 percent for taxable years beginning on or after January  
10 first, two thousand seventeen and before January first, two thousand  
11 eighteen; .075 percent for taxable years beginning on or after January  
12 first, two thousand eighteen and before January first, two thousand  
13 nineteen; .050 percent for taxable years beginning on or after January  
14 first, two thousand nineteen and before January first, two thousand  
15 twenty; .025 percent for taxable years beginning on or after January  
16 first, two thousand twenty and before January first, two thousand twen-  
17 ty-one; and zero percent for years beginning on or after January first,  
18 two thousand twenty-one. The rate of tax for a qualified New York  
19 manufacturer [for tax years subsequent to taxable years beginning on or  
20 after January first, two thousand fifteen and before January first, two  
21 thousand sixteen] shall be .132 PERCENT FOR TAXABLE YEARS BEGINNING ON  
22 OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST,  
23 TWO THOUSAND SIXTEEN, .106 percent for taxable years beginning on or  
24 after January first, two thousand sixteen and before January first, two  
25 thousand seventeen, .085 percent for taxable years beginning on or after  
26 January first, two thousand seventeen and before January first, two  
27 thousand eighteen; .056 percent for taxable years beginning on or after  
28 January first, two thousand eighteen and before January first, two thou-  
29 sand nineteen; .038 percent for taxable years beginning on or after  
30 January first, two thousand nineteen and before January first, thousand  
31 twenty; .019 percent for taxable years beginning on or after January  
32 first, two thousand twenty and before January first, two thousand twen-  
33 ty-one; and zero percent for years beginning on or after January first,  
34 two thousand twenty-one. In no event shall the amount prescribed by this  
35 paragraph exceed three hundred fifty thousand dollars for qualified New  
36 York manufacturers and for all other taxpayers five million dollars.

37 (2) For purposes of subparagraph one of this paragraph, the term  
38 "manufacturer" shall mean a taxpayer which during the taxable year is  
39 principally engaged in the production of goods by manufacturing, proc-  
40 essing, assembling, refining, mining, extracting, farming, agriculture,  
41 horticulture, floriculture, viticulture or commercial fishing. Moreover,  
42 for purposes of computing the capital base in a combined report, the  
43 combined group shall be considered a "manufacturer" for purposes of this  
44 subparagraph only if the combined group during the taxable year is prin-  
45 cipally engaged in the activities set forth in this subparagraph, or any  
46 combination thereof. A taxpayer or, IN THE CASE OF A COMBINED REPORT, a  
47 combined group shall be "principally engaged" in activities described  
48 above if, during the taxable year, more than fifty percent of the gross  
49 receipts of the taxpayer or combined group, respectively, are derived  
50 from receipts from the sale of goods produced by such activities. In  
51 computing a combined group's gross receipts, intercorporate receipts  
52 shall be eliminated. A "qualified New York manufacturer" is a manufac-  
53 turer that has property in New York that is described in subdivision one  
54 of section [210-B] TWO HUNDRED TEN-B of this article and either (i) the  
55 adjusted basis of that property for federal income tax purposes at the  
56 close of the taxable year is at least one million dollars or (ii) all of

1 its real and personal property is located in New York. In addition, a  
 2 "qualified New York manufacturer" means a taxpayer that is defined as a  
 3 qualified emerging technology company under paragraph (c) of subdivision  
 4 one of section thirty-one hundred two-e of the public authorities law  
 5 regardless of the ten million dollar limitation expressed in subpara-  
 6 graph one of such paragraph. IN THE CASE OF A COMBINED REPORT, EACH  
 7 CORPORATION INCLUDED IN THE COMBINED REPORT MUST QUALIFY AS A QUALIFIED  
 8 EMERGING TECHNOLOGY COMPANY IN ORDER FOR THE PREFERENTIAL TAX RATES  
 9 PROVIDED BY THIS PARAGRAPH TO APPLY. A taxpayer or, in the case of a  
 10 combined report, a combined group, that does not satisfy the principally  
 11 engaged test may be a qualified New York manufacturer if the taxpayer or  
 12 the combined group employs during the taxable year at least two thousand  
 13 five hundred employees in manufacturing in New York and the taxpayer or  
 14 the combined group has property in the state used in manufacturing, the  
 15 adjusted basis of which for federal income tax purposes at the close of  
 16 the taxable year is at least one hundred million dollars.

17 S 19. Subparagraph 1 of paragraph (d) of subdivision 1 of section 210  
 18 of the tax law, as amended by section 12 of part A of chapter 59 of the  
 19 laws of 2014, is amended to read as follows:

20 (1) (A) The amount prescribed by this paragraph for New York S corpo-  
 21 rations, OTHER THAN NEW YORK S CORPORATIONS THAT ARE QUALIFIED NEW YORK  
 22 MANUFACTURERS OR QUALIFIED EMERGING TECHNOLOGY COMPANIES, will be deter-  
 23 mined in accordance with the following table:

24 If New York receipts are:	The fixed dollar minimum tax is:
25 not more than \$100,000	\$ 25
26 more than \$100,000 but not over \$250,000	\$ 50
27 more than \$250,000 but not over \$500,000	\$ 175
28 more than \$500,000 but not over \$1,000,000	\$ 300
29 more than \$1,000,000 but not over \$5,000,000	\$1,000
30 more than \$5,000,000 but not over \$25,000,000	\$3,000
31 Over \$25,000,000	\$4,500

32 (B) PROVIDED FURTHER, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR NEW  
 33 YORK S CORPORATIONS THAT ARE QUALIFIED NEW YORK MANUFACTURES, AS DEFINED  
 34 IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION, AND FOR NEW  
 35 YORK S CORPORATIONS THAT ARE QUALIFIED EMERGING TECHNOLOGY COMPANIES  
 36 UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED  
 37 TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE TEN MILLION DOLLAR  
 38 LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH PARAGRAPH (C), WILL BE  
 39 DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES.  
 40 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2015 AND BEFORE JANU-  
 41 ARY 1, 2016:

42 IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
43 NOT MORE THAN \$100,000	\$ 22
44 MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 44
45 MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 153
46 MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 263
47 MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 877
48 MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,631
49 OVER \$25,000,000	\$3,947

50 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2016 AND BEFORE JANU-  
 51 ARY 1, 2018:

1	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
2	NOT MORE THAN \$100,000	\$ 21
3	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 42
4	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 148
5	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 254
6	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 846
7	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,538
8	OVER \$25,000,000	\$3,807

9 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2018:

10	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
11	NOT MORE THAN \$100,000	\$ 19
12	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 38
13	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 131
14	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 225
15	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 750
16	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,250
17	OVER \$25,000,000	\$3,375

18 (C) Provided further, the amount prescribed by this paragraph for a  
19 qualified New York manufacturer, as defined in subparagraph (vi) of  
20 paragraph (a) of this subdivision, and a qualified emerging technology  
21 company under paragraph (c) of subdivision one of section thirty-one  
22 hundred two-e of the public authorities law regardless of the ten  
23 million dollar limitation expressed in subparagraph one of such para-  
24 graph (c), THAT IS NOT A NEW YORK S CORPORATION, will be determined in  
25 accordance with the following tables[:]. HOWEVER, WITH RESPECT TO QUALI-  
26 FIED NEW YORK MANUFACTURERS, THE AMOUNTS IN THESE TABLES WILL APPLY IN  
27 THE CASE OF A COMBINED REPORT ONLY IF THE COMBINED GROUP SATISFIES THE  
28 REQUIREMENTS TO BE A QUALIFIED NEW YORK MANUFACTURER AS SET FORTH IN  
29 SUCH SUBPARAGRAPH (VI). WITH RESPECT TO QUALIFIED EMERGING TECHNOLOGY  
30 COMPANIES, THE AMOUNTS IN THESE TABLES WILL APPLY IN THE CASE OF A  
31 COMBINED REPORT ONLY IF EACH CORPORATION INCLUDED IN THE COMBINED REPORT  
32 QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY.  
33 [For tax years beginning on or after January 1, 2014 and before January  
34 1, 2015:

35	If New York receipts are:	The fixed dollar minimum tax is:
36	not more than \$100,000	\$ 23
37	more than \$100,000 but not over \$250,000	\$ 68
38	more than \$250,000 but not over \$500,000	\$ 159
39	more than \$500,000 but not over \$1,000,000	\$ 454
40	more than \$1,000,000 but not over \$5,000,000	\$1,362
41	more than \$5,000,000 but not over \$25,000,000	\$3,178
42	Over \$25,000,000	\$4,500]

43 For tax years beginning on or after January 1, 2015 and before January  
44 1, 2016:

45	If New York receipts are:	The fixed dollar minimum tax is:
46	not more than \$100,000	\$ 22
47	more than \$100,000 but not over \$250,000	\$ 66
48	more than \$250,000 but not over \$500,000	\$ 153
49	more than \$500,000 but not over \$1,000,000	\$ 439
50	more than \$1,000,000 but not over \$5,000,000	\$1,316

1	more than \$5,000,000 but not over \$25,000,000	\$3,070
2	Over \$25,000,000	\$4,385

3 For tax years beginning on or after January 1, 2016 and before January  
4 1, 2018:

5	If New York receipts are:	The fixed dollar minimum tax is:
6	not more than \$100,000	\$ 21
7	more than \$100,000 but not over \$250,000	\$ 63
8	more than \$250,000 but not over \$500,000	\$ 148
9	more than \$500,000 but not over \$1,000,000	\$ 423
10	more than \$1,000,000 but not over \$5,000,000	\$1,269
11	more than \$5,000,000 but not over \$25,000,000	\$2,961
12	Over \$25,000,000	\$4,230

13 For tax years beginning on or after January 1, 2018:

14	If New York receipts are:	The fixed dollar minimum tax is:
15	not more than \$100,000	\$ 19
16	more than \$100,000 but not over \$250,000	\$ 56
17	more than \$250,000 but not over \$500,000	\$ 131
18	more than \$500,000 but not over \$1,000,000	\$ 375
19	more than \$1,000,000 but not over \$5,000,000	\$1,125
20	more than \$5,000,000 but not over \$25,000,000	\$2,625
21	Over \$25,000,000	\$3,750

22 (D) Otherwise, FOR ALL OTHER TAXPAYERS NOT COVERED BY CLAUSES (A), (B)  
23 AND (C) OF THIS SUBPARAGRAPH, the amount prescribed by this paragraph  
24 will be determined in accordance with the following table:

25	If New York receipts are:	The fixed dollar minimum tax is:
26	not more than \$100,000	\$ 25
27	more than \$100,000 but not over \$250,000	\$ 75
28	more than \$250,000 but not over \$500,000	\$ 175
29	more than \$500,000 but not over \$1,000,000	\$ 500
30	more than \$1,000,000 but not over \$5,000,000	\$1,500
31	more than \$5,000,000 but not over \$25,000,000	\$3,500
32	more than \$25,000,000 but not over \$50,000,000	\$5,000
33	more than \$50,000,000 but not over \$100,000,000	\$10,000
34	more than \$100,000,000 but not over \$250,000,000	\$20,000
35	more than \$250,000,000 but not over \$500,000,000	\$50,000
36	more than \$500,000,000 but not over \$1,000,000,000	\$100,000
37	Over \$1,000,000,000	\$200,000

38 (E) For purposes of this paragraph, New York receipts are the receipts  
39 included in the numerator of the apportionment factor determined under  
40 section two hundred ten-A for the taxable year.

41 S 20. Paragraph (f) of subdivision 1 of section 210 of the tax law, as  
42 amended by section 12 of part A of chapter 59 of the laws of 2014, is  
43 amended to read as follows:

44 (f) For purposes of this section, the term "small business taxpayer"  
45 shall mean a taxpayer (i) which has an entire net income of not more  
46 than three hundred ninety thousand dollars for the taxable year; (ii)  
47 the aggregate amount of money and other property received by the corpo-  
48 ration for stock, as a contribution to capital, and as paid-in surplus,  
49 does not exceed one million dollars; (iii) which is not part of an

1 affiliated group, as defined in section 1504 of the internal revenue  
2 code, unless such group, if it had filed a report under this article on  
3 a combined basis, would have itself qualified as a "small business  
4 taxpayer" pursuant to this subdivision; and (iv) which has an average  
5 number of individuals, excluding general executive officers, employed  
6 full-time in the state during the taxable year of one hundred or fewer.  
7 If the taxable period to which subparagraph (i) of this paragraph  
8 applies is less than twelve months, entire net income under such subpar-  
9 agraph shall be placed on an annual basis by multiplying the entire net  
10 income by twelve and dividing the result by the number of months in the  
11 period. For purposes of subparagraph (ii) of this paragraph, the amount  
12 taken into account with respect to any property other than money shall  
13 be the amount equal to the adjusted basis to the corporation of such  
14 property for determining gain, reduced by any liability to which the  
15 property was subject or which was assumed by the corporation. The deter-  
16 mination under the preceding sentence shall be made as of the time the  
17 property was received by the corporation. For purposes of subparagraph  
18 [(iii)] (IV) of this [section] PARAGRAPH, "average number of individ-  
19 uals, excluding general executive officers, employed full-time" shall be  
20 computed by ascertaining the number of such individuals employed by the  
21 taxpayer on the thirty-first day of March, the thirtieth day of June,  
22 the thirtieth day of September and the thirty-first day of December  
23 during each taxable year or other applicable period, by adding together  
24 the number of such individuals ascertained on each of such dates and  
25 dividing the sum so obtained by the number of such dates occurring with-  
26 in such taxable year or other applicable period. An individual employed  
27 full-time means an employee in a job consisting of at least thirty-five  
28 hours per week, or two or more employees who are in jobs that together  
29 constitute the equivalent of a job at least thirty-five hours per week  
30 (full-time equivalent). Full-time equivalent employees in the state  
31 [includes] INCLUDE all employees regularly connected with or working out  
32 of an office or place of business of the taxpayer within the state.

33 S 21. Subdivision 1 of section 210-A of the tax law, as added by  
34 section 16 of part A of chapter 59 of the laws of 2014, is amended to  
35 read as follows:

36 1. General. Business income and capital shall be apportioned to the  
37 state by the apportionment factor determined pursuant to this section.  
38 The apportionment factor is a fraction, determined by including only  
39 those receipts, net income, net gains, and other items described in this  
40 section that are included in the computation of the taxpayer's business  
41 income (DETERMINED WITHOUT REGARD TO THE MODIFICATION PROVIDED IN  
42 SUBPARAGRAPH NINETEEN OF PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION  
43 TWO HUNDRED EIGHT OF THIS ARTICLE) for the taxable year. The numerator  
44 of the apportionment fraction shall be equal to the sum of all the  
45 amounts required to be included in the numerator pursuant to the  
46 provisions of this section and the denominator of the apportionment  
47 fraction shall be equal to the sum of all the amounts required to be  
48 included in the denominator pursuant to the provisions of this section.

49 S 22. Paragraph (c) of subdivision 2 of section 210-A of the tax law,  
50 as added by section 16 of part A of chapter 59 of the laws of 2014, is  
51 amended to read as follows:

52 (c) Receipts from sales of tangible personal property and electricity  
53 that are traded as commodities, as [described] THE TERM "COMMODITY" IS  
54 DEFINED in section 475 of the internal revenue code, are included in the  
55 apportionment fraction in accordance with clause (I) of subparagraph two  
56 of paragraph (a) of subdivision five of this section.

1 S 23. The opening paragraph and paragraph 1 of paragraph (a) of subdi-  
2 vision 5 of section 210-A of the tax law, as added by section 16 of part  
3 A of chapter 59 of the laws of 2014, are amended to read as follows:

4 A financial instrument is a "qualified financial instrument" if it is  
5 ELIGIBLE OR REQUIRED TO BE marked to market under section 475 or section  
6 1256 of the internal revenue code, provided that loans secured by real  
7 property shall not be qualified financial instruments. A financial  
8 instrument is a "nonqualified financial instrument" if it is not a qual-  
9 ified financial instrument.

10 (1) Fixed percentage method for qualified financial instruments. In  
11 determining the inclusion of receipts and net gains from qualified  
12 financial instruments in the apportionment fraction, taxpayers may elect  
13 to use the fixed percentage method described in this subparagraph for  
14 qualified financial instruments. The election is irrevocable, applies to  
15 all qualified financial instruments, and must be made on an annual basis  
16 on the taxpayer's original, timely filed return. If the taxpayer elects  
17 the fixed percentage method, then all income, gain or loss, INCLUDING  
18 MARKED TO MARKET NET GAINS AS DEFINED IN CLAUSE (J) OF SUBPARAGRAPH TWO  
19 OF THIS PARAGRAPH, from qualified financial instruments constitutes  
20 business income, gain or loss. If the taxpayer does not elect to use the  
21 fixed percentage method, then receipts and net gains are included in the  
22 apportionment fraction in accordance with the customer sourcing method  
23 described in subparagraph two of this paragraph. Under the fixed  
24 percentage method, eight percent of all net income (not less than zero)  
25 from qualified financial instruments is included in the numerator of the  
26 apportionment fraction. All net income (not less than zero) from quali-  
27 fied financial instruments is included in the denominator of the appor-  
28 tionment fraction.

29 S 24. Subclause (iv) of clause (A) of subparagraph 2 of paragraph (a)  
30 of subdivision 5 of section 210-A of the tax law, as added by section 16  
31 of part A of chapter 59 of the laws of 2014, is amended to read as  
32 follows:

33 (iv) Net gains (not less than zero) from sales of loans not secured by  
34 real property are included in the numerator of the apportionment frac-  
35 tion as provided in this subclause. The amount of net gains from the  
36 sale of loans not secured by real property included in the numerator of  
37 the apportionment fraction is determined by multiplying the net gains by  
38 a fraction, the numerator of which is the amount of gross proceeds from  
39 sales of loans not secured by real property to purchasers located within  
40 the state and the denominator of which is the amount of gross [receipts]  
41 PROCEEDS from sales of loans not secured by real property to purchasers  
42 located within and without the state. Gross proceeds shall be determined  
43 after the deduction of any cost incurred to acquire the loans but shall  
44 not be less than zero. Net gains (not less than zero) from sales of  
45 loans not secured by real property are included in the denominator of  
46 the apportionment fraction.

47 S 25. Clause (A) of subparagraph 2 of paragraph (a) of subdivision 5  
48 of section 210-A of the tax law is amended by adding a new subclause (v)  
49 to read as follows:

50 (V) FOR PURPOSES OF THIS SUBDIVISION, A LOAN IS SECURED BY REAL PROP-  
51 ERTY IF FIFTY PERCENT OR MORE OF THE VALUE OF THE COLLATERAL USED TO  
52 SECURE THE LOAN, WHEN VALUED AT FAIR MARKET VALUE AS OF THE TIME THE  
53 LOAN WAS ENTERED INTO, CONSISTS OF REAL PROPERTY.

54 S 26. Subparagraph 2 of paragraph (a) of subdivision 5 of section  
55 210-A of the tax law is amended by adding a new clause (J) to read as  
56 follows:

(J) MARKED TO MARKET NET GAINS. (I) FOR PURPOSES OF THIS CLAUSE, "MARKED TO MARKET" MEAN THAT A FINANCIAL INSTRUMENT IS, UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE, TREATED BY THE TAXPAYER AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXPAYER'S TAXABLE YEAR. "MARKED TO MARKET GAIN OR LOSS" MEANS THE GAIN OR LOSS RECOGNIZED BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE BECAUSE THE FINANCIAL INSTRUMENT IS TREATED AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXABLE YEAR.

(II) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT LESS THAN ZERO) FROM SUCH TYPE OF THE FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMERATOR OF THE APPORTIONMENT FRACTION FOR THE NET GAINS FROM THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH AND THE DENOMINATOR OF WHICH IS THE DENOMINATOR OF THE APPORTIONMENT FRACTION FOR THE NET GAINS FOR THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR WHICH THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(III) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRUMENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH IS THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION UNDER CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) OR (I) OF THIS SUBPARAGRAPH AND SUBCLAUSE (II) OF THIS CLAUSE, AND THE DENOMINATOR OF WHICH IS THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION UNDER CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) OR (I) AND SUBCLAUSE (II) OF THIS CLAUSE. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

S 27. Paragraph (e) of subdivision 5 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(e) For purposes of this subdivision, a taxpayer shall use the following hierarchy to determine the commercial domicile of a business entity, based on the information known to the taxpayer or information that would be known upon reasonable inquiry: (i) [the location of the treasury function of the business entity; (ii)] the seat of management and control of the business entity; and [(iii)] (II) the billing address of the business entity in the taxpayer's records. The taxpayer must exercise due diligence before rejecting [a] THE FIRST method in this hierarchy and proceeding to the next method.

S 28. Section 210-A of the tax law is amended by adding a new subdivision 6-a to read as follows:



1 6-A. RECEIPTS FROM THE OPERATION OF VESSELS. RECEIPTS FROM THE OPERA-  
2 TION OF VESSELS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-  
3 TION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE OPERATION OF VESSELS  
4 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY  
5 MULTIPLYING THE AMOUNT OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF  
6 WHICH IS THE AGGREGATE NUMBER OF WORKING DAYS OF THE VESSELS OWNED OR  
7 LEASED BY THE TAXPAYER IN TERRITORIAL WATERS OF THE STATE DURING THE  
8 PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH IS  
9 THE AGGREGATE NUMBER OF WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY  
10 THE TAXPAYER DURING SUCH PERIOD.

11 S 29. The opening paragraph of clause (A) of subparagraph 1 of para-  
12 graph (b) of subdivision 7 of section 210-A of the tax law, as added by  
13 section 16 of part A of chapter 59 of the laws of 2014, is amended to  
14 read as follows:

15 The portion of receipts of a taxpayer from aviation services (other  
16 than services described in paragraph (a) of this subdivision, BUT  
17 INCLUDING THE RECEIPTS OF A QUALIFIED AIR FREIGHT FORWARDER) to be  
18 included in the numerator of the apportionment fraction shall be deter-  
19 mined by multiplying its receipts from such aviation services by a  
20 percentage which is equal to the arithmetic average of the following  
21 three percentages:

22 S 30. Paragraph (b) of subdivision 7 of section 210-A of the tax law  
23 is amended by adding a new subparagraph 3 to read as follows:

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

26 (A) IF IT OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY ALL OF THE  
27 CAPITAL STOCK OF SUCH OTHER CORPORATION, OR IF ALL OF ITS CAPITAL STOCK  
28 IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY SUCH OTHER  
29 CORPORATION, OR IF ALL OF THE CAPITAL STOCK OF BOTH CORPORATIONS IS  
30 OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY THE SAME INTERESTS,

31 (B) IF IT IS PRINCIPALLY ENGAGED IN THE BUSINESS OF AIR FREIGHT  
32 FORWARDING, AND

33 (C) IF ITS AIR FREIGHT FORWARDING BUSINESS IS CARRIED ON PRINCIPALLY  
34 WITH THE AIRLINE OR AIRLINES OPERATED BY SUCH OTHER CORPORATION.

35 S 31. Subparagraph (i) of paragraph (b) and paragraph (d) of subdivi-  
36 sion 1 of section 210-B of the tax law, as added by section 17 of part A  
37 of chapter 59 of the laws of 2014, are amended to read as follows:

38 (i) A credit shall be allowed under this subdivision with respect to  
39 tangible personal property and other tangible property, including build-  
40 ings and structural components of buildings, which are: depreciable  
41 pursuant to section one hundred sixty-seven of the internal revenue  
42 code, have a useful life of four years or more, are acquired by purchase  
43 as defined in section one hundred seventy-nine (d) of the internal  
44 revenue code, have a situs in this state and are (A) principally used by  
45 the taxpayer in the production of goods by manufacturing, processing,  
46 assembling, refining, mining, extracting, farming, agriculture, horti-  
47 culture, floriculture, viticulture or commercial fishing, (B) industrial  
48 waste treatment facilities or air pollution control facilities, used in  
49 the taxpayer's trade or business, (C) research and development property,  
50 or (D) principally used in the ordinary course of the taxpayer's trade  
51 or business as a broker or dealer in connection with the purchase or  
52 sale (which shall include but not be limited to the issuance, entering  
53 into, assumption, offset, assignment, termination, or transfer) of  
54 stocks, bonds or other securities as defined in section four hundred  
55 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as  
56 defined in section four hundred seventy-five (e) of the Internal Revenue

1 Code, (E) principally used in the ordinary course of the taxpayer's  
2 trade or business of providing investment advisory services for a regu-  
3 lated investment company as defined in section eight hundred fifty-one  
4 of the Internal Revenue Code, or lending, loan arrangement or loan orig-  
5 ination services to customers in connection with the purchase or sale  
6 (which shall include but not be limited to the issuance, entering into,  
7 assumption, offset, assignment, termination, or transfer) of securities  
8 as defined in section four hundred seventy-five (c)(2) of the Internal  
9 Revenue Code, (F) [originally] PRINCIPALLY used in the ordinary course  
10 of the taxpayer's business as an exchange registered as a national secu-  
11 rities exchange within the meaning of sections 3(a)(1) and 6(a) of the  
12 Securities Exchange Act of 1934 or a board of trade as defined in  
13 [section 1410(a)(1) of the New York Not-for-Profit Corporation Law]  
14 SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SECTION FOURTEEN HUNDRED TEN OF THE  
15 NOT-FOR-PROFIT CORPORATION LAW or as an entity that is wholly owned by  
16 one or more such national securities exchanges or boards of trade and  
17 that provides automation or technical services thereto, or (G) princi-  
18 pally used as a qualified film production facility including qualified  
19 film production facilities having a situs in an empire zone designated  
20 as such pursuant to article eighteen-B of the general municipal law,  
21 where the taxpayer is providing three or more services to any qualified  
22 film production company using the facility, including such services as a  
23 studio lighting grid, lighting and grip equipment, multi-line phone  
24 service, broadband information technology access, industrial scale elec-  
25 trical capacity, food services, security services, and heating, venti-  
26 lation and air conditioning. FOR PURPOSES OF CLAUSES (D), (E) AND (F) OF  
27 THIS SUBPARAGRAPH, PROPERTY PURCHASED BY A TAXPAYER AFFILIATED WITH A  
28 REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISOR, NATIONAL SECU-  
29 RITIES EXCHANGE OR BOARD OF TRADE, IS ALLOWED A CREDIT UNDER THIS SUBDI-  
30 VISION IF THE PROPERTY IS USED BY ITS AFFILIATED REGULATED BROKER, DEAL-  
31 ER, REGISTERED INVESTMENT ADVISOR, NATIONAL SECURITIES EXCHANGE OR BOARD  
32 OF TRADE IN ACCORDANCE WITH THIS SUBDIVISION. FOR PURPOSES OF DETERMIN-  
33 ING IF THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THE USES BY  
34 THE TAXPAYER DESCRIBED IN CLAUSES (D) AND (E) OF THIS SUBPARAGRAPH MAY  
35 BE AGGREGATED. IN ADDITION, THE USES BY THE TAXPAYER, ITS AFFILIATED  
36 REGULATED BROKER, DEALER AND REGISTERED INVESTMENT ADVISOR UNDER EITHER  
37 OR BOTH OF THOSE CLAUSES MAY BE AGGREGATED. Provided, however, a taxpay-  
38 er shall not be allowed the credit provided by clauses (D), (E) and (F)  
39 of this subparagraph unless THE PROPERTY IS FIRST PLACED IN SERVICE  
40 BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN AND (i) eighty percent or  
41 more of the employees performing the administrative and support func-  
42 tions resulting from or related to the qualifying uses of such equipment  
43 are located in this state or (ii) the average number of employees that  
44 perform the administrative and support functions resulting from or  
45 related to the qualifying uses of such equipment and are located in this  
46 state during the taxable year for which the credit is claimed is equal  
47 to or greater than ninety-five percent of the average number of employ-  
48 ees that perform these functions and are located in this state during  
49 the thirty-six months immediately preceding the year for which the cred-  
50 it is claimed, or (iii) the number of employees located in this state  
51 during the taxable year for which the credit is claimed is equal to or  
52 greater than ninety percent of the number of employees located in this  
53 state on December thirty-first, nineteen hundred ninety-eight or, if the  
54 taxpayer was not a calendar year taxpayer in nineteen hundred ninety-  
55 eight, the last day of its first taxable year ending after December  
56 thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes

1 subject to tax in this state after the taxable year beginning in nine-  
2 teen hundred ninety-eight, then the taxpayer is not required to satisfy  
3 the employment test provided in the preceding sentence of this subpara-  
4 graph for its first taxable year. For purposes of clause (iii) of this  
5 subparagraph the employment test will be based on the number of employ-  
6 ees located in this state on the last day of the first taxable year the  
7 taxpayer is subject to tax in this state. If the uses of the property  
8 must be aggregated to determine whether the property is principally used  
9 in qualifying uses, then either each affiliate using the property must  
10 satisfy this employment test or this employment test must be satisfied  
11 through the aggregation of the employees of the taxpayer, its affiliated  
12 regulated broker, dealer, and registered investment adviser using the  
13 property. For purposes of this subdivision, the term "goods" shall not  
14 include electricity.

15 (d) Except as otherwise provided in this paragraph, the credit allowed  
16 under this subdivision for any taxable year shall not reduce the tax due  
17 for such year to less than the [higher of the amounts prescribed in  
18 paragraphs (c) and] FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH  
19 (d) of subdivision one of [this] section TWO HUNDRED TEN OF THIS  
20 ARTICLE. However, if the amount of credit allowable under this subdivi-  
21 sion for any taxable year reduces the tax to such amount OR IF THE  
22 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,  
23 any amount of credit allowed for a taxable year commencing prior to  
24 January first, nineteen hundred eighty-seven and not deductible in such  
25 taxable year may be carried over to the following year or years and may  
26 be deducted from the taxpayer's tax for such year or years but in no  
27 event shall such credit be carried over to taxable years commencing on  
28 or after January first, two thousand two, and any amount of credit  
29 allowed for a taxable year commencing on or after January first, nine-  
30 teen hundred eighty-seven and not deductible in such year may be carried  
31 over to the fifteen taxable years next following such taxable year and  
32 may be deducted from the taxpayer's tax for such year or years. In lieu  
33 of such carryover, any such taxpayer which qualifies as a new business  
34 under paragraph [(j)] (F) of this subdivision may elect to treat the  
35 amount of such carryover as an overpayment of tax to be credited or  
36 refunded in accordance with the provisions of section ten hundred eight-  
37 y-six of this chapter, provided, however, the provisions of subsection  
38 (c) of section ten hundred eighty-eight of this chapter notwithstanding,  
39 no interest shall be paid thereon.

40 S 32. Subdivision 27 of section 210-B of the tax law, as added by  
41 section 17 of part A of chapter 59 of the laws of 2014, is amended to  
42 read as follows:

43 27. Credits of New York S corporations. (a) General. Notwithstanding  
44 the provisions of this section, no carryover of credit allowable in a  
45 New York C year shall be deducted from the tax otherwise due under this  
46 article in a New York S year, and no credit allowable in a New York S  
47 year, or carryover of such credit, shall be deducted from the tax  
48 imposed by this article. However, a New York S year shall be treated as  
49 a taxable year for purposes of determining the number of taxable years  
50 to which a credit may be carried over under this section. Notwithstand-  
51 ing the first sentence of this subdivision, however, the credit for the  
52 special additional mortgage recording tax shall be allowed as provided  
53 in subdivision [fifteen] NINE of this section, and the carryover of any  
54 such credit shall be determined without regard to whether the credit is  
55 carried from a New York C year to a New York S year or vice-versa.

1 S 33. Subdivision 1, subparagraphs (i) and (ii) of paragraph (d) and  
2 paragraphs (d-1) and (e) of subdivision 4, and subdivision 7 of section  
3 210-C of the tax law, as added by section 18 of part A of chapter 59 of  
4 the laws of 2014, are amended to read as follows:

5 1. Tax. (A) The tax on a combined report shall be the highest of (i)  
6 the combined business income base multiplied by the tax rate specified  
7 in paragraph (a) of subdivision one of section two hundred ten of this  
8 article; (ii) the combined capital base multiplied by the tax rate spec-  
9 ified in paragraph (b) of subdivision one of section two hundred ten of  
10 this article, but not exceeding the limitation provided for in that  
11 paragraph (b); or (iii) the fixed dollar minimum that is attributable to  
12 the designated agent of the combined group. In addition, the tax on a  
13 combined report shall include the fixed dollar minimum tax specified in  
14 paragraph (d) of subdivision one of section two hundred ten of this  
15 article for each member of the combined group, other than the designated  
16 agent, that is a taxpayer.

17 (b) The combined business income base is the amount of the combined  
18 business income of the combined group that is apportioned to the state,  
19 reduced by any PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY  
20 net operating loss deduction for the combined group. The combined capi-  
21 tal base is the amount of the combined capital of the combined group  
22 that is apportioned to the state.

23 (i) A net operating loss deduction is allowed in computing the  
24 combined business income base. Such deduction may reduce the tax on the  
25 combined business income base to the higher of the tax on the combined  
26 capital base or the fixed dollar minimum amount that is attributable to  
27 the designated agent of the combined group. A combined net operating  
28 loss deduction is equal to the amount of combined net operating loss or  
29 losses from one or more taxable years that are carried forward OR  
30 CARRIED BACK to a particular [income] TAXABLE year. A combined net oper-  
31 ating loss is the combined business loss incurred in a particular taxa-  
32 ble year multiplied by the combined apportionment factor for that year  
33 determined as provided in subdivision five of this section.

34 (ii) The combined net operating loss deduction and combined net oper-  
35 ating loss are also subject to the provisions contained in clauses one  
36 through [six] SEVEN of subparagraph (ix) of paragraph (a) of subdivision  
37 one of section two hundred ten of this article.

38 (d-1) A PRIOR net operating loss conversion subtraction is allowed in  
39 computing the combined business income base, as provided in subparagraph  
40 (viii) of paragraph (a) of subdivision one of section two hundred ten of  
41 this article. Such subtraction may reduce the tax on the combined busi-  
42 ness income base to the higher of the tax on the combined capital base  
43 or the fixed dollar minimum amount that is attributable to the desig-  
44 nated agent of the combined group.

45 (e) Any election made pursuant to paragraph (b) of subdivision six,  
46 [and] paragraphs (b) and (c) of subdivision six-a of section two hundred  
47 eight, AND ITEM (IV) OF SUBCLAUSE TWO OF CLAUSE (B) OF SUBPARAGRAPH  
48 (VIII) AND CLAUSE SEVEN OF SUBPARAGRAPH (IX) OF PARAGRAPH (A) OF SUBDI-  
49 VISION ONE OF SECTION TWO HUNDRED TEN of this article shall apply to all  
50 members of the combined group.

51 7. Designated agent. Each combined group shall have one designated  
52 agent FOR THE COMBINED GROUP, which shall be a taxpayer. [The designated  
53 agent is the parent corporation of the combined group. If there is no  
54 such parent corporation, or the parent corporation is not a taxpayer,  
55 then another member of the combined group that is a taxpayer may be  
56 appointed as the designated agent.] Only the designated agent may act on

1 behalf of the members of the combined group for matters relating to the  
2 combined report.

3 S 34. Paragraph 1 of subdivision (c) of section 40 of the tax law, as  
4 added by section 4 of part A of chapter 68 of the laws of 2013, is  
5 amended to read as follows:

6 (1) ascertaining the percentage that the average value of the busi-  
7 ness's real and tangible personal property, whether owned or rented to  
8 it, in the tax-free NY area in which the business was located during the  
9 period covered by the taxpayer's report or return bears to the average  
10 value of the business's real and tangible personal property, whether  
11 owned or rented to it, within the state during such period; provided  
12 that the term "value of the business's real and tangible personal prop-  
13 erty" shall have the same meaning as such term has in [subparagraph one  
14 of] paragraph (a) of subdivision [three] TWO of section [two hundred  
15 ten] TWO HUNDRED NINE-B of this chapter; and

16 S 35. Clause (ii) of subparagraph (B) of paragraph 2 of subdivision  
17 (d) of section 40 of the tax law, as added by section 4 of part A of  
18 chapter 68 of the laws of 2013, is amended to read as follows:

19 (ii) For purposes of article nine-A of this chapter, the term "part-  
20 ner's income from the partnership" means partnership items of income,  
21 gain, loss and deduction, and New York modifications thereto, entering  
22 into [entire net] BUSINESS income [or minimum taxable income] and the  
23 term "partner's entire income" means [entire net] BUSINESS income [or  
24 minimum taxable income], allocated within the state. For purposes of  
25 article twenty-two of this chapter, the term "partner's income from the  
26 partnership" means partnership items of income, gain, loss and  
27 deduction, and New York modifications thereto, entering into New York  
28 adjusted gross income, and the term "partner's entire income" means New  
29 York adjusted gross income.

30 S 36. Subparagraph (C) of paragraph 2 of subdivision (d) of section 40  
31 of the tax law, as added by section 4 of part A of chapter 68 of the  
32 laws of 2013, is amended to read as follows:

33 (C) (I) Where the taxpayer is a shareholder of a New York S corpo-  
34 ration that is a business located in a tax-free NY area, the sharehold-  
35 er's tax factor shall be that portion of the amount determined in para-  
36 graph one of this subdivision that is attributable to the income of the  
37 S corporation. Such attribution shall be made in accordance with the  
38 ratio of the shareholder's income from the S corporation allocated with-  
39 in the state, entering into New York adjusted gross income, to the  
40 shareholder's New York adjusted gross income, or in accordance with such  
41 other methods as the commissioner may prescribe as providing an appor-  
42 tionment that reasonably reflects the portion of the shareholder's tax  
43 attributable to the income of such business. The income of the S corpo-  
44 ration allocated within the state shall be determined by multiplying the  
45 income of the S corporation by [the] A business allocation factor  
46 [computed under paragraph (a) of subdivision three of section two  
47 hundred ten of this article without regard to subparagraph ten of such  
48 paragraph (a)] THAT SHALL BE DETERMINED IN CLAUSE (II) OF THIS SUBPARA-  
49 GRAPH. In no event may the ratio so determined exceed 1.0.

50 (II) THE BUSINESS ALLOCATION FACTOR FOR PURPOSES OF THIS SUBPARAGRAPH  
51 SHALL BE COMPUTED BY ADDING TOGETHER THE PROPERTY FACTOR SPECIFIED IN  
52 SUBCLAUSE (I) OF THIS CLAUSE, THE WAGE FACTOR SPECIFIED IN SUBCLAUSE  
53 (II) OF THIS CLAUSE AND THE APPORTIONMENT FACTOR DETERMINED UNDER  
54 SECTION TWO HUNDRED TEN-A OF THIS CHAPTER AND DIVIDING BY THREE.

55 (I) THE PROPERTY FACTOR SHALL BE DETERMINED BY ASCERTAINING THE  
56 PERCENTAGE THAT THE AVERAGE VALUE OF THE BUSINESS'S REAL AND TANGIBLE

PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN THE STATE DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT OR RETURN BEARS TO THE AVERAGE VALUE OF THE BUSINESS'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN AND WITHOUT THE STATE DURING SUCH PERIOD; PROVIDED THAT THE TERM "VALUE OF THE BUSINESS'S REAL AND TANGIBLE PERSONAL PROPERTY" SHALL HAVE THE SAME MEANING AS SUCH TERM HAS IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWO HUNDRED NINE-B OF THIS CHAPTER.

(II) THE WAGE FACTOR SHALL BE DETERMINED BY ASCERTAINING THE PERCENTAGE THAT THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, EMPLOYED AT THE BUSINESS'S LOCATION OR LOCATIONS WITHIN THE STATE, BEARS TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD, OF ALL THE BUSINESS'S EMPLOYEES WITHIN AND WITHOUT THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS.

S 37. Subparagraph (B) of paragraph 3 of subdivision (d) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(B) The term "income of the business located in a tax-free NY area" means [entire net] BUSINESS income [or minimum taxable income] calculated as if the taxpayer was filing separately and the term "combined group's income" means [entire net] BUSINESS income [or minimum taxable income] as shown on the combined report, allocated within the state.

S 38. Paragraph 1 of subdivision (e) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(1) Article 9-A: section [210] 210-B, subdivision [47] 41.

S 39. Paragraph 1 of subsection (i) of section 660 of the tax law, as amended by section 74 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year. In determining WHETHER an eligible S [corporation's investment income] CORPORATION IS DEEMED TO HAVE MADE THAT ELECTION, the [investment] income of a qualified subchapter S subsidiary owned directly or indirectly by the eligible S corporation shall be included WITH THE INCOME OF THE ELIGIBLE S CORPORATION.

S 40. This act shall take effect immediately and shall be deemed to be in full force and effect on the same date as part A of chapter 59 of the laws of 2014.

## PART U

Section 1. Paragraph 33 of subdivision (a) of section 1115 of the tax law, as added by section 99 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(33) Wine or wine product, AND THE BOTTLES, CORKS, CAPS, AND LABELS USED TO PACKAGE SUCH WINE OR WINE PRODUCT, furnished by the official agent of a farm winery, winery, wholesaler, or importer at a wine tasting held in accordance with [section eighty of] the alcoholic beverage

1 control law to a customer or prospective customer who consumes such wine  
2 at such wine tasting.

3 S 2. Section 1118 of the tax law is amended by adding a new subdivi-  
4 sion (13) to read as follows:

5 (13) IN RESPECT TO THE USE OF THE FOLLOWING ITEMS AT A TASTING HELD BY  
6 A LICENSED BREWERY, FARM BREWERY, CIDER PRODUCER, FARM CIDERY, DISTIL-  
7 LERY OR FARM DISTILLERY IN ACCORDANCE WITH THE ALCOHOLIC BEVERAGE  
8 CONTROL LAW: (I) THE ALCOHOLIC BEVERAGE OR BEVERAGES AUTHORIZED BY THE  
9 ALCOHOLIC BEVERAGE CONTROL LAW TO BE FURNISHED AT NO CHARGE TO A CUSTOM-  
10 ER OR PROSPECTIVE CUSTOMER AT SUCH TASTING FOR CONSUMPTION AT SUCH TAST-  
11 ING; AND (II) BOTTLES, CORKS, CAPS AND LABELS USED TO PACKAGE SUCH ALCO-  
12 HOLIC BEVERAGES.

13 S 3. This act shall take effect immediately, provided, however,  
14 section two of this act shall take effect June 1, 2015 and shall apply  
15 in accordance with the transition provisions of section 1106 and 1217 of  
16 the tax law.

17 PART V

18 Section 1. Paragraph 22 of subdivision (b) of section 1101 of the tax  
19 law, as amended by chapter 651 of the laws of 1999, is amended to read  
20 as follows:

21 (22) (A) "Prepaid telephone calling service" means the right to exclu-  
22 sively purchase telecommunication services, that must be paid for in  
23 advance and enable the origination of one or more intrastate, interstate  
24 or international telephone calls using an access number (such as a toll  
25 free network access number) and/or authorization code, whether manually  
26 or electronically dialed, for which payment to a vendor must be made in  
27 advance, whether or not that right is represented by the transfer by the  
28 vendor to the purchaser of an item of tangible personal property. SUCH  
29 TERM INCLUDES A PREPAID MOBILE CALLING SERVICE. In no event shall a  
30 credit card constitute a prepaid telephone calling service. If the sale  
31 or recharge of a prepaid telephone calling service does not take place  
32 at the vendor's place of business, it shall be conclusively determined  
33 to take place at the purchaser's shipping address or, if there is no  
34 item shipped, at the purchaser's billing address or the location associ-  
35 ated with the purchaser's mobile telephone number, OR, IF THE VENDOR  
36 DOES NOT HAVE THE ADDRESS OR THE LOCATION ASSOCIATED WITH THE CUSTOMER'S  
37 MOBILE TELEPHONE NUMBER, AT SUCH ADDRESS, AS APPROVED BY THE COMMISSION-  
38 ER, THAT REASONABLY REFLECTS THE CUSTOMER'S LOCATION AT THE TIME OF THE  
39 SALE OR RECHARGE.

40 (B) "PREPAID MOBILE CALLING SERVICE" MEANS THE RIGHT TO USE A COMMER-  
41 CIAL MOBILE RADIO SERVICE, WHETHER OR NOT SOLD WITH OTHER PROPERTY OR  
42 SERVICES, THAT MUST BE PAID FOR IN ADVANCE AND IS SOLD IN PREDETERMINED  
43 UNITS OR DOLLARS THAT DECLINE WITH USE IN A KNOWN AMOUNT, WHETHER OR NOT  
44 THAT RIGHT IS REPRESENTED BY OR INCLUDES THE TRANSFER TO THE PURCHASER  
45 OF AN ITEM OF TANGIBLE PERSONAL PROPERTY.

46 S 2. This act shall take effect immediately.

47 PART W

48 Section 1. The section heading and subdivisions 1, 2, 3, 4, 6, 7 and 9  
49 of section 875 of the general municipal law, as added by section 2 of  
50 part J of chapter 59 of the laws of 2013, are amended to read as  
51 follows:

1 Special provisions applicable to state [sales and compensating use]  
2 taxes and certain types of facilities. 1. For purposes of this section:  
3 "state sales and use taxes" means sales and compensating use taxes and  
4 fees imposed by article twenty-eight or twenty-eight-A of the tax law  
5 but excluding such taxes imposed in a city by section eleven hundred  
6 seven or eleven hundred eight of such article twenty-eight. "STATE  
7 TAXES" MEANS ANY OR ALL OF THE FOLLOWING: STATE SALES AND USE TAXES, ANY  
8 MORTGAGE RECORDING TAX IMPOSED UNDER SECTION TWO HUNDRED FIFTY-THREE OF  
9 THE TAX LAW, ANY STATE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIR-  
10 TY-ONE OF THE TAX LAW. "IDA" means an industrial development agency  
11 established by this article or an industrial development authority  
12 created by the public authorities law. "Commissioner" means the commis-  
13 sioner of taxation and finance. "ABO" MEANS THE AUTHORITIES BUDGET  
14 OFFICE ESTABLISHED BY SECTION FOUR OF THE PUBLIC AUTHORITIES LAW.

15 2. An IDA shall keep records of the amount of state and local sales  
16 and use tax exemption benefits AND ANY OTHER STATE TAX EXEMPTION BENE-  
17 FITS provided to each project and each agent or project operator and  
18 shall make such records available to the commissioner upon request. Such  
19 IDA shall also, within thirty days of providing financial assistance to  
20 a project that includes any amount of state [sales and use] tax  
21 exemption benefits, report to the commissioner the amount of such bene-  
22 fits for such project, the project to which they are being provided,  
23 together with such other information and such specificity and detail as  
24 the commissioner may prescribe. This report may be made in conjunction  
25 with the statement required by subdivision nine of section eight hundred  
26 seventy-four of this title or it may be made as a separate report, at  
27 the discretion of the commissioner. An IDA that fails to make such  
28 records available to the commissioner or to file such reports shall be  
29 prohibited from providing ANY state [sales and use] tax exemption bene-  
30 fits for any project unless and until such IDA comes into compliance  
31 with all such requirements.

32 3. (a) An IDA shall include within its resolutions and project docu-  
33 ments establishing any project or appointing an agent or project opera-  
34 tor for any project the terms and conditions in this subdivision, and  
35 every agent, project operator or other person or entity that shall enjoy  
36 ANY state [sales and use] tax exemption benefits provided by an IDA  
37 shall agree to such terms as a condition precedent to receiving or bene-  
38 fitting from ANY such state [sales and use exemptions] TAX EXEMPTION  
39 benefits.

40 (b) The IDA shall recover, recapture, receive, or otherwise obtain  
41 from an agent, project operator or other person or entity ANY state  
42 [sales and use exemptions] TAX EXEMPTION benefits taken or purported to  
43 be taken by any such person to which the person is not entitled or which  
44 are in excess of the amounts authorized or, AS TO STATE SALES AND USE  
45 TAXES, which are for property or services not authorized or taken in  
46 cases where such agent or project operator, or other person or entity  
47 failed to comply with a material term or condition to use property or  
48 services in the manner required by the person's agreement with the IDA.  
49 Such agent or project operator, or other person or entity shall cooper-  
50 ate with the IDA in its efforts to recover, recapture, receive, or  
51 otherwise obtain ANY such state [sales and use] TAX exemptions benefits  
52 and shall promptly pay over any such amounts to the IDA that it  
53 requests. The failure to pay over such amounts to the IDA shall be  
54 grounds for the commissioner to assess and determine state [sales and  
55 use] taxes due from the person under [article twenty-eight of] the tax



1 law, together with any relevant penalties and interest due on such  
2 amounts.

3 (c) If an IDA recovers, recaptures, receives, or otherwise obtains,  
4 any amount of state [sales and use] tax exemption benefits from an  
5 agent, project operator or other person or entity, the IDA shall, within  
6 thirty days of coming into possession of such amount, remit it to the  
7 commissioner, together with such information and report that the commis-  
8 sioner deems necessary to administer payment over of such amount. An  
9 IDA shall join the commissioner as a party in any action or proceeding  
10 that the IDA commences to recover, recapture, obtain, or otherwise seek  
11 the return of, ANY state [sales and use] tax exemption benefits from an  
12 agent, project operator or other person or entity.

13 (d) An IDA shall prepare an annual compliance report detailing its  
14 terms and conditions described in paragraph (a) of this subdivision and  
15 its activities and efforts to recover, recapture, receive, or otherwise  
16 obtain ANY state [sales and use exemptions] TAX EXEMPTION benefits  
17 described in paragraph (b) of this subdivision, together with such other  
18 information as the commissioner and the commissioner of economic devel-  
19 opment may require. The report required by this subdivision shall be  
20 filed with the commissioner, the director of the division of the budget,  
21 the commissioner of economic development, the state comptroller, the  
22 governing body of the municipality for whose benefit the agency was  
23 created, and may be included with the annual financial statement  
24 required by paragraph (b) of subdivision one of section eight hundred  
25 fifty-nine of this title. Such report required by this subdivision shall  
26 be filed regardless of whether the IDA is required to file such finan-  
27 cial statement described by such paragraph (b) of subdivision one of  
28 section eight hundred fifty-nine. The failure to file or substantially  
29 complete the report required by this subdivision shall be deemed to be  
30 the failure to file or substantially complete the statement required by  
31 such paragraph (b) of subdivision one of such section eight hundred  
32 fifty-nine, and the consequences shall be the same as provided in para-  
33 graph (e) of subdivision one of such section eight hundred fifty-nine.

34 (e) This subdivision shall apply to any amounts of state [sales and  
35 use] tax exemption benefits that an IDA recovers, recaptures, receives,  
36 or otherwise obtains, regardless of whether the IDA or the agent,  
37 project operator or other person or entity characterizes such benefits  
38 recovered, recaptured, received, or otherwise obtained, as a penalty or  
39 liquidated or contract damages or otherwise. The provisions of this  
40 subdivision shall also apply to any interest or penalty that the IDA  
41 imposes on any such amounts or that are imposed on such amounts by oper-  
42 ation of law or by judicial order or otherwise. Any such amounts or  
43 payments that an IDA recovers, recaptures, receives, or otherwise  
44 obtains, together with any interest or penalties thereon, shall be  
45 deemed to be state sales and use taxes, MORTGAGE RECORDING TAX, OR REAL  
46 ESTATE TRANSFER TAX, AS THE CASE MAY BE, and the IDA shall receive any  
47 such amounts or payments, whether as a result of court action or other-  
48 wise, as trustee for and on account of the state.

49 4. The commissioner shall deposit and dispose of any amount of any  
50 payments or moneys received from or paid over by an IDA or from or by  
51 any person or entity, or received pursuant to an action or proceeding  
52 commenced by an IDA, together with any interest or penalties thereon,  
53 pursuant to subdivision three of this section, as state sales and use  
54 taxes in accord with the provisions of article twenty-eight of the tax  
55 law, OR AS MORTGAGE RECORDING TAX IMPOSED UNDER SECTION TWO HUNDRED  
56 FIFTY-THREE OF THE TAX LAW OR REAL ESTATE TRANSFER TAX IMPOSED UNDER

ARTICLE THIRTY-ONE OF THE TAX LAW, AS THE CASE MAY BE. The amount of any such payments or moneys IN RESPECT OF SALES OR USE TAXES, together with any interest or penalties thereon, shall be attributed to the taxes imposed by sections eleven hundred five and eleven hundred ten, on the one hand, and section eleven hundred nine of the tax law, on the other hand, or to any like taxes or fees imposed by such article, based on the proportion that the rates of such taxes or fees bear to each other, unless there is evidence to show that only one or the other of such taxes or fees was imposed or received or paid over.

6. The commissioner is hereby authorized to audit the records, actions, and proceedings of an IDA and of its agents and project operators to ensure that the IDA and its agents and project operators comply with all the requirements of this section. IN ADDITION, THE COMMISSIONER IS HEREBY AUTHORIZED TO AUDIT IDA PROJECTS AND IDA AGENTS AND PROJECT OPERATORS WITH REGARD TO THE REQUIREMENTS AND RESTRICTIONS OF THIS TITLE AND TITLE ELEVEN OR FIFTEEN OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW TO ENSURE THAT JOB TARGETS, INVESTMENT TARGETS, CONSTRUCTION, AND EXPENDITURES DESCRIBED IN SUBDIVISION FIVE-A OF THIS SECTION, AND ANY EXEMPTIONS FROM ANY STATE TAXES OR FROM LOCAL SALES AND COMPENSATING USE TAXES ADMINISTERED BY THE COMMISSIONER COMPLY WITH THE DETAILS OF THE PROJECT AND THE APPLICATION AS APPROVED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT UNDER SUCH SUBDIVISION FIVE-A. IN ADDITION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE ABO, OR ANOTHER PERSON OR ENTITY MAY REPORT TO THE COMMISSIONER THAT AN AGENT OR PROJECT OPERATOR HAS NOT MET ANY SUCH TARGETS OR GOALS OR OTHERWISE COMPLIED WITH ANY SUCH PROVISIONS. IF THE COMMISSIONER FINDS THAT ANY SUCH JOB TARGETS, INVESTMENT TARGETS, CONSTRUCTION, EXPENDITURES, OR TAX EXEMPTION PROVISIONS OR OTHER CONDITIONS OR PROVISIONS HAVE NOT BEEN MET OR COMPLIED WITH, THE COMMISSIONER SHALL DETERMINE THE AMOUNT OF ANY EXEMPTION FROM STATE TAXES THAT THE AGENT OR PROJECT OPERATOR CLAIMED AND SUCH AGENT OR PROJECT OPERATOR SHALL PAY SUCH AMOUNTS AS TAX. IF THE COMMISSIONER FINDS THAT THE AGENT OR PROJECT OPERATOR HAS PARTIALLY MET SUCH TARGETS, GOALS, OR CONDITIONS, THE COMMISSIONER MAY DETERMINE THE DEGREE OF COMPLIANCE TO DETERMINE THE AMOUNT OF SUCH TAX EXEMPTIONS CLAIMED THAT THE AGENT OR PROJECT OPERATOR MUST PAY AS TAX. IN MAKING SUCH COMPLIANCE DETERMINATION, THE COMMISSIONER MAY CONSIDER THE NUMBER OF YEARS OR OTHER PERIOD OF TIME IN WHICH SUCH AGENT OR PROJECT OPERATOR MET THE TARGETS, GOALS, OR CONDITIONS, AS COMPARED TO THE TOTAL YEARS OR OTHER PERIOD OF TIME OF THE PROJECT, THE PERCENTAGE OF COMPLIANCE WITH REGARD TO THE NUMBER OF JOBS CREATED AS COMPARED TO THE JOB TARGETS, THE SEVERITY OF FAILURE TO COMPLY WITH TAX EXEMPTION LIMITATIONS BASED ON THE NUMBER OF DOLLARS BY WHICH THE AGENT OR PROJECT OPERATOR EXCEEDED THE ALLOWED AMOUNT OF TAX EXEMPTIONS APPROVED, AND SUCH OTHER FACTORS AS THE COMMISSIONER DEEMS REASONABLE AND PERTINENT. THE COMMISSIONER SHALL BE AUTHORIZED TO ASSESS OR OTHERWISE BILL THE AGENT OR PROJECT OPERATOR FOR ANY SUCH AMOUNTS THAT THE COMMISSIONER DETERMINED THE AGENT OR PROJECT OPERATOR MUST PAY AS TAX, IN THE MANNER THAT THE COMMISSIONER WOULD ASSESS OR BILL FOR THE TAX FROM WHICH SUCH EXEMPTIONS WERE CLAIMED. Any information the commissioner finds in the course of ANY such audit may be used by the commissioner to assess and determine state and local taxes of the IDA's agent or project operator.

7. In addition to any other reporting or filing requirements an IDA has under this article or other law, an IDA shall [also] MAINTAIN A PUBLIC INTERNET WEB SITE AND report and make available on [the internet] SUCH WEB SITE, without charge, copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any

1 project it establishes. IN ADDITION, EVERY IDA SHALL POST ON SUCH WEB  
2 SITE THE FOLLOWING INFORMATION AND SHALL TIMELY UPDATE ALL SUCH INFORMA-  
3 TION SO THAT IT REMAINS CURRENT AND ACCURATE WITHIN THIRTY DAYS OF ANY  
4 CHANGE:

5 (A) THE NAME AND TITLE OF EACH MEMBER AND OFFICER OF THE IDA,

6 (B) PUBLIC NOTICE OF EVERY MEETING TO BE HELD BY THE IDA, AS REQUIRED  
7 BY SUBDIVISION FIVE-C OF THIS SECTION;

8 (C) THE AGENDA OF EVERY SUCH MEETING TO BE HELD, AT LEAST TEN DAYS  
9 PRIOR TO THE COMMENCEMENT OF THE MEETING;

10 (D) MINUTES OF EVERY MEETING THE IDA HOLDS, TOGETHER WITH THE DETAILS  
11 OF EVERY VOTE EACH MEMBER OF THE IDA CASTS AT ANY MEETING; AND

12 (E) A DESCRIPTION OF EVERY PROJECT ESTABLISHED BY THE IDA, TOGETHER  
13 WITH A DESCRIPTION OF ANY STATE OR LOCAL TAX EXEMPTION BENEFITS THE IDA  
14 INTENDS TO PROVIDE OR EXTEND IN DURATION, OR HAS PROVIDED OR EXTENDED,  
15 WITH RESPECT TO THE PROJECT, INCLUDING WHAT THE EXEMPTION APPLIES TO,  
16 THE TYPE OF TAX EXEMPTED OR TO BE EXEMPTED AND THE DURATION AND ANNUAL  
17 AND TOTAL DOLLAR VALUE OF EACH SUCH EXEMPTION.

18 It shall also provide, without charge, copies of all such reports and  
19 information to a person who asks for [it] ANY OF THEM in writing or in  
20 person. The IDA may, at the request of its agent or project operator  
21 delete from any such copies posted on the internet or provided to a  
22 person described in the prior sentence portions of its records that are  
23 specifically exempted from disclosure under article six of the public  
24 officers law. IF THE ABO FINDS, ON ITS OWN, OR AFTER RECOMMENDATION BY  
25 THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE COMMISSIONER, OR ANY OTHER  
26 PERSON OR ENTITY, THAT AN IDA HAS FAILED TO COMPLY WITH THE REQUIREMENTS  
27 OF THIS SECTION, THE ABO SHALL ADVISE THE IDA OF ITS FINDINGS, AND THE  
28 IDA SHALL HAVE THIRTY DAYS TO COME INTO COMPLIANCE. IF THE IDA FAILS TO  
29 DO SO, THE IDA SHALL NOT BE ABLE TO ESTABLISH ANY PROJECT OR PROVIDE ANY  
30 FINANCIAL ASSISTANCE IN THE NATURE OF EXEMPTIONS FROM ANY STATE TAXES;  
31 AND THE ABO SHALL NOTIFY THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE  
32 COMMISSIONER, AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL NOT  
33 APPROVE ANY APPLICATION FROM THE IDA FOR ANY STATE TAX EXEMPTIONS.

34 9. To the extent that a provision of this section conflicts with a  
35 provision of any other section of this article OR WITH A PROVISION OF  
36 TITLE ELEVEN OR FIFTEEN OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW,  
37 the provisions of this section shall control.

38 S 2. Section 875 of the general municipal law is amended by adding  
39 three new subdivisions 5-a, 5-b, and 5-c, to read as follows:

40 5-A. IN ADDITION TO ANY OTHER REQUIREMENT OF THIS ARTICLE OR OTHER  
41 LAW: EVERY IDA AND ITS MEMBERS AND OFFICERS SHALL COMPLY WITH THE  
42 APPLICABLE PROVISIONS OF THE PUBLIC OFFICERS LAW, INCLUDING AMONG OTHER  
43 THINGS THE OPEN MEETINGS LAW AND THE FREEDOM OF INFORMATION LAW, THE  
44 APPLICABLE PROVISIONS OF THE PUBLIC AUTHORITIES LAW, AND THIS TITLE. IF  
45 THE ABO OR ANY OTHER PERSON OR ENTITY FINDS THAT AN IDA OR ITS MEMBER OR  
46 OFFICER HAS FAILED TO COMPLY WITH AN APPLICABLE PROVISION OF THE PUBLIC  
47 OFFICERS LAW OR OF THE PUBLIC AUTHORITIES LAW, OR WITH THIS TITLE, THE  
48 ABO OR SUCH OTHER PERSON OR ENTITY SHALL NOTIFY THE DEPARTMENT OF  
49 ECONOMIC DEVELOPMENT OF SUCH NON-COMPLIANCE. THE DEPARTMENT OF ECONOMIC  
50 DEVELOPMENT SHALL NOT APPROVE ANY PROJECT OR BENEFITS FOR A PROJECT  
51 UNLESS AND UNTIL THE IDA AND ITS MEMBER OR OFFICER CORRECTS OR CAUSES TO  
52 BE CORRECTED SUCH NON-COMPLIANCE AND THE ABO HAS CERTIFIED THAT SUCH  
53 COMPLIANCE HAS BEEN ACHIEVED; AND SUCH IDA SHALL, AMONG OTHER THINGS,  
54 NOT PROVIDE OR EXTEND IN DURATION ANY FINANCIAL ASSISTANCE CONSISTING OF  
55 EXEMPTION FROM ANY STATE TAX TO ANY PROJECT. SUCH AN IDA THAT HAS BEEN  
56 FOUND NOT TO BE IN COMPLIANCE SHALL BE REQUIRED TO CORRECT ANY SUCH

1 NON-COMPLIANCE AND DEMONSTRATE ITS COMPLIANCE TO THE SATISFACTION OF THE  
2 ABO, BEFORE ANY SUCH STATE TAX EXEMPTION BENEFIT SHALL BE VALID.

3 5-B. IN ADDITION TO ANY OTHER REQUIREMENT OF THIS ARTICLE OR OTHER  
4 LAW: (A) AN IDA SHALL BE REQUIRED TO APPLY FOR AND OBTAIN PRIOR  
5 APPROVAL FROM THE DEPARTMENT OF ECONOMIC DEVELOPMENT BEFORE THE IDA CAN  
6 PROVIDE FINANCIAL ASSISTANCE CONSISTING OF ANY EXEMPTION FROM STATE  
7 TAXES WITH RESPECT TO A PROJECT, OR BEFORE IT CAN INCREASE OR EXTEND IN  
8 DURATION ANY SUCH FINANCIAL ASSISTANCE. THE IDA SHALL SUBMIT ITS APPLI-  
9 CATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT USING A FORM PRESCRIBED  
10 BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT IN CONSULTATION WITH THE ABO.  
11 SUCH APPLICATION SHALL INCLUDE THE TYPES AND AMOUNTS OF FINANCIAL  
12 ASSISTANCE PROPOSED TO BE OFFERED; IDA'S TARGET FOR THE NUMBER OF FULL-  
13 TIME EQUIVALENT JOBS TO BE CREATED IN EACH YEAR OF SUCH PROJECT; THE  
14 IDA'S TARGET FOR INVESTMENTS IN EACH YEAR OF SUCH PROJECT; A SCHEDULE OF  
15 CONSTRUCTION, IF ANY; AND A PLAN OF EXPENDITURES BY THE AGENT OR PROJECT  
16 OPERATOR. SUCH APPLICATION SHALL ALSO INCLUDE COPIES OF THE IDA'S NOTICE  
17 OF PUBLIC MEETING REGARDING THE PROJECT, MINUTES OF THE MEETING'S  
18 PROCEEDINGS, DETAILS OF VOTES TAKEN AT THE MEETING, AND SUCH OTHER DOCU-  
19 MENTS AND OTHER INFORMATION AS THE DEPARTMENT OF ECONOMIC DEVELOPMENT OR  
20 THE ABO MAY REQUIRE.

21 (B) IF THE IDA SUBMITS A COMPLETE APPLICATION IN PROCESSIBLE FORM,  
22 TOGETHER WITH ANY SUCH REQUIRED DOCUMENTS AND OTHER INFORMATION, THE  
23 DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL APPROVE OR DENY SUCH APPLICA-  
24 TION WITHIN FORTY-FIVE DAYS. IF THE DEPARTMENT OF ECONOMIC DEVELOPMENT  
25 DOES NOT ACT ON SUCH APPLICATION WITHIN FORTY-FIVE DAYS OF RECEIVING IT,  
26 SUCH APPLICATION SHALL BE DEEMED APPROVED. AN APPLICATION SHALL NOT BE  
27 COMPLETE AND IN PROCESSIBLE FORM UNLESS IT INCLUDES, AMONG OTHER THINGS,  
28 A CONSTRUCTION SCHEDULE, AND SPECIFIC JOB CREATION AND INVESTMENT  
29 TARGETS FOR EACH YEAR THAT THE IDA'S PROPOSED PROJECT WOULD BE IN  
30 EFFECT. NOTWITHSTANDING THE FOREGOING OR OTHER LAW, THE DEPARTMENT OF  
31 ECONOMIC DEVELOPMENT SHALL NOT APPROVE ANY PROJECT THAT PROVIDES FINAN-  
32 CIAL ASSISTANCE CONSISTING SUBSTANTIALLY ONLY OF EXEMPTIONS FROM STATE  
33 TAXES.

34 (C) IN CONSIDERING SUCH AN IDA APPLICATION, THE DEPARTMENT OF ECONOMIC  
35 DEVELOPMENT SHALL NOT APPROVE FINANCIAL ASSISTANCE CONSISTING OF ANY  
36 EXEMPTION FROM STATE TAXES UNLESS THE DEPARTMENT OF ECONOMIC DEVELOPMENT  
37 CONCLUDES THAT SUCH ASSISTANCE SHALL NOT PROVIDE THE PROJECT OR THE  
38 IDA'S AGENT OR PROJECT OPERATOR WITH A COMPETITIVE ADVANTAGE OVER AN  
39 EXISTING BUSINESS IN A SIMILAR INDUSTRY IN THAT AREA.

40 (D) NO FINANCIAL ASSISTANCE CONSISTING OF AN EXEMPTION FROM ANY STATE  
41 TAXES SHALL BE INCREASED OR EXTENDED IN DURATION WITH RESPECT TO A  
42 PROJECT OR TO AN AGENT OR PROJECT OPERATOR THAT HAS BENEFITTED FROM ANY  
43 SUCH ASSISTANCE IN THE PAST UNLESS THE IDA RECEIVES THE PRIOR APPROVAL  
44 OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT IN THE MANNER DESCRIBED IN  
45 THIS SUBDIVISION.

46 5-C. IN ADDITION TO ANY OTHER REQUIREMENT OF THIS ARTICLE OR OTHER  
47 LAW, AND NOTWITHSTANDING ANY OTHER LAW, AN IDA SHALL NOT ESTABLISH A  
48 PROJECT OR PROVIDE FINANCIAL ASSISTANCE WITH RESPECT TO A PROJECT, OR  
49 PROVIDE ADDITIONAL FINANCIAL ASSISTANCE WITH RESPECT TO AN EXISTING  
50 PROJECT, WITHOUT FIRST HAVING RECEIVED FROM EVERY APPLICANT, AGENT, AND  
51 PROJECT OPERATOR RELATED TO THE PROJECT AND FROM EVERY PERSON REQUIRED  
52 TO COLLECT TAX, AS DEFINED IN SUBDIVISION ONE OF SECTION ELEVEN HUNDRED  
53 THIRTY-ONE OF THE TAX LAW, WITH RESPECT TO EVERY SUCH APPLICANT, AGENT  
54 OR PROJECT OPERATOR, A TAX CLEARANCE UNDER SECTION ONE HUNDRED SEVENTY-  
55 ONE-W OF THE TAX LAW.

1 S 3. Section 862 of the general municipal law is amended by adding a  
2 new subdivision 3 to read as follows:

3 (3) THE PROVISIONS OF THIS SECTION SHALL ALSO APPLY TO THE INDUSTRIAL  
4 DEVELOPMENT AUTHORITY CREATED BY TITLE ELEVEN OF ARTICLE EIGHT OF THE  
5 PUBLIC AUTHORITIES LAW WITH THE SAME FORCE AND EFFECT AS IF THE  
6 PROVISIONS OF THIS SECTION HAD BEEN INCORPORATED IN FULL INTO SUCH TITLE  
7 ELEVEN AND EXPRESSLY REFERRED TO THE PROVISIONS OF SUCH TITLE AND TO  
8 SUCH AUTHORITY, WITH SUCH CHANGES TO THIS SECTION AS ARE NECESSARY TO  
9 REFER TO THE PROVISIONS OF SUCH TITLE ELEVEN AND TO SUCH AUTHORITY  
10 CREATED BY SUCH TITLE.

11 S 4. Section 4 of the public authorities law, as added by chapter 506  
12 of the laws of 2009, is amended to read as follows:

13 S 4. Establishment of the independent authorities budget office. There  
14 is hereby established the independent authorities budget office as an  
15 independent entity within the department of state, which shall have and  
16 exercise the powers and duties provided by this title AND BY SECTION  
17 EIGHT HUNDRED SEVENTY-FIVE AND RELATED SECTIONS OF THE GENERAL MUNICIPAL  
18 LAW.

19 S 5. The tax law is amended by adding a new section 171-w to read as  
20 follows:

21 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-  
22 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"  
23 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,  
24 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM  
25 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE  
26 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO  
27 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS  
28 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,  
29 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION  
30 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),  
31 OR COMBINATION THEREOF.

32 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY  
33 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX  
34 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE  
35 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-  
36 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE  
37 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-  
38 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT  
39 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-  
40 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO  
41 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A  
42 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR  
43 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER  
44 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-  
45 MENT.

46 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL  
47 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-  
48 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE  
49 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO  
50 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN  
51 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO  
52 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (A) THE SUBJECT OF  
53 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS  
54 FOR EACH OF THE PAST THREE YEARS; AND/OR (B) WHETHER A SUBJECT OF SUCH  
55 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO  
56 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF

THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES, HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION REQUIREMENTS.

(4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIFICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEARANCE AND SHALL ALSO INFORM THE APPLICANT (A) THAT A TAX CLEARANCE DENIED DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER FULLY SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER; (B) THAT A TAX CLEARANCE DENIED DUE TO FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS SATISFIED THE APPLICABLE RETURN FILING REQUIREMENTS; (C) THAT A TAX CLEARANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE APPLICANT HAS REGISTERED PURSUANT TO SUCH SECTION; AND (D) THE GROUNDS FOR CHALLENGING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS SECTION.

(5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

(B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT (I) THE INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF THE CIVIL PRACTICE LAWS AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE PAST THREE YEARS.

(C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED

1 BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978  
2 (TITLE ELEVEN OF THE UNITED STATES CODE).

3 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY  
4 EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE  
5 DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A  
6 TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE  
7 THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE  
8 PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS  
9 BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

10 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO  
11 COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT  
12 TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE  
13 DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX  
14 LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

15 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF  
16 THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION  
17 ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

18 S 6. This act shall take effect immediately and shall apply to (a) any  
19 project established or any agent or project operator appointed, on or  
20 after the date this act shall have become a law and any financial  
21 assistance provided thereto, (b) any amendment or revision involving  
22 additional financial assistance, funds or benefits made on or after the  
23 date this act shall have become a law to any project established, agent  
24 or project operator appointed, or financial assistance provided, prior  
25 to that date, and (c) any state sales and compensating use tax or other  
26 state tax exemption benefits and any state sales and compensating use  
27 taxes or other taxes recovered, recaptured, received, or otherwise  
28 obtained by an industrial development agency established by the general  
29 municipal law or an industrial development authority created by title 11  
30 or title 15 of article 8 of the public authorities law on or after such  
31 date.

32 PART X

33 Section 1. Section 1101 of the tax law is amended by adding a new  
34 subdivision (e) to read as follows:

35 (E) WHEN USED IN THIS ARTICLE FOR THE PURPOSES OF THE TAXES IMPOSED  
36 UNDER SUBDIVISIONS (A) THROUGH (F) OF SECTION ELEVEN HUNDRED FIVE OF  
37 THIS ARTICLE AND BY SECTION ELEVEN HUNDRED TEN OF THIS ARTICLE, THE  
38 FOLLOWING TERMS SHALL MEAN:

39 (1) MARKETPLACE PROVIDER. A PERSON WHO, PURSUANT TO AN AGREEMENT WITH  
40 A MARKETPLACE SELLER, FACILITATES A SALE, OCCUPANCY, OR ADMISSION BY  
41 SUCH MARKETPLACE SELLER. A PERSON "FACILITATES A SALE, OCCUPANCY, OR  
42 ADMISSION" FOR PURPOSES OF THIS PARAGRAPH WHEN THE PERSON MEETS BOTH OF  
43 THE FOLLOWING CONDITIONS: (I) SUCH PERSON, OR AN AFFILIATED PERSON,  
44 COLLECTS THE RECEIPTS, RENT, OR AMUSEMENT CHARGE PAID BY A CUSTOMER,  
45 OCCUPANT OR PATRON TO A MARKETPLACE SELLER; AND (II) SUCH PERSON  
46 PERFORMS EITHER OF THE FOLLOWING ACTIVITIES: (A) PROVIDES THE FORUM IN  
47 WHICH, OR BY MEANS OF WHICH, THE SALE TAKES PLACE OR THE OFFER OF OCCU-  
48 PANCY OR ADMISSION IS ACCEPTED, INCLUDING A SHOP, STORE, OR BOOTH, OR AN  
49 INTERNET WEBSITE, CATALOG, OR A SIMILAR FORUM; OR (B) ARRANGES FOR THE  
50 EXCHANGE OF INFORMATION OR MESSAGES BETWEEN THE CUSTOMER, OCCUPANT, OR  
51 PATRON, AS THE CASE MAY BE, AND THE MARKETPLACE SELLER. A PERSON WHO  
52 VOLUNTARILY REGISTERS TO COLLECT TAX AS A MARKETPLACE PROVIDER UNDER  
53 SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS ARTICLE SHALL ALSO QUALIFY AS  
54 A MARKETPLACE PROVIDER. FOR PURPOSES OF THIS PARAGRAPH, TWO PERSONS ARE

1 AFFILIATED IF ONE PERSON HAS AN OWNERSHIP INTEREST OF MORE THAN FIVE  
2 PERCENT, WHETHER DIRECT OR INDIRECT, IN THE OTHER, OR WHERE AN OWNERSHIP  
3 INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IS HELD  
4 IN EACH OF SUCH PERSONS BY ANOTHER PERSON OR BY A GROUP OF OTHER PERSONS  
5 WHICH ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER.

6 (2) MARKETPLACE SELLER. ANY PERSON, WHETHER OR NOT SUCH PERSON IS  
7 REQUIRED TO REGISTER TO COLLECT TAX UNDER SECTION ELEVEN HUNDRED THIR-  
8 TY-FOUR OF THIS ARTICLE, WHO (I) HAS AN AGREEMENT WITH A MARKETPLACE  
9 PROVIDER UNDER WHICH THE MARKETPLACE PROVIDER WILL FACILITATE SALES,  
10 OCCUPANCIES OR ADMISSIONS FOR SUCH PERSON WITHIN THE MEANING OF PARA-  
11 GRAPH ONE OF THIS SUBDIVISION; AND (II) SATISFIES AT LEAST ONE OF THE  
12 FOLLOWING CONDITIONS: (A) SELLS TANGIBLE PERSONAL PROPERTY OR THE  
13 SERVICES DESCRIBED IN SUBDIVISIONS (A), (B) AND (C) OF SECTION ELEVEN  
14 HUNDRED FIVE OF THIS ARTICLE; (B) OPERATES A RESTAURANT, TAVERN OR OTHER  
15 ESTABLISHMENT, OR ACTS AS A CATERER, WHO SELLS FOOD AND DRINK OR MAKES  
16 OTHER CHARGES TAXABLE UNDER SUBDIVISION (D) OF SUCH SECTION ELEVEN  
17 HUNDRED FIVE OF THIS ARTICLE; (C) IS AN OPERATOR OF A HOTEL; OR (D) IS A  
18 RECIPIENT AS DEFINED BY PARAGRAPH ELEVEN OF SUBDIVISION (D) OF THIS  
19 SECTION.

20 S 2. Subdivision 1 of section 1131 of the tax law, as amended by chap-  
21 ter 576 of the laws of 1994, is amended to read as follows:

22 (1) "Persons required to collect tax" or "person required to collect  
23 any tax imposed by this article" shall include: every vendor of tangible  
24 personal property or services; every recipient of amusement charges;  
25 [and] every operator of a hotel, AND EVERY MARKETPLACE PROVIDER WITH  
26 RESPECT TO SALES, OCCUPANCIES, OR ADMISSIONS FACILITATED BY IT AS  
27 DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED  
28 ONE OF THIS ARTICLE. Said terms shall also include any officer, direc-  
29 tor or employee of a corporation or of a dissolved corporation, any  
30 employee of a partnership, any employee or manager of a limited liabil-  
31 ity company, or any employee of an individual proprietorship who as such  
32 officer, director, employee or manager is under a duty to act for such  
33 corporation, partnership, limited liability company or individual  
34 proprietorship in complying with any requirement of this article; and  
35 any member of a partnership or limited liability company. Provided,  
36 however, that any person who is a vendor solely by reason of clause (D)  
37 or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of  
38 section eleven hundred one shall not be a "person required to collect  
39 any tax imposed by this article" until twenty days after the date by  
40 which such person is required to file a certificate of registration  
41 pursuant to section eleven hundred thirty-four.

42 S 3. Section 1132 of the tax law is amended by adding a new subdivi-  
43 sion (1) to read as follows:

44 (L)(1) A MARKETPLACE PROVIDER: (I) SHALL COMPLY WITH ALL THE  
45 PROVISIONS OF THIS ARTICLE AND ARTICLE TWENTY-NINE OF THIS CHAPTER AND  
46 OF ANY REGULATIONS ADOPTED PURSUANT THERETO, AND TO ALL THE REQUIREMENTS  
47 AND OBLIGATIONS THEREOF, INCLUDING THE RIGHT TO ACCEPT A CERTIFICATE OR  
48 OTHER DOCUMENTATION FROM A CUSTOMER SUBSTANTIATING AN EXEMPTION OR  
49 EXCLUSION FROM TAX, AND HAVE ALL THE DUTIES, BENEFITS AND ENTITLEMENTS  
50 OF A PERSON REQUIRED TO COLLECT TAX UNDER THIS ARTICLE AND PURSUANT TO  
51 THE AUTHORITY OF SUCH ARTICLE TWENTY-NINE WITH RESPECT TO SUCH SALE,  
52 OCCUPANCY, OR ADMISSION, AND SUCH TAX REQUIRED TO BE COLLECTED, AS IF  
53 SUCH MARKETPLACE PROVIDER WERE THE VENDOR, OPERATOR, OR RECIPIENT WITH  
54 RESPECT TO SUCH SALE, OCCUPANCY, OR ADMISSION, INCLUDING THE RIGHT TO  
55 RECEIVE THE REFUND AUTHORIZED BY SUBDIVISION (E) OF THIS SECTION AND THE  
56 CREDIT ALLOWED BY SUBDIVISION (F) OF SECTION ELEVEN HUNDRED THIRTY-SEVEN



1 OF THIS PART; AND (II) SHALL KEEP SUCH RECORDS AND INFORMATION AND COOP-  
2 ERATE WITH THE COMMISSIONER TO ENSURE THE PROPER COLLECTION AND REMIT-  
3 TANCE OF TAX IMPOSED, COLLECTED OR REQUIRED TO BE COLLECTED UNDER THIS  
4 ARTICLE AND SUCH ARTICLE TWENTY-NINE.

5 (2) A MARKETPLACE SELLER IS NOT A PERSON REQUIRED TO COLLECT TAX FOR  
6 PURPOSES OF THIS SECTION IN REGARD TO A PARTICULAR SALE, OCCUPANCY, OR  
7 ADMISSION SUBJECT TO TAX UNDER SUBDIVISIONS (A) THROUGH (E) OR PARAGRAPH  
8 ONE OF SUBDIVISION (F) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE  
9 IF, IN REGARD TO SUCH SALE, OCCUPANCY OR ADMISSION: (I) THE MARKETPLACE  
10 SELLER CAN SHOW THAT SUCH SALE, OCCUPANCY, OR ADMISSION WAS FACILITATED,  
11 AS DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN  
12 HUNDRED ONE OF THIS ARTICLE, BY A MARKETPLACE PROVIDER FROM WHOM SUCH  
13 SELLER HAS RECEIVED IN GOOD FAITH A PROPERLY COMPLETED CERTIFICATE OF  
14 COLLECTION IN A FORM PRESCRIBED BY THE COMMISSIONER CERTIFYING THAT THE  
15 MARKETPLACE PROVIDER IS REGISTERED TO COLLECT SALES TAX AND WILL COLLECT  
16 SALES TAX ON ALL TAXABLE SALES, OCCUPANCIES OR ADMISSIONS BY THE MARKET-  
17 PLACE SELLER AND WITH SUCH OTHER INFORMATION AS THE COMMISSIONER MAY  
18 PRESCRIBE; AND (II) ANY FAILURE OF THE MARKETPLACE PROVIDER TO COLLECT  
19 THE PROPER AMOUNT OF TAX IN REGARD TO SUCH SALE, OCCUPANCY, OR ADMISSION  
20 WAS NOT THE RESULT OF SUCH MARKETPLACE SELLER PROVIDING THE MARKETPLACE  
21 PROVIDER WITH INCORRECT INFORMATION. THIS PROVISION SHALL BE ADMINIS-  
22 TERED IN A MANNER CONSISTENT WITH SUBPARAGRAPH (I) OF PARAGRAPH ONE OF  
23 SUBDIVISION (C) OF THIS SECTION AS IF A CERTIFICATE OF COLLECTION WERE A  
24 RESALE OR EXEMPTION CERTIFICATE FOR PURPOSES OF SUCH SUBPARAGRAPH,  
25 INCLUDING WITH REGARD TO THE COMPLETENESS OF SUCH CERTIFICATE OF  
26 COLLECTION AND THE TIMING OF ITS ACCEPTANCE BY THE MARKETPLACE SELLER.  
27 PROVIDED THAT, WITH REGARD TO ANY SALES, OCCUPANCIES, OR ADMISSIONS SOLD  
28 BY A MARKETPLACE SELLER THAT ARE FACILITATED BY A MARKETPLACE PROVIDER  
29 WHO IS AFFILIATED WITH SUCH MARKETPLACE SELLER WITHIN THE MEANING OF  
30 PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ONE OF THIS  
31 ARTICLE, THE MARKETPLACE SELLER SHALL BE DEEMED LIABLE AS A PERSON UNDER  
32 A DUTY TO ACT FOR SUCH MARKETPLACE PROVIDER FOR PURPOSES OF SUBDIVISION  
33 ONE OF SECTION ELEVEN HUNDRED THIRTY-ONE OF THIS PART.

34 (3) THE COMMISSIONER MAY, IN HIS OR HER DISCRETION: (I) DEVELOP STAND-  
35 ARD LANGUAGE, OR APPROVE LANGUAGE DEVELOPED BY A MARKETPLACE PROVIDER,  
36 IN WHICH THE MARKETPLACE PROVIDER OBLIGATES ITSELF TO COLLECT THE TAX ON  
37 BEHALF OF ALL THE MARKETPLACE SELLERS FOR WHOM THE MARKETPLACE PROVIDER  
38 FACILITATES SALES, OCCUPANCIES, OR ADMISSIONS, AS DESCRIBED IN PARAGRAPH  
39 ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE;  
40 AND (II) PROVIDE BY REGULATION OR OTHERWISE THAT THE INCLUSION OF SUCH  
41 LANGUAGE IN THE MARKETPLACE PROVIDER'S AGREEMENT WITH A MARKETPLACE  
42 SELLER THAT IS PUBLICLY AVAILABLE WILL HAVE THE SAME EFFECT AS A MARKET-  
43 PLACE SELLER'S ACCEPTANCE OF A CERTIFICATE OF COLLECTION FROM SUCH  
44 MARKETPLACE PROVIDER UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH.

45 S 4. Section 1133 of the tax law is amended by adding a new subdivi-  
46 sion (f) to read as follows:

47 (F) A MARKETPLACE PROVIDER IS RELIEVED OF LIABILITY UNDER THIS SECTION  
48 FOR FAILURE TO COLLECT THE CORRECT AMOUNT OF TAX TO THE EXTENT THAT THE  
49 MARKETPLACE PROVIDER CAN SHOW THAT THE ERROR WAS DUE TO INCORRECT INFOR-  
50 MATION GIVEN TO THE MARKETPLACE PROVIDER BY THE MARKETPLACE SELLER.  
51 PROVIDED, HOWEVER, THIS SUBDIVISION SHALL NOT APPLY IF THE MARKETPLACE  
52 SELLER AND MARKETPLACE PROVIDER ARE AFFILIATED WITHIN THE MEANING OF  
53 PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ONE OF THIS  
54 ARTICLE.

1 S 5. This act shall take effect March 1, 2016, and shall apply in  
2 accordance with the transition provisions in sections 1106 and 1217 of  
3 the tax law.

4 PART Y

5 Section 1. The tax law is amended by adding a new section 1118-A to  
6 read as follows:

7 S 1118-A. LIMITATIONS ON TAX AVOIDANCE STRATEGIES. NOTWITHSTANDING  
8 THE PROVISIONS OF THIS ARTICLE OR OTHER LAW TO THE CONTRARY:

9 (A) THE EXCLUSION IN SUBDIVISION TWO OF SECTION ELEVEN HUNDRED EIGH-  
10 TEEN OF THIS PART FOR PROPERTY OR SERVICES PURCHASED BY A NONRESIDENT OF  
11 THIS STATE SHALL NOT APPLY WHEN A PERSON (OTHER THAN AN INDIVIDUAL)  
12 BRINGS SUCH PROPERTY OR SERVICE INTO THIS STATE FOR USE HERE, UNLESS  
13 SUCH PERSON HAS BEEN DOING BUSINESS OUTSIDE THIS STATE FOR AT LEAST SIX  
14 MONTHS PRIOR TO THE DATE SUCH PERSON BROUGHT SUCH PROPERTY OR SERVICE  
15 INTO THIS STATE.

16 (B) A SINGLE MEMBER LIMITED LIABILITY COMPANY AND THE MEMBER OF THAT  
17 LIMITED LIABILITY COMPANY SHALL BE DEEMED TO BE ONE PERSON, AND, AMONG  
18 OTHER THINGS, A PURCHASE OR SALE BY ONE SHALL BE DEEMED TO BE THE  
19 PURCHASE OR SALE BY THE OTHER AND NEITHER OF THEM CAN MAKE A PURCHASE  
20 FOR RESALE TO THE OTHER.

21 (C) A LEASE OF ANY TANGIBLE PERSONAL PROPERTY BETWEEN RELATED ENTITIES  
22 SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION (I) OF SECTION ELEVEN  
23 HUNDRED ELEVEN OF THIS ARTICLE, INCLUDING THE PROVISIONS, AMONG OTHERS,  
24 RELATING TO LEASES ENTERED INTO OUTSIDE THIS STATE WHERE THE PROPERTY  
25 SUBJECT TO THE LEASE IS THEN BROUGHT INTO THIS STATE, AS IF SUCH SUBDI-  
26 VISION (I) REFERRED TO THE LEASE DESCRIBED IN THIS SUBDIVISION, WITH  
27 SUCH CHANGES AS ARE NECESSARY TO MAKE SUCH PROVISIONS APPLY TO THIS  
28 SUBDIVISION; PROVIDED THAT ANY PAYMENTS DUE UNDER SUCH A LEASE UNDER  
29 THIS SUBDIVISION SHALL BE DUE AT THE INCEPTION OF THE LEASE REGARDLESS  
30 OF THE LENGTH OF THE TERM OF SUCH LEASE, INCLUDING ANY OPTION TO RENEW  
31 OR SIMILAR PROVISION, OR COMBINATION OF THEM; AND PROVIDED FURTHER THAT,  
32 IF THE COMMISSIONER FINDS THAT THE SUM OF ALL SUCH PAYMENTS DUE UNDER  
33 SUCH LEASE DO NOT REFLECT THE TRUE VALUE OR COST OF THE PROPERTY SUBJECT  
34 TO SUCH LEASE, THE COMMISSIONER SHALL BE AUTHORIZED TO ESTIMATE SUCH  
35 TRUE VALUE OR COST FROM SUCH INFORMATION AS MAY BE AVAILABLE, INCLUDING  
36 BY MEANS OF EXTERNAL INDICES, AND ASSESS TAX DUE UNDER THIS SUBDIVISION  
37 BASED ON SUCH ESTIMATE. FOR PURPOSES OF THIS SUBDIVISION:

38 (1) "LEASE" MEANS AND INCLUDES A LEASE, RENTAL AGREEMENT, OR RIGHT TO  
39 USE OR OTHER AGREEMENT IN THE NATURE OF A LEASE, RENTAL AGREEMENT, OR  
40 RIGHT TO USE;

41 (2) "RELATED ENTITIES" MEANS TWO OR MORE PERSONS THAT BEAR A RELATION-  
42 SHIP TO EACH OTHER AS DESCRIBED IN SUBPARAGRAPHS (II) THROUGH (VI) OF  
43 PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED FOUR OF THIS  
44 CHAPTER.

45 S 2. Subdivision (q) of section 1111 of the tax law, as added by  
46 section 3 of subpart B of part S of chapter 57 of the laws of 2010, is  
47 amended to read as follows:

48 (q) (1) The exclusions from the definition of retail sale in subpara-  
49 graph (iv) of paragraph four of subdivision (b) of section eleven  
50 hundred one of this article shall not apply to transfers, distributions,  
51 or contributions of [an aircraft or vessel] TANGIBLE PERSONAL PROPERTY,  
52 except where, in the case of the exclusion in subclause (I) of clause  
53 (A) of such subparagraph (iv), the two corporations to be merged or  
54 consolidated are not affiliated persons with respect to each other. For

1 purposes of this subdivision, corporations are affiliated persons with  
2 respect to each other where (i) more than five percent of their combined  
3 shares are owned by members of the same family, as defined by paragraph  
4 four of subsection (c) of section two hundred sixty-seven of the inter-  
5 nal revenue code of nineteen hundred eighty-six; (ii) one of the corpo-  
6 rations has an ownership interest of more than five percent, whether  
7 direct or indirect, in the other; or (iii) another person or a group of  
8 other persons that are affiliated persons with respect to each other  
9 hold an ownership interest of more than five percent, whether direct or  
10 indirect, in each of the corporations.

11 (2) Notwithstanding any contrary provision of law, in relation to any  
12 transfer, distribution, or contribution of [an aircraft or vessel]  
13 TANGIBLE PERSONAL PROPERTY that qualifies as a retail sale as a result  
14 of paragraph one of this subdivision, the sales tax imposed by subdivi-  
15 sion (a) of section eleven hundred five of this part shall be computed  
16 based on the price at which the seller purchased the tangible personal  
17 property, provided that where the seller or purchaser affirmatively  
18 shows that the seller owned the property for six months prior to making  
19 the transfer, distribution or contribution covered by paragraph one of  
20 this subdivision, such [aircraft or vessel] TANGIBLE PERSONAL PROPERTY  
21 shall be taxed on the basis of the current market value of the [aircraft  
22 or vessel] TANGIBLE PERSONAL PROPERTY at the time of that transfer,  
23 distribution, or contribution. For the purposes of the prior sentence,  
24 "current market value" shall not exceed the cost of the [aircraft or  
25 vessel] TANGIBLE PERSONAL PROPERTY. See subdivision (b) of this section  
26 for a similar rule on the computation of any compensating use tax due  
27 under section eleven hundred ten of this part on such transfers,  
28 distributions, or contributions.

29 (3) A purchaser of [an aircraft or vessel] TANGIBLE PERSONAL PROPERTY  
30 covered by paragraph one of this subdivision will be entitled to a  
31 refund or credit against the sales or compensating use tax due as a  
32 result of a transfer, distribution, or contribution of such [aircraft or  
33 vessel] TANGIBLE PERSONAL PROPERTY in the amount of any sales or use tax  
34 paid to this state or any other state on the seller's purchase or use of  
35 the [aircraft or vessel] TANGIBLE PERSONAL PROPERTY so transferred,  
36 distributed or contributed, but not to exceed the tax due on the trans-  
37 fer, distribution, or contribution of the [aircraft or vessel] TANGIBLE  
38 PERSONAL PROPERTY or on the purchaser's use in the state of the  
39 [aircraft or vessel] TANGIBLE PERSONAL PROPERTY so transferred, distrib-  
40 uted or contributed. An application for a refund or credit under this  
41 subdivision must be filed and shall be in such form as the commissioner  
42 may prescribe. Where an application for credit has been filed, the  
43 applicant may immediately take such credit on the return which is due  
44 coincident with or immediately subsequent to the time the application  
45 for credit is filed. However, the taking of the credit on the return  
46 shall be deemed to be part of the application for credit. Provided that  
47 the commissioner may, in his or her discretion and notwithstanding any  
48 other law, waive the application requirement for any or all classes of  
49 persons where the amount of the credit or refund is equal to the amount  
50 of the tax due from the purchaser. The provisions of subdivisions (a),  
51 (b), and (c) of section eleven hundred thirty-nine of this article shall  
52 apply to applications for refund or credit under this subdivision. No  
53 interest shall be allowed or paid on any refund made or credit allowed  
54 under this subdivision. If a refund is granted or a credit allowed under  
55 this paragraph, the seller or purchaser shall not be eligible for a

refund or credit pursuant to subdivision seven of section eleven hundred eighteen of this article with regard to the same purchase or use.

S 3. This act shall take effect immediately and shall apply in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law.

## PART Z

Section 1. Subdivision (ee) of section 1115 of the tax law, as added by chapter 306 of the laws of 2005, is amended to read as follows:

(ee) THE FOLLOWING SHALL BE EXEMPT FROM TAX UNDER THIS ARTICLE: (1) Receipts from the retail sale of, AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, residential solar energy systems equipment and [of] the service of installing such systems [shall be exempt from tax under this article]. For the purposes of this subdivision, "residential solar energy systems equipment" shall mean an arrangement or combination of components installed in a residence that utilizes solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. Such arrangement or components shall not include equipment that is part of a non-solar energy system or which uses any sort of recreational facility or equipment as a storage medium.

(2) RECEIPTS FROM THE SALE OF ELECTRICITY BY A PERSON PRIMARILY ENGAGED IN THE SALE OF SOLAR ENERGY SYSTEM EQUIPMENT AND/OR ELECTRICITY GENERATED BY SUCH EQUIPMENT PURSUANT TO A WRITTEN AGREEMENT UNDER WHICH SUCH ELECTRICITY IS GENERATED BY RESIDENTIAL SOLAR ENERGY SYSTEM EQUIPMENT THAT IS: (A) OWNED BY A PERSON OTHER THAN THE PURCHASER OF SUCH ELECTRICITY; (B) INSTALLED ON RESIDENTIAL PROPERTY OF THE PURCHASER OF SUCH ELECTRICITY; AND (C) USED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY TO SUCH PROPERTY.

S 2. Subdivision (ii) of section 1115 of the tax law, as amended by chapter 13 of the laws of 2013, is amended to read as follows:

(ii) THE FOLLOWING SHALL BE EXEMPT FROM TAX UNDER THIS ARTICLE: (1) Receipts from the retail sale of, AND CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, commercial solar energy systems equipment and [of] the service of installing such systems [shall be exempt from taxes imposed by sections eleven hundred five and eleven hundred ten of this article]. For the purposes of this subdivision, "commercial solar energy systems equipment" shall mean an arrangement or combination of components installed upon non-residential premises that utilize solar radiation to produce energy designed to provide heating, cooling, hot water and/or electricity. Such arrangement or components shall not include equipment that is part of a non-solar energy system.

(2) RECEIPTS FROM THE SALE OF ELECTRICITY BY A PERSON PRIMARILY ENGAGED IN THE SALE OF SOLAR ENERGY SYSTEM EQUIPMENT AND/OR ELECTRICITY GENERATED BY SUCH EQUIPMENT PURSUANT TO A WRITTEN AGREEMENT UNDER WHICH THE ELECTRICITY IS GENERATED BY COMMERCIAL SOLAR ENERGY SYSTEM EQUIPMENT THAT IS: (A) OWNED BY A PERSON OTHER THAN THE PURCHASER OF SUCH ELECTRICITY; (B) INSTALLED ON THE NON-RESIDENTIAL PREMISES OF THE PURCHASER OF SUCH ELECTRICITY; AND (C) USED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY TO SUCH PREMISES.

S 3. Paragraphs 1 and 4 of subdivision (a) of section 1210 of the tax law, paragraph 1 as amended by chapter 13 of the laws of 2012, and paragraph 4 as amended by chapter 200 of the laws of 2009, are amended to read as follows:

1 (1) Either, all of the taxes described in article twenty-eight of this  
2 chapter, at the same uniform rate, as to which taxes all provisions of  
3 the local laws, ordinances or resolutions imposing such taxes shall be  
4 identical, except as to rate and except as otherwise provided, with the  
5 corresponding provisions in such article twenty-eight, including the  
6 definition and exemption provisions of such article, so far as the  
7 provisions of such article twenty-eight can be made applicable to the  
8 taxes imposed by such city or county and with such limitations and  
9 special provisions as are set forth in this article. The taxes author-  
10 ized under this subdivision may not be imposed by a city or county  
11 unless the local law, ordinance or resolution imposes such taxes so as  
12 to include all portions and all types of receipts, charges or rents,  
13 subject to state tax under sections eleven hundred five and eleven  
14 hundred ten of this chapter, except as otherwise provided. (i) Any local  
15 law, ordinance or resolution enacted by any city of less than one  
16 million or by any county or school district, imposing the taxes author-  
17 ized by this subdivision, shall, notwithstanding any provision of law to  
18 the contrary, exclude from the operation of such local taxes all sales  
19 of tangible personal property for use or consumption directly and  
20 predominantly in the production of tangible personal property, gas,  
21 electricity, refrigeration or steam, for sale, by manufacturing, proc-  
22 essing, generating, assembly, refining, mining or extracting; and all  
23 sales of tangible personal property for use or consumption predominantly  
24 either in the production of tangible personal property, for sale, by  
25 farming or in a commercial horse boarding operation, or in both; and,  
26 unless such city, county or school district elects otherwise, shall omit  
27 the provision for credit or refund contained in clause six of subdivi-  
28 sion (a) or subdivision (d) of section eleven hundred nineteen of this  
29 chapter. (ii) Any local law, ordinance or resolution enacted by any  
30 city, county or school district, imposing the taxes authorized by this  
31 subdivision, shall omit the residential solar energy systems equipment  
32 AND ELECTRICITY exemption provided for in subdivision (ee), the commer-  
33 cial solar energy systems equipment AND ELECTRICITY exemption provided  
34 for in subdivision (ii) and the clothing and footwear exemption provided  
35 for in paragraph thirty of subdivision (a) of section eleven hundred  
36 fifteen of this chapter, unless such city, county or school district  
37 elects otherwise as to either such residential solar energy systems  
38 equipment AND ELECTRICITY exemption, such commercial solar energy  
39 systems equipment AND ELECTRICITY exemption or such clothing and foot-  
40 wear exemption.

41 (4) Notwithstanding any other provision of law to the contrary, any  
42 local law enacted by any city of one million or more that imposes the  
43 taxes authorized by this subdivision (i) may omit the exception provided  
44 in subparagraph (ii) of paragraph three of subdivision (c) of section  
45 eleven hundred five of this chapter for receipts from laundering, dry-  
46 cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining;  
47 (ii) may impose the tax described in paragraph six of subdivision (c) of  
48 section eleven hundred five of this chapter at a rate in addition to the  
49 rate prescribed by this section not to exceed two percent in multiples  
50 of one-half of one percent; (iii) shall provide that the tax described  
51 in paragraph six of subdivision (c) of section eleven hundred five of  
52 this chapter does not apply to facilities owned and operated by the city  
53 or an agency or instrumentality of the city or a public corporation the  
54 majority of whose members are appointed by the chief executive officer  
55 of the city or the legislative body of the city or both of them; (iv)  
56 shall not include any tax on receipts from, or the use of, the services

1 described in paragraph seven of subdivision (c) of section eleven  
2 hundred five of this chapter; (v) shall provide that, for purposes of  
3 the tax described in subdivision (e) of section eleven hundred five of  
4 this chapter, "permanent resident" means any occupant of any room or  
5 rooms in a hotel for at least one hundred eighty consecutive days with  
6 regard to the period of such occupancy; (vi) may omit the exception  
7 provided in paragraph one of subdivision (f) of section eleven hundred  
8 five of this chapter for charges to a patron for admission to, or use  
9 of, facilities for sporting activities in which the patron is to be a  
10 participant, such as bowling alleys and swimming pools; (vii) may  
11 provide the clothing and footwear exemption in paragraph thirty of  
12 subdivision (a) of section eleven hundred fifteen of this chapter, and,  
13 notwithstanding any provision of subdivision (d) of this section to the  
14 contrary, any local law providing for such exemption or repealing such  
15 exemption, may go into effect on any one of the following dates: March  
16 first, June first, September first or December first; (viii) shall omit  
17 the exemption provided in paragraph forty-one of subdivision (a) of  
18 section eleven hundred fifteen of this chapter; (ix) shall omit the  
19 exemption provided in subdivision (c) of section eleven hundred fifteen  
20 of this chapter insofar as it applies to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of  
21 whatever nature for use or consumption directly and exclusively in the  
22 production of gas, electricity, refrigeration or steam; (x) shall omit,  
23 unless such city elects otherwise, the provision for refund or credit  
24 contained in clause six of subdivision (a) or in subdivision (d) of  
25 section eleven hundred nineteen of this chapter; [and] (xi) shall  
26 provide that section eleven hundred five-C of this chapter does not  
27 apply to such taxes, and shall tax receipts from every sale, other than  
28 sales for resale, of gas service or electric service of whatever nature,  
29 including the transportation, transmission or distribution of gas or  
30 electricity, even if sold separately, at the rate set forth in clause  
31 one of subparagraph (i) of the opening paragraph of this section; (XII)  
32 SHALL OMIT, UNLESS SUCH CITY ELECTS OTHERWISE, THE EXEMPTION FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN  
33 SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER; AND  
34 (XIII) SHALL OMIT, UNLESS SUCH CITY ELECTS OTHERWISE, THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN  
35 SUBDIVISION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER. ANY  
36 REFERENCE IN THIS CHAPTER OR IN ANY LOCAL LAW, ORDINANCE OR RESOLUTION  
37 ENACTED PURSUANT TO THE AUTHORITY OF THIS ARTICLE TO FORMER SUBDIVISIONS  
38 (N) OR (P) OF THIS SECTION SHALL BE DEEMED TO BE A REFERENCE TO CLAUSES  
39 (XII) OR (XIII) OF THIS PARAGRAPH, RESPECTIVELY, AND ANY SUCH LOCAL LAW,  
40 ORDINANCE OR RESOLUTION THAT PROVIDES THE EXEMPTIONS PROVIDED IN SUCH  
41 FORMER SUBDIVISIONS (N) AND/OR (P) SHALL BE DEEMED INSTEAD TO PROVIDE  
42 THE EXEMPTIONS PROVIDED IN CLAUSES (XII) AND/OR (XIII) OF THIS  
43 PARAGRAPH.

44 S 4. Paragraph 1 and subparagraph (i) of paragraph 3 of subdivision  
45 (b) of section 1210 of the tax law, paragraph 1 as amended by section 36  
46 of part S-1 of chapter 57 of the laws of 2009, and subparagraph (i) of  
47 paragraph 3 as amended by section 3 of part B of chapter 35 of the laws  
48 of 2006, are amended to read as follows:

49 (1) Or, one or more of the taxes described in subdivisions (b), (d),  
50 (e) and (f) of section eleven hundred five of this chapter, at the same  
51 uniform rate, including the transitional provisions in section eleven  
52 hundred six of this chapter covering such taxes, but not the taxes  
53 described in subdivisions (a) and (c) of section eleven hundred five of

1 this chapter. Provided, further, that where the tax described in subdi-  
2 vision (b) of section eleven hundred five of this chapter is imposed,  
3 the compensating use taxes described in clauses (E), (G) and (H) of  
4 subdivision (a) of section eleven hundred ten of this chapter shall also  
5 be imposed. Provided, further, that where the taxes described in subdi-  
6 vision (b) of section eleven hundred five are imposed, such taxes shall  
7 omit: (A) the provision for refund or credit contained in subdivision  
8 (d) of section eleven hundred nineteen of this chapter with respect to  
9 such taxes described in such subdivision (b) of section eleven hundred  
10 five unless such city or county elects to provide such provision or, if  
11 so elected, to repeal such provision; (B) THE EXEMPTION PROVIDED IN  
12 PARAGRAPH TWO OF SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF  
13 THIS CHAPTER UNLESS SUCH COUNTY OR CITY ELECTS OTHERWISE; AND (C) THE  
14 EXEMPTION PROVIDED IN PARAGRAPH TWO OF SUBDIVISION (II) OF SECTION ELEV-  
15 EN HUNDRED FIFTEEN OF THIS CHAPTER, UNLESS SUCH COUNTY OR CITY ELECTS  
16 OTHERWISE.

17 (i) Notwithstanding any other provision of law to the contrary but not  
18 with respect to cities subject to the provisions of section eleven  
19 hundred eight of this chapter, any city or county, except a county whol-  
20 ly contained within a city, may provide that the tax imposed, pursuant  
21 to this subdivision, by such city or county on the sale, other than for  
22 resale, of propane (except when sold in containers of less than one  
23 hundred pounds), natural gas, electricity, steam and gas, electric and  
24 steam services of whatever nature used for residential purposes and on  
25 the use of gas or electricity used for residential purposes may be  
26 imposed at a lower rate than the uniform local rate imposed pursuant to  
27 the opening paragraph of this section, as long as such rate is one of  
28 the rates authorized by such paragraph or such sale or use may be  
29 exempted from such taxes. Provided, however, such lower rate must apply  
30 to all such energy sources and services and at the same rate and no such  
31 exemption, OTHER THAN THE EXEMPTION PROVIDED FOR IN SUBDIVISION (EE) OF  
32 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, IF SUCH EXEMPTION IS  
33 ELECTED BY SUCH CITY OR COUNTY, may be enacted unless such exemption  
34 applies to all such energy sources and services.

35 S 4-a. Subdivision (d) of section 1210 of the tax law, as amended by  
36 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to  
37 read as follows:

38 (d) A local law, ordinance or resolution imposing any tax pursuant to  
39 this section, increasing or decreasing the rate of such tax, repealing  
40 or suspending such tax, exempting from such tax the energy sources and  
41 services described in paragraph three of subdivision (a) or of subdivi-  
42 sion (b) of this section or changing the rate of tax imposed on such  
43 energy sources and services or providing for the credit or refund  
44 described in clause six of subdivision (a) of section eleven hundred  
45 nineteen of this chapter, OR ELECTING OR REPEALING THE EXEMPTION FOR  
46 RESIDENTIAL SOLAR EQUIPMENT AND ELECTRICITY IN SUBDIVISION (EE) OF  
47 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE, OR THE EXEMPTION FOR  
48 COMMERCIAL SOLAR EQUIPMENT AND ELECTRICITY IN SUBDIVISION (II) OF  
49 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE must go into effect only  
50 on one of the following dates: March first, June first, September first  
51 or December first; provided, that a local law, ordinance or resolution  
52 providing for the exemption described in paragraph thirty of subdivision  
53 (a) of section eleven hundred fifteen of this chapter or repealing any  
54 such exemption or a local law, ordinance or resolution providing for a  
55 refund or credit described in subdivision (d) of section eleven hundred  
56 nineteen of this chapter or repealing such provision so provided must go

1 into effect only on March first. No such local law, ordinance or resol-  
2 ution shall be effective unless a certified copy of such law, ordinance  
3 or resolution is mailed by registered or certified mail to the commis-  
4 sioner at the commissioner's office in Albany at least ninety days prior  
5 to the date it is to become effective. However, the commissioner may  
6 waive and reduce such ninety-day minimum notice requirement to a mailing  
7 of such certified copy by registered or certified mail within a period  
8 of not less than thirty days prior to such effective date if the commis-  
9 sioner deems such action to be consistent with the commissioner's duties  
10 under section twelve hundred fifty of this article and the commissioner  
11 acts by resolution. Where the restriction provided for in section twelve  
12 hundred twenty-three of this article as to the effective date of a tax  
13 and the notice requirement provided for therein are applicable and have  
14 not been waived, the restriction and notice requirement in section  
15 twelve hundred twenty-three of this article shall also apply.

16 S 5. Subdivisions (n) and (p) of section 1210 of the tax law are  
17 REPEALED.

18 S 6. Subdivision (a) of section 1212 of the tax law, as amended by  
19 section 40 of part S-1 of chapter 57 of the laws of 2009, is amended to  
20 read as follows:

21 (a) Any school district which is coterminous with, partly within or  
22 wholly within a city having a population of less than one hundred twen-  
23 ty-five thousand, is hereby authorized and empowered, by majority vote  
24 of the whole number of its school authorities, to impose for school  
25 district purposes, within the territorial limits of such school district  
26 and without discrimination between residents and nonresidents thereof,  
27 the taxes described in subdivision (b) of section eleven hundred five  
28 (but excluding the tax on prepaid telephone calling services) and the  
29 taxes described in clauses (E) and (H) of subdivision (a) of section  
30 eleven hundred ten, including the transitional provisions in subdivision  
31 (b) of section eleven hundred six of this chapter, so far as such  
32 provisions can be made applicable to the taxes imposed by such school  
33 district and with such limitations and special provisions as are set  
34 forth in this article, such taxes to be imposed at the rate of one-half,  
35 one, one and one-half, two, two and one-half or three percent which rate  
36 shall be uniform for all portions and all types of receipts and uses  
37 subject to such taxes. In respect to such taxes, all provisions of the  
38 resolution imposing them, except as to rate and except as otherwise  
39 provided herein, shall be identical with the corresponding provisions in  
40 such article twenty-eight of this chapter, including the applicable  
41 definition and exemption provisions of such article, so far as the  
42 provisions of such article twenty-eight of this chapter can be made  
43 applicable to the taxes imposed by such school district and with such  
44 limitations and special provisions as are set forth in this article. The  
45 taxes described in subdivision (b) of section eleven hundred five (but  
46 excluding the tax on prepaid telephone calling service) and clauses (E)  
47 and (H) of subdivision (a) of section eleven hundred ten, including the  
48 transitional provision in subdivision (b) of such section eleven hundred  
49 six of this chapter, may not be imposed by such school district unless  
50 the resolution imposes such taxes so as to include all portions and all  
51 types of receipts and uses subject to tax under such subdivision (but  
52 excluding the tax on prepaid telephone calling service) and clauses.  
53 Provided, however, that, where a school district imposes such taxes,  
54 such taxes shall omit the provision for refund or credit contained in  
55 subdivision (d) of section eleven hundred nineteen of this chapter with  
56 respect to such taxes described in such subdivision (b) of section elev-



1 en hundred five unless such school district elects to provide such  
2 provision or, if so elected, to repeal such provision, AND SHALL OMIT  
3 THE EXEMPTION PROVIDED IN PARAGRAPH TWO OF EITHER SUBDIVISION (EE) OR  
4 SUBDIVISION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER  
5 UNLESS SUCH SCHOOL DISTRICT ELECTS OTHERWISE.

6 S 7. Section 1224 of the tax law is amended by adding a new subdivi-  
7 sion (c-1) to read as follows:

8 (C-1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (1) WHERE A COUNTY  
9 CONTAINING ONE OR MORE CITIES WITH A POPULATION OF LESS THAN ONE MILLION  
10 HAS ELECTED THE EXEMPTION FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT  
11 AND ELECTRICITY PROVIDED IN SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED  
12 FIFTEEN OF THIS CHAPTER, THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY  
13 SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN SUBDIVISION (II) OF SUCH  
14 SECTION ELEVEN HUNDRED FIFTEEN, OR BOTH SUCH EXEMPTIONS, A CITY WITHIN  
15 SUCH COUNTY SHALL HAVE THE PRIOR RIGHT TO IMPOSE TAX ON SUCH EXEMPT  
16 EQUIPMENT AND/OR ELECTRICITY TO THE EXTENT OF ONE HALF OF THE MAXIMUM  
17 RATES AUTHORIZED UNDER SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF  
18 THIS ARTICLE;

19 (2) WHERE A CITY OF LESS THAN ONE MILLION HAS ELECTED THE EXEMPTION  
20 FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED  
21 IN SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER,  
22 THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELEC-  
23 TRICITY PROVIDED IN SUBDIVISION (II) OF SUCH SECTION ELEVEN HUNDRED  
24 FIFTEEN, OR BOTH SUCH EXEMPTIONS, THE COUNTY IN WHICH SUCH CITY IS  
25 LOCATED SHALL HAVE THE PRIOR RIGHT TO IMPOSE TAX ON SUCH EXEMPT EQUIP-  
26 MENT AND/OR ELECTRICITY TO THE EXTENT OF ONE HALF OF THE MAXIMUM RATES  
27 AUTHORIZED UNDER SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS  
28 ARTICLE.

29 S 8. This act shall take effect December 1, 2015 and shall apply in  
30 accordance with the applicable transitional provisions in sections 1106  
31 and 1217 of the tax law.

32 PART AA

33 Section 1. Subdivision (f) of section 301-c of the tax law, as amended  
34 by section 23 of part K of chapter 61 of the laws of 2011, is amended to  
35 read as follows:

36 (f) Motor fuel AND HIGHWAY DIESEL MOTOR FUEL used for farm production.  
37 No more than one thousand five hundred gallons of motor fuel AND NO MORE  
38 THAN FOUR THOUSAND FIVE HUNDRED GALLONS OF HIGHWAY DIESEL MOTOR FUEL  
39 purchased in this state in a thirty-day period or a greater amount which  
40 has been given prior clearance by the commissioner, by a consumer for  
41 use or consumption directly and exclusively in the production for sale  
42 of tangible personal property by farming, but only if all of such MOTOR  
43 fuel OR HIGHWAY DIESEL MOTOR FUEL is delivered on the farm site and is  
44 consumed other than on the public highways of this state (except for the  
45 use of the public highway to reach adjacent farmlands). This reimburse-  
46 ment to such purchaser who used such motor fuel OR HIGHWAY DIESEL MOTOR  
47 FUEL in the manner specified in this subdivision may be claimed only  
48 where, (i) the tax imposed pursuant to this article has been paid with  
49 respect to such motor fuel OR HIGHWAY DIESEL MOTOR FUEL and the entire  
50 amount of such tax has been absorbed by such purchaser, and (ii) such  
51 purchaser possesses documentary proof satisfactory to the commissioner  
52 evidencing the absorption by it of the entire amount of the tax imposed  
53 pursuant to this article. Provided, however, that the commissioner shall  
54 require such documentary proof to qualify for any reimbursement of tax

provided by this subdivision as the commissioner deems appropriate. The commissioner is hereby empowered to make such provisions as deemed necessary to define the procedures for granting prior clearance for purchases of more than one thousand five hundred gallons OF MOTOR FUEL OR FOUR THOUSAND FIVE HUNDRED GALLONS OF HIGHWAY DIESEL MOTOR FUEL in a thirty-day period.

S 2. This act shall take effect immediately.

## PART BB

Section 1. Subsection (b) of section 952 of the tax law, as amended by section 2 of part X of chapter 59 of the laws of 2014, is amended to read as follows:

(b) Computation of tax. The tax imposed by this section shall be computed on the deceased resident's New York taxable estate as follows: [In the case of decedents dying on or after April 1, 2014 and before April 1, 2015]

If the New York taxable estate is:	The tax is:
Not over \$500,000	3.06% of taxable estate
Over \$500,000 but not over \$1,000,000	\$15,300 plus 5.0% of excess over \$500,000
Over \$1,000,000 but not over \$1,500,000	\$40,300 plus 5.5% of excess over \$1,000,000
Over \$1,500,000 but not over \$2,100,000	\$67,800 plus 6.5% of excess over \$1,500,000
Over \$2,100,000 but not over \$2,600,000	\$106,800 plus 8.0% of excess over \$2,100,000
Over \$2,600,000 but not over \$3,100,000	\$146,800 plus 8.8% of excess over \$2,600,000
Over \$3,100,000 but not over \$3,600,000	\$190,800 plus 9.6% of excess over \$3,100,000
Over \$3,600,000 but not over \$4,100,000	\$238,800 plus 10.4% of excess over \$3,600,000
Over \$4,100,000 but not over \$5,100,000	\$290,800 plus 11.2% of excess over \$4,100,000
Over \$5,100,000 but not over \$6,100,000	\$402,800 plus 12.0% of excess over \$5,100,000
Over \$6,100,000 but not over \$7,100,000	\$522,800 plus 12.8% of excess over \$6,100,000
Over \$7,100,000 but not over \$8,100,000	\$650,800 plus 13.6% of excess over \$7,100,000
Over \$8,100,000 but not over \$9,100,000	\$786,800 plus 14.4% of excess over \$8,100,000
Over \$9,100,000 but not over \$10,100,000	\$930,800 plus 15.2% of excess over \$9,100,000
Over \$10,100,000	\$1,082,800 plus 16.0% of excess over \$10,100,000

S 2. Paragraph 3 of subsection (a) of section 954 of the tax law, as added by section 3 of part X of chapter 59 of the laws of 2014, is amended to read as follows:

(3) Increased by the amount of any taxable gift under section 2503 of the internal revenue code not otherwise included in the decedent's federal gross estate, made during the three year period ending on the decedent's date of death, but not including any gift made: [(1)] (A) when the decedent was not a resident of New York state; [(2)] OR (B) before April first, two thousand fourteen[; or (3)]. PROVIDED, HOWEVER

1 THAT THIS PARAGRAPH SHALL NOT APPLY TO THE ESTATE OF A DECEDENT DYING  
2 on or after January first, two thousand nineteen.

3 S 3. Subsection (b) of section 960 of the tax law, as amended by  
4 section 5 of part X of chapter 59 of the laws of 2014, is amended to  
5 read as follows:

6 (b) Computation of tax.--The tax imposed under subsection (a) shall be  
7 the same as the tax that would be due, if the decedent had died a resi-  
8 dent, under subsection (a) of section nine hundred fifty-two, except  
9 that for purposes of computing the tax under subsection (b) of section  
10 nine hundred fifty-two, "New York taxable estate" shall not include the  
11 value of, OR ANY DEDUCTION ALLOWABLE UNDER THE INTERNAL REVENUE CODE  
12 RELATED TO, any intangible personal property otherwise includible in the  
13 deceased individual's New York gross estate, and shall not include the  
14 amount of any gift unless such gift consists of real or tangible  
15 personal property having an actual situs in New York state or intangible  
16 personal property employed in a business, trade or profession carried on  
17 in this state.

18 S 4. This act shall take effect immediately and shall be deemed to  
19 have been in full force and effect on and after April 1, 2014.

20 PART CC

21 Section 1. Section 282 of the tax law is amended by adding a new  
22 subdivision 27 to read as follows:

23 27. "WHOLESALE OF MOTOR FUEL" MEANS ANY PERSON, FIRM, ASSOCIATION OR  
24 CORPORATION WHO OR WHICH IS NOT A DISTRIBUTOR OF MOTOR FUEL, AND MAKES A  
25 SALE OF MOTOR FUEL IN THIS STATE OTHER THAN A RETAIL SALE NOT IN BULK.  
26 FOR THE PURPOSES OF THIS ARTICLE WHEN USED WITH RESPECT TO MOTOR FUEL, A  
27 "RETAIL SALE NOT IN BULK" MEANS THE MAKING OR OFFERING TO MAKE ANY SALE  
28 OF MOTOR FUEL TO A CONSUMER OF SUCH FUEL WHICH IS DELIVERED DIRECTLY  
29 INTO A MOTOR VEHICLE FOR USE IN THE OPERATION OF SUCH VEHICLE. A "RETAIL  
30 SALE IN BULK" MEANS THE MAKING OR OFFERING TO MAKE ANY SALE OF MOTOR  
31 FUEL TO A CONSUMER WHICH IS OTHER THAN A "RETAIL SALE NOT IN BULK".

32 S 2. The tax law is amended by adding a new section 283-d to read as  
33 follows:

34 S 283-D. REGISTRATION OF WHOLESALERS OF MOTOR FUEL. (A) REGISTRATION  
35 REQUIRED. EACH WHOLESALE OF MOTOR FUEL MUST BE REGISTERED WITH THE  
36 DEPARTMENT UNDER THIS SECTION. NO WHOLESALE OF MOTOR FUEL SHALL MAKE A  
37 SALE OF MOTOR FUEL IN THIS STATE OTHER THAN A RETAIL SALE NOT IN BULK  
38 UNLESS SUCH WHOLESALE IS SO REGISTERED. THE DEPARTMENT, UPON THE  
39 APPLICATION OF A PERSON, SHALL REGISTER SUCH PERSON AS A WHOLESALE OF  
40 MOTOR FUEL EXCEPT THAT THE COMMISSIONER MAY REFUSE TO REGISTER AN APPLI-  
41 CANT FOR ANY OF THE GROUNDS SPECIFIED IN SUBDIVISION TWO OR FIVE OF  
42 SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE OR IN SUBDIVISION (C)  
43 OF THIS SECTION. THE APPLICATION SHALL BE IN SUCH FORM AND CONTAIN SUCH  
44 INFORMATION AS THE COMMISSIONER SHALL PRESCRIBE. ALL OF THE PROVISIONS  
45 OF SUBDIVISIONS TWO, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE AND TEN OF  
46 SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE RELATING TO REGISTRA-  
47 TION OF DISTRIBUTORS SHALL BE APPLICABLE TO THE REGISTRATION OF WHOLE-  
48 SALERS OF MOTOR FUEL UNDER THIS SECTION WITH THE SAME FORCE AND EFFECT  
49 AS IF THE LANGUAGE OF SUCH SUBDIVISIONS HAD BEEN INCORPORATED IN FULL IN  
50 THIS SECTION AND HAD EXPRESSLY REFERRED TO THE REGISTRATION OF WHOLE-  
51 SALERS OF MOTOR FUEL, WITH SUCH MODIFICATION AS MAY BE NECESSARY IN  
52 ORDER TO ADAPT THE LANGUAGE OF SUCH PROVISIONS TO THE PROVISIONS OF THIS  
53 SECTION, PROVIDED, SPECIFICALLY, THAT THE TERM "DISTRIBUTOR" SHALL BE  
54 READ AS "WHOLESALE OF MOTOR FUEL." PROVIDED, HOWEVER, THAT IF THE

1 COMMISSIONER IS SATISFIED THAT THE REQUIREMENTS OF SUCH PROVISIONS FOR  
2 REGISTRATION ARE NOT NECESSARY IN ORDER TO PROTECT TAX REVENUES, THE  
3 COMMISSIONER MAY LIMIT OR MODIFY SUCH REQUIREMENTS WITH RESPECT TO ANY  
4 PERSON NOT REQUIRED TO BE REGISTERED AS A DISTRIBUTOR OF MOTOR FUEL.

5 (B) BOND OR OTHER SECURITY. THE COMMISSIONER MAY REQUIRE A WHOLESALER  
6 OF MOTOR FUEL SEEKING A REGISTRATION TO FILE WITH THE DEPARTMENT A BOND  
7 ISSUED BY A SURETY COMPANY APPROVED BY THE SUPERINTENDENT OF FINANCIAL  
8 SERVICES AS TO SOLVENCY AND RESPONSIBILITY AND AUTHORIZED TO TRANSACT  
9 BUSINESS IN THIS STATE OR OTHER SECURITY ACCEPTABLE TO THE COMMISSIONER,  
10 IN SUCH AMOUNT AS THE COMMISSIONER MAY FIX TO SECURE THE PERFORMANCE BY  
11 SUCH WHOLESALER OF MOTOR FUEL OF THE DUTIES AND RESPONSIBILITIES  
12 REQUIRED (I) PURSUANT TO THIS ARTICLE AND (II) PURSUANT TO ARTICLES  
13 TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER WITH RESPECT TO MOTOR FUEL.  
14 THE COMMISSIONER MAY REQUIRE THAT SUCH A BOND OR OTHER SECURITY BE FILED  
15 BEFORE A WHOLESALER OF MOTOR FUEL IS REGISTERED, AND THE AMOUNT THEREOF  
16 MAY BE INCREASED AT ANY TIME WHEN IN THE COMMISSIONER'S JUDGMENT THE  
17 SAME IS NECESSARY. IF SECURITIES ARE DEPOSITED AS SECURITY UNDER THIS  
18 SUBDIVISION, SUCH SECURITIES SHALL BE KEPT IN THE JOINT CUSTODY OF THE  
19 COMPTROLLER AND THE COMMISSIONER AND MAY BE SOLD BY THE COMMISSIONER IF  
20 IT BECOMES NECESSARY SO TO DO IN ORDER TO RECOVER AGAINST SUCH WHOLE-  
21 SALER OF MOTOR FUEL BUT NO SUCH SALE SHALL BE HAD UNTIL AFTER SUCH  
22 WHOLESALER OF MOTOR FUEL SHALL HAVE HAD OPPORTUNITY TO LITIGATE THE  
23 VALIDITY OF THE LIABILITY IF IT ELECTS TO DO SO. UPON ANY SUCH SALE THE  
24 SURPLUS, IF ANY, ABOVE THE SUMS DUE SHALL BE RETURNED TO SUCH WHOLESALER  
25 OF MOTOR FUEL. THE DEPARTMENT, WHEN AUTHORIZED BY THE WHOLESALER OF  
26 MOTOR FUEL, SHALL FURNISH INFORMATION REGARDING THE REGISTRATION OF THE  
27 WHOLESALER OF MOTOR FUEL AND ANY OTHER INFORMATION WHICH THE WHOLESALER  
28 OF MOTOR FUEL AUTHORIZES IT TO DISCLOSE.

29 (C) REFUSAL TO REGISTER. FOR THE PURPOSES OF DETERMINING WHETHER TO  
30 REFUSE AN APPLICATION FOR REGISTRATION UNDER THIS SECTION, THE REFER-  
31 ENCES IN SUBDIVISION TWO OF SECTION TWO HUNDRED EIGHTY-THREE OF THIS  
32 ARTICLE TO EMPLOYEES OR SHAREHOLDERS UNDER A DUTY TO FILE A RETURN UNDER  
33 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR PAY THE TAXES IMPOSED BY  
34 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF OF THE APPLICANT  
35 OR ANOTHER PERSON SHALL BE DEEMED TO ALSO INCLUDE AN EMPLOYEE UNDER A  
36 DUTY TO FILE A RETURN OR PAY TAXES UNDER OR PURSUANT TO THE AUTHORITY OF  
37 THIS ARTICLE ON BEHALF OF SUCH APPLICANT OR OTHER PERSON. IN ADDITION TO  
38 THE GROUNDS SPECIFIED IN SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTI-  
39 CLE, THE COMMISSIONER MAY REFUSE TO REGISTER AN APPLICANT WHERE THE  
40 COMMISSIONER ASCERTAINS THAT THE APPLICANT, AN OFFICER, DIRECTOR OR  
41 PARTNER OF THE APPLICANT, A SHAREHOLDER DIRECTLY OR INDIRECTLY OWNING  
42 MORE THAN TEN PERCENT OF THE NUMBER OF SHARES OF STOCK OF SUCH APPLICANT  
43 (WHERE SUCH APPLICANT IS A CORPORATION) ENTITLING THE HOLDER THEREOF TO  
44 VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR AN EMPLOYEE OR SHARE-  
45 HOLDER OF SUCH APPLICANT WHO, AS SUCH EMPLOYEE OR SHAREHOLDER IS UNDER A  
46 DUTY TO FILE A RETURN UNDER OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE  
47 OR TO PAY THE TAXES IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS  
48 ARTICLE ON BEHALF OF THE APPLICANT; (1) HAS COMMITTED ANY OF THE ACTS OR  
49 OMISSIONS WHICH ARE, OR WAS CONVICTED AS, SPECIFIED IN SUBDIVISION (D)  
50 OF THIS SECTION WITHIN THE PRECEDING FIVE YEARS; OR (2) WAS AN OFFICER,  
51 DIRECTOR OR PARTNER OF ANOTHER PERSON, OR WHO DIRECTLY OR INDIRECTLY  
52 OWNED MORE THAN TEN PERCENT OF THE SHARES OF STOCK OF ANOTHER PERSON  
53 (WHERE SUCH OTHER PERSON IS A CORPORATION) ENTITLING THE HOLDER THEREOF  
54 TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR WHO WAS AN EMPLOY-  
55 EE OR SHAREHOLDER OF ANOTHER PERSON UNDER A DUTY TO FILE A RETURN UNDER  
56 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR PAY THE TAXES IMPOSED BY

1 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF OF SUCH OTHER  
2 PERSON AT THE TIME SUCH OTHER PERSON COMMITTED ANY OF THE ACTS OR OMIS-  
3 SIONS WHICH ARE, OR WAS CONVICTED AS, SPECIFIED IN SUBDIVISION (D) OF  
4 THIS SECTION WITHIN THE PRECEDING FIVE YEARS.

5 (D) CANCELLATION OR SUSPENSION OF REGISTRATION. THE GROUNDS FOR A  
6 CANCELLATION OR SUSPENSION OF A REGISTRATION UNDER THIS SECTION AS A  
7 WHOLESALE OF MOTOR FUEL ARE THE SAME AS THOSE GROUNDS SPECIFIED IN  
8 SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE AND, IN ADDITION TO  
9 SUCH GROUNDS, THE FOLLOWING GROUNDS RELATING TO THIS ARTICLE SHALL  
10 APPLY:

11 (1) A REGISTRATION AS A WHOLESALE OF MOTOR FUEL MAY BE CANCELLED OR  
12 SUSPENDED IF THE COMMISSIONER DETERMINES THAT A REGISTRANT OR AN OFFI-  
13 CER, DIRECTOR OR PARTNER OF THE REGISTRANT, A SHAREHOLDER DIRECTLY OR  
14 INDIRECTLY OWNING MORE THAN TEN PERCENT OF THE NUMBER OF SHARES OF STOCK  
15 OF SUCH REGISTRANT (WHERE SUCH REGISTRANT IS A CORPORATION) ENTITLING  
16 THE HOLDER THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR  
17 AN EMPLOYEE OR SHAREHOLDER OF SUCH REGISTRANT UNDER A DUTY TO FILE A  
18 RETURN UNDER OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR TO PAY THE  
19 TAXES IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF  
20 OF THE REGISTRANT

21 (A) FAILS TO FILE OR MAINTAIN IN FULL FORCE AND EFFECT A BOND OR OTHER  
22 SECURITY WHEN REQUIRED PURSUANT TO SUBDIVISION (B) OF THIS SECTION OR  
23 WHEN THE AMOUNT THEREOF IS INCREASED,

24 (B) FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF THIS ARTICLE OR ANY  
25 RULE OR REGULATION ADOPTED PURSUANT TO THIS ARTICLE BY THE COMMISSIONER,

26 (C) KNOWINGLY AIDS AND ABETS ANOTHER PERSON IN VIOLATING ANY OF THE  
27 PROVISIONS OF THIS ARTICLE OR ANY RULE OR REGULATION ADOPTED PURSUANT TO  
28 THIS ARTICLE BY THE COMMISSIONER,

29 (D) TRANSFERS ITS REGISTRATION AS A WHOLESALE OF MOTOR FUEL WITHOUT  
30 THE PRIOR WRITTEN APPROVAL OF THE COMMISSIONER,

31 (E) WITH RESPECT TO A WHOLESALE OF MOTOR FUEL WHICH IS A CORPORATION,  
32 HAS BEEN DISSOLVED PURSUANT TO SECTION TWO HUNDRED THREE-A AND SUBDIVI-  
33 SION (D) OF SECTION THREE HUNDRED TEN OF THIS CHAPTER,

34 (F) COMMITS FRAUD OR DECEIT IN HIS, HER OR ITS OPERATIONS AS A WHOLE-  
35 SALE OF MOTOR FUEL OR HAS COMMITTED FRAUD OR DECEIT IN PROCURING HIS,  
36 HER OR ITS REGISTRATION,

37 (G) HAS IMPERSONATED ANY PERSON REPRESENTED TO BE A WHOLESALE OF  
38 MOTOR FUEL UNDER THIS ARTICLE BUT NOT IN FACT REGISTERED AS A WHOLESALE  
39 OF MOTOR FUEL, OR

40 (H) HAS KNOWINGLY AIDED AND ABETTED THE DISTRIBUTION OF MOTOR FUEL, BY  
41 ANY PERSON WHICH SUCH REGISTRANT OR SUCH OTHER PERSON KNOWS HAS NOT BEEN  
42 REGISTERED BY THE COMMISSIONER AS REQUIRED UNDER THIS ARTICLE.

43 (2) A REGISTRATION AS A WHOLESALE OF MOTOR FUEL MAY BE CANCELLED OR  
44 SUSPENDED IF THE COMMISSIONER DETERMINES THAT A REGISTRANT OR AN OFFI-  
45 CER, DIRECTOR OR PARTNER OF THE REGISTRANT, A SHAREHOLDER DIRECTLY OR  
46 INDIRECTLY OWNING MORE THAN TEN PERCENT OF THE NUMBER OF SHARES OF STOCK  
47 OF SUCH REGISTRANT (WHERE SUCH REGISTRANT IS A CORPORATION) ENTITLING  
48 THE HOLDER THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR  
49 AN EMPLOYEE OR SHAREHOLDER OF SUCH REGISTRANT UNDER A DUTY TO FILE A  
50 RETURN UNDER OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR TO PAY THE  
51 TAXES IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF  
52 OF THE REGISTRANT, WAS AN OFFICER, DIRECTOR OR PARTNER OF ANOTHER PERSON  
53 OR WAS A SHAREHOLDER DIRECTLY OR INDIRECTLY OWNING MORE THAN TEN PERCENT  
54 OF THE NUMBER OF SHARES OF STOCK OF ANOTHER PERSON (WHERE SUCH OTHER  
55 PERSON IS A CORPORATION) ENTITLING THE HOLDER THEREOF TO VOTE FOR THE  
56 ELECTION OF DIRECTORS OR TRUSTEES, OR WAS AN EMPLOYEE OR SHAREHOLDER OF

1 ANOTHER PERSON UNDER A DUTY TO FILE A RETURN UNDER OR PURSUANT TO THE  
2 AUTHORITY OF THIS ARTICLE OR TO PAY THE TAXES IMPOSED BY OR PURSUANT TO  
3 THE AUTHORITY OF THIS ARTICLE ON BEHALF OF SUCH OTHER PERSON AT THE TIME  
4 SUCH OTHER PERSON COMMITTED ANY OF THE ACTS SPECIFIED IN PARAGRAPH ONE  
5 OF THIS SUBDIVISION WITHIN THE PRECEDING FIVE YEARS.

6 (E) CANCELLATION OR SUSPENSION OF REGISTRATION PRIOR TO A HEARING.  
7 THE GROUNDS FOR CANCELLING OR SUSPENDING A REGISTRATION AS A WHOLESALER  
8 OF MOTOR FUEL PRIOR TO A HEARING SHALL BE THE SAME AS THOSE SPECIFIED IN  
9 SUBDIVISION FIVE OF SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE  
10 AND, IN ADDITION TO SUCH GROUNDS, THE FOLLOWING GROUNDS RELATING TO THIS  
11 ARTICLE SHALL APPLY:

12 (1) THE FAILURE TO FILE A RETURN WITHIN TEN DAYS OF THE DATE  
13 PRESCRIBED FOR FILING A RETURN UNDER THIS ARTICLE IF THE REGISTRANT  
14 SHALL HAVE FAILED TO FILE SUCH RETURN WITHIN TEN DAYS AFTER THE DATE THE  
15 DEMAND THEREFOR IS SENT BY REGISTERED OR CERTIFIED MAIL TO THE ADDRESS  
16 OF THE WHOLESALER OF MOTOR FUEL GIVEN IN ITS APPLICATION, OR AN ADDRESS  
17 SUBSTITUTED THEREFOR AS PROVIDED IN SUBDIVISION FIVE OF SECTION TWO  
18 HUNDRED EIGHTY-THREE OF THIS ARTICLE,

19 (2) THE FAILURE TO CONTINUE TO MAINTAIN IN FULL FORCE AND EFFECT AT  
20 ALL TIMES THE BOND OR OTHER SECURITY REQUIRED TO BE FILED PURSUANT TO  
21 SUBDIVISION (B) OF THIS SECTION, PROVIDED, HOWEVER, THAT IF A SURETY  
22 BOND IS CANCELLED PRIOR TO EXPIRATION, THE COMMISSIONER MAY AFTER  
23 CONSIDERING ALL THE RELEVANT CIRCUMSTANCES MAKE SUCH OTHER ARRANGEMENTS,  
24 AND MAY REQUIRE THE FILING OF SUCH OTHER BOND OR OTHER SECURITY AS IT  
25 DEEMS APPROPRIATE,

26 (3) THE TRANSFER OF A REGISTRATION AS A WHOLESALER OF MOTOR FUEL WITH-  
27 OUT THE PRIOR WRITTEN APPROVAL OF THE COMMISSIONER, OR

28 (4) WITH RESPECT TO A WHOLESALER OF MOTOR FUEL WHICH IS A CORPORATION,  
29 THE DISSOLUTION OR ANNULMENT OF SUCH CORPORATION PURSUANT TO SECTION  
30 THREE HUNDRED TEN OF THIS CHAPTER.

31 S 3. Section 287 of the tax law is amended by adding a new subdivision  
32 3 to read as follows:

33 3. EVERY WHOLESALER OF MOTOR FUEL SHALL, ON OR BEFORE THE TWENTIETH  
34 DAY OF EACH MONTH, FILE WITH THE DEPARTMENT A RETURN, ON FORMS  
35 PRESCRIBED BY THE COMMISSIONER STATING THE NUMBER OF GALLONS OF MOTOR  
36 FUEL PURCHASED AND SOLD BY SUCH WHOLESALER IN THE STATE DURING THE  
37 PRECEDING CALENDAR MONTH. FOR EACH PURCHASE AND SALE, THE DATE, NUMBER  
38 OF GALLONS OF MOTOR FUEL PURCHASED OR SOLD, AND THE NAME OF THE SELLER  
39 OR PURCHASER SHALL BE SET FORTH ON THE RETURN. SUCH RETURNS SHALL  
40 CONTAIN SUCH FURTHER INFORMATION AS THE COMMISSIONER SHALL REQUIRE. THE  
41 FACT THAT A WHOLESALER'S NAME IS SIGNED TO A FILED RETURN SHALL BE PRIMA  
42 FACIE EVIDENCE FOR ALL PURPOSES THAT THE RETURN WAS ACTUALLY SIGNED BY  
43 SUCH WHOLESALER OF MOTOR FUEL.

44 S 4. Section 1102 of the tax law is amended by adding a new subdivi-  
45 sion (f) to read as follows:

46 (F) EVERY WHOLESALER OF MOTOR FUEL, AS SUCH TERM IS DEFINED BY SUBDI-  
47 VISION TWENTY-SEVEN OF SECTION TWO HUNDRED EIGHTY-TWO OF THIS CHAPTER,  
48 SHALL PAY OR BE ENTITLED TO A CREDIT OR REFUND OF THE TAX IMPOSED BY  
49 THIS SECTION ON GALLONS OF MOTOR FUEL UNDER THE CIRCUMSTANCES SET FORTH  
50 IN PARAGRAPH THREE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ELEVEN  
51 OF THIS ARTICLE.

52 S 5. Subdivision (e) of section 1111 of the tax law is amended by  
53 adding a new paragraph 3 to read as follows:

54 (3) WHEN A WHOLESALER OF MOTOR FUEL SELLS MOTOR FUEL IN A REGION, AS  
55 DEFINED IN PARAGRAPH ONE OF THIS SUBDIVISION, DIFFERENT FROM THE REGION  
56 IN WHICH SUCH MOTOR FUEL WAS PURCHASED:

(I) IF THE REGION IN WHICH IT SELLS THE MOTOR FUEL HAS A HIGHER PREPAID RATE AS SET FORTH IN THIS SUBDIVISION THAN THE REGION IN WHICH THE WHOLESALER PURCHASED THE MOTOR FUEL IN, THE WHOLESALER SHALL PAY TO THE DEPARTMENT THE DIFFERENCE IN THE RATES FOR THE GALLONAGE SOLD.

(II) IF THE REGION IN WHICH IT SELLS THE MOTOR FUEL HAS A LOWER PREPAID RATE AS SET FORTH IN THIS SUBDIVISION THAN THE REGION IN WHICH THE WHOLESALER PURCHASED THE MOTOR FUEL, THE WHOLESALER SHALL BE ENTITLED TO A CREDIT OR REFUND FOR THE DIFFERENCE IN THE RATES FOR THE GALLONAGE SOLD.

S 6. The tax law is amended by adding a new section 1812-g to read as follows:

S 1812-G. PERSON NOT REGISTERED AS A WHOLESALER OF MOTOR FUEL. ANY PERSON WHO, WHILE NOT REGISTERED AS A WHOLESALER OF MOTOR FUEL PURSUANT TO THE PROVISIONS OF ARTICLE TWELVE-A OF THIS CHAPTER, MAKES A SALE OF MOTOR FUEL IN THIS STATE OTHER THAN A RETAIL SALE NOT IN BULK, SHALL BE GUILTY OF A CLASS E FELONY.

S 7. This act shall take effect September 1, 2015.

#### PART DD

Section 1. Section 2 of part Q of chapter 59 of the laws of 2013, amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, is amended to read as follows:

S 2. This act shall take effect immediately [and shall expire and be deemed repealed on and after April 1, 2015].

S 2. This act shall take effect immediately.

#### PART EE

Section 1. Subdivision 1 of section 171-v of the tax law, as added by section 1 of part P of chapter 59 of the laws of 2013, is amended to read as follows:

(1) The commissioner shall enter into a written agreement with the commissioner of motor vehicles, which shall set forth the procedures for the two departments to cooperate in a program to improve tax collection through the suspension of drivers' licenses of taxpayers with past-due tax liabilities equal to or in excess of [ten] FIVE thousand dollars. For the purposes of this section, the term "tax liabilities" shall mean any tax, surcharge, or fee administered by the commissioner, or any penalty or interest due on these amounts owed by an individual with a New York driver's license, the term "driver's license" means any license issued by the department of motor vehicles, except for a commercial driver's license as defined in section five hundred one-a of the vehicle and traffic law, and the term "past-due tax liabilities" means any tax liability or liabilities which have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review.

S 2. This act shall take effect immediately; provided, however, that the department of taxation and finance and the department of motor vehicles shall have up to two months after this act shall have become a law to execute any amendment to the written agreement and implement the necessary procedures as described in section one of this act.

#### PART FF

1 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266  
2 of the laws of 1986, amending the civil practice law and rules and other  
3 laws relating to malpractice and professional medical conduct, as  
4 amended by section 18 of part B of chapter 60 of the laws of 2014, is  
5 amended to read as follows:

6 (a) The superintendent of [insurance] FINANCIAL SERVICES and the  
7 commissioner of health or their designee shall, from funds available in  
8 the hospital excess liability pool created pursuant to subdivision 5 of  
9 this section, purchase a policy or policies for excess insurance cover-  
10 age, as authorized by paragraph 1 of subsection (e) of section 5502 of  
11 the insurance law; or from an insurer, other than an insurer described  
12 in section 5502 of the insurance law, duly authorized to write such  
13 coverage and actually writing medical malpractice insurance in this  
14 state; or shall purchase equivalent excess coverage in a form previously  
15 approved by the superintendent of [insurance] FINANCIAL SERVICES for  
16 purposes of providing equivalent excess coverage in accordance with  
17 section 19 of chapter 294 of the laws of 1985, for medical or dental  
18 malpractice occurrences between July 1, 1986 and June 30, 1987, between  
19 July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989,  
20 between July 1, 1989 and June 30, 1990, between July 1, 1990 and June  
21 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992  
22 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July  
23 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996,  
24 between July 1, 1996 and June 30, 1997, between July 1, 1997 and June  
25 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999  
26 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July  
27 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003,  
28 between July 1, 2003 and June 30, 2004, between July 1, 2004 and June  
29 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006  
30 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July  
31 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010,  
32 between July 1, 2010 and June 30, 2011, between July 1, 2011 and June  
33 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013  
34 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015, AND  
35 BETWEEN JULY 1, 2015 AND JUNE 30, 2016 or reimburse the hospital where  
36 the hospital purchases equivalent excess coverage as defined in subpara-  
37 graph (i) of paragraph (a) of subdivision 1-a of this section for  
38 medical or dental malpractice occurrences between July 1, 1987 and June  
39 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989  
40 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July  
41 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,  
42 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June  
43 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996  
44 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July  
45 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,  
46 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June  
47 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003  
48 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July  
49 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,  
50 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June  
51 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010  
52 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July  
53 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, [and]  
54 between July 1, 2014 and June 30, 2015, AND BETWEEN JULY 1, 2015 AND  
55 JUNE 30, 2016 for physicians or dentists certified as eligible for each  
56 such period or periods pursuant to subdivision 2 of this section by a



1 general hospital licensed pursuant to article 28 of the public health  
2 law; provided that no single insurer shall write more than fifty percent  
3 of the total excess premium for a given policy year; and provided,  
4 however, that such eligible physicians or dentists must have in force an  
5 individual policy, from an insurer licensed in this state of primary  
6 malpractice insurance coverage in amounts of no less than one million  
7 three hundred thousand dollars for each claimant and three million nine  
8 hundred thousand dollars for all claimants under that policy during the  
9 period of such excess coverage for such occurrences or be endorsed as  
10 additional insureds under a hospital professional liability policy which  
11 is offered through a voluntary attending physician ("channeling")  
12 program previously permitted by the superintendent of [insurance] FINAN-  
13 CIAL SERVICES during the period of such excess coverage for such occur-  
14 rences; AND PROVIDED THAT SUCH ELIGIBLE PHYSICIANS OR DENTISTS HAVE  
15 RECEIVED TAX CLEARANCES FROM THE DEPARTMENT OF TAXATION AND FINANCE  
16 PURSUANT TO SECTION 171-W OF THE TAX LAW. During such period, such  
17 policy for excess coverage or such equivalent excess coverage shall,  
18 when combined with the physician's or dentist's primary malpractice  
19 insurance coverage or coverage provided through a voluntary attending  
20 physician ("channeling") program, total an aggregate level of two  
21 million three hundred thousand dollars for each claimant and six million  
22 nine hundred thousand dollars for all claimants from all such policies  
23 with respect to occurrences in each of such years provided, however, if  
24 the cost of primary malpractice insurance coverage in excess of one  
25 million dollars, but below the excess medical malpractice insurance  
26 coverage provided pursuant to this act, exceeds the rate of nine percent  
27 per annum, then the required level of primary malpractice insurance  
28 coverage in excess of one million dollars for each claimant shall be in  
29 an amount of not less than the dollar amount of such coverage available  
30 at nine percent per annum; the required level of such coverage for all  
31 claimants under that policy shall be in an amount not less than three  
32 times the dollar amount of coverage for each claimant; and excess cover-  
33 age, when combined with such primary malpractice insurance coverage,  
34 shall increase the aggregate level for each claimant by one million  
35 dollars and three million dollars for all claimants; and provided  
36 further, that, with respect to policies of primary medical malpractice  
37 coverage that include occurrences between April 1, 2002 and June 30,  
38 2002, such requirement that coverage be in amounts no less than one  
39 million three hundred thousand dollars for each claimant and three  
40 million nine hundred thousand dollars for all claimants for such occur-  
41 rences shall be effective April 1, 2002.

42 S 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,  
43 amending the civil practice law and rules and other laws relating to  
44 malpractice and professional medical conduct, as amended by section 19  
45 of part B of chapter 60 of the laws of 2014, is amended to read as  
46 follows:

47 (3)(a) The superintendent of [insurance] FINANCIAL SERVICES shall  
48 determine and certify to each general hospital and to the commissioner  
49 of health the cost of excess malpractice insurance for medical or dental  
50 malpractice occurrences between July 1, 1986 and June 30, 1987, between  
51 July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990,  
52 between July 1, 1990 and June 30, 1991, between July 1, 1991 and June  
53 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993  
54 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July  
55 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997,  
56 between July 1, 1997 and June 30, 1998, between July 1, 1998 and June

1 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000  
2 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July  
3 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004,  
4 between July 1, 2004 and June 30, 2005, between July 1, 2005 and June  
5 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007  
6 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July  
7 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011,  
8 between July 1, 2011 and June 30, 2012, between July 1, 2012 and June  
9 30, 2013, and between July 1, 2013 and June 30, 2014, [and] between July  
10 1, 2014 and June 30, 2015, AND BETWEEN JULY 1, 2015 AND JUNE 30, 2016  
11 allocable to each general hospital for physicians or dentists certified  
12 as eligible for purchase of a policy for excess insurance coverage by  
13 such general hospital in accordance with subdivision 2 of this section,  
14 and may amend such determination and certification as necessary.

15 (b) The superintendent of [insurance] FINANCIAL SERVICES shall deter-  
16 mine and certify to each general hospital and to the commissioner of  
17 health the cost of excess malpractice insurance or equivalent excess  
18 coverage for medical or dental malpractice occurrences between July 1,  
19 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between  
20 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,  
21 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June  
22 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994  
23 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July  
24 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,  
25 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June  
26 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001  
27 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July  
28 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,  
29 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June  
30 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008  
31 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July  
32 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,  
33 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June  
34 30, 2014, [and] between July 1, 2014 and June 30, 2015, AND BETWEEN JULY  
35 1, 2015 AND JUNE 30, 2016 allocable to each general hospital for physi-  
36 cians or dentists certified as eligible for purchase of a policy for  
37 excess insurance coverage or equivalent excess coverage by such general  
38 hospital in accordance with subdivision 2 of this section, and may amend  
39 such determination and certification as necessary. The superintendent of  
40 [insurance] FINANCIAL SERVICES shall determine and certify to each  
41 general hospital and to the commissioner of health the ratable share of  
42 such cost allocable to the period July 1, 1987 to December 31, 1987, to  
43 the period January 1, 1988 to June 30, 1988, to the period July 1, 1988  
44 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to  
45 the period July 1, 1989 to December 31, 1989, to the period January 1,  
46 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990,  
47 to the period January 1, 1991 to June 30, 1991, to the period July 1,  
48 1991 to December 31, 1991, to the period January 1, 1992 to June 30,  
49 1992, to the period July 1, 1992 to December 31, 1992, to the period  
50 January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December  
51 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period  
52 July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June  
53 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period  
54 January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December  
55 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period  
56 July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June

1 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period  
2 January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December  
3 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period  
4 July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June  
5 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period  
6 July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30,  
7 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1,  
8 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to  
9 the period July 1, 2007 and June 30, 2008, to the period July 1, 2008  
10 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the  
11 period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and  
12 June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the  
13 period July 1, 2013 and June 30, 2014, [and] to the period July 1, 2014  
14 and June 30, 2015, AND TO THE PERIOD JULY 1, 2015 AND JUNE 30, 2016.

15 S 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section  
16 18 of chapter 266 of the laws of 1986, amending the civil practice law  
17 and rules and other laws relating to malpractice and professional  
18 medical conduct, as amended by section 20 of part B of chapter 60 of the  
19 laws of 2014, are amended to read as follows:

20 (a) To the extent funds available to the hospital excess liability  
21 pool pursuant to subdivision 5 of this section as amended, and pursuant  
22 to section 6 of part J of chapter 63 of the laws of 2001, as may from  
23 time to time be amended, which amended this subdivision, are insuffi-  
24 cient to meet the costs of excess insurance coverage or equivalent  
25 excess coverage for coverage periods during the period July 1, 1992 to  
26 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during  
27 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995  
28 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,  
29 during the period July 1, 1997 to June 30, 1998, during the period July  
30 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,  
31 2000, during the period July 1, 2000 to June 30, 2001, during the period  
32 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to  
33 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during  
34 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004  
35 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,  
36 during the period July 1, 2006 to June 30, 2007, during the period July  
37 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,  
38 2009, during the period July 1, 2009 to June 30, 2010, during the period  
39 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June  
40 30, 2012, during the period July 1, 2012 to June 30, 2013, during the  
41 period July 1, 2013 to June 30, 2014, [and] during the period July 1,  
42 2014 to June 30, 2015, AND DURING THE PERIOD JULY 1, 2015 AND JUNE 30,  
43 2016 allocated or reallocated in accordance with paragraph (a) of subdi-  
44 vision 4-a of this section to rates of payment applicable to state  
45 governmental agencies, each physician or dentist for whom a policy for  
46 excess insurance coverage or equivalent excess coverage is purchased for  
47 such period shall be responsible for payment to the provider of excess  
48 insurance coverage or equivalent excess coverage of an allocable share  
49 of such insufficiency, based on the ratio of the total cost of such  
50 coverage for such physician to the sum of the total cost of such cover-  
51 age for all physicians applied to such insufficiency.

52 (b) Each provider of excess insurance coverage or equivalent excess  
53 coverage covering the period July 1, 1992 to June 30, 1993, or covering  
54 the period July 1, 1993 to June 30, 1994, or covering the period July 1,  
55 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,  
56 1996, or covering the period July 1, 1996 to June 30, 1997, or covering

1 the period July 1, 1997 to June 30, 1998, or covering the period July 1,  
2 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,  
3 2000, or covering the period July 1, 2000 to June 30, 2001, or covering  
4 the period July 1, 2001 to October 29, 2001, or covering the period  
5 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to  
6 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or  
7 covering the period July 1, 2004 to June 30, 2005, or covering the peri-  
8 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to  
9 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or  
10 covering the period July 1, 2008 to June 30, 2009, or covering the peri-  
11 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to  
12 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or  
13 covering the period July 1, 2012 to June 30, 2013, or covering the peri-  
14 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to  
15 June 30, 2015, OR COVERING THE PERIOD JULY 1, 2015 TO JUNE 30, 2016  
16 shall notify a covered physician or dentist by mail, mailed to the  
17 address shown on the last application for excess insurance coverage or  
18 equivalent excess coverage, of the amount due to such provider from such  
19 physician or dentist for such coverage period determined in accordance  
20 with paragraph (a) of this subdivision. Such amount shall be due from  
21 such physician or dentist to such provider of excess insurance coverage  
22 or equivalent excess coverage in a time and manner determined by the  
23 superintendent of [insurance] FINANCIAL SERVICES.

24 (c) If a physician or dentist liable for payment of a portion of the  
25 costs of excess insurance coverage or equivalent excess coverage cover-  
26 ing the period July 1, 1992 to June 30, 1993, or covering the period  
27 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to  
28 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or  
29 covering the period July 1, 1996 to June 30, 1997, or covering the peri-  
30 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to  
31 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or  
32 covering the period July 1, 2000 to June 30, 2001, or covering the peri-  
33 od July 1, 2001 to October 29, 2001, or covering the period April 1,  
34 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,  
35 2003, or covering the period July 1, 2003 to June 30, 2004, or covering  
36 the period July 1, 2004 to June 30, 2005, or covering the period July 1,  
37 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,  
38 2007, or covering the period July 1, 2007 to June 30, 2008, or covering  
39 the period July 1, 2008 to June 30, 2009, or covering the period July 1,  
40 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,  
41 2011, or covering the period July 1, 2011 to June 30, 2012, or covering  
42 the period July 1, 2012 to June 30, 2013, or covering the period July 1,  
43 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,  
44 2015, OR COVERING THE PERIOD JULY 1, 2015 TO JUNE 30, 2016 determined in  
45 accordance with paragraph (a) of this subdivision fails, refuses or  
46 neglects to make payment to the provider of excess insurance coverage or  
47 equivalent excess coverage in such time and manner as determined by the  
48 superintendent of [insurance] FINANCIAL SERVICES pursuant to paragraph  
49 (b) of this subdivision, excess insurance coverage or equivalent excess  
50 coverage purchased for such physician or dentist in accordance with this  
51 section for such coverage period shall be cancelled and shall be null  
52 and void as of the first day on or after the commencement of a policy  
53 period where the liability for payment pursuant to this subdivision has  
54 not been met.

55 (d) Each provider of excess insurance coverage or equivalent excess  
56 coverage shall notify the superintendent of [insurance] FINANCIAL

1 SERVICES and the commissioner of health or their designee of each physi-  
2 cian and dentist eligible for purchase of a policy for excess insurance  
3 coverage or equivalent excess coverage covering the period July 1, 1992  
4 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994,  
5 or covering the period July 1, 1994 to June 30, 1995, or covering the  
6 period July 1, 1995 to June 30, 1996, or covering the period July 1,  
7 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30,  
8 1998, or covering the period July 1, 1998 to June 30, 1999, or covering  
9 the period July 1, 1999 to June 30, 2000, or covering the period July 1,  
10 2000 to June 30, 2001, or covering the period July 1, 2001 to October  
11 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or  
12 covering the period July 1, 2002 to June 30, 2003, or covering the peri-  
13 od July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to  
14 June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or  
15 covering the period July 1, 2006 to June 30, 2007, or covering the peri-  
16 od July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to  
17 June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or  
18 covering the period July 1, 2010 to June 30, 2011, or covering the peri-  
19 od July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to  
20 June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or  
21 covering the period July 1, 2014 to June 30, 2015, OR COVERING THE PERI-  
22 OD JULY 1, 2015 TO JUNE 30, 2016 that has made payment to such provider  
23 of excess insurance coverage or equivalent excess coverage in accordance  
24 with paragraph (b) of this subdivision and of each physician and dentist  
25 who has failed, refused or neglected to make such payment.

26 (e) A provider of excess insurance coverage or equivalent excess  
27 coverage shall refund to the hospital excess liability pool any amount  
28 allocable to the period July 1, 1992 to June 30, 1993, and to the period  
29 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June  
30 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the  
31 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to  
32 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to  
33 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000  
34 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,  
35 and to the period April 1, 2002 to June 30, 2002, and to the period July  
36 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,  
37 2004, and to the period July 1, 2004 to June 30, 2005, and to the period  
38 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June  
39 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the  
40 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to  
41 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to  
42 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012  
43 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and  
44 to the period July 1, 2014 to June 30, 2015, AND TO THE PERIOD JULY 1,  
45 2015 TO JUNE 30, 2016 received from the hospital excess liability pool  
46 for purchase of excess insurance coverage or equivalent excess coverage  
47 covering the period July 1, 1992 to June 30, 1993, and covering the  
48 period July 1, 1993 to June 30, 1994, and covering the period July 1,  
49 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,  
50 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-  
51 ing the period July 1, 1997 to June 30, 1998, and covering the period  
52 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to  
53 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,  
54 and covering the period July 1, 2001 to October 29, 2001, and covering  
55 the period April 1, 2002 to June 30, 2002, and covering the period July  
56 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June

1 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and  
2 covering the period July 1, 2005 to June 30, 2006, and covering the  
3 period July 1, 2006 to June 30, 2007, and covering the period July 1,  
4 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,  
5 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-  
6 ing the period July 1, 2010 to June 30, 2011, and covering the period  
7 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to  
8 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,  
9 and covering the period July 1, 2014 to June 30, 2015, AND COVERING THE  
10 PERIOD JULY 1, 2015 TO JUNE 30, 2016 for a physician or dentist where  
11 such excess insurance coverage or equivalent excess coverage is  
12 cancelled in accordance with paragraph (c) of this subdivision.

13 S 4. Section 40 of chapter 266 of the laws of 1986, amending the civil  
14 practice law and rules and other laws relating to malpractice and  
15 professional medical conduct, as amended by section 21 of part B of  
16 chapter 60 of the laws of 2014, is amended to read as follows:

17 S 40. The superintendent of [insurance] FINANCIAL SERVICES shall  
18 establish rates for policies providing coverage for physicians and  
19 surgeons medical malpractice for the periods commencing July 1, 1985 and  
20 ending June 30, [2015] 2016; provided, however, that notwithstanding any  
21 other provision of law, the superintendent shall not establish or  
22 approve any increase in rates for the period commencing July 1, 2009 and  
23 ending June 30, 2010. The superintendent shall direct insurers to estab-  
24 lish segregated accounts for premiums, payments, reserves and investment  
25 income attributable to such premium periods and shall require periodic  
26 reports by the insurers regarding claims and expenses attributable to  
27 such periods to monitor whether such accounts will be sufficient to meet  
28 incurred claims and expenses. On or after July 1, 1989, the superinten-  
29 dent shall impose a surcharge on premiums to satisfy a projected defi-  
30 ciency that is attributable to the premium levels established pursuant  
31 to this section for such periods; provided, however, that such annual  
32 surcharge shall not exceed eight percent of the established rate until  
33 July 1, [2015] 2016, at which time and thereafter such surcharge shall  
34 not exceed twenty-five percent of the approved adequate rate, and that  
35 such annual surcharges shall continue for such period of time as shall  
36 be sufficient to satisfy such deficiency. The superintendent shall not  
37 impose such surcharge during the period commencing July 1, 2009 and  
38 ending June 30, 2010. On and after July 1, 1989, the surcharge  
39 prescribed by this section shall be retained by insurers to the extent  
40 that they insured physicians and surgeons during the July 1, 1985  
41 through June 30, [2015] 2016 policy periods; in the event and to the  
42 extent physicians and surgeons were insured by another insurer during  
43 such periods, all or a pro rata share of the surcharge, as the case may  
44 be, shall be remitted to such other insurer in accordance with rules and  
45 regulations to be promulgated by the superintendent. Surcharges  
46 collected from physicians and surgeons who were not insured during such  
47 policy periods shall be apportioned among all insurers in proportion to  
48 the premium written by each insurer during such policy periods; if a  
49 physician or surgeon was insured by an insurer subject to rates estab-  
50 lished by the superintendent during such policy periods, and at any time  
51 thereafter a hospital, health maintenance organization, employer or  
52 institution is responsible for responding in damages for liability aris-  
53 ing out of such physician's or surgeon's practice of medicine, such  
54 responsible entity shall also remit to such prior insurer the equivalent  
55 amount that would then be collected as a surcharge if the physician or  
56 surgeon had continued to remain insured by such prior insurer. In the

1 event any insurer that provided coverage during such policy periods is  
2 in liquidation, the property/casualty insurance security fund shall  
3 receive the portion of surcharges to which the insurer in liquidation  
4 would have been entitled. The surcharges authorized herein shall be  
5 deemed to be income earned for the purposes of section 2303 of the  
6 insurance law. The superintendent, in establishing adequate rates and  
7 in determining any projected deficiency pursuant to the requirements of  
8 this section and the insurance law, shall give substantial weight,  
9 determined in his discretion and judgment, to the prospective antic-  
10 ipated effect of any regulations promulgated and laws enacted and the  
11 public benefit of stabilizing malpractice rates and minimizing rate  
12 level fluctuation during the period of time necessary for the develop-  
13 ment of more reliable statistical experience as to the efficacy of such  
14 laws and regulations affecting medical, dental or podiatric malpractice  
15 enacted or promulgated in 1985, 1986, by this act and at any other time.  
16 Notwithstanding any provision of the insurance law, rates already estab-  
17 lished and to be established by the superintendent pursuant to this  
18 section are deemed adequate if such rates would be adequate when taken  
19 together with the maximum authorized annual surcharges to be imposed for  
20 a reasonable period of time whether or not any such annual surcharge has  
21 been actually imposed as of the establishment of such rates.

22 S 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of  
23 chapter 63 of the laws of 2001, amending chapter 20 of the laws of 2001  
24 amending the military law and other laws relating to making appropri-  
25 ations for the support of government, as amended by section 22 of part B  
26 of chapter 60 of the laws of 2014, are amended to read as follows:

27 S 5. The superintendent of [insurance] FINANCIAL SERVICES and the  
28 commissioner of health shall determine, no later than June 15, 2002,  
29 June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15,  
30 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June  
31 15, 2012, June 15, 2013, June 15, 2014, [and] June 15, 2015, AND JUNE  
32 15, 2016 the amount of funds available in the hospital excess liability  
33 pool, created pursuant to section 18 of chapter 266 of the laws of 1986,  
34 and whether such funds are sufficient for purposes of purchasing excess  
35 insurance coverage for eligible participating physicians and dentists  
36 during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June  
37 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,  
38 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,  
39 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,  
40 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,  
41 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,  
42 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,  
43 2015, OR JULY 1, 2015 TO JUNE 30, 2016, as applicable.

44 (a) This section shall be effective only upon a determination, pursu-  
45 ant to section five of this act, by the superintendent of [insurance]  
46 FINANCIAL SERVICES and the commissioner of health, and a certification  
47 of such determination to the state director of the budget, the chair of  
48 the senate committee on finance and the chair of the assembly committee  
49 on ways and means, that the amount of funds in the hospital excess  
50 liability pool, created pursuant to section 18 of chapter 266 of the  
51 laws of 1986, is insufficient for purposes of purchasing excess insur-  
52 ance coverage for eligible participating physicians and dentists during  
53 the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,  
54 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,  
55 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,  
56 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,

1 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,  
2 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,  
3 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,  
4 2015, OR JULY 1, 2015 TO JUNE 30, 2016, as applicable.

5 (e) The commissioner of health shall transfer for deposit to the  
6 hospital excess liability pool created pursuant to section 18 of chapter  
7 266 of the laws of 1986 such amounts as directed by the superintendent  
8 of [insurance] FINANCIAL SERVICES for the purchase of excess liability  
9 insurance coverage for eligible participating physicians and dentists  
10 for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to  
11 June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June  
12 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,  
13 2007, as applicable, and the cost of administering the hospital excess  
14 liability pool for such applicable policy year, pursuant to the program  
15 established in chapter 266 of the laws of 1986, as amended, no later  
16 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June  
17 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,  
18 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, [and] June  
19 15, 2015, AND JUNE 15, 2016, as applicable.

20 S 6. Notwithstanding any law, rule or regulation to the contrary, only  
21 physicians or dentists who were eligible, and for whom the superinten-  
22 dent of financial services and the commissioner of health, or their  
23 designee, purchased, with funds available in the hospital excess liabil-  
24 ity pool, a full or partial policy for excess coverage or equivalent  
25 excess coverage for the coverage period ending the thirtieth of June,  
26 two thousand fifteen, shall be eligible to apply for such coverage for  
27 the coverage period beginning the first of July, two thousand fifteen;  
28 provided, however, if the total number of physicians or dentists for  
29 whom such excess coverage or equivalent excess coverage was purchased  
30 for the policy year ending the thirtieth of June, two thousand fifteen  
31 exceeds the total number of physicians or dentists certified as eligible  
32 for the coverage period beginning the first of July, two thousand  
33 fifteen, then the general hospitals may certify additional eligible  
34 physicians or dentists in a number equal to such general hospital's  
35 proportional share of the total number of physicians or dentists for  
36 whom excess coverage or equivalent excess coverage was purchased with  
37 funds available in the hospital excess liability pool as of the thirti-  
38 eth of June, two thousand fifteen, as applied to the difference between  
39 the number of eligible physicians or dentists for whom a policy for  
40 excess coverage or equivalent excess coverage was purchased for the  
41 coverage period ending the thirtieth of June, two thousand fifteen and  
42 the number of such eligible physicians or dentists who have applied for  
43 excess coverage or equivalent excess for the coverage period beginning  
44 the first of July, two thousand fifteen.

45 S 7. The tax law is amended by adding a new section 171-w to read as  
46 follows:

47 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-  
48 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"  
49 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,  
50 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM  
51 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE  
52 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO  
53 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS  
54 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,  
55 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION



1 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),  
2 OR COMBINATION THEREOF.

3 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY  
4 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX  
5 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE  
6 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-  
7 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE  
8 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-  
9 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT  
10 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-  
11 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO  
12 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A  
13 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR  
14 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER  
15 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-  
16 MENT.

17 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL  
18 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-  
19 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE  
20 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO  
21 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN  
22 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO  
23 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF  
24 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS  
25 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH  
26 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO  
27 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF  
28 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT  
29 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX  
30 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF  
31 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,  
32 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION  
33 REQUIREMENTS.

34 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED  
35 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE  
36 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-  
37 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE  
38 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT  
39 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-  
40 ANCE AND SHALL ALSO INFORM THE APPLICANT: (I) THAT A TAX CLEARANCE  
41 DENIED DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER  
42 FULLY SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS  
43 SATISFACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE  
44 TO FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS  
45 SATISFIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX  
46 CLEARANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOU-  
47 SAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE  
48 APPLICANT HAS REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS  
49 FOR CHALLENGING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE  
50 OF THIS SECTION.

51 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS  
52 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL  
53 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER  
54 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED  
55 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

(B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT: (I) THE INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE PAST THREE YEARS.

(C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978 (TITLE ELEVEN OF THE UNITED STATES CODE).

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

(7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

(8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

S 8. This act shall take effect immediately.

#### PART GG

Section 1. The public authorities law is amended by adding a new section 2858 to read as follows:

S 2858. CLEARANCE OF PAST-DUE TAX LIABILITIES FOR STATE OR LOCAL AUTHORITY GRANT APPLICANTS. 1. AS USED IN THIS SECTION:

A. "APPLICANT" MEANS ANY APPLICANT, AGENT OR AFFILIATED PERSON OF EITHER OF THEM THAT MAKES AN APPLICATION FOR A GRANT.

1 B. "GRANT" MEANS ANY STATE MONIES AWARDED BY A STATE OR LOCAL AUTHORI-  
2 TY TO AN APPLICANT FOR ANY STATE OR LOCAL PUBLIC PURPOSE.

3 C. "LOCAL AUTHORITY" MEANS (I) A PUBLIC AUTHORITY OR PUBLIC BENEFIT  
4 CORPORATION CREATED BY OR EXISTING UNDER THIS CHAPTER OR ANY OTHER LAW  
5 OF THE STATE OF NEW YORK THAT HAS THE POWER TO MAKE GRANTS OR LOAN FUNDS  
6 OF STATE MONIES AND WHOSE MEMBERS DO NOT HOLD A CIVIL OFFICE OF THE  
7 STATE, AND WHOSE MEMBERS EITHER ARE NOT APPOINTED BY THE GOVERNOR OR ARE  
8 APPOINTED BY THE GOVERNOR SPECIFICALLY UPON THE RECOMMENDATION OF THE  
9 LOCAL GOVERNMENT OR GOVERNMENTS; (II) A NOT-FOR-PROFIT CORPORATION  
10 AFFILIATED WITH, SPONSORED BY, OR CREATED BY A COUNTY, CITY, TOWN OR  
11 VILLAGE GOVERNMENT; (III) A LAND BANK CORPORATION CREATED PURSUANT TO  
12 ARTICLE SIXTEEN OF THE NOT-FOR-PROFIT CORPORATION LAW, INCLUDING SUBSID-  
13 IARIES AND AFFILIATES OF SUCH LOCAL AUTHORITY; OR (IV) HOUSING AUTHORI-  
14 TIES CREATED PURSUANT TO THE PUBLIC HOUSING LAW.

15 D. "PAST-DUE TAX LIABILITIES" MEANS A PAST-DUE LEGALLY ENFORCEABLE  
16 DEBT WITHIN THE MEANING OF SUBDIVISION ONE OF SECTION ONE HUNDRED SEVEN-  
17 TY-ONE-W OF THE TAX LAW IN AN AMOUNT THAT IS EQUAL TO FIVE HUNDRED  
18 DOLLARS OR MORE.

19 E. "STATE AUTHORITY" MEANS A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPO-  
20 RATION CREATED BY OR EXISTING UNDER THIS CHAPTER OR ANY OTHER LAW OF THE  
21 STATE OF NEW YORK THAT HAS THE POWER TO MAKE GRANTS OR LOAN FUNDS OF  
22 STATE MONIES AND HAS ONE OR MORE OF ITS MEMBERS APPOINTED BY THE GOVER-  
23 NOR OR WHO SERVE AS MEMBER BY VIRTUE OF HOLDING A CIVIL OFFICE OF THE  
24 STATE, OTHER THAN AN INTERSTATE OR INTERNATIONAL AUTHORITY OR PUBLIC  
25 BENEFIT CORPORATION, INCLUDING SUBSIDIARIES AND AFFILIATES OF SUCH  
26 PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION.

27 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY STATE AUTHORITY OR  
28 LOCAL AUTHORITY THAT PROCESSES AN APPLICATION FOR A GRANT SHALL REQUIRE,  
29 AS A CONDITION TO RECEIVE SUCH GRANT, THE RECEIPT OF A TAX CLEARANCE  
30 THAT SUCH APPLICANT HAS NO PAST-DUE TAX LIABILITIES PURSUANT TO SECTION  
31 ONE HUNDRED SEVENTY-ONE-W OF THE TAX LAW.

32 3. THE APPLICANT SHALL BE REQUIRED TO PROVIDE ANY INFORMATION DEEMED  
33 NECESSARY BY THE STATE AUTHORITY OR THE LOCAL AUTHORITY AND THE DEPART-  
34 MENT OF TAXATION AND FINANCE TO EFFICIENTLY AND ACCURATELY PROVIDE A  
35 CLEARANCE OF NO PAST-DUE TAX LIABILITIES, AND THE FAILURE BY THE APPLI-  
36 CANT TO PROVIDE SUCH INFORMATION SHALL RENDER THE APPLICATION INCOM-  
37 PLETE.

38 4. IF THE STATE AUTHORITY OR THE LOCAL AUTHORITY RECEIVES NOTIFICATION  
39 THAT PAST-DUE TAX LIABILITIES ARE OWED BY THE APPLICANT, THE STATE  
40 AUTHORITY OR THE LOCAL AUTHORITY, AS THE CASE MAY BE, SHALL DENY THE  
41 GRANT APPLICATION AND SHALL NOTIFY THE APPLICANT TO CONTACT THE DEPART-  
42 MENT OF TAXATION AND FINANCE TO RESOLVE THE PAST-DUE TAX LIABILITIES AND  
43 THAT NO GRANT MAY BE ISSUED UNTIL THE TAX LIABILITIES ARE RESOLVED. ANY  
44 PERIOD OF TIME THAT IS DETERMINED ACCORDING TO THE PROVISIONS OF THIS  
45 SECTION OR THE TAX LAW SHALL COMMENCE TO RUN FROM THE DATE OF NOTIFICA-  
46 TION TO THE APPLICANT THAT THE TAX CLEARANCE WAS DENIED.

47 S 2. The tax law is amended by adding a new section 171-w to read as  
48 follows:

49 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-  
50 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"  
51 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,  
52 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM  
53 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE  
54 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO  
55 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS  
56 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,

1 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION  
2 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),  
3 OR COMBINATION THEREOF.

4 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY  
5 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX  
6 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE  
7 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-  
8 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE  
9 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-  
10 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT  
11 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-  
12 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO  
13 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A  
14 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR  
15 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER  
16 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-  
17 MENT.

18 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL  
19 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-  
20 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE  
21 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO  
22 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN  
23 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO  
24 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF  
25 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS  
26 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH  
27 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO  
28 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF  
29 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT  
30 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX  
31 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF  
32 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,  
33 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION  
34 REQUIREMENTS.

35 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED  
36 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE  
37 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-  
38 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE  
39 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT  
40 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-  
41 ANCE AND SHALL ALSO INFORM THE APPLICANT (I) THAT A TAX CLEARANCE DENIED  
42 DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER FULLY  
43 SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS SATIS-  
44 FACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE TO  
45 FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS SATIS-  
46 FIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX CLEAR-  
47 ANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE  
48 HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE APPLICANT HAS  
49 REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS FOR CHALLENG-  
50 ING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS  
51 SECTION.

52 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS  
53 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL  
54 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER  
55 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED  
56 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

(B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT (I) THE INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE PAST THREE YEARS.

(C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978 (TITLE ELEVEN OF THE UNITED STATES CODE).

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

(7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

(8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION 171-V OF THIS ARTICLE.

S 3. This act shall take effect immediately; provided, however, that the department of taxation and finance and any state or local public authority may work to execute the necessary procedures and technical changes to support the tax clearance process as described in sections one and two of this act before the effective date of this act.

#### PART HH

Section 1. The tax law is amended by adding a new section 171-z to read as follows:

1 S 171-Z. RECIPROCAL TAX COLLECTION AGREEMENTS WITH OTHER CLAIMANT  
2 STATES. (1) THE COMMISSIONER SHALL HAVE THE AUTHORITY TO ENTER INTO  
3 AGREEMENTS WITH CLAIMANT STATES TO COLLECT AND PAY OVER TO CLAIMANT  
4 STATES, TAXES OWED TO CLAIMANT STATES BY NEW YORK TAXPAYERS AND TO  
5 CERTIFY AND REQUEST THAT CLAIMANT STATES COLLECT AND PAY OVER TAXES OWED  
6 TO NEW YORK BY TAXPAYERS RESIDING IN CLAIMANT STATES. FOR PURPOSES OF  
7 THIS SECTION, THE TERM "CLAIMANT STATE" SHALL MEAN ANY OTHER STATE IN  
8 THE UNITED STATES OR THE DISTRICT OF COLUMBIA THAT ALLOWS THE COMMIS-  
9 SIONER, IN CASES WHERE A TAXPAYER IN ANOTHER STATE OWES TAXES TO NEW  
10 YORK STATE, TO CERTIFY AND REQUEST THAT THE OTHER STATE COLLECT AND PAY  
11 SUCH COLLECTED TAXES TO NEW YORK STATE; THE TERM "TAXES" SHALL MEAN ANY  
12 AMOUNT OF TAX IMPOSED UNDER THE LAWS OF NEW YORK OR A CLAIMANT STATE,  
13 DUE AND PAYABLE TO NEW YORK OR A CLAIMANT STATE, INCLUDING ADDITIONS TO  
14 TAX FOR PENALTIES AND INTEREST, THAT HAS BECOME FIXED AND FINAL SUCH  
15 THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO ADMINISTRATIVE OR JUDICIAL  
16 REVIEW; THE TERM "TAXPAYER" SHALL MEAN ANY INDIVIDUAL, CORPORATION,  
17 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP OR COMPANY, PARTNER, MEMBER,  
18 MANAGER, ESTATE, TRUST, FIDUCIARY OR ENTITY, WHO OR WHICH HAS BEEN IDEN-  
19 TIFIED BY NEW YORK OR A CLAIMANT STATE UNDER THIS SECTION AS OWING TAXES  
20 TO NEW YORK OR A CLAIMANT STATE.

21 (2) THE RECIPROCAL TAX COLLECTION AGREEMENTS MAY INCLUDE THE FOLLOWING  
22 PROVISIONS:

23 (A) UPON THE REQUEST AND CERTIFICATION OF A CLAIMANT STATE TO THE  
24 COMMISSIONER THAT A TAXPAYER OWES TAXES TO SUCH CLAIMANT STATE, THE  
25 COMMISSIONER MAY, PURSUANT TO THE AUTHORITY UNDER THIS SECTION, COLLECT  
26 SUCH TAXES IN THE SAME MANNER THAT THE COMMISSIONER CAN COLLECT TAXES  
27 DUE AND PAYABLE TO NEW YORK STATE, AND SHALL PAY OVER SUCH COLLECTED  
28 AMOUNT TO THE CLAIMANT STATE IN ACCORDANCE WITH THE PROVISIONS OF THIS  
29 SECTION. THE COMMISSIONER SHALL NOT COLLECT SUCH TAXES UNLESS THE LAWS  
30 OF THE CLAIMANT STATE (I) ALLOW THE COMMISSIONER, IN CASES WHERE A  
31 TAXPAYER OWES TAXES TO NEW YORK STATE, TO CERTIFY AND REQUEST THE CLAIM-  
32 ANT STATE COLLECT SUCH TAXES OWED TO NEW YORK STATE, AND (II) PROVIDE  
33 FOR THE PAYMENT OF SUCH COLLECTED AMOUNT TO NEW YORK STATE.

34 (B) SUCH CERTIFICATION SHALL INCLUDE (I) THE FULL NAME AND ADDRESS OF  
35 THE TAXPAYER; (II) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL  
36 EMPLOYER IDENTIFICATION NUMBER; (III) THE AMOUNT OF THE TAX FOR THE  
37 TAXABLE PERIOD SOUGHT TO BE COLLECTED, INCLUDING A DETAILED STATEMENT  
38 FOR EACH TAXABLE PERIOD SHOWING TAX, INTEREST AND PENALTY; (IV) A STATE-  
39 MENT WHETHER THE TAXPAYER FILED A TAX RETURN WITH THE CLAIMANT STATE FOR  
40 SUCH TAX, AND, IF SO, WHETHER SUCH TAX RETURN WAS FILED UNDER PROTEST;  
41 AND (V) A STATEMENT THAT ANY ADMINISTRATIVE OR JUDICIAL REMEDIES, OR  
42 BOTH, HAVE BEEN EXHAUSTED OR HAVE LAPSED AND THE AMOUNT OF TAX IS LEGAL-  
43 LY ENFORCEABLE UNDER THE LAWS OF THE CLAIMANT STATE AGAINST THE TAXPAY-  
44 ER.

45 (C) UPON RECEIPT BY THE COMMISSIONER OF THE REQUIRED CERTIFICATION,  
46 THE COMMISSIONER SHALL NOTIFY THE TAXPAYER BY FIRST-CLASS MAIL WITH  
47 CERTIFICATE OF MAILING TO THE TAXPAYER'S LAST KNOWN ADDRESS THAT THE  
48 COMMISSIONER HAS RECEIVED A REQUEST FROM THE CLAIMANT STATE TO COLLECT  
49 TAXES FROM THE TAXPAYER, THAT THE TAXPAYER HAS THE RIGHT TO PROTEST THE  
50 COLLECTION OF SUCH TAXES, THAT FAILURE TO FILE A PROTEST IN ACCORDANCE  
51 WITH PARAGRAPH (D) OF THIS SUBDIVISION SHALL CONSTITUTE A WAIVER OF ANY  
52 CLAIM AGAINST NEW YORK STATE REGARDING THE COLLECTION OF SUCH TAXES AND  
53 THAT THE AMOUNT, UPON COLLECTION, WILL BE PAID OVER TO THE CLAIMANT  
54 STATE. SIXTY DAYS AFTER THE DATE ON WHICH IT IS MAILED, A NOTICE UNDER  
55 THIS SUBDIVISION SHALL BE FINAL EXCEPT ONLY FOR SUCH AMOUNTS AS TO WHICH

1 THE TAXPAYER HAS FILED, AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVI-  
2 SION, A WRITTEN PROTEST WITH THE COMMISSIONER.

3 (D) ANY TAXPAYER NOTIFIED IN ACCORDANCE WITH PARAGRAPH (C) OF THIS  
4 SUBDIVISION MAY, ON OR BEFORE THE SIXTIETH DAY AFTER THE MAILING OF SUCH  
5 NOTICE BY THE COMMISSIONER, PROTEST THE COLLECTION OF ALL OR A PORTION  
6 OF SUCH TAXES BY FILING WITH THE CLAIMANT STATE AND PROVIDING A COPY TO  
7 THE COMMISSIONER A WRITTEN PROTEST IN WHICH THE TAXPAYER SHALL SET FORTH  
8 THE GROUNDS ON WHICH THE PROTEST IS BASED. IF A TIMELY PROTEST IS FILED,  
9 THE COMMISSIONER SHALL REFRAIN FROM COLLECTING SUCH TAXES AND SHALL SEND  
10 A COPY OF THE PROTEST TO THE CLAIMANT STATE FOR A DETERMINATION OF THE  
11 PROTEST ON ITS MERITS IN ACCORDANCE WITH THE LAWS OF THE CLAIMANT STATE.

12 (E) THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH CLAIMANT STATES  
13 THAT (I) RELATE TO PROCEDURES AND METHODS TO BE EMPLOYED BY A CLAIMANT  
14 STATE WITH RESPECT TO THE OPERATION OF THIS SECTION; (II) SAFEGUARD  
15 AGAINST THE DISCLOSURE OR INAPPROPRIATE USE OF ANY INFORMATION THAT  
16 IDENTIFIES, DIRECTLY OR INDIRECTLY, A PARTICULAR TAXPAYER OBTAINED OR  
17 MAINTAINED PURSUANT TO THIS SECTION; (III) ESTABLISH A MINIMUM THRESHOLD  
18 FOR THE AMOUNT OF TAXES OWED BY A TAXPAYER TO A CLAIMANT STATE THAT  
19 WOULD TRIGGER THE OPERATION OF THIS SECTION; (IV) PROVIDE THAT EACH  
20 CLAIMANT STATE SHALL BEAR THE COSTS THAT ARE INCURRED BY IT UNDER SUCH  
21 RECIPROCAL AGREEMENTS; (V) SET THE COMMENCEMENT AND TERMINATION DATE OF  
22 SUCH RECIPROCAL AGREEMENTS; AND (VI) PROVIDE THAT EACH CLAIMANT STATE  
23 SHALL AGREE THAT, UPON PAYMENT TO A CLAIMANT STATE OF AN AMOUNT  
24 COLLECTED UNDER THIS SECTION, THE COMMISSIONER AND THE STATE OF NEW YORK  
25 SHALL BE DISCHARGED OF ANY OBLIGATION OR LIABILITY TO A TAXPAYER AND A  
26 CLAIMANT STATE WITH RESPECT TO THE AMOUNTS COLLECTED FROM THE TAXPAYER  
27 AND PAID TO THE CLAIMANT STATE PURSUANT TO THIS SECTION. ANY ACTION FOR  
28 REFUND OF THOSE AMOUNTS SHALL LIE SOLELY AGAINST THE CLAIMANT STATE.

29 (3) FOR PURPOSES OF MAKING PAYMENT OF ANY TAXES THAT ARE COLLECTED BY  
30 THE COMMISSIONER ON BEHALF OF ANY CLAIMANT STATE UNDER RECIPROCAL AGREE-  
31 MENTS, THE OFFICE OF THE STATE COMPTROLLER, UPON REQUEST BY THE COMMIS-  
32 SIONER, IS AUTHORIZED TO PAY THE AMOUNT COLLECTED FROM THE RECIPROCAL  
33 TAX COLLECTION REVENUE FUND ESTABLISHED PURSUANT TO SECTION  
34 NINETY-NINE-W OF THE STATE FINANCE LAW TO WHICH SUCH TAXES ARE CREDITED.

35 (4) NOTWITHSTANDING OTHER PROVISIONS OF THIS CHAPTER, THE COMMISSIONER  
36 IS AUTHORIZED TO RELEASE TO THE CLAIMANT STATE ANY SPECIFIC TAXPAYER  
37 INFORMATION NECESSARY FOR PURPOSES OF IMPLEMENTING AND ADMINISTERING AN  
38 AGREEMENT ENTERED INTO BETWEEN THE CLAIMANT STATE AND NEW YORK STATE  
39 UNDER THIS SECTION.

40 S 2. The state finance law is amended by adding a new section 99-w to  
41 read as follows:

42 S 99-W. RECIPROCAL TAX COLLECTION REVENUE FUND. 1. THERE IS HEREBY  
43 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE  
44 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND KNOWN AS THE  
45 "RECIPROCAL TAX COLLECTION REVENUE FUND".

46 2. ALL MONIES RECEIVED BY THE RECIPROCAL TAX COLLECTION REVENUE FUND  
47 PURSUANT TO RECIPROCAL TAX COLLECTION AGREEMENTS WITH OTHER STATES  
48 ENTERED INTO PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-Z OF THE TAX  
49 LAW SHALL BE DEPOSITED TO THE EXCLUSIVE CREDIT OF SUCH FUND. SAID MONIES  
50 SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES  
51 IN THE CUSTODY OF THE COMPTROLLER OR THE COMMISSIONER OF TAXATION AND  
52 FINANCE.

53 3. THE MONIES IN SAID REVENUE FUND SHALL BE RETAINED UNTIL THE COMMIS-  
54 SIONER OF TAXATION AND FINANCE REQUESTS THE STATE COMPTROLLER MAKE A  
55 PAYMENT OF TAXES COLLECTED BY THE COMMISSIONER OF TAXATION AND FINANCE  
56 ON BEHALF OF A CLAIMANT STATE UNDER A RECIPROCAL TAX COLLECTION AGREE-

MENT ENTERED INTO PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-Z OF THE TAX LAW. THE STATE COMPTROLLER SHALL BE AUTHORIZED TO PAY A CLAIMANT STATE THE AMOUNT COLLECTED FROM THE RECIPROCAL TAX COLLECTION REVENUE FUND.

S 3. This act shall take effect immediately.

## PART II

Section 1. The tax law is amended by adding a new section 178 to read as follows:

S 178. MULTI-AGENCY INFORMATION-SHARING DATABASE. 1. THE PURPOSE OF THIS SECTION IS TO PROVIDE A MECHANISM FOR INFORMATION SHARING BETWEEN THE STATE AGENCIES RESPONSIBLE FOR REGULATING VARIOUS ENFORCEMENT INITIATIVES AND TO PROMOTE IMPROVED COMMUNICATION AND COOPERATION BETWEEN AGENCIES WITH RESPECT TO THE ENFORCEMENT OF STATUTES, RULES AND REGULATIONS. UNDER THIS SECTION, THESE AGENCIES SHALL SHARE INVESTIGATION AND ENFORCEMENT DATA AND CREATE AND MAINTAIN A COOPERATIVE INFORMATION-SHARING DATABASE TO ENSURE EFFECTIVE OVERSIGHT AND REGULATION OF INDIVIDUALS AND ENTITIES SUBJECT TO REGULATORY JURISDICTION, MAXIMIZE AGENCY EFFECTIVENESS AND AVOID UNNECESSARY DUPLICATION OF EFFORT IN GENERAL. USE OF THE COOPERATIVE INFORMATION-SHARING DATABASE SHALL ENSURE EFFICIENT USE OF THE STATE'S ENFORCEMENT RESOURCES AND EFFECTIVE STRATEGIC PLANNING OF REGULATORY AND ENFORCEMENT EFFORTS AMONG MEMBER AGENCIES. THE INTERAGENCY GROUP SHALL ENTER INTO A MEMORANDUM OF AGREEMENT TO IMPLEMENT THIS SECTION AND SHALL INCLUDE, AMONG OTHER THINGS, PROVISIONS ON THE ASSEMBLY AND DISSEMINATION OF THE AGENCY DATA AND THE PROTECTION OF THE CONFIDENTIALITY OF THE AGENCY DATA SHARED.

2. DEFINITIONS. (A) "AGENCY DATA" MEANS INFORMATION ORIGINALLY RECEIVED, CREATED, OR HELD BY A MEMBER AGENCY REGARDING AGENCY INVESTIGATION AND AUDITS, AND AGENCY ENFORCEMENT ACTIONS, BUT DOES NOT INCLUDE ANY INFORMATION RECEIVED FROM FEDERAL AGENCIES THAT IS PROTECTED FROM FURTHER DISCLOSURE BY STATUTE.

(B) "COOPERATIVE INFORMATION SHARING DATABASE" MEANS A SHARED SYSTEM DEVELOPED, OR DATA STANDARDS DEVELOPED BY THE MEMBER AGENCIES TO MAKE DATA FROM EACH MEMBER AGENCY ACCESSIBLE TO ALL MEMBER AGENCIES.

(C) "INTERAGENCY GROUP" MEANS THE DEPARTMENT OF STATE, THE WORKERS' COMPENSATION BOARD, THE DEPARTMENT OF LABOR AND THE DEPARTMENT OF TAXATION AND FINANCE.

(D) "MEMBER AGENCY" OR "MEMBER AGENCIES" MEANS ANY EXECUTIVE AGENCY OF THE STATE, INCLUDING THE DEPARTMENT OF STATE, THE WORKERS' COMPENSATION BOARD, THE DEPARTMENT OF LABOR AND THE DEPARTMENT OF TAXATION AND FINANCE.

(E) "SHARED DATA" MEANS AGENCY DATA SUBMITTED AND HELD WITHIN THE CONFIDENTIAL COOPERATIVE INFORMATION-SHARING DATABASE. A MEMBER AGENCY SHALL BE ALLOWED TO SUBMIT AGENCY DATA TO THE COOPERATIVE INFORMATION SHARING DATABASE EVEN THOUGH ANOTHER LAW OF THIS STATE MAY OTHERWISE SPECIFICALLY PROHIBIT THE SHARING OR DISCLOSURE OF SUCH AGENCY DATA. HOWEVER, THE DEPARTMENT OF TAXATION AND FINANCE SHALL BE ALLOWED TO SHARE ONLY TAXPAYER IDENTIFICATION DATA AND INFORMATION CONCERNING A NAMED GROUP OF NOT LESS THAN TEN TAXPAYERS THAT RELATE TO INCOME RANGES, SIZE AND TYPE OF BUSINESS, AND FILING CHARACTERISTICS FOR THE GROUP OF TAXPAYERS, PROVIDED THAT THE INFORMATION IS ARRANGED IN SUCH A MANNER THAT THE PARTICULARS FOR A SPECIFIC TAXPAYER CANNOT BE DETERMINED.

3. THE MEMBER AGENCIES SHALL COOPERATE WITH ONE ANOTHER TO SHARE RELEVANT AGENCY DATA FOR THE PURPOSE OF CONDUCTING AUDITS, EXAMINATIONS, INVESTIGATIONS, ADMINISTRATIVE ENFORCEMENT PROCEEDINGS, AND/OR CIVIL



1 AGENCY ENFORCEMENT ACTIONS. A MEMBER AGENCY, EXCEPT AS OTHERWISE  
2 PROVIDED IN THIS CHAPTER, SHALL PRESERVE ANY PRIVILEGE OR CONFIDENTIALI-  
3 TY REGARDING AGENCY DATA OR SHARED DATA IT RECEIVES FROM ANOTHER MEMBER  
4 AGENCY PURSUANT TO THIS CHAPTER.

5 4. THE INTERAGENCY GROUP SHALL DEVELOP AND USE THE INFORMATION-SHARING  
6 DATABASE AND SHALL MAKE THE AGENCY DATA FROM EACH MEMBER AGENCY ACCESSI-  
7 BLE TO ALL MEMBER AGENCIES. USE OF THE COOPERATIVE INFORMATION-SHARING  
8 DATABASE SHALL ENSURE EFFICIENT USE OF THE STATE'S ENFORCEMENT RESOURCES  
9 AND EFFECTIVE STRATEGIC PLANNING OF REGULATORY AND ENFORCEMENT EFFORTS  
10 AMONG MEMBER AGENCIES. THE INTERAGENCY GROUP SHALL ENTER INTO A MEMORAN-  
11 DUM OF AGREEMENT TO IMPLEMENT THIS SECTION AND SUCH AGREEMENT SHALL  
12 INCLUDE, AMONG OTHER THINGS, PROVISIONS ON THE ASSEMBLY AND DISSEM-  
13 INATION OF THE AGENCY DATA AND THE PROTECTION OF THE CONFIDENTIALITY OF  
14 THE AGENCY DATA AND THE SHARED DATA.

15 5. NOTWITHSTANDING ANY PROVISION OF ARTICLE SIX OF THE PUBLIC OFFICERS  
16 LAW, AGENCY DATA, SHARED DATA AND THE INFORMATION-SHARING DATABASE AND  
17 ITS CONTENTS SHALL BE CONFIDENTIAL AND SHALL NOT BE PUBLICLY DISCLOSED.

18 S 2. This act shall take effect immediately.

19 PART JJ

20 Section 1. The general obligations law is amended by adding a new  
21 section 3-505 to read as follows:

22 S 3-505. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH ELECTRONIC  
23 TAX CLEARANCES FOR OCCUPATIONAL, PROFESSIONAL AND BUSINESS LICENSES.

24 1. AS USED IN THIS SECTION:

25 A. "GOVERNMENT ENTITY" MEANS THE STATE OF NEW YORK, OR ANY OF ITS  
26 AGENCIES, POLITICAL SUBDIVISIONS, INSTRUMENTALITIES, PUBLIC CORPORATIONS  
27 (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT  
28 WITH ANOTHER STATE OR CANADA), OR COMBINATION THEREOF, RESPONSIBLE FOR  
29 DETERMINING WHETHER A LICENSE SHALL BE ISSUED OR RENEWED.

30 B. "ELECTRONIC LICENSE APPLICATION" MEANS ANY ELECTRONIC DATA FORM  
31 THAT MUST BE COMPLETED BY AN APPLICANT TO OBTAIN OR RENEW A LICENSE, OR  
32 AN ELECTRONIC DATA PROCESS WHICH IS USED BY A GOVERNMENT ENTITY TO PROC-  
33 ESS INFORMATION RECEIVED FROM AN APPLICANT SEEKING TO RECEIVE OR RENEW A  
34 LICENSE.

35 C. "ELECTRONIC TAX CLEARANCE" MEANS AN ELECTRONIC COMMUNICATION FROM  
36 THE DEPARTMENT OF TAXATION AND FINANCE INDICATING THAT AN APPLICANT  
37 SUBMITTING AN ELECTRONIC LICENSE APPLICATION HAD NO PAST-DUE TAX LIABIL-  
38 ITIES, AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF SECTION ONE HUNDRED  
39 SEVENTY-ONE-W OF THE TAX LAW, OR THAT NO CONCLUSIVE MATCH COULD BE MADE.

40 D. "LICENSE" MEANS ANY CERTIFICATE, LICENSE, PERMIT OR GRANT OF  
41 PERMISSION REQUIRED BY LAW OR AGENCY REGULATION AS A CONDITION FOR THE  
42 LAWFUL PRACTICE OF ANY OCCUPATION, EMPLOYMENT, TRADE, VOCATION, BUSI-  
43 NESS, OR PROFESSION, INCLUDING ANY REGISTRATION REQUIRED BY LAW OR AGEN-  
44 CY REGULATION AS A CONDITION FOR SUCH LAWFUL PRACTICE. THIS SHALL  
45 INCLUDE, BUT IS NOT LIMITED TO, ANY LICENSE OR RENEWAL GRANTED TO AN  
46 INDIVIDUAL OR ENTITY BY (I) THE STATE EDUCATION DEPARTMENT AS PRESCRIBED  
47 UNDER TITLE VII OF THE NEW YORK STATE EDUCATION LAW, (II) THE DEPARTMENT  
48 OF STATE, OR (III) THE OFFICE OF COURT ADMINISTRATION. PROVIDED, HOWEV-  
49 ER, THAT "LICENSE" SHALL NOT, FOR THE PURPOSES OF THIS SECTION, INCLUDE  
50 ANY LICENSE OR PERMIT TO OWN, POSSESS, CARRY, OR FIRE ANY EXPLOSIVE,  
51 PISTOL, HANDGUN, RIFLE, SHOTGUN, OTHER FIREARM OR AMMUNITION.

52 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND WHEN NOT ALREADY  
53 REQUIRED BY ANOTHER PROVISION OF LAW OR REGULATION, ANY GOVERNMENT ENTI-  
54 TY SHALL ELECT TO CONDITION THE ISSUANCE OR RENEWAL OF A LICENSE ON THE

1 ABSENCE OF PAST-DUE TAX LIABILITIES AND TO MAKE SUCH DETERMINATION  
2 THROUGH THE RECEIPT OF AN ELECTRONIC TAX CLEARANCE FROM THE DEPARTMENT  
3 OF TAXATION AND FINANCE AS PROVIDED FOR IN SECTION ONE HUNDRED SEVENTY-  
4 ONE-W OF THE TAX LAW. SUCH A CLEARANCE SHALL BE DEEMED A NECESSARY AND  
5 LAWFUL REQUIREMENT FOR THE RECEIPT OF THE LICENSE OR ITS RENEWAL AND  
6 SHALL BE READ INTO ANY SUCH LICENSING STATUTE AS AN ADDITIONAL PREREQUI-  
7 SITE ALONG WITH OTHER STATUTORY OR REGULATORY CONDITIONS FOR RECEIVING  
8 OR RENEWING SUCH A LICENSE.

9 3. ANY APPLICANT FOR A LICENSE SUBJECT TO ELECTRONIC TAX CLEARANCE  
10 SHALL BE REQUIRED TO PROVIDE ANY INFORMATION DEEMED NECESSARY BY THE  
11 GOVERNMENT ENTITY AND THE DEPARTMENT OF TAXATION AND FINANCE TO EFFI-  
12 CIENTLY AND ACCURATELY PROVIDE AN ELECTRONIC TAX CLEARANCE, INCLUDING  
13 BUT NOT LIMITED TO, THE APPLICANT'S SOCIAL SECURITY NUMBER OR EMPLOYEE  
14 IDENTIFICATION NUMBER OR, IF AN ENTITY, A LIST OF RESPONSIBLE OFFICERS  
15 AND THEIR SOCIAL SECURITY NUMBERS, AND THE FAILURE BY THE APPLICANT TO  
16 PROVIDE SUCH INFORMATION SHALL RENDER THE APPLICATION INCOMPLETE.  
17 NOTWITHSTANDING ANY LAW OR REGULATION TO THE CONTRARY, THE EXCHANGE OF  
18 INFORMATION BETWEEN THE DEPARTMENT AND THE GOVERNMENTAL ENTITY, OR THEIR  
19 AGENTS, NECESSARY FOR THIS TAX CLEARANCE TO BE CONDUCTED SHALL CONSTI-  
20 TUTE AN AUTHORIZED EXCHANGE OF INFORMATION AND SHALL NOT CONSTITUTE AN  
21 UNAUTHORIZED DISCLOSURE OR A VIOLATION OF ANY SECRECY, CONFIDENTIALITY  
22 OR SIMILAR PROVISION IN LAW OR REGULATION.

23 4. THE ELECTRONIC LICENSE APPLICATION, OR THE INSTRUCTIONS FOR SUCH  
24 APPLICATION, SHALL CLEARLY INFORM THE APPLICANT THAT AN ELECTRONIC TAX  
25 CLEARANCE WILL BE PERFORMED AND THAT, IF THE TAX CLEARANCE IS DENIED,  
26 THE APPLICANT MUST CONTACT THE DEPARTMENT OF TAXATION AND FINANCE TO  
27 RESOLVE ANY PAST-DUE TAX LIABILITIES BEFORE THE APPLICATION FOR A  
28 LICENSE OR RENEWAL MAY BE RESUBMITTED.

29 5. IF AN ELECTRONIC TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXA-  
30 TION AND FINANCE, THE GOVERNMENT ENTITY SHALL DENY ISSUANCE OR RENEWAL  
31 OF THE REQUESTED LICENSE AND SHALL NOTIFY THE APPLICANT TO CONTACT THE  
32 DEPARTMENT OF TAXATION AND FINANCE WITHIN SIXTY DAYS OF THE ISSUANCE OF  
33 THIS NOTICE TO RESOLVE THE PAST-DUE TAX LIABILITIES AND THAT NO LICENSE  
34 MAY BE ISSUED OR RENEWED UNTIL THE TAX LIABILITIES ARE RESOLVED. NOTICE  
35 SHALL BE PROVIDED BY FIRST CLASS MAIL WITH CERTIFICATE OF MAILING TO THE  
36 APPLICANT'S ADDRESS PROVIDED WITH THE APPLICATION. GOVERNMENT ENTITY  
37 RECORDS OF SUCH A MAILING SHALL CONSTITUTE APPROPRIATE AND SUFFICIENT  
38 PROOF OF DELIVERY THEREOF AND BE ADMISSIBLE IN ANY ACTION OR PROCEEDING;  
39 INCLUDING BUT NOT LIMITED, TO THE TIMELINESS OF AN APPLICANT'S PROTEST.

40 6. ANY TAX CLEARANCE OR RELATED COMMUNICATIONS SHALL BE BY SECURE  
41 ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT OF TAXATION AND FINANCE  
42 AND THE REQUESTING GOVERNMENT ENTITY SUCH THAT PROCESSING OF THE ELEC-  
43 TRONIC APPLICATION IS NOT DELAYED IF THE ELECTRONIC TAX CLEARANCE IS  
44 RECEIVED.

45 7. NO FEE SHALL BE CHARGED TO THE APPLICANT FOR THE PURPOSES OF  
46 RECEIVING AN ELECTRONIC TAX CLEARANCE.

47 S 2. The tax law is amended by adding a new section 171-w to read as  
48 follows:

49 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-  
50 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"  
51 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,  
52 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM  
53 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE  
54 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO  
55 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS  
56 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,

1 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION  
2 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),  
3 OR COMBINATION THEREOF.

4 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY  
5 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX  
6 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE  
7 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-  
8 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE  
9 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-  
10 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT  
11 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-  
12 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO  
13 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A  
14 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR  
15 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER  
16 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-  
17 MENT.

18 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL  
19 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-  
20 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE  
21 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO  
22 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN  
23 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO  
24 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF  
25 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS  
26 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH  
27 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO  
28 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF  
29 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT  
30 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX  
31 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF  
32 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,  
33 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION  
34 REQUIREMENTS.

35 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED  
36 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE  
37 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-  
38 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE  
39 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT  
40 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-  
41 ANCE AND SHALL ALSO INFORM THE APPLICANT: (I) THAT A TAX CLEARANCE  
42 DENIED DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER  
43 FULLY SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS  
44 SATISFACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE  
45 TO FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS  
46 SATISFIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX  
47 CLEARANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOU-  
48 SAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE  
49 APPLICANT HAS REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS  
50 FOR CHALLENGING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE  
51 OF THIS SECTION.

52 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS  
53 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL  
54 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER  
55 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED  
56 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

(B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT: (I) THE INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE PAST THREE YEARS.

(C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978 (TITLE ELEVEN OF THE UNITED STATES CODE).

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

(7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

(8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

S 3. This act shall take effect June 1, 2015; provided, however, that the department of taxation and finance and any government entity electing to receive an electronic tax clearance from the department of taxation and finance may work to execute the necessary procedures and technical changes to support the electronic tax clearance process as described in sections one and two of this act before such date; provided, further, that this effective date will not impact the administration of any electronic tax clearance program authorized by another provision of law.

1 Section 1. Subdivision 4 of section 50 of the civil service law is  
2 amended by adding a new closing paragraph to read as follows:

3 THE DEPARTMENT SHALL REQUIRE A TAX CLEARANCE FROM THE DEPARTMENT OF  
4 TAXATION AND FINANCE, AS PROVIDED FOR IN SECTION ONE HUNDRED  
5 SEVENTY-ONE-W OF THE TAX LAW, FOR EACH APPLICANT AND SHALL REFUSE TO  
6 EXAMINE AN APPLICANT, OR AFTER EXAMINATION TO CERTIFY AN ELIGIBLE FOR  
7 WHOM A TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXATION AND  
8 FINANCE. A MUNICIPAL COMMISSION, SUBJECT TO THE APPROVAL OF THE GOVERN-  
9 ING BOARD OR BODY OF THE CITY OR COUNTY AS THE CASE MAY BE, OR A  
10 REGIONAL COMMISSION OR PERSONNEL OFFICER, PURSUANT TO GOVERNMENTAL  
11 AGREEMENT, MAY ELECT TO REQUIRE TAX CLEARANCES FOR APPLICANTS AND TO  
12 REFUSE TO EXAMINE AN APPLICANT, OR AFTER EXAMINATION TO CERTIFY AN  
13 ELIGIBLE FOR WHOM A TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXA-  
14 TION AND FINANCE. PROVIDED, HOWEVER, THAT THE DEPARTMENT AND MUNICIPAL  
15 COMMISSIONS SHALL NOT REQUIRE A TAX CLEARANCE FOR (1) ANY CURRENT  
16 EMPLOYEE; OR (2) A PERSON WHO IS CONSIDERED AN APPLICANT BY REASON OF  
17 (A) A TRANSFER PURSUANT TO SECTION SEVENTY OF THIS CHAPTER; OR (B) A  
18 PERSON WHO IS ON A PREFERRED LIST SUBJECT TO SECTION EIGHTY-ONE OF THIS  
19 CHAPTER; OR (C) A PERSON WHOSE NAME IS ON AN ELIGIBLE LIST AS DEFINED IN  
20 SECTION FIFTY-SIX OF THIS ARTICLE AND WHO HAS SUCCESSFULLY COMPLETED A  
21 PROMOTION EXAM SUBJECT TO SECTION FIFTY-TWO OF THIS ARTICLE. WHERE A TAX  
22 CLEARANCE IS REQUIRED, THE APPLICATION FOR EXAMINATION, OR THE  
23 INSTRUCTIONS FOR SUCH APPLICATION, SHALL CLEARLY INFORM THE APPLICANT  
24 THAT A TAX CLEARANCE WILL BE PERFORMED AND THAT, IF THE TAX CLEARANCE IS  
25 DENIED, THE APPLICANT MUST CONTACT THE DEPARTMENT OF TAXATION AND  
26 FINANCE TO RESOLVE ANY PAST-DUE TAX LIABILITIES OR RETURN FILING COMPLI-  
27 ANCE BEFORE THE APPLICATION FOR EXAMINATION MAY BE RESUBMITTED. ANY  
28 APPLICANT SUBJECT TO TAX CLEARANCE SHALL BE REQUIRED TO PROVIDE ANY  
29 INFORMATION DEEMED NECESSARY BY THE DEPARTMENT AND THE DEPARTMENT OF  
30 TAXATION AND FINANCE TO EFFICIENTLY AND ACCURATELY PROVIDE A TAX CLEAR-  
31 ANCE, AND THE FAILURE BY THE APPLICANT TO PROVIDE SUCH INFORMATION SHALL  
32 DISQUALIFY THE APPLICANT.

33 S 2. The tax law is amended by adding a new section 171-w to read as  
34 follows:

35 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-  
36 ANCES.

37 (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES" SHALL  
38 MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER, OR ANY  
39 PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM "PAST-DUE  
40 TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE BECOME FIXED  
41 AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO ADMINISTRA-  
42 TIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS THE STATE OF  
43 NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS, INSTRUMENTALI-  
44 TIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSU-  
45 ANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA), OR COMBINA-  
46 TION THEREOF.

47 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY  
48 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX  
49 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE  
50 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-  
51 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE  
52 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-  
53 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT  
54 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-  
55 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO  
56 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A

1 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR  
2 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER  
3 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-  
4 MENT.

5 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL  
6 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-  
7 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE  
8 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO  
9 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN  
10 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO  
11 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF  
12 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS  
13 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH  
14 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO  
15 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF  
16 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT  
17 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX  
18 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF  
19 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,  
20 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION  
21 REQUIREMENTS.

22 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED  
23 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE  
24 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-  
25 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE  
26 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT  
27 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-  
28 ANCE AND SHALL ALSO INFORM THE APPLICANT (I) THAT A TAX CLEARANCE DENIED  
29 DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER FULLY  
30 SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS SATIS-  
31 FACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE TO  
32 FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS SATIS-  
33 FIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX CLEAR-  
34 ANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE  
35 HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE APPLICANT HAS  
36 REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS FOR CHALLENG-  
37 ING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS  
38 SECTION.

39 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS  
40 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL  
41 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER  
42 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED  
43 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

44 (B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE  
45 MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER  
46 THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT  
47 THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT  
48 FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT (I) THE  
49 INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR  
50 ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX  
51 LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING  
52 GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL  
53 SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE  
54 THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF  
55 THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING  
56 ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY

COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE PAST THREE YEARS.

(C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978 (TITLE ELEVEN OF THE UNITED STATES CODE).

(6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

(7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

(8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

S 3. This act shall take effect June 1, 2015; provided, however, that the department of taxation and finance, the department of civil service, any municipal commission, and any other government entity electing to receive a tax clearance from the department of taxation and finance may work to execute the necessary procedures and technical changes to support the tax clearance process as described in sections one and two of this act before that date; provided, further, that this effective date will not impact the administration of any tax clearance program authorized by another provision of law.

## PART LL

Section 1. Subdivision 2 of section 136 of the social services law, as amended by section 24 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

2. All communications and information relating to a person receiving public assistance or care obtained by any social services official, service officer, or employee in the course of his or her work shall be considered confidential and, except as otherwise provided in this section, shall be disclosed only to the commissioner, or his or her authorized representative, the commissioner of labor, or his or her authorized representative, the commissioner of health, or his or her authorized representative, THE COMMISSIONER OF TAXATION AND FINANCE, OR HIS OR HER AUTHORIZED REPRESENTATIVE, the welfare inspector general, or

1 his or her authorized representative, the county board of supervisors,  
2 city council, town board or other board or body authorized and required  
3 to appropriate funds for public assistance and care in and for such  
4 county, city or town or its authorized representative or, by authority  
5 of the county, city or town social services official, to a person or  
6 agency considered entitled to such information. Nothing herein shall  
7 preclude a social services official from reporting to an appropriate  
8 agency or official, including law enforcement agencies or officials,  
9 known or suspected instances of physical or mental injury, sexual abuse  
10 or exploitation, sexual contact with a minor or negligent treatment or  
11 maltreatment of a child of which the official becomes aware in the  
12 administration of public assistance and care nor shall it preclude  
13 communication with the federal immigration and naturalization service  
14 regarding the immigration status of any individual.

15 S 2. This act shall take effect immediately.

16 PART MM

17 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-  
18 sion b of section 1612 of the tax law, as amended by section 1 of part  
19 BB of chapter 59 of the laws of 2014, is amended to read as follows:

20 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of  
21 this subparagraph, the track operator of a vendor track shall be eligi-  
22 ble for a vendor's capital award of up to four percent of the total  
23 revenue wagered at the vendor track after payout for prizes pursuant to  
24 this chapter, which shall be used exclusively for capital project  
25 investments to improve the facilities of the vendor track which promote  
26 or encourage increased attendance at the video lottery gaming facility  
27 including, but not limited to hotels, other lodging facilities, enter-  
28 tainment facilities, retail facilities, dining facilities, events  
29 arenas, parking garages and other improvements that enhance facility  
30 amenities; provided that such capital investments shall be approved by  
31 the division, in consultation with the state racing and wagering board,  
32 and that such vendor track demonstrates that such capital expenditures  
33 will increase patronage at such vendor track's facilities and increase  
34 the amount of revenue generated to support state education programs. The  
35 annual amount of such vendor's capital awards that a vendor track shall  
36 be eligible to receive shall be limited to two million five hundred  
37 thousand dollars, except for Aqueduct racetrack, for which there shall  
38 be no vendor's capital awards. Except for tracks having less than one  
39 thousand one hundred video gaming machines, and except for a vendor  
40 track located west of State Route 14 from Sodus Point to the Pennsylv-  
41 nia border within New York, each track operator shall be required to  
42 co-invest an amount of capital expenditure equal to its cumulative  
43 vendor's capital award. For all tracks, except for Aqueduct racetrack,  
44 the amount of any vendor's capital award that is not used during any one  
45 year period may be carried over into subsequent years ending before  
46 April first, two thousand [fifteen] SIXTEEN. Any amount attributable to  
47 a capital expenditure approved prior to April first, two thousand  
48 [fifteen] SIXTEEN and completed before April first, two thousand [seven-  
49 teen] EIGHTEEN; or approved prior to April first, two thousand [nine-  
50 teen] TWENTY and completed before April first, two thousand [twenty-one]  
51 TWENTY-TWO for a vendor track located west of State Route 14 from Sodus  
52 Point to the Pennsylvania border within New York, shall be eligible to  
53 receive the vendor's capital award. In the event that a vendor track's  
54 capital expenditures, approved by the division prior to April first, two



1 thousand [fifteen] SIXTEEN and completed prior to April first, two thou-  
2 sand [seventeen] EIGHTEEN, exceed the vendor track's cumulative capital  
3 award during the five year period ending April first, two thousand  
4 [fifteen] SIXTEEN, the vendor shall continue to receive the capital  
5 award after April first, two thousand [fifteen] SIXTEEN until such  
6 approved capital expenditures are paid to the vendor track subject to  
7 any required co-investment. In no event shall any vendor track that  
8 receives a vendor fee pursuant to clause (F) or (G) of this subparagraph  
9 be eligible for a vendor's capital award under this section. Any opera-  
10 tor of a vendor track which has received a vendor's capital award,  
11 choosing to divest the capital improvement toward which the award was  
12 applied, prior to the full depreciation of the capital improvement in  
13 accordance with generally accepted accounting principles, shall reim-  
14 burse the state in amounts equal to the total of any such awards. Any  
15 capital award not approved for a capital expenditure at a video lottery  
16 gaming facility by April first, two thousand [fifteen] SIXTEEN shall be  
17 deposited into the state lottery fund for education aid; and  
18 S 2. This act shall take effect immediately.

19

## PART NN

20 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the  
21 racing, pari-mutuel wagering and breeding law, as amended by section 1  
22 of part AA of chapter 59 of the laws of 2014, is amended to read as  
23 follows:

24 (a) Any racing association or corporation or regional off-track  
25 betting corporation, authorized to conduct pari-mutuel wagering under  
26 this chapter, desiring to display the simulcast of horse races on which  
27 pari-mutuel betting shall be permitted in the manner and subject to the  
28 conditions provided for in this article may apply to the commission for  
29 a license so to do. Applications for licenses shall be in such form as  
30 may be prescribed by the commission and shall contain such information  
31 or other material or evidence as the commission may require. No license  
32 shall be issued by the commission authorizing the simulcast transmission  
33 of thoroughbred races from a track located in Suffolk county. The fee  
34 for such licenses shall be five hundred dollars per simulcast facility  
35 and for account wagering licensees that do not operate either a simul-  
36 cast facility that is open to the public within the state of New York or  
37 a licensed racetrack within the state, twenty thousand dollars per year  
38 payable by the licensee to the commission for deposit into the general  
39 fund. Except as provided in this section, the commission shall not  
40 approve any application to conduct simulcasting into individual or group  
41 residences, homes or other areas for the purposes of or in connection  
42 with pari-mutuel wagering. The commission may approve simulcasting into  
43 residences, homes or other areas to be conducted jointly by one or more  
44 regional off-track betting corporations and one or more of the follow-  
45 ing: a franchised corporation, thoroughbred racing corporation or a  
46 harness racing corporation or association; provided (i) the simulcasting  
47 consists only of those races on which pari-mutuel betting is authorized  
48 by this chapter at one or more simulcast facilities for each of the  
49 contracting off-track betting corporations which shall include wagers  
50 made in accordance with section one thousand fifteen, one thousand  
51 sixteen and one thousand seventeen of this article; provided further  
52 that the contract provisions or other simulcast arrangements for such  
53 simulcast facility shall be no less favorable than those in effect on  
54 January first, two thousand five; (ii) that each off-track betting

1 corporation having within its geographic boundaries such residences,  
2 homes or other areas technically capable of receiving the simulcast  
3 signal shall be a contracting party; (iii) the distribution of revenues  
4 shall be subject to contractual agreement of the parties except that  
5 statutory payments to non-contracting parties, if any, may not be  
6 reduced; provided, however, that nothing herein to the contrary shall  
7 prevent a track from televising its races on an irregular basis primari-  
8 ly for promotional or marketing purposes as found by the commission. For  
9 purposes of this paragraph, the provisions of section one thousand thir-  
10 teen of this article shall not apply. Any agreement authorizing an  
11 in-home simulcasting experiment commencing prior to May fifteenth, nine-  
12 teen hundred ninety-five, may, and all its terms, be extended until June  
13 thirtieth, two thousand [fifteen] SIXTEEN; provided, however, that any  
14 party to such agreement may elect to terminate such agreement upon  
15 conveying written notice to all other parties of such agreement at least  
16 forty-five days prior to the effective date of the termination, via  
17 registered mail. Any party to an agreement receiving such notice of an  
18 intent to terminate, may request the commission to mediate between the  
19 parties new terms and conditions in a replacement agreement between the  
20 parties as will permit continuation of an in-home experiment until June  
21 thirtieth, two thousand [fifteen] SIXTEEN; and (iv) no in-home simul-  
22 casting in the thoroughbred special betting district shall occur without  
23 the approval of the regional thoroughbred track.

24 S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
25 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
26 section 2 of part AA of chapter 59 of the laws of 2014, is amended to  
27 read as follows:

28 (iii) Of the sums retained by a receiving track located in Westchester  
29 county on races received from a franchised corporation, for the period  
30 commencing January first, two thousand eight and continuing through June  
31 thirtieth, two thousand [fifteen] SIXTEEN, the amount used exclusively  
32 for purses to be awarded at races conducted by such receiving track  
33 shall be computed as follows: of the sums so retained, two and one-half  
34 percent of the total pools. Such amount shall be increased or decreased  
35 in the amount of fifty percent of the difference in total commissions  
36 determined by comparing the total commissions available after July twen-  
37 ty-first, nineteen hundred ninety-five to the total commissions that  
38 would have been available to such track prior to July twenty-first,  
39 nineteen hundred ninety-five.

40 S 3. The opening paragraph of subdivision 1 of section 1014 of the  
41 racing, pari-mutuel wagering and breeding law, as amended by section 3  
42 of part AA of chapter 59 of the laws of 2014, is amended to read as  
43 follows:

44 The provisions of this section shall govern the simulcasting of races  
45 conducted at thoroughbred tracks located in another state or country on  
46 any day during which a franchised corporation is conducting a race meet-  
47 ing in Saratoga county at Saratoga thoroughbred racetrack until June  
48 thirtieth, two thousand [fifteen] SIXTEEN and on any day regardless of  
49 whether or not a franchised corporation is conducting a race meeting in  
50 Saratoga county at Saratoga thoroughbred racetrack after June thirtieth,  
51 two thousand [fifteen] SIXTEEN. On any day on which a franchised corpo-  
52 ration has not scheduled a racing program but a thoroughbred racing  
53 corporation located within the state is conducting racing, every off-  
54 track betting corporation branch office and every simulcasting facility  
55 licensed in accordance with section one thousand seven (that have  
56 entered into a written agreement with such facility's representative

1 horsemen's organization, as approved by the commission), one thousand  
2 eight, or one thousand nine of this article shall be authorized to  
3 accept wagers and display the live simulcast signal from thoroughbred  
4 tracks located in another state or foreign country subject to the  
5 following provisions:

6 S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering  
7 and breeding law, as amended by section 4 of part AA of chapter 59 of  
8 the laws of 2014, is amended to read as follows:

9 1. The provisions of this section shall govern the simulcasting of  
10 races conducted at harness tracks located in another state or country  
11 during the period July first, nineteen hundred ninety-four through June  
12 thirtieth, two thousand [fifteen] SIXTEEN. This section shall supersede  
13 all inconsistent provisions of this chapter.

14 S 5. The opening paragraph of subdivision 1 of section 1016 of the  
15 racing, pari-mutuel wagering and breeding law, as amended by section 5  
16 of part AA of chapter 59 of the laws of 2014, is amended to read as  
17 follows:

18 The provisions of this section shall govern the simulcasting of races  
19 conducted at thoroughbred tracks located in another state or country on  
20 any day during which a franchised corporation is not conducting a race  
21 meeting in Saratoga county at Saratoga thoroughbred racetrack until June  
22 thirtieth, two thousand [fifteen] SIXTEEN. Every off-track betting  
23 corporation branch office and every simulcasting facility licensed in  
24 accordance with section one thousand seven that have entered into a  
25 written agreement with such facility's representative horsemen's organ-  
26 ization as approved by the commission, one thousand eight or one thou-  
27 sand nine of this article shall be authorized to accept wagers and  
28 display the live full-card simulcast signal of thoroughbred tracks  
29 (which may include quarter horse or mixed meetings provided that all  
30 such wagering on such races shall be construed to be thoroughbred races)  
31 located in another state or foreign country, subject to the following  
32 provisions; provided, however, no such written agreement shall be  
33 required of a franchised corporation licensed in accordance with section  
34 one thousand seven of this article:

35 S 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
36 wagering and breeding law, as amended by section 6 of part AA of chapter  
37 59 of the laws of 2014, is amended to read as follows:

38 Notwithstanding any other provision of this chapter, for the period  
39 July twenty-fifth, two thousand one through September eighth, two thou-  
40 sand [fourteen] FIFTEEN, when a franchised corporation is conducting a  
41 race meeting within the state at Saratoga Race Course, every off-track  
42 betting corporation branch office and every simulcasting facility  
43 licensed in accordance with section one thousand seven (that has entered  
44 into a written agreement with such facility's representative horsemen's  
45 organization as approved by the commission), one thousand eight or one  
46 thousand nine of this article shall be authorized to accept wagers and  
47 display the live simulcast signal from thoroughbred tracks located in  
48 another state, provided that such facility shall accept wagers on races  
49 run at all in-state thoroughbred tracks which are conducting racing  
50 programs subject to the following provisions; provided, however, no such  
51 written agreement shall be required of a franchised corporation licensed  
52 in accordance with section one thousand seven of this article.

53 S 7. Section 32 of chapter 281 of the laws of 1994, amending the  
54 racing, pari-mutuel wagering and breeding law and other laws relating  
55 to simulcasting, as amended by section 7 of part AA of chapter 59 of the  
56 laws of 2014, is amended to read as follows:

1 S 32. This act shall take effect immediately and the pari-mutuel tax  
2 reductions in section six of this act shall expire and be deemed  
3 repealed on July 1, [2015] 2016; provided, however, that nothing  
4 contained herein shall be deemed to affect the application, qualifica-  
5 tion, expiration, or repeal of any provision of law amended by any  
6 section of this act, and such provisions shall be applied or qualified  
7 or shall expire or be deemed repealed in the same manner, to the same  
8 extent and on the same date as the case may be as otherwise provided by  
9 law; provided further, however, that sections twenty-three and twenty-  
10 five of this act shall remain in full force and effect only until May 1,  
11 1997 and at such time shall be deemed to be repealed.

12 S 8. Section 54 of chapter 346 of the laws of 1990, amending the  
13 racing, pari-mutuel wagering and breeding law and other laws relating to  
14 simulcasting and the imposition of certain taxes, as amended by section  
15 8 of part AA of chapter 59 of the laws of 2014, is amended to read as  
16 follows:

17 S 54. This act shall take effect immediately; provided, however,  
18 sections three through twelve of this act shall take effect on January  
19 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
20 ing law, as added by section thirty-eight of this act, shall expire and  
21 be deemed repealed on July 1, [2015] 2016; and section eighteen of this  
22 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
23 two of this act shall take effect as of the same date as chapter 772 of  
24 the laws of 1989 took effect.

25 S 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
26 pari-mutuel wagering and breeding law, as amended by section 9 of part  
27 AA of chapter 59 of the laws of 2014, is amended to read as follows:

28 (a) The franchised corporation authorized under this chapter to  
29 conduct pari-mutuel betting at a race meeting or races run thereat shall  
30 distribute all sums deposited in any pari-mutuel pool to the holders of  
31 winning tickets therein, provided such tickets be presented for payment  
32 before April first of the year following the year of their purchase,  
33 less an amount which shall be established and retained by such fran-  
34 chised corporation of between twelve to seventeen per centum of the  
35 total deposits in pools resulting from on-track regular bets, and four-  
36 teen to twenty-one per centum of the total deposits in pools resulting  
37 from on-track multiple bets and fifteen to twenty-five per centum of the  
38 total deposits in pools resulting from on-track exotic bets and fifteen  
39 to thirty-six per centum of the total deposits in pools resulting from  
40 on-track super exotic bets, plus the breaks. The retention rate to be  
41 established is subject to the prior approval of the gaming commission.  
42 Such rate may not be changed more than once per calendar quarter to be  
43 effective on the first day of the calendar quarter. "Exotic bets" and  
44 "multiple bets" shall have the meanings set forth in section five  
45 hundred nineteen of this chapter. "Super exotic bets" shall have the  
46 meaning set forth in section three hundred one of this chapter. For  
47 purposes of this section, a "pick six bet" shall mean a single bet or  
48 wager on the outcomes of six races. The breaks are hereby defined as the  
49 odd cents over any multiple of five for payoffs greater than one dollar  
50 five cents but less than five dollars, over any multiple of ten for  
51 payoffs greater than five dollars but less than twenty-five dollars,  
52 over any multiple of twenty-five for payoffs greater than twenty-five  
53 dollars but less than two hundred fifty dollars, or over any multiple of  
54 fifty for payoffs over two hundred fifty dollars. Out of the amount so  
55 retained there shall be paid by such franchised corporation to the  
56 commissioner of taxation and finance, as a reasonable tax by the state

1 for the privilege of conducting pari-mutuel betting on the races run at  
2 the race meetings held by such franchised corporation, the following  
3 percentages of the total pool for regular and multiple bets five per  
4 centum of regular bets and four per centum of multiple bets plus twenty  
5 per centum of the breaks; for exotic wagers seven and one-half per  
6 centum plus twenty per centum of the breaks, and for super exotic bets  
7 seven and one-half per centum plus fifty per centum of the breaks. For  
8 the period June first, nineteen hundred ninety-five through September  
9 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be  
10 three per centum and such tax on multiple wagers shall be two and one-  
11 half per centum, plus twenty per centum of the breaks. For the period  
12 September tenth, nineteen hundred ninety-nine through March thirty-  
13 first, two thousand one, such tax on all wagers shall be two and six-  
14 tenths per centum and for the period April first, two thousand one  
15 through December thirty-first, two thousand [fifteen] SIXTEEN, such tax  
16 on all wagers shall be one and six-tenths per centum, plus, in each such  
17 period, twenty per centum of the breaks. Payment to the New York state  
18 thoroughbred breeding and development fund by such franchised corpo-  
19 ration shall be one-half of one per centum of total daily on-track pari-  
20 mutuel pools resulting from regular, multiple and exotic bets and three  
21 per centum of super exotic bets provided, however, that for the period  
22 September tenth, nineteen hundred ninety-nine through March thirty-  
23 first, two thousand one, such payment shall be six-tenths of one per  
24 centum of regular, multiple and exotic pools and for the period April  
25 first, two thousand one through December thirty-first, two thousand  
26 [fifteen] SIXTEEN, such payment shall be seven-tenths of one per centum  
27 of such pools.

28 S 10. This act shall take effect immediately.

29 PART OO

30 Section 1. Section 1602 of the tax law is amended by adding a new  
31 subdivision 6 to read as follows:

32 6. "VIDEO LOTTERY GAMING" MEANS ANY LOTTERY GAME PLAYED ON A VIDEO  
33 LOTTERY TERMINAL THAT ISSUES ELECTRONIC TICKETS, ALLOWS MULTIPLE PLAYERS  
34 TO PARTICIPATE IN THE SAME GAME AND DETERMINES WINNERS TO A MATERIAL  
35 DEGREE UPON THE ELEMENT OF CHANCE, NOTWITHSTANDING THAT THE SKILL OF A  
36 PLAYER MAY INFLUENCE SUCH PLAYER'S CHANCE OF WINNING A GAME. VIDEO  
37 LOTTERY GAMING MAY INCLUDE ELEMENTS OF PLAYER INTERACTION AFTER A PLAYER  
38 RECEIVES AN INITIAL CHANCE.

39 S 2. Subdivision 28 of section 225.00 of the penal law, as added by  
40 chapter 174 of the laws of 2013, is amended to read as follows:

41 28. "Video lottery gaming" [means any lottery game played on a video  
42 lottery terminal, which consists of multiple players competing for a  
43 chance to win a random drawn prize pursuant to section sixteen hundred  
44 seventeen-a and paragraph five of subdivision a of section sixteen  
45 hundred twelve of the tax law, as amended and implemented] HAS THE MEAN-  
46 ING SET FORTH IN SUBDIVISION SIX OF SECTION SIXTEEN HUNDRED TWO OF THE  
47 TAX LAW.

48 S 3. This act shall take effect on the thirtieth day after it shall  
49 have become a law.

50 PART PP

1 Section 1. Paragraph d of subdivision 1 of section 207 of the racing,  
2 pari-mutuel wagering and breeding law, as added by chapter 457 of the  
3 laws of 2012, is amended to read as follows:

4 d. The board, which shall become effective upon appointment of a  
5 majority of public members, shall terminate [three] FOUR years from its  
6 date of creation. The board shall propose, no less than one hundred  
7 eighty days prior to its termination, recommendations to the governor  
8 and the state legislature representing a statutory plan for the prospec-  
9 tive not-for-profit governing structure of The New York Racing Associ-  
10 ation, Inc.

11 S 2. This act shall take effect June 18, 2015.

12 PART QQ

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

16 SUBCHAPTER 3-A  
17 CORPORATE TAX OF 2015

18 SECTION 11-651 APPLICABILITY.

19 11-652 DEFINITIONS.

20 11-653 IMPOSITION OF TAX; EXEMPTIONS.

21 11-654 COMPUTATION OF TAX.

22 11-654.1 NET OPERATING LOSS.

23 11-654.2 RECEIPTS APPORTIONMENT.

24 11-654.3 COMBINED REPORTS.

25 11-655 REPORTS.

26 11-656 PAYMENT AND LIEN OF TAX.

27 11-657 DECLARATION OF ESTIMATED TAX.

28 11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX.

29 11-659 COLLECTION OF TAXES.

30 11-660 LIMITATIONS OF TIME.

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

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

51 S 11-652 DEFINITIONS. 1. (A) THE TERM "CORPORATION" INCLUDES (1) AN  
52 ASSOCIATION WITHIN THE MEANING OF PARAGRAPH THREE OF SUBSECTION (A) OF  
53 SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE (INCLUD-  
54 ING, WHEN APPLICABLE, A LIMITED LIABILITY COMPANY), (2) A JOINT-STOCK

1 COMPANY OR ASSOCIATION, (3) A PUBLICLY TRADED PARTNERSHIP TREATED AS A  
2 CORPORATION FOR PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO  
3 SECTION SEVENTY-SEVEN HUNDRED FOUR THEREOF AND (4) ANY BUSINESS  
4 CONDUCTED BY A TRUSTEE OR TRUSTEES WHEREIN INTEREST OR OWNERSHIP IS  
5 EVIDENCED BY CERTIFICATE OR OTHER WRITTEN INSTRUMENT;

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

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

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

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

29 2-A. THE TERM "TAXPAYER" MEANS ANY CORPORATION SUBJECT TO TAX UNDER  
30 THIS SUBCHAPTER.

31 3. INTENTIONALLY OMITTED.

32 3-A. THE TERM "STOCK" MEANS AN INTEREST IN A CORPORATION THAT IS  
33 TREATED AS EQUITY FOR FEDERAL INCOME TAX PURPOSES.

34 4. (A) THE TERM "INVESTMENT CAPITAL" MEANS INVESTMENTS IN STOCKS THAT  
35 ARE HELD BY THE TAXPAYER FOR MORE THAN SIX CONSECUTIVE MONTHS BUT ARE  
36 NOT AND HAVE NEVER BEEN USED BY THE TAXPAYER IN THE REGULAR COURSE OF  
37 BUSINESS, OR, IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPAR-  
38 AGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 11-654.2 OF  
39 THIS SUBCHAPTER, ARE NOT QUALIFIED FINANCIAL INSTRUMENTS AS DESCRIBED IN  
40 SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER. STOCK IN A  
41 CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER,  
42 STOCK IN A CORPORATION THAT IS INCLUDED IN A COMBINED REPORT WITH THE  
43 TAXPAYER PURSUANT TO THE COMMONLY OWNED GROUP ELECTION IN SUBDIVISION  
44 THREE OF SECTION 11-654.3 OF THIS SUBCHAPTER, AND STOCK ISSUED BY THE  
45 TAXPAYER SHALL NOT CONSTITUTE INVESTMENT CAPITAL. FOR PURPOSES OF THIS  
46 SUBDIVISION, IF THE TAXPAYER OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY,  
47 LESS THAN TWENTY PERCENT OF THE VOTING POWER OF THE STOCK OF A CORPO-  
48 RATION, THAT CORPORATION WILL BE PRESUMED TO BE CONDUCTING A BUSINESS  
49 THAT IS NOT UNITARY WITH THE BUSINESS OF THE TAXPAYER.

50 (B) THERE SHALL BE DEDUCTED FROM INVESTMENT CAPITAL ANY LIABILITIES  
51 WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO INVESTMENT CAPITAL. IF  
52 THE AMOUNT OF THOSE LIABILITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPI-  
53 TAL, THE AMOUNT OF INVESTMENT CAPITAL WILL BE ZERO.

54 (C) INVESTMENT CAPITAL SHALL NOT INCLUDE ANY SUCH INVESTMENTS THE  
55 INCOME FROM WHICH IS EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE  
56 PROVISIONS OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF THIS SECTION, AND

1 THAT INVESTMENT CAPITAL SHALL BE COMPUTED WITHOUT REGARD TO LIABILITIES  
2 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INVESTMENTS, BUT ONLY IF AIR  
3 CARRIERS ORGANIZED IN THE UNITED STATES AND OPERATING IN THE FOREIGN  
4 COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS ITS MAJOR BASE OF OPER-  
5 ATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR HEADQUARTERED (IF NOT  
6 IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO  
7 ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY  
8 OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF, OR IF TAXED, ARE  
9 PROVIDED AN EXEMPTION, EQUIVALENT TO THAT PROVIDED FOR HEREIN, FROM ANY  
10 TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR  
11 COUNTRIES AND FROM ANY SUCH TAX IMPOSED BY ANY POLITICAL SUBDIVISION  
12 THEREOF.

13 (D) IF A TAXPAYER ACQUIRES STOCK DURING THE SECOND HALF OF ITS TAXABLE  
14 YEAR AND OWNS THAT STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE  
15 PRESUMED, SOLELY FOR THE PURPOSES OF DETERMINING WHETHER THAT STOCK  
16 SHOULD BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, THAT  
17 THE TAXPAYER HELD THAT STOCK FOR MORE THAN SIX CONSECUTIVE MONTHS DURING  
18 THE TAXABLE YEAR. THIS PRESUMPTION SHALL APPLY ONLY IF THE TAXPAYER IN  
19 FACT OWNS THE STOCK AT THE TIME IT FILES ITS ORIGINAL REPORT FOR THE  
20 TAXABLE YEAR IN WHICH IT ACQUIRES THE STOCK. HOWEVER, IF THE TAXPAYER  
21 DOES NOT IN FACT HOLD THAT STOCK AS INVESTMENT CAPITAL FOR MORE THAN SIX  
22 CONSECUTIVE MONTHS, THE TAXPAYER MUST INCREASE ITS BUSINESS CAPITAL IN  
23 THE IMMEDIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT INCLUDED IN  
24 INVESTMENT CAPITAL FOR THAT STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE  
25 TO THAT STOCK COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION  
26 AND MUST INCREASE ITS BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING  
27 TAXABLE YEAR BY THE AMOUNT OF INCOME AND NET GAINS (BUT NOT LESS THAN  
28 ZERO) FROM THAT STOCK INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST  
29 DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS  
30 PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

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

35 5. (A) THE TERM "INVESTMENT INCOME" MEANS INCOME, INCLUDING CAPITAL  
36 GAINS IN EXCESS OF CAPITAL LOSSES, FROM INVESTMENT CAPITAL, TO THE  
37 EXTENT INCLUDED IN COMPUTING ENTIRE NET INCOME, LESS, IN THE DISCRETION  
38 OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS ALLOWABLE IN  
39 COMPUTING ENTIRE NET INCOME WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUT-  
40 ABLE TO INVESTMENT CAPITAL OR INVESTMENT INCOME, PROVIDED, HOWEVER, THAT  
41 IN NO CASE SHALL INVESTMENT INCOME EXCEED ENTIRE NET INCOME. IF THE  
42 AMOUNT OF INTEREST DEDUCTIONS SUBTRACTED UNDER THE PRECEDING SENTENCE  
43 EXCEEDS INVESTMENT INCOME, THE EXCESS OF SUCH AMOUNT OVER INVESTMENT  
44 INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME.

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

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

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



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

15 (C) "EXEMPT UNITARY CORPORATE DIVIDENDS" MEANS THOSE DIVIDENDS FROM A  
16 CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT  
17 IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE  
18 DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS  
19 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND  
20 INCOME RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER ELEVEN  
21 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO  
22 TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER ELEVEN  
23 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO  
24 TAXABLE UNDER THIS SUBCHAPTER) IF SUBJECT TO TAX, IN LIEU OF SUBTRACTING  
25 FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY  
26 ELECT TO REDUCE THE TOTAL AMOUNT OF THIS DIVIDEND INCOME BY FORTY  
27 PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO  
28 MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF  
29 THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A TAXPAYER THAT DOES  
30 NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED ANY EXEMPT UNITARY  
31 CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING THIS ELECTION FOR  
32 DIVIDENDS RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER  
33 ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE  
34 ALSO TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER  
35 ELEVEN OF THIS TITLE IF SUBJECT TO TAX (EXCEPT FOR VENDORS OF UTILITY  
36 SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) WILL NOT BE  
37 PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

38 (D) IF THE TAXPAYER ATTRIBUTES INTEREST DEDUCTIONS TO OTHER EXEMPT  
39 INCOME AND THE AMOUNT DEDUCTED EXCEEDS OTHER EXEMPT INCOME, THE EXCESS  
40 OF THE INTEREST DEDUCTIONS OVER OTHER EXEMPT INCOME MUST BE ADDED BACK  
41 TO ENTIRE NET INCOME. IN NO CASE SHALL OTHER EXEMPT INCOME EXCEED ENTIRE  
42 NET INCOME.

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

45 6. (A) THE TERM "BUSINESS CAPITAL" MEANS ALL ASSETS, OTHER THAN  
46 INVESTMENT CAPITAL AND STOCK ISSUED BY THE TAXPAYER, LESS LIABILITIES  
47 NOT DEDUCTED FROM INVESTMENT CAPITAL; PROVIDED, HOWEVER, BUSINESS CAPI-  
48 TAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME, LOSS OR EXPENSE OF WHICH  
49 ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT  
50 FULLY DEPRECIATED OR EXPENSED OR DEPRECIATED OR EXPENSED TO A NOMINAL  
51 AMOUNT) IN THE COMPUTATION OF ENTIRE NET INCOME FOR THE TAXABLE YEAR.

52 (B) PROVIDED, FURTHER, "BUSINESS CAPITAL" SHALL NOT INCLUDE ASSETS TO  
53 THE EXTENT EMPLOYED FOR THE PURPOSE OF GENERATING INCOME WHICH IS  
54 EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE PROVISIONS OF PARAGRAPH  
55 (C-1) OF SUBDIVISION EIGHT OF THIS SECTION AND SHALL BE COMPUTED WITHOUT  
56 REGARD TO LIABILITIES DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH

1 ASSETS, BUT ONLY IF AIR CARRIERS ORGANIZED IN THE UNITED STATES AND  
2 OPERATING IN THE FOREIGN COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS  
3 ITS MAJOR BASE OF OPERATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR  
4 HEADQUARTERED (IF NOT IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPER-  
5 ATIONS) ARE NOT SUBJECT TO ANY TAX BASED ON OR MEASURED BY CAPITAL  
6 IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVI-  
7 SION THEREOF, OR IF TAXED, ARE PROVIDED AN EXEMPTION, EQUIVALENT TO THAT  
8 PROVIDED FOR HEREIN, FROM ANY TAX BASED ON OR MEASURED BY CAPITAL  
9 IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES AND FROM ANY SUCH TAX  
10 IMPOSED BY ANY POLITICAL SUBDIVISION THEREOF.

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

17 8. THE TERM "ENTIRE NET INCOME" MEANS TOTAL NET INCOME FROM ALL SOURC-  
18 ES, WHICH SHALL BE PRESUMABLY THE SAME AS THE ENTIRE TAXABLE INCOME (BUT  
19 NOT ALTERNATIVE MINIMUM TAXABLE INCOME), WHICH EXCEPT AS HEREAFTER  
20 PROVIDED IN THIS SUBDIVISION.

21 1. THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY  
22 DEPARTMENT, OR

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

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

35 (A) ENTIRE NET INCOME SHALL NOT INCLUDE:

36 (1) INTENTIONALLY OMITTED;

37 (2) INTENTIONALLY OMITTED;

38 (2-A) ANY AMOUNTS TREATED AS DIVIDENDS PURSUANT TO SECTION  
39 SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE AND NOT OTHERWISE DEDUCTIBLE  
40 UNDER SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH;

41 (3) BONA FIDE GIFTS;

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

47 (5) ANY REFUND OR CREDIT OF A TAX IMPOSED UNDER THIS CHAPTER, OR  
48 IMPOSED BY ARTICLE NINE, NINE-A, TWENTY-THREE, OR FORMER ARTICLE THIR-  
49 TY-TWO OF THE TAX LAW, FOR WHICH TAX NO EXCLUSION OR DEDUCTION WAS  
50 ALLOWED IN DETERMINING THE TAXPAYER'S ENTIRE NET INCOME UNDER THIS  
51 SUBCHAPTER, SUBCHAPTER TWO, OR SUBCHAPTER THREE OF THIS CHAPTER FOR ANY  
52 PRIOR YEAR;

53 (6) INTENTIONALLY OMITTED;

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

(8) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUTING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND 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, ANY AMOUNT WHICH IS INCLUDED IN THE TAXPAYER'S FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUTING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND 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, ANY AMOUNT WHICH THE TAXPAYER COULD HAVE EXCLUDED FROM FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PROVIDED FOR IN SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(10) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (J) OF THIS SUBDIVISION;

(11) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUTABLE TO SUCH PROPERTY EXCEEDS THE AGGREGATE OF THE AMOUNTS DESCRIBED IN PARAGRAPH (J) OF THIS SUBDIVISION ATTRIBUTABLE TO SUCH PROPERTY;

(12) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (K) OF THIS SUBDIVISION;

(13) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (O) OF THIS SUBDIVISION; AND

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

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

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

(1) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, (I) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK, SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED STATES PURSUANT TO SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER

1 ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME  
2 WOULD BE TREATED AS EFFECTIVELY CONNECTED IN THE ABSENCE OF SUCH  
3 EXEMPTION PROVIDED THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE  
4 TAXATION OF SUCH INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE  
5 TREATED AS EFFECTIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM  
6 GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION ONE HUNDRED THREE OR  
7 THE INTERNAL REVENUE CODE;

8 (2) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF  
9 STOCK, SECURITIES, OR INDEBTEDNESS;

10 (3) TAXES ON OR MEASURED BY PROFITS OR INCOME PAID OR ACCRUED TO THE  
11 UNITED STATES, ANY OF ITS POSSESSIONS, TERRITORIES OR COMMONWEALTHS,  
12 INCLUDING TAXES IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERAL-  
13 LY IMPOSED BY ANY POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED  
14 STATES, OR TAXES PAID OR ACCRUED TO THE STATE UNDER ARTICLE NINE,  
15 NINE-A, THIRTEEN-A OR THIRTY-TWO OF THE TAX LAW AS IN EFFECT ON DECEMBER  
16 THIRTY-FIRST, TWO THOUSAND FOURTEEN;

17 (3-A) TAXES ON OR MEASURED BY PROFITS OR INCOME, OR WHICH INCLUDE  
18 PROFITS OR INCOME AS A MEASURE, PAID OR ACCRUED TO ANY OTHER STATE OF  
19 THE UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR TO THE  
20 DISTRICT OF COLUMBIA, INCLUDING TAXES EXPRESSLY IN LIEU OF ANY OF THE  
21 FOREGOING TAXES OTHERWISE GENERALLY IMPOSED BY ANY OTHER STATE OF THE  
22 UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF  
23 COLUMBIA;

24 (4) TAXES IMPOSED UNDER THIS CHAPTER;

25 (4-A) INTENTIONALLY OMITTED;

26 (4-B) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE  
27 TAX LAW IN DETERMINING THE ENTIRE TAXABLE INCOME FOR A RELOCATION  
28 DESCRIBED IN SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER  
29 WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY  
30 DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS  
31 NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVI-  
32 SION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

33 (4-C) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE  
34 TAX LAW FOR A RELOCATION DESCRIBED IN SUBDIVISION FOURTEEN OF SECTION  
35 11-654 OF THIS SUBCHAPTER IN DETERMINING THE ENTIRE TAXABLE INCOME WHICH  
36 THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPART-  
37 MENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT  
38 IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION  
39 FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

40 (4-D) INTENTIONALLY OMITTED;

41 (4-E) INTENTIONALLY OMITTED;

42 (5) INTENTIONALLY OMITTED;

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

46 (7) ANY AMOUNT BY REASON OF THE GRANTING, ISSUING OR ASSUMING OF A  
47 RESTRICTED STOCK OPTION, AS DEFINED IN THE INTERNAL REVENUE CODE OF  
48 NINETEEN HUNDRED FIFTY-FOUR, OR BY REASON OF THE TRANSFER OF THE SHARE  
49 OF STOCK UPON THE EXERCISE OF THE OPTION, UNLESS SUCH SHARE IS DISPOSED  
50 OF BY THE GRANTEE OF THE OPTION WITHIN TWO YEARS FROM THE DATE OF THE  
51 GRANTING OF THE OPTION OR WITHIN SIX MONTHS AFTER THE TRANSFER OF SUCH  
52 SHARE TO THE GRANTEE;

53 (8) INTENTIONALLY OMITTED;

54 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-  
55 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF  
56 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVEN-

UE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND 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, ANY AMOUNT WHICH THE TAXPAYER CLAIMED AS A DEDUCTION IN COMPUTING ITS FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(10) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUTING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND 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, ANY AMOUNT WHICH THE TAXPAYER WOULD HAVE BEEN REQUIRED TO INCLUDE IN THE COMPUTATION OF ITS FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PERMITTED PURSUANT TO SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(11) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY-F OF THE INTERNAL REVENUE CODE, PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR AND 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, THE AMOUNT ALLOWABLE AS A DEDUCTION DETERMINED UNDER SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE;

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

(13) INTENTIONALLY OMITTED;

(14) INTENTIONALLY OMITTED;

(15) INTENTIONALLY OMITTED;

(16) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF 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 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 CONSTRUCTION, RECONSTRUCTION, ERECTION OR IMPROVEMENT OF INDUSTRIAL WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES.

(1)(I) THE TERM "INDUSTRIAL WASTE TREATMENT FACILITIES" SHALL MEAN FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF INDUSTRIAL WASTE (AS THE TERM "INDUSTRIAL WASTE" IS DEFINED IN SECTION 17-0105 OF THE ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT OF SUCH TREATMENT, NEUTRALIZATION OR STABILIZATION TO THE POINT OF DISPOSAL, INCLUDING THE NECESSARY PUMPING AND TRANSMITTING FACILITIES, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY

PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE.

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

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

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

(III) ON CONDITION THAT ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE YEARS BE COMPUTED WITHOUT ANY DEDUCTIONS FOR SUCH EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY OTHER THAN THE DEDUCTIONS ALLOWED BY THIS PARAGRAPH EXCEPT TO THE EXTENT THAT THE BASIS OF THE PROPERTY MAY BE ATTRIBUTABLE TO FACTORS OTHER THAN SUCH EXPENDITURES, OR IN CASE A DEDUCTION IS ALLOWABLE PURSUANT TO THIS PARAGRAPH FOR ONLY A PART OF SUCH EXPENDITURES, ON CONDITION THAT ANY DEDUCTION ALLOWED FOR FEDERAL INCOME TAX PURPOSES FOR SUCH EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY BE PROPORTIONATELY REDUCED IN COMPUTING ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE YEARS, AND

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

(3)(I) IF EXPENDITURES IN RESPECT TO AN INDUSTRIAL WASTE TREATMENT FACILITY OR AN AIR POLLUTION CONTROL FACILITY HAVE BEEN DEDUCTED AS PROVIDED HEREIN AND IF WITHIN TEN YEARS FROM THE END OF THE TAXABLE YEAR IN WHICH SUCH DEDUCTION WAS ALLOWED SUCH PROPERTY OR ANY PART THEREOF IS USED FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE, THE TAXPAYER SHALL REPORT SUCH CHANGE OF USE IN ITS REPORT FOR THE FIRST TAXABLE YEAR DURING WHICH IT OCCURS, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH

1 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION  
2 THREE OF SECTION 11-674 OF THIS CHAPTER.

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

15 (4) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED  
16 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO THIS  
17 PARAGRAPH, SUCH DEDUCTION SHALL BE DISREGARDED IN COMPUTING GAIN OR  
18 LOSS, AND THE GAIN OR LOSS ON THE SALE OR OTHER DISPOSITION OF SUCH  
19 PROPERTY SHALL BE THE GAIN OR LOSS ENTERING INTO THE COMPUTATION OF  
20 ENTIRE TAXABLE INCOME WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE  
21 UNITED STATES TREASURY FOR SUCH TAXABLE YEAR;

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

46 (I) IF THE PERIOD COVERED BY A REPORT UNDER THIS SUBCHAPTER IS OTHER  
47 THAN THE PERIOD COVERED BY THE REPORT OF THE UNITED STATES TREASURY  
48 DEPARTMENT, ENTIRE NET INCOME SHALL BE DETERMINED BY MULTIPLYING THE  
49 FEDERAL TAXABLE INCOME (AS ADJUSTED PURSUANT TO THE PROVISIONS OF THIS  
50 SUBCHAPTER) BY THE NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF  
51 COVERED BY THE REPORT UNDER THIS SUBCHAPTER AND DIVIDING BY THE NUMBER  
52 OF CALENDAR MONTHS OR MAJOR PARTS THEREOF COVERED BY THE REPORT TO SUCH  
53 DEPARTMENT. IF IT SHALL APPEAR THAT SUCH METHOD OF DETERMINING ENTIRE  
54 NET INCOME DOES NOT PROPERLY REFLECT THE TAXPAYER'S INCOME DURING THE  
55 PERIOD COVERED BY THE REPORT UNDER THIS SUBCHAPTER, THE COMMISSIONER OF  
56 FINANCE SHALL BE AUTHORIZED IN HIS OR HER DISCRETION TO DETERMINE SUCH



1 ENTIRE NET INCOME SOLELY ON THE BASIS OF THE TAXPAYER'S INCOME DURING  
2 THE PERIOD COVERED BY ITS REPORT UNDER THIS SUBCHAPTER.

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

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

40 (L) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (K) OF THIS  
41 SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE  
42 NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS  
43 FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH TWELVE OF PARAGRAPH (A)  
44 AND SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUT-  
45 ABLE TO SUCH PROPERTY.

46 (M) FOR PURPOSES OF THIS PARAGRAPH AND PARAGRAPH (L) OF THIS SUBDIVI-  
47 SION, QUALIFIED RESURGENCE ZONE PROPERTY SHALL MEAN QUALIFIED PROPERTY  
48 DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (K) OF SECTION ONE HUNDRED  
49 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE SUBSTANTIALLY ALL OF THE USE OF  
50 WHICH IS IN THE RESURGENCE ZONE, AS DEFINED BELOW, AND IS IN THE ACTIVE  
51 CONDUCT OF A TRADE OR BUSINESS BY THE TAXPAYER IN SUCH ZONE, AND THE  
52 ORIGINAL USE OF WHICH IN THE RESURGENCE ZONE COMMENCES WITH THE TAXPAYER  
53 AFTER SEPTEMBER TENTH, TWO THOUSAND ONE. THE RESURGENCE ZONE SHALL MEAN  
54 THE AREA OF NEW YORK COUNTY BOUNDED ON THE SOUTH BY A LINE RUNNING FROM  
55 THE INTERSECTION OF THE HUDSON RIVER WITH THE HOLLAND TUNNEL, AND  
56 RUNNING THENCE EAST TO CANAL STREET, THEN RUNNING ALONG THE CENTERLINE

1 OF CANAL STREET TO THE INTERSECTION OF THE BOWERY AND CANAL STREET,  
2 RUNNING THENCE IN A SOUTHEASTERLY DIRECTION DIAGONALLY ACROSS MANHATTAN  
3 BRIDGE PLAZA, TO THE MANHATTAN BRIDGE, AND THENCE ALONG THE CENTERLINE  
4 OF THE MANHATTAN BRIDGE TO THE POINT WHERE THE CENTERLINE OF THE MANHAT-  
5 TAN BRIDGE WOULD INTERSECT WITH THE EASTERLY BANK OF THE EAST RIVER, AND  
6 BOUNDED ON THE NORTH BY A LINE RUNNING FROM THE INTERSECTION OF THE  
7 HUDSON RIVER WITH THE HOLLAND TUNNEL AND RUNNING THENCE NORTH ALONG WEST  
8 AVENUE TO THE INTERSECTION OF CLARKSON STREET THEN RUNNING EAST ALONG  
9 THE CENTERLINE OF CLARKSON STREET TO THE INTERSECTION OF WASHINGTON  
10 AVENUE, THEN RUNNING SOUTH ALONG THE CENTERLINE OF WASHINGTON AVENUE TO  
11 THE INTERSECTION OF WEST HOUSTON STREET, THEN EAST ALONG THE CENTERLINE  
12 OF WEST HOUSTON STREET, THEN AT THE INTERSECTION OF THE AVENUE OF THE  
13 AMERICAS CONTINUING EAST ALONG THE CENTERLINE OF EAST HOUSTON STREET TO  
14 THE EASTERLY BANK OF THE EAST RIVER.

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

20 (II) "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATU-  
21 TORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED  
22 MEMBER'S NET INCOME MULTIPLIED BY THE APPORTIONMENT PERCENTAGE, IF ANY,  
23 APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION.  
24 FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY  
25 CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID  
26 CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE  
27 TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN  
28 THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR  
29 PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX  
30 FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR  
31 OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE  
32 RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR  
33 COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF  
34 TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY  
35 RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY  
36 SUCH CREDIT OR SIMILAR ADJUSTMENT.

37 (III) ROYALTY PAYMENTS ARE PAYMENTS DIRECTLY CONNECTED TO THE ACQUISSI-  
38 TION, USE, MAINTENANCE OR MANAGEMENT, OWNERSHIP, SALE, EXCHANGE, OR ANY  
39 OTHER DISPOSITION OF LICENSES, TRADEMARKS, COPYRIGHTS, TRADE NAMES,  
40 TRADE DRESS, SERVICE MARKS, MASK WORKS, TRADE SECRETS, PATENTS AND ANY  
41 OTHER SIMILAR TYPES OF INTANGIBLE ASSETS AS DETERMINED BY THE COMMIS-  
42 SIONER OF FINANCE, AND INCLUDE AMOUNTS ALLOWABLE AS INTEREST DEDUCTIONS  
43 UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE INTERNAL REVENUE CODE TO  
44 THE EXTENT SUCH AMOUNTS ARE DIRECTLY OR INDIRECTLY FOR, RELATED TO OR IN  
45 CONNECTION WITH THE ACQUISITION, USE, MAINTENANCE OR MANAGEMENT, OWNER-  
46 SHIP, SALE, EXCHANGE OR DISPOSITION OF SUCH INTANGIBLE ASSETS.

47 (IV) A VALID BUSINESS PURPOSE IS ONE OR MORE BUSINESS PURPOSES, OTHER  
48 THAN THE AVOIDANCE OR REDUCTION OF TAXATION, WHICH ALONE OR IN COMBINA-  
49 TION CONSTITUTE THE PRIMARY MOTIVATION FOR SOME BUSINESS ACTIVITY OR  
50 TRANSACTION, WHICH ACTIVITY OR TRANSACTION CHANGES IN A MEANINGFUL WAY,  
51 APART FROM TAX EFFECTS, THE ECONOMIC POSITION OF THE TAXPAYER. THE  
52 ECONOMIC POSITION OF THE TAXPAYER INCLUDES AN INCREASE IN THE MARKET  
53 SHARE OF THE TAXPAYER, OR THE ENTRY BY THE TAXPAYER INTO NEW BUSINESS  
54 MARKETS.

55 (2) ROYALTY EXPENSE ADD BACKS. (I) EXCEPT WHERE A TAXPAYER IS INCLUDED  
56 IN A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER

1 WITH THE APPLICABLE RELATED MEMBER, FOR THE PURPOSE OF COMPUTING ENTIRE  
2 NET INCOME OR OTHER APPLICABLE TAXABLE BASIS, A TAXPAYER MUST ADD BACK  
3 ROYALTY PAYMENTS DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN  
4 CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR  
5 MORE RELATED MEMBERS DURING THE TAXABLE YEAR TO THE EXTENT DEDUCTIBLE IN  
6 CALCULATING FEDERAL TAXABLE INCOME.

7 (II) EXCEPTIONS. (A) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL  
8 NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB-  
9 LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM  
10 SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING  
11 REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR  
12 ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBI-  
13 NATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID,  
14 ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE  
15 SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH  
16 PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS-  
17 ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE  
18 RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

19 (B) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE  
20 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND  
21 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE  
22 RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN  
23 THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION  
24 THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT  
25 PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE  
26 EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC-  
27 TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT  
28 APPLIED TO THE TAXPAYER UNDER SECTION 11-604 OF THIS CHAPTER FOR THE  
29 TAXABLE YEAR.

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

44 (D) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE  
45 TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLI-  
46 CATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMIS-  
47 SIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICA-  
48 TION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE  
49 CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE  
50 TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

51 (O) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS  
52 DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE  
53 DEDUCTIONS ALLOWABLE UNDER SECTIONS ONE HUNDRED SEVENTY-NINE, ONE  
54 HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
55 CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER  
56 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 OF WHICH IS THE GROSS INTEREST INCOME DURING THE TAXABLE YEAR FROM ALL LOANS.

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

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

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

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

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

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

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

21 (A) THE LOAN IS ORIGINATED BY THE QUALIFIED COMMUNITY BANK OR SMALL  
22 THRIFT INSTITUTION OR PURCHASED BY THE QUALIFIED COMMUNITY BANK OR SMALL  
23 THRIFT INSTITUTION IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH  
24 A COMMITMENT TO PURCHASE MADE BY THE BANK OR THRIFT INSTITUTION PRIOR TO  
25 THE LOAN'S ORIGINATION.

26 (B) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,  
27 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND  
28 EITHER THE BORROWER IS LOCATED IN THIS CITY AS DETERMINED UNDER SECTION  
29 11-654.2 OF THIS SUBCHAPTER AND THE LOAN IS NOT SECURED BY REAL PROPER-  
30 TY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN THE CITY.

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

36 (R) A SMALL THRIFT INSTITUTION OR A QUALIFIED COMMUNITY BANK, AS  
37 DEFINED IN PARAGRAPH (Q) OF THIS SUBDIVISION, THAT MAINTAINED A CAPTIVE  
38 REIT ON APRIL FIRST, TWO THOUSAND FOURTEEN SHALL UTILIZE A REIT  
39 SUBTRACTION EQUAL TO ONE HUNDRED SIXTY PERCENT OF THE DIVIDENDS PAID  
40 DEDUCTIONS ALLOWED TO THAT CAPTIVE REIT FOR THE TAXABLE YEAR FOR FEDERAL  
41 INCOME TAX PURPOSES AND SHALL NOT BE ALLOWED TO UTILIZE THE SUBTRACTION  
42 MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS UNDER PARAGRAPH (Q)  
43 OF THIS SUBDIVISION OR THE SUBTRACTION MODIFICATION FOR QUALIFIED RESI-  
44 DENTIAL LOAN PORTFOLIOS UNDER PARAGRAPH (S) OF THIS SUBDIVISION IN ANY  
45 TAX YEAR IN WHICH SUCH THRIFT INSTITUTION OR COMMUNITY BANK MAINTAINS  
46 THAT CAPTIVE REIT.

47 (S) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFO-  
48 LIOS. (1)(I) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED  
49 IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS  
50 DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (Q) OF THIS SUBDIVISION AND  
51 MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARA-  
52 GRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING  
53 ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (A) THIRTY-TWO PERCENT OF  
54 ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH  
55 EXCEEDS (B) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS

166 AND 585 OF THE INTERNAL REVENUE CODE LESS ANY AMOUNTS INCLUDED IN FEDERAL TAXABLE INCOME AS A RESULT OF A RECOVERY OF A LOAN.

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

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

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

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

(IV) INTERCORPORATE STOCKHOLDINGS AND BILLS, NOTES AND ACCOUNTS RECEIVABLE, AND OTHER INTERCORPORATE INDEBTEDNESS BETWEEN THE CORPORATIONS INCLUDED IN THE COMBINED REPORT SHALL BE ELIMINATED.

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

(2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (I) A TAXPAYER MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS DESCRIBED IN SUBCLAUSES (A) THROUGH (L) OF THIS CLAUSE, WITH THE APPLICATION OF THE RULE IN THE LAST UNDESIGNATED SUBCLAUSE OF THIS CLAUSE. IF THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNITY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP. ASSETS: (A) CASH, WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH ITEMS IN THE PROCESS OF COLLECTION, DEPOSITS WITH OTHER FINANCIAL INSTITUTIONS, INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL RESERVE BANKS AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH AND CASH EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERVING AS COLLATERAL FOR SECURITIES LENDING TRANSACTIONS; (B) OBLIGATIONS OF THE UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERNMENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF; (C) LOANS SECURED BY A DEPOSIT OR SHARE OF A MEMBER; (D) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR, FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS SUBCLAUSE, RESI-

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

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

37 (II) AT THE ELECTION OF THE TAXPAYER, THE PERCENTAGE SPECIFIED IN  
38 CLAUSE (I) OF THIS SUBPARAGRAPH SHALL BE APPLIED ON THE BASIS OF THE  
39 AVERAGE ASSETS OUTSTANDING DURING THE TAXABLE YEAR, IN LIEU OF THE CLOSE  
40 OF THE TAXABLE YEAR. THE TAXPAYER CAN ELECT TO COMPUTE AN AVERAGE USING  
41 THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR AND ON THE LAST  
42 DAY OF EACH SUBSEQUENT QUARTER, OR MONTH OR DAY DURING THE TAXABLE YEAR.  
43 THIS ELECTION MAY BE MADE ANNUALLY.

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

51 (IV) FOR PURPOSES OF SUBCLAUSE (D) OF CLAUSE (I) OF THIS SUBPARAGRAPH,  
52 LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE  
53 DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY  
54 IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESI-  
55 DENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF  
56 ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY

1 TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES  
2 RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY  
3 INTEREST IN A REMIC QUALIFIES UNDER SUBCLAUSE (F) OF CLAUSE (I) OF THIS  
4 SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC  
5 SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING SUBCLAUSE UNDER  
6 PRINCIPLES SIMILAR TO THE PRINCIPLE OF SUCH SUBCLAUSE (F), EXCEPT THAT  
7 IF SUCH REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS  
8 ONE REMIC FOR PURPOSES OF SUCH SUBCLAUSE (F).

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

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

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

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

36 11. THE TERM "INTERNAL REVENUE CODE" MEANS, UNLESS OTHERWISE SPECIF-  
37 ICALLY STATED IN THIS SUBCHAPTER, THE INTERNAL REVENUE CODE OF 1986, AS  
38 AMENDED.

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

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

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

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

53 FOR PURPOSES OF THIS SUBDIVISION, "AFFILIATED GROUP" HAS THE SAME  
54 MEANING AS THAT TERM IS GIVEN IN SECTION FIFTEEN HUNDRED FOUR OF THE  
55 INTERNAL REVENUE CODE, EXCEPT THAT THE TERM "COMMON PARENT CORPORATION"  
56 IN THAT SECTION IS DEEMED TO MEAN ANY PERSON, AS DEFINED IN SECTION



1 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE AND REFER-  
2 ENCES TO "AT LEAST EIGHTY PERCENT" IN SECTION FIFTEEN HUNDRED FOUR OF  
3 THE INTERNAL REVENUE CODE ARE TO BE READ AS "FIFTY PERCENT OR MORE;"  
4 SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE IS TO BE READ  
5 WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF THAT  
6 SECTION; "PREMIUMS" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN PARA-  
7 GRAPH ONE OF SUBDIVISION (C) OF SECTION FIFTEEN HUNDRED TEN OF THE TAX  
8 LAW, EXCEPT THAT IT INCLUDES CONSIDERATION FOR ANNUITY CONTRACTS AND  
9 EXCLUDES ANY PART OF THE CONSIDERATION FOR INSURANCE, REINSURANCE OR  
10 ANNUITY CONTRACTS THAT DO NOT PROVIDE BONA FIDE INSURANCE, REINSURANCE  
11 OR ANNUITY BENEFITS; AND "GROSS RECEIPTS" INCLUDES THE AMOUNTS INCLUDED  
12 IN GROSS RECEIPTS FOR PURPOSES OF PARAGRAPH FIFTEEN OF SUBSECTION (C) OF  
13 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT THOSE  
14 AMOUNTS ALSO INCLUDE ALL PREMIUMS AS DEFINED IN THIS SUBDIVISION.

15 13. THE TERM "PARTNERSHIP" INCLUDES A SYNDICATE, GROUP, POOL, JOINT  
16 VENTURE, OR OTHER UNINCORPORATED ORGANIZATION, THROUGH OR BY MEANS OF  
17 WHICH ANY BUSINESS, FINANCIAL OPERATION, OR VENTURE IS CARRIED ON, AND  
18 WHICH IS NOT A CORPORATION AS DEFINED BY SUBDIVISION ONE OF THIS  
19 SECTION, OR A TRUST OR ESTATE THAT IS SEPARATE FROM ITS OWNER UNDER PART  
20 ONE OF SUBCHAPTER J OF CHAPTER ONE OF SUBTITLE A OF THE INTERNAL REVENUE  
21 CODE; AND THE TERM "PARTNER" INCLUDES A MEMBER IN SUCH SYNDICATE, GROUP,  
22 POOL, JOINT VENTURE, OR ORGANIZATION.

23 S 11-653 IMPOSITION OF TAX; EXEMPTIONS. 1. (A) FOR THE PRIVILEGE OF  
24 DOING BUSINESS, OR OF EMPLOYING CAPITAL, OR OF OWNING OR LEASING PROPER-  
25 TY IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY, OR OF MAINTAINING  
26 AN OFFICE IN THE CITY, OR OF DERIVING RECEIPTS FROM ACTIVITY IN THE  
27 CITY, FOR ALL OR ANY PART OF EACH OF ITS FISCAL OR CALENDAR YEARS, EVERY  
28 DOMESTIC OR FOREIGN CORPORATION, EXCEPT CORPORATIONS SPECIFIED IN SUBDI-  
29 VISION FOUR OF THIS SECTION, SHALL ANNUALLY PAY A TAX, UPON THE BASIS OF  
30 ITS BUSINESS INCOME, OR UPON SUCH OTHER BASIS AS MAY BE APPLICABLE AS  
31 HEREINAFTER PROVIDED, FOR SUCH FISCAL OR CALENDAR YEAR OR PART THEREOF,  
32 ON A REPORT WHICH SHALL BE FILED, EXCEPT AS HEREINAFTER PROVIDED, ON OR  
33 BEFORE THE FIFTEENTH DAY OF MARCH NEXT SUCCEEDING THE CLOSE OF EACH SUCH  
34 YEAR, OR, IN THE CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A  
35 FISCAL YEAR, WITHIN TWO AND ONE-HALF MONTHS AFTER THE CLOSE OF SUCH  
36 FISCAL YEAR, AND SHALL BE PAID AS HEREINAFTER PROVIDED.

37 (B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THE CITY IF IT  
38 HAS RECEIPTS WITHIN THE CITY OF ONE MILLION DOLLARS OR MORE IN THE TAXA-  
39 BLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM "RECEIPTS" MEANS THE  
40 RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT RULES SET FORTH IN  
41 SECTION 11-654.2 OF THIS SUBCHAPTER, AND THE TERM "RECEIPTS WITHIN THE  
42 CITY" MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE RECEIPTS  
43 PERCENTAGE DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER. FOR  
44 PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANS-  
45 ACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE  
46 CORPORATION.

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

1 SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND  
2 ENTERTAINMENT CARDS.

3 (D)(1) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST  
4 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE CITY IN A TAXABLE YEAR THAT  
5 IS PART OF A UNITARY GROUP UNDER SECTION 11-654.3 OF THIS SUBCHAPTER IS  
6 DERIVING RECEIPTS FROM ACTIVITY IN THE CITY IF THE RECEIPTS WITHIN THE  
7 CITY OF THE MEMBERS OF THE UNITARY GROUP THAT HAVE AT LEAST TEN THOUSAND  
8 DOLLARS OF RECEIPTS WITHIN THE CITY IN THE AGGREGATE MEET THE THRESHOLD  
9 SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

10 (2) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH  
11 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR  
12 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C) OF  
13 THIS SUBDIVISION, AND IS PART OF A UNITARY GROUP THAT MEETS THE OWNER-  
14 SHIP TEST UNDER SECTION 11-654.3 OF THIS SUBCHAPTER IS DOING BUSINESS IN  
15 THE CITY IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR CUSTOMERS AND  
16 LOCATIONS, WITHIN THE CITY OF THE MEMBERS OF THE UNITARY GROUP THAT HAVE  
17 AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN  
18 THE CITY IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH IN PARA-  
19 GRAPH (C) OF THIS SUBDIVISION.

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

33 (F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR  
34 LEASING PROPERTY IN THE CITY, MAINTAINING AN OFFICE IN THE CITY, OR  
35 DERIVING RECEIPTS FROM ACTIVITY IN THE CITY, ANY CORPORATION THAT IS A  
36 PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO TAX UNDER THIS SUBCHAP-  
37 TER AS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER OF FINANCE.

38 2. A CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS, EMPLOYING  
39 CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THE  
40 CITY, OR DERIVING RECEIPTS FROM ACTIVITY IN THE CITY, FOR THE PURPOSES  
41 OF THIS SUBCHAPTER, BY REASON OF

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

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

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

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

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

5 (F) ANY COMBINATION OF THE FOREGOING ACTIVITIES.

6 2-A. AN ALIEN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS,  
7 EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE  
8 IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, IF ITS ACTIVITIES IN  
9 THE CITY ARE LIMITED SOLELY TO

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

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

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

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

31 3. ANY RECEIVER, REFEREE, TRUSTEE, ASSIGNEE OR OTHER FIDUCIARY, OR ANY  
32 OFFICER OR AGENT APPOINTED BY ANY COURT, WHO CONDUCTS THE BUSINESS OF  
33 ANY CORPORATION, SHALL BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER  
34 IN THE SAME MANNER AND TO THE SAME EXTENT AS IF THE BUSINESS WERE  
35 CONDUCTED BY THE AGENTS OR OFFICERS OF SUCH CORPORATION. A DISSOLVED  
36 CORPORATION WHICH CONTINUES TO CONDUCT BUSINESS SHALL ALSO BE SUBJECT TO  
37 THE TAX IMPOSED BY THIS SUBCHAPTER.

38 4. (A) CORPORATIONS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE,  
39 ANY TRUST COMPANY ORGANIZED UNDER A LAW OF THIS STATE ALL OF THE STOCK  
40 OF WHICH IS OWNED BY NOT LESS THAN TWENTY SAVINGS BANKS ORGANIZED UNDER  
41 A LAW OF THIS STATE, HOUSING COMPANIES ORGANIZED AND OPERATING PURSUANT  
42 TO THE PROVISIONS OF ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW,  
43 HOUSING DEVELOPMENT FUND COMPANIES ORGANIZED PURSUANT TO THE PROVISIONS  
44 OF ARTICLE ELEVEN OF THE PRIVATE HOUSING FINANCE LAW, CORPORATIONS  
45 DESCRIBED IN SECTION THREE OF THE TAX LAW, A CORPORATION PRINCIPALLY  
46 ENGAGED IN THE OPERATION OF MARINE VESSELS WHOSE ACTIVITIES IN THE CITY  
47 ARE LIMITED EXCLUSIVELY TO THE USE OF PROPERTY IN INTERSTATE OR FOREIGN  
48 COMMERCE, PROVIDED, HOWEVER, SUCH A CORPORATION WILL NOT BE SUBJECT TO  
49 TAX UNDER THIS SUBCHAPTER SOLELY BECAUSE IT MAINTAINS AN OFFICE IN THE  
50 CITY, OR EMPLOYS CAPITAL IN THE CITY, IN CONNECTION WITH SUCH USE OF  
51 PROPERTY, A CORPORATION PRINCIPALLY ENGAGED IN THE CONDUCT OF A FERRY  
52 BUSINESS AND OPERATING BETWEEN ANY OF THE BOROUGHES OF THE CITY UNDER A  
53 LEASE GRANTED BY THE CITY AND A CORPORATION PRINCIPALLY ENGAGED IN THE  
54 CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO  
55 OR MORE OF SUCH BUSINESSES, ALL OF THE CAPITAL STOCK OF WHICH IS OWNED  
56 BY A MUNICIPAL CORPORATION OF THIS STATE, SHALL NOT BE SUBJECT TO TAX

1 UNDER THIS SUBCHAPTER; PROVIDED, HOWEVER, THAT ANY CORPORATION, OTHER  
2 THAN (1) A UTILITY CORPORATION SUBJECT TO THE SUPERVISION OF THE STATE  
3 DEPARTMENT OF PUBLIC SERVICE, AND (2) FOR TAXABLE YEARS BEGINNING ON OR  
4 AFTER AUGUST FIRST, TWO THOUSAND TWO, A UTILITY AS DEFINED IN SUBDIVI-  
5 SION SIX OF SECTION 11-1101 OF THIS TITLE, WHICH IS SUBJECT TO TAX UNDER  
6 CHAPTER ELEVEN OF THIS TITLE AS A VENDOR OF UTILITY SERVICES SHALL BE  
7 SUBJECT TO TAX UNDER THIS SUBCHAPTER, BUT IN COMPUTING THE TAX IMPOSED  
8 BY THIS SECTION PURSUANT TO THE PROVISIONS OF CLAUSE (I) OF SUBPARAGRAPH  
9 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS  
10 SUBCHAPTER, BUSINESS INCOME ALLOCATED TO THE CITY PURSUANT TO PARAGRAPH  
11 (A) OF SUBDIVISION THREE OF SUCH SECTION SHALL BE REDUCED BY THE  
12 PERCENTAGE WHICH SUCH CORPORATION'S GROSS OPERATING INCOME SUBJECT TO  
13 TAX UNDER CHAPTER ELEVEN OF THIS TITLE IS OF ITS GROSS OPERATING INCOME.

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

22 (C) IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT THE APPLI-  
23 CATION OF THE PROVISIO OF PARAGRAPH (A) OF THIS SUBDIVISION, DOES NOT  
24 FAIRLY AND EQUITABLY REFLECT THE PORTION OF THE TAXPAYER'S BUSINESS  
25 INCOME ALLOCABLE TO THE CITY WHICH IS ATTRIBUTABLE TO ITS CITY ACTIV-  
26 ITIES WHICH ARE NOT TAXABLE UNDER SUBCHAPTER TWO OF CHAPTER ELEVEN OF  
27 THIS TITLE, THE COMMISSIONER OF FINANCE MAY PRESCRIBE OTHER MEANS OR  
28 METHODS OF DETERMINING SUCH PORTION, INCLUDING THE USE OF THE BOOKS AND  
29 RECORDS OF THE TAXPAYER, IF THE COMMISSIONER OF FINANCE FINDS THAT SUCH  
30 MEANS OR METHODS USED IN KEEPING THEM FAIRLY AND EQUITABLY REFLECT SUCH  
31 PORTION.

32 5. INTENTIONALLY OMITTED.

33 6. INTENTIONALLY OMITTED.

34 7. FOR ANY TAXABLE YEAR OF A REAL ESTATE INVESTMENT TRUST, AS DEFINED  
35 IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, IN  
36 WHICH SUCH TRUST IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION  
37 EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUCH TRUST SHALL BE SUBJECT TO A  
38 TAX COMPUTED UNDER EITHER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH  
39 (E) SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, OR CLAUSE  
40 (IV), WHICHEVER IS GREATER. IN THE CASE OF SUCH A REAL ESTATE INVESTMENT  
41 TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS  
42 CHAPTER, THE TERM "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT  
43 TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF  
44 SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED  
45 FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER  
46 PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN  
47 OF SUCH CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SUBDIVISION EIGHT  
48 OF SECTION 11-652 OF THIS SUBCHAPTER INCLUDING THE MODIFICATIONS  
49 REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF SECTION  
50 11-654 OF THIS SUBCHAPTER.

51 8. FOR ANY TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY, AS DEFINED  
52 IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, IN  
53 WHICH SUCH COMPANY IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION  
54 EIGHT HUNDRED FIFTY-TWO OF SUCH CODE, SUCH COMPANY SHALL BE SUBJECT TO A  
55 TAX COMPUTED UNDER EITHER CLAUSE ONE OR FOUR OF SUBPARAGRAPH (A) OF  
56 PARAGRAPH E OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER,

1 WHICHEVER IS GREATER. IN THE CASE OF SUCH A REGULATED INVESTMENT COMPA-  
2 NY, INCLUDING A CAPTIVE RIC AS DEFINED IN SECTION 11-601 OF THIS CHAP-  
3 TER, THE TERM "ENTIRE NET INCOME" USED IN SUBDIVISION ONE OF THIS  
4 SECTION MEANS "INVESTMENT COMPANY TAXABLE INCOME" AS DEFINED IN PARA-  
5 GRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO, AS  
6 MODIFIED BY SECTION EIGHT HUNDRED FIFTY-FIVE, OF THE INTERNAL REVENUE  
7 CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF  
8 SECTION EIGHT HUNDRED FIFTY-TWO OF SUCH CODE SUBJECT TO THE MODIFICA-  
9 TIONS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAP-  
10 TER, INCLUDING THE MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF  
11 SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.

12 9. AN ORGANIZATION DESCRIBED IN PARAGRAPH TWO OR TWENTY-FIVE OF SUBDI-  
13 VISION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE  
14 SHALL BE EXEMPT FROM ALL TAXES IMPOSED BY THIS SUBCHAPTER.

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

16 (B) INTENTIONALLY OMITTED.

17 (C) INTENTIONALLY OMITTED.

18 (D) INTENTIONALLY OMITTED.

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

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

22 (I) AN AMOUNT COMPUTED AT THE RATE OF EIGHT AND EIGHTY-FIVE ONE-HUN-  
23 DREDTHS PER CENTUM, OF ITS BUSINESS INCOME OR THE PORTION OF SUCH BUSI-  
24 NESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT  
25 TO THE APPLICATION OF PARAGRAPHS (J) AND (K) OF THIS SUBDIVISION AND ANY  
26 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF  
27 THIS SECTION,

28 (II) AN AMOUNT COMPUTED BY MULTIPLYING ITS TOTAL BUSINESS CAPITAL, OR  
29 THE PORTION THEREOF ALLOCATED WITHIN THE CITY, AS HEREINAFTER PROVIDED,  
30 BY FIFTEEN ONE-HUNDREDTHS PER CENTUM AND SUBTRACTING TEN THOUSAND  
31 DOLLARS FROM THE TOTAL, EXCEPT THAT IN THE CASE OF A COOPERATIVE HOUSING  
32 CORPORATION AS DEFINED IN THE INTERNAL REVENUE CODE, SUCH AMOUNT SHALL  
33 BE COMPUTED BY MULTIPLYING ITS TOTAL BUSINESS CAPITAL, OR THE PORTION  
34 THEREOF ALLOCATED WITHIN THE CITY, AS HEREINAFTER PROVIDED, BY FOUR  
35 ONE-HUNDREDTHS PER CENTUM AND SUBTRACTING TEN THOUSAND DOLLARS FROM THE  
36 TOTAL, PROVIDED THAT IF SUCH AMOUNT IS LESS THAN ZERO IT SHALL BE DEEMED  
37 TO BE ZERO, AND PROVIDED FURTHER THAT IN NO EVENT SHALL THE AMOUNT OF  
38 TAX COMPUTED ON THE TAXPAYER'S BUSINESS CAPITAL, OR THE PORTION OF THER-  
39 EOF ALLOCATED WITHIN THE CITY, EXCEED TEN MILLION DOLLARS, OR

40 (III) INTENTIONALLY OMITTED

41 (IV) IF NEW YORK CITY RECEIPTS ARE:

FIXED DOLLAR MINIMUM  
TAX IS:

42		
43	NOT MORE THAN \$100,000	\$25
44	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$75
45	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$175
46	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$500
47	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,500
48	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,500
49	MORE THAN \$25,000,000 BUT NOT OVER \$50,000,000	\$5,000
50	MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
51	MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
52	MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
53	MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
54	OVER \$1,000,000,000	\$200,000

55 FOR PURPOSES OF THIS CLAUSE, NEW YORK CITY RECEIPTS ARE THE RECEIPTS  
56 COMPUTED IN ACCORDANCE WITH SECTION 11-654.2 OF THIS SUBCHAPTER FOR THE

1 TAXABLE YEAR. IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT  
2 PRESCRIBED BY THIS CLAUSE SHALL BE REDUCED BY TWENTY-FIVE PERCENT IF THE  
3 PERIOD FOR WHICH THE TAXPAYER IS SUBJECT TO TAX IS MORE THAN SIX MONTHS  
4 BUT NOT MORE THAN NINE MONTHS AND BY FIFTY PERCENT IF THE PERIOD FOR  
5 WHICH THE TAXPAYER IS SUBJECT TO TAX IS NOT MORE THAN SIX MONTHS. IF THE  
6 TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW YORK CITY  
7 RECEIPTS FOR PURPOSES OF THIS CLAUSE IS DETERMINED BY DIVIDING THE  
8 AMOUNT OF THE RECEIPTS FOR THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN  
9 THE TAXABLE YEAR AND MULTIPLYING THE RESULT BY TWELVE.

10 (F) INTENTIONALLY OMITTED.

11 (G) INTENTIONALLY OMITTED.

12 (H) INTENTIONALLY OMITTED.

13 (I) INTENTIONALLY OMITTED.

14 (J) (1) IF THE AMOUNT OF BUSINESS INCOME COMPUTED WITHOUT TAKING INTO  
15 ACCOUNT THE PRIOR NET OPERATION LOSS CONVERSION SUBTRACTION PROVIDED FOR  
16 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER ALLOCATED  
17 WITHIN THE CITY AS HEREINAFTER PROVIDED IS LESS THAN ONE MILLION  
18 DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARA-  
19 GRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF SIX AND  
20 FIVE-TENTHS PER CENTUM OF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN  
21 THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED  
22 BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS SECTION;

23 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE AMOUNT OF  
24 BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPER-  
25 ATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF  
26 SECTION 11-654.1 OF THIS SUBCHAPTER ALLOCATED WITHIN THE CITY AS HEREIN-  
27 AFTER PROVIDED IS ONE MILLION DOLLARS OR GREATER BUT LESS THAN ONE  
28 MILLION DOLLARS BUT LESS THAN ONE MILLION FIVE HUNDRED THOUSAND DOLLARS,  
29 THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E)  
30 OF THIS SUBDIVISION SHALL BE AT THE RATE OF (I) SIX AND FIVE-TENTHS PER  
31 CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER CENTUM MULTI-  
32 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED BUSINESS INCOME  
33 COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPERATING LOSS  
34 CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF SECTION  
35 11-654.1 OF THIS SUBCHAPTER LESS ONE MILLION DOLLARS AND THE DENOMINATOR  
36 OF WHICH IS FIVE HUNDRED THOUSAND DOLLARS, OF THE AMOUNT OF BUSINESS  
37 INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY  
38 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF  
39 THIS SECTION;

40 (3) PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF  
41 THE AMOUNT OF UNALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO  
42 ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR  
43 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER IS TWO MILLION  
44 DOLLARS OR GREATER BUT LESS THAN THREE MILLION DOLLARS, THE RATE OF TAX  
45 PROVIDED FOR IN THIS PARAGRAPH SHALL NOT BE LESS THAN (I) SIX AND FIVE-  
46 TENTHS PER CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER  
47 CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS UNALLOCATED  
48 BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPER-  
49 ATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF  
50 SECTION 11-654.1 OF THIS SUBCHAPTER LESS TWO MILLION DOLLARS AND THE  
51 DENOMINATOR OF WHICH IS ONE MILLION DOLLARS, AND PROVIDED, HOWEVER,  
52 NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF UNALLOCATED  
53 BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPER-  
54 ATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF  
55 SECTION 11-654.1 OF THIS SUBCHAPTER IS THREE MILLION DOLLARS OR GREATER,  
56 THE RATE OF TAX SHALL BE EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PERCENTUM.

1 (K)(1) FOR QUALIFIED NEW YORK CITY MANUFACTURING CORPORATIONS AS  
2 DEFINED IN SUBPARAGRAPH FOUR OF THIS PARAGRAPH, IF THE AMOUNT OF BUSI-  
3 NESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPERATING  
4 LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF SECTION  
5 11-654.1 OF THIS SUBCHAPTER ALLOCATED WITHIN THE CITY AS HEREINAFTER  
6 PROVIDED IS LESS THAN TEN MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE  
7 (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT  
8 THE RATE OF FOUR AND FOUR HUNDRED TWENTY-FIVE ONE THOUSANDTHS PER  
9 CENTUM, OF ITS BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER  
10 PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E)  
11 OF SUBDIVISION THREE OF THIS SECTION;

12 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH FOR QUALIFIED NEW  
13 YORK CITY MANUFACTURING CORPORATIONS AS DEFINED IN SUBPARAGRAPH FOUR OF  
14 THIS PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME COMPUTED WITHOUT TAKING  
15 INTO ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION  
16 PROVIDED FOR IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER  
17 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS TEN MILLION DOLLARS  
18 OR GREATER BUT LESS THAN TWENTY MILLION DOLLARS, THE AMOUNT COMPUTED IN  
19 CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION  
20 SHALL BE AT THE RATE OF (I) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUS-  
21 ANDTHS PER CENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-FIVE  
22 ONE-THOUSANDTHS PER CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF  
23 WHICH IS ALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT  
24 THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN  
25 SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER LESS TEN MILLION  
26 DOLLARS AND THE DENOMINATOR OF WHICH IS TEN MILLION DOLLARS, OF ITS  
27 BUSINESS INCOME OR THE PORTION OF SUCH BUSINESS INCOME ALLOCATED WITHIN  
28 THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED  
29 BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS SECTION;

30 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF UNALLO-  
31 CATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET  
32 OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF  
33 SECTION 11-654.1 OF THIS SUBCHAPTER IS TWENTY MILLION DOLLARS OR GREATER  
34 BUT LESS THAN FORTY MILLION DOLLARS, THE RATE OF TAX PROVIDED FOR IN  
35 THIS PARAGRAPH SHALL NOT BE LESS THAN (I) FOUR AND FOUR HUNDRED TWENTY-  
36 FIVE ONE THOUSANDTHS PERCENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-  
37 FIVE ONE THOUSANDTHS PERCENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF  
38 WHICH IS UNALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO  
39 ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR  
40 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER LESS TWENTY  
41 MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS TWENTY MILLION DOLLARS,  
42 AND PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE  
43 AMOUNT OF UNALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO  
44 ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR  
45 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER IS FORTY  
46 MILLION DOLLARS OR GREATER, THE RATE OF TAX SHALL BE EIGHT AND  
47 EIGHTY-FIVE ONE-HUNDREDTHS PER CENTUM.

48 (4)(I) AS USED IN THIS SUBPARAGRAPH, THE TERM "MANUFACTURING CORPO-  
49 RATION" MEANS A CORPORATION PRINCIPALLY ENGAGED IN THE MANUFACTURING AND  
50 SALE THEREOF OF TANGIBLE PERSONAL PROPERTY; AND THE TERM "MANUFACTURING"  
51 INCLUDES THE PROCESS (INCLUDING THE ASSEMBLY PROCESS) (A) OF WORKING RAW  
52 MATERIALS INTO WARES SUITABLE FOR USE OR (B) WHICH GIVES NEW SHAPES, NEW  
53 QUALITIES OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH  
54 SOME ARTIFICIAL PROCESS, BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND  
55 OTHER SIMILAR EQUIPMENT. MOREOVER, IN THE CASE OF A COMBINED REPORT, A  
56 COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURING CORPORATION" FOR

PURPOSES OF THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS PARAGRAPH, OR ANY COMBINATION THEREOF. A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, SHALL BE "PRINCIPALLY ENGAGED" IN ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPECTIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTER-CORPORATE RECEIPTS SHALL BE ELIMINATED.

(II) A "QUALIFIED NEW YORK CITY MANUFACTURING CORPORATION" IS A MANUFACTURING CORPORATION THAT HAS PROPERTY IN THE CITY WHICH IS DESCRIBED IN SUBPARAGRAPH FIVE OF THIS PARAGRAPH AND EITHER (A) THE ADJUSTED BASIS OF SUCH PROPERTY FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST ONE MILLION DOLLARS OR (B) MORE THAN FIFTY PERCENTUM OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN THE CITY.

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

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

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

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

(1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN THE CITY DURING THE PERIOD COVERED BY ITS REPORT BEARS TO THE AVERAGE VALUE OF ALL THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WHEREVER SITUATED DURING SUCH PERIOD. FOR THE PURPOSE OF THIS SUBPARAGRAPH, THE TERM "VALUE OF THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY" SHALL MEAN THE ADJUSTED BASES OF SUCH PROPERTIES FOR FEDERAL INCOME TAX PURPOSES (EXCEPT THAT IN THE CASE OF RENTED PROPERTY SUCH VALUE SHALL MEAN THE PRODUCT OF (I) EIGHT AND (II) THE GROSS RENTS PAYABLE FOR THE RENTAL OF SUCH PROPERTY DURING THE TAXA-



1 BLE YEAR); PROVIDED, HOWEVER, THAT THE TAXPAYER MAY MAKE A ONE-TIME,  
2 REVOCABLE ELECTION, PURSUANT TO REGULATIONS PROMULGATED BY THE COMMIS-  
3 SIONER OF FINANCE TO USE FAIR MARKET VALUE AS THE VALUE OF ALL OF ITS  
4 REAL AND TANGIBLE PERSONAL PROPERTY, PROVIDED THAT SUCH ELECTION IS MADE  
5 ON OR BEFORE THE DUE DATE FOR FILING A REPORT UNDER SECTION 11-655 OF  
6 THIS SUBCHAPTER FOR THE TAXPAYER'S FIRST TAXABLE YEAR COMMENCING ON OR  
7 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND PROVIDED THAT SUCH  
8 ELECTION SHALL NOT APPLY TO ANY TAXABLE YEAR WITH RESPECT TO WHICH THE  
9 TAXPAYER IS INCLUDED ON A COMBINED REPORT UNLESS EACH OF THE TAXPAYERS  
10 INCLUDED ON SUCH REPORT HAS MADE SUCH AN ELECTION WHICH REMAINS IN  
11 EFFECT FOR SUCH YEAR OR TO ANY TAXPAYER THAT WAS SUBJECT TO TAX UNDER  
12 SUBCHAPTER TWO OF THIS CHAPTER AND DID NOT HAVE AN ELECTION IN EFFECT  
13 UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION  
14 11-604 OF THIS CHAPTER ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;

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

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

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

25 (5) INTENTIONALLY OMITTED.

26 (6) INTENTIONALLY OMITTED.

27 (7) INTENTIONALLY OMITTED.

28 (8) INTENTIONALLY OMITTED.

29 (9) INTENTIONALLY OMITTED.

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

35 (I) INTENTIONALLY OMITTED.

36 (II) INTENTIONALLY OMITTED.

37 (III) INTENTIONALLY OMITTED.

38 (IV) INTENTIONALLY OMITTED.

39 (V) INTENTIONALLY OMITTED.

40 (VI) INTENTIONALLY OMITTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (B) INTENTIONALLY OMITTED.

21 (C) INTENTIONALLY OMITTED.

22 (D) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED  
23 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO  
24 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION  
25 11-604 OF THIS CHAPTER OR SUBDIVISION (K) OF SECTION 11-641 OF THIS  
26 CHAPTER IN ANY PERIOD IN WHICH THE TAXPAYER WAS SUBJECT TO TAX UNDER  
27 SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING INTO  
28 THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN  
29 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED  
30 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN  
31 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR  
32 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO  
33 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO  
34 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION  
35 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-  
36 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR  
37 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS  
38 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED  
39 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

40 (E) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED  
41 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO  
42 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION  
43 11-604 OF THIS CHAPTER IN ANY PERIOD THE TAXPAYER WAS SUBJECT TO TAX  
44 UNDER SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING  
45 INTO THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN  
46 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED  
47 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN  
48 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR  
49 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO  
50 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO  
51 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION  
52 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-  
53 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR  
54 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS  
55 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED  
56 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

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

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

7 5. INTENTIONALLY OMITTED.

8 6. INTENTIONALLY OMITTED.

9 7. INTENTIONALLY OMITTED.

10 8. INTENTIONALLY OMITTED.

11 9. IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY BUSINESS  
12 ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED DOES NOT PROP-  
13 ERLY REFLECT THE ACTIVITY, BUSINESS, INCOME OR CAPITAL OF A TAXPAYER  
14 WITHIN THE CITY, THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED IN HIS  
15 OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY REQUEST THAT THE  
16 COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE OR MORE OF THE  
17 FACTORS THEREIN, (B) INCLUDING ONE OR MORE OTHER FACTORS, SUCH AS  
18 EXPENSES, PURCHASES, CONTRACT VALUES (MINUS SUBCONTRACT VALUES), (C)  
19 EXCLUDING ONE OR MORE ASSETS IN COMPUTING SUCH ALLOCATION PERCENTAGE,  
20 PROVIDED THE INCOME THEREFROM, IS ALSO EXCLUDED IN DETERMINING ENTIRE  
21 NET INCOME, OR (D) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO  
22 EFFECT A FAIR AND PROPER ALLOCATION OF THE INCOME AND CAPITAL REASONABLY  
23 ATTRIBUTABLE TO THE CITY. THE COMMISSIONER OF FINANCE FROM TIME TO TIME  
24 SHALL PUBLISH ALL RULINGS OF GENERAL PUBLIC INTEREST WITH RESPECT TO ANY  
25 APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION.

26 10. INTENTIONALLY OMITTED.

27 11. INTENTIONALLY OMITTED.

28 12. INTENTIONALLY OMITTED.

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

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

49 (II) THE INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD IN APPROVING AND  
50 CERTIFYING TO THE QUALIFICATIONS OF THE TAXPAYER TO RECEIVE THE TAX  
51 CREDIT PROVIDED FOR HEREIN SHALL FIRST DETERMINE THAT THE APPLICANT HAS  
52 MET THE REQUIREMENTS OF THIS SECTION, AND FURTHER, THAT THE GRANTING OF  
53 THE TAX CREDIT TO THE APPLICANT IS IN THE "PUBLIC INTEREST". IN DETER-  
54 MINING THAT THE GRANTING OF THE TAX CREDIT IS IN THE PUBLIC INTEREST,  
55 THE BOARD SHALL MAKE AFFIRMATIVE FINDINGS THAT: THE GRANTING OF THE TAX  
56 CREDIT TO THE APPLICANT WILL NOT EFFECT AN UNDUE HARDSHIP ON SIMILAR

TAXPAYERS ALREADY LOCATED WITHIN THE CITY; THE EXISTENCE OF THIS TAX INCENTIVE HAS BEEN INSTRUMENTAL IN BRINGING ABOUT THE RELOCATION OF THE APPLICANT TO THE CITY; AND THE GRANTING OF THE TAX CREDIT WILL FOSTER THE ECONOMIC RECOVERY AND ECONOMIC DEVELOPMENT OF THE CITY.

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

(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:

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

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

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

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

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

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

29 (B) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL  
30 BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR  
31 REFUNDED WITHOUT INTEREST IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
32 11-677 OF THIS CHAPTER.

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

44 15. INTENTIONALLY OMITTED.

45 16. INTENTIONALLY OMITTED.

46 17. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A  
47 TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-B  
48 OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE  
49 TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE  
50 AMOUNT DETERMINED BY MULTIPLYING FIVE HUNDRED DOLLARS OR, IN THE CASE OF  
51 A TAXPAYER THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE  
52 TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST,  
53 NINETEEN HUNDRED NINETY-FIVE, ONE THOUSAND DOLLARS OR, IN THE CASE OF AN  
54 ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH  
55 TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY  
56 FIRST, TWO THOUSAND, FOR A RELOCATION TO ELIGIBLE PREMISES LOCATED WITH-

1 IN A REVITALIZATION AREA DEFINED IN SUBDIVISION (N) OF SECTION 22-621 OF  
2 THIS CODE, THREE THOUSAND DOLLARS, BY THE NUMBER OF ELIGIBLE AGGREGATE  
3 EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR  
4 WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED;  
5 PROVIDED, HOWEVER, WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION  
6 FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO  
7 THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE NOT WITHIN A REVITALIZA-  
8 TION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO  
9 SUBDIVISION (J) OF SECTION 22-621 OF THIS CODE IS BEFORE JULY FIRST,  
10 NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER  
11 OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS,  
12 AND WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIF-  
13 ICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND  
14 THREE, TO ELIGIBLE PREMISES THAT ARE WITHIN A REVITALIZATION AREA, IF  
15 THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF  
16 SUCH SECTION IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE  
17 AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT  
18 SHARES SHALL BE FIVE HUNDRED DOLLARS, AND IF THE DATE OF SUCH RELOCATION  
19 AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS ON OR AFTER  
20 JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, AND BEFORE JULY FIRST, TWO  
21 THOUSAND, ONE THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NO CREDIT SHALL  
22 BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES;  
23 PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-  
24 SION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF  
25 SECTION 22-622 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS  
26 TAX IMPOSED BY CHAPTER ELEVEN OF THIS TITLE; AND PROVIDED THAT IN THE  
27 CASE OF AN ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B  
28 OF SUCH TITLE TWENTY-TWO CERTIFICATIONS OF ELIGIBILITY FOR MORE THAN ONE  
29 RELOCATION, THE PORTION OF THE TOTAL AMOUNT OF ELIGIBLE AGGREGATE  
30 EMPLOYMENT SHARES TO BE MULTIPLIED BY THE DOLLAR AMOUNT SPECIFIED IN  
31 THIS SUBDIVISION FOR EACH SUCH CERTIFICATION OF A RELOCATION SHALL BE  
32 THE NUMBER OF TOTAL ATTRIBUTED ELIGIBLE AGGREGATE EMPLOYMENT SHARES  
33 DETERMINED WITH RESPECT TO SUCH RELOCATION PURSUANT TO SUBDIVISION (O)  
34 OF SECTION 22-621 OF THIS CODE. FOR PURPOSES OF THIS SUBDIVISION, THE  
35 TERMS "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "RELOCATE," "RETAIL ACTIV-  
36 ITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED BY SECTION  
37 22-621 OF THIS CODE.

38 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE  
39 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO PARTICULAR PREM-  
40 ISSES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE FIRST  
41 TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE  
42 MAINTAINED WITH RESPECT TO SUCH PREMISES AND FOR ANY OF THE TWELVE  
43 SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT  
44 SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES; PROVIDED THAT THE  
45 CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCU-  
46 LATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES  
47 MAINTAINED WITH RESPECT TO SUCH PREMISES IN THE TWELFTH SUCCEEDING TAXA-  
48 BLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS  
49 SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF  
50 DAYS THE ELIGIBLE BUSINESS MAINTAINED EMPLOYMENT SHARES IN THE ELIGIBLE  
51 PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH  
52 IS THE NUMBER OF DAYS IN SUCH TWELFTH SUCCEEDING TAXABLE YEAR DURING  
53 WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH  
54 RESPECT TO SUCH PREMISES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS  
55 SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-  
56 SION FOR ANY TAXABLE YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE

1 EXCESS MAY BE CARRIED OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING  
2 TAXABLE YEARS AND, TO THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE  
3 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEARS.

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

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

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

40 17-A. INTENTIONALLY OMITTED.

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

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

52 (1) "ELIGIBLE BUSINESS" MEANS ANY BUSINESS SUBJECT TO TAX UNDER THIS  
53 SUBCHAPTER THAT (I) HAS BEEN CONDUCTING SUBSTANTIAL BUSINESS OPERATIONS  
54 AND ENGAGING PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT ONE  
55 OR MORE LOCATIONS WITHIN THE CITY OF NEW YORK OR OUTSIDE THE STATE OF  
56 NEW YORK CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL MONTHS

1 IMMEDIATELY PRECEDING RELOCATION, (II) HAS LEASED THE PREMISES FROM  
2 WHICH IT RELOCATES CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL  
3 MONTHS IMMEDIATELY PRECEDING RELOCATION, (III) FIRST ENTERS INTO A BIND-  
4 ING CONTRACT ON OR AFTER JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR  
5 LEASE ELIGIBLE PREMISES TO WHICH SUCH BUSINESS WILL RELOCATE, AND (IV)  
6 WILL BE ENGAGED PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT  
7 SUCH ELIGIBLE PREMISES.

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

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

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

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

23 (6) "INDUSTRIAL AND MANUFACTURING ACTIVITIES" MEANS ACTIVITIES INVOLV-  
24 ING THE ASSEMBLY OF GOODS TO CREATE A DIFFERENT ARTICLE, OR THE PROCESS-  
25 ING, FABRICATION, OR PACKAGING OF GOODS. INDUSTRIAL AND MANUFACTURING  
26 ACTIVITIES SHALL NOT INCLUDE WASTE MANAGEMENT OR UTILITY SERVICES.

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

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

45 (C) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
46 SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CRED-  
47 ITED OR REFUNDED WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF  
48 SECTION 11-677 OF THIS CHAPTER.

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



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

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

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

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

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

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

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

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

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

8 (C) IF SUCH PARTNER'S NET TOTAL DISTRIBUTIVE SHARE OF INCOME, GAIN,  
9 LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, ANY UNINCORPORATED  
10 BUSINESS IS LESS THAN ZERO, SUCH NET TOTAL SHALL BE TREATED AS ZERO. THE  
11 AMOUNT DETERMINED IN THIS SUBPARAGRAPH SHALL NOT BE LESS THAN ZERO.

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

37 (2) INTENTIONALLY OMITTED.

38 (2-A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE  
39 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR  
40 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET  
41 FORTH IN SUBDIVISION EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR  
42 SECTION 11-643.8 OF THIS CHAPTER FOR A TAX PAID UNDER CHAPTER FIVE OF  
43 THIS TITLE IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-  
44 SAND FIFTEEN, THE TAXPAYER MAY CARRY FORWARD THE UNUSED PORTION OF SUCH  
45 CREDIT UNDER THIS SUBDIVISION TO ANY TAXABLE YEAR BEGINNING ON OR AFTER  
46 JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME  
47 EXTENT, INCLUDING THE SAME LIMITATIONS, THAT THE CREDIT, OR THE UNUSED  
48 PORTION THEREOF, WOULD HAVE BEEN ALLOWED TO BE CARRIED FORWARD UNDER  
49 SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION EIGHTEEN OF SECTION  
50 11-604 OF THIS CHAPTER OR PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION  
51 11-643.8 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO  
52 THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAY-  
53 ER FOR SUCH TAXABLE YEAR.

54 (3) NO CREDIT ALLOWED UNDER THIS SUBDIVISION MAY BE TAKEN IN A TAXABLE  
55 YEAR BY A TAXPAYER THAT, IN THE ABSENCE OF SUCH CREDIT, WOULD BE LIABLE  
56 FOR THE TAX COMPUTED ON THE BASIS OF BUSINESS CAPITAL UNDER CLAUSE (II)

1 OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION  
2 OR THE FIXED-DOLLAR MINIMUM TAX UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF  
3 PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

4 (C) FOR CORPORATIONS THAT FILE A REPORT ON A COMBINED BASIS PURSUANT  
5 TO SECTION 11-654.3 OF THIS SUBCHAPTER, THE CREDIT ALLOWED BY THIS  
6 SUBDIVISION SHALL BE COMPUTED AS IF THE COMBINED GROUP WERE THE PARTNER  
7 IN EACH UNINCORPORATED BUSINESS FROM WHICH ANY OF THE MEMBERS OF SUCH  
8 GROUP HAD A DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS, PROVIDED, HOWEV-  
9 ER, IF MORE THAN ONE MEMBER OF THE COMBINED GROUP IS A PARTNER IN THE  
10 SAME UNINCORPORATED BUSINESS, FOR PURPOSES OF THE CALCULATION REQUIRED  
11 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, THE NUMERATOR  
12 OF THE FRACTION DESCRIBED IN CLAUSE (II) OF SUCH SUBPARAGRAPH ONE SHALL  
13 BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS  
14 AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED  
15 BUSINESS OF ALL OF THE PARTNERS OF THE UNINCORPORATED BUSINESS WITHIN  
16 THE COMBINED GROUP FOR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED  
17 FOR EACH PARTNER) IS GREATER THAN ZERO, AND THE DENOMINATOR OF SUCH  
18 FRACTION SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF  
19 INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE  
20 UNINCORPORATED BUSINESS OF ALL PARTNERS IN THE UNINCORPORATED BUSINESS  
21 FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH  
22 PARTNER) IS GREATER THAN ZERO.

23 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE CREDIT  
24 ALLOWABLE UNDER THIS SUBDIVISION SHALL BE TAKEN PRIOR TO THE TAKING OF  
25 ANY OTHER CREDIT ALLOWED BY THIS SECTION. NOTWITHSTANDING ANY OTHER  
26 PROVISION OF THIS SUBCHAPTER, THE APPLICATION OF THIS SUBDIVISION SHALL  
27 NOT CHANGE THE BASIS ON WHICH THE TAXPAYER'S TAX IS COMPUTED UNDER PARA-  
28 GRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

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

46 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE  
47 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES  
48 TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE TAXABLE  
49 YEAR OF THE RELOCATION AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE  
50 YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED  
51 WITH RESPECT TO ELIGIBLE PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR  
52 THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING  
53 THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH  
54 RESPECT TO ELIGIBLE PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY  
55 THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER  
56 OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE

1 TAXPAYER MAINTAINED EMPLOYMENT SHARES IN ELIGIBLE PREMISES IN THE TAXA-  
2 BLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF  
3 DAYS IN SUCH TWELFTH TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE  
4 EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES.

5 (C) EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, IF THE  
6 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE  
7 YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE EXCESS MAY BE CARRIED  
8 OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO  
9 THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE DEDUCTED FROM THE TAXPAY-  
10 ER'S TAX FOR SUCH YEARS.

11 (D) THE CREDITS ALLOWED UNDER THIS SUBDIVISION, AGAINST THE TAX  
12 IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF THE RELOCATION AND FOR  
13 THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF SUCH  
14 RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE TAXPAYER TO  
15 BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE  
16 PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE YEARS,  
17 SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY SUCCEED-  
18 ING TAXABLE YEAR.

19 (E) THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE DEDUCTED  
20 AFTER THE CREDITS ALLOWED BY SUBDIVISIONS SEVENTEEN AND EIGHTEEN OF THIS  
21 SECTION, BUT PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS  
22 SECTION.

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

37 20. INTENTIONALLY OMITTED.

38 21. BIOTECHNOLOGY CREDIT. (A) (1) A TAXPAYER THAT IS A QUALIFIED  
39 EMERGING TECHNOLOGY COMPANY, ENGAGES IN BIOTECHNOLOGIES, AND MEETS THE  
40 ELIGIBILITY REQUIREMENTS OF THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT  
41 AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF CREDIT SHALL  
42 BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN SUBPARAGRAPHS THREE,  
43 FOUR AND FIVE OF THIS PARAGRAPH, SUBJECT TO THE LIMITATIONS IN SUBPARA-  
44 GRAPH SEVEN OF THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION. FOR  
45 THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED EMERGING TECHNOLOGY COMPA-  
46 NY" SHALL MEAN A COMPANY LOCATED IN THE CITY: (I) WHOSE PRIMARY PRODUCTS  
47 OR SERVICES ARE CLASSIFIED AS EMERGING TECHNOLOGIES AND WHOSE TOTAL  
48 ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS; OR (II) A COMPANY  
49 THAT HAS RESEARCH AND DEVELOPMENT ACTIVITIES IN THE CITY AND WHOSE RATIO  
50 OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES EQUALS OR EXCEEDS THE  
51 AVERAGE RATIO FOR ALL SURVEYED COMPANIES CLASSIFIED AS DETERMINED BY THE  
52 NATIONAL SCIENCE FOUNDATION IN THE MOST RECENT PUBLISHED RESULTS FROM  
53 ITS SURVEY OF INDUSTRY RESEARCH AND DEVELOPMENT, OR ANY COMPARABLE  
54 SUCCESSOR SURVEY AS DETERMINED BY THE DEPARTMENT OF FINANCE, AND WHOSE  
55 TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS. FOR THE  
56 PURPOSES OF THIS SUBDIVISION, THE DEFINITION OF RESEARCH AND DEVELOPMENT

1 FUNDS SHALL BE THE SAME AS THAT USED BY THE NATIONAL SCIENCE FOUNDATION  
2 IN THE AFOREMENTIONED SURVEY. FOR THE PURPOSES OF THIS SUBDIVISION,  
3 "BIOTECHNOLOGIES" SHALL MEAN THE TECHNOLOGIES INVOLVING THE SCIENTIFIC  
4 MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE  
5 SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING  
6 THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED  
7 SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL  
8 APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS. ACTIVITIES  
9 INCLUDED WITH SUCH APPLICATIONS AND SERVICES SHALL INCLUDE, BUT NOT BE  
10 LIMITED TO, ALTERNATIVE MRNA SPLICING, DNA SEQUENCE AMPLIFICATION, ANTI-  
11 GENETIC SWITCHING BIOAUGMENTATION, BIOENRICHMENT, BIOREMEDIATION, CHRO-  
12 MOSOME WALKING, CYTOGENETIC ENGINEERING, DNA DIAGNOSIS, FINGERPRINTING,  
13 AND SEQUENCING, ELECTROPORATION, GENE TRANSLOCATION, GENETIC MAPPING,  
14 SITE-DIRECTED MUTAGENESIS, BIO-TRANSDUCTION, BIO-MECHANICAL AND BIO-E-  
15 LECTRICAL ENGINEERING, AND BIO-INFORMATICS.

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

45 (3) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EIGHTEEN PER  
46 CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF  
47 RESEARCH AND DEVELOPMENT PROPERTY THAT IS ACQUIRED BY THE TAXPAYER BY  
48 PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED  
49 SEVENTY-NINE OF THE INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING  
50 THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH  
51 THE CREDIT IS CLAIMED. PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS  
52 PARAGRAPH ONLY, AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH  
53 PERCENTAGE OF THE (I) COST OR OTHER BASIS FOR FEDERAL INCOME TAX  
54 PURPOSES FOR PROPERTY USED IN THE TESTING OR INSPECTION OF MATERIALS AND  
55 PRODUCTS, (II) THE COSTS OR EXPENSES ASSOCIATED WITH QUALITY CONTROL OF  
56 THE RESEARCH AND DEVELOPMENT, (III) FEES FOR USE OF SOPHISTICATED TECH-

NOLOGY FACILITIES AND PROCESSES, AND (IV) FEES FOR THE PRODUCTION OR EVENTUAL COMMERCIAL DISTRIBUTION OF MATERIALS AND PRODUCTS RESULTING FROM THE ACTIVITIES OF AN ELIGIBLE TAXPAYER AS LONG AS SUCH ACTIVITIES FALL UNDER ACTIVITIES RELATING TO BIOTECHNOLOGIES. THE COSTS, EXPENSES AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS PARAGRAPH SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT ALLOWED UNDER THIS SUBCHAPTER. FOR THE PURPOSES OF THIS SUBDIVISION, "RESEARCH AND DEVELOPMENT PROPERTY" SHALL MEAN PROPERTY THAT IS USED FOR PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR LABORATORY SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDINARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL, EFFICIENCY SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING, PROMOTIONS, OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMILAR PROJECTS.

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

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

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

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

1 (III) QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL INCLUDE  
2 EXPENSES FOR TUITION AND MANDATORY FEES, SOFTWARE REQUIRED BY THE INSTI-  
3 TUTION, FEES FOR TEXTBOOKS OR OTHER LITERATURE REQUIRED BY THE INSTITU-  
4 TION OFFERING THE COURSE OR COURSES, MINUS APPLICABLE SCHOLARSHIPS AND  
5 TUITION OR FEE WAIVERS NOT GRANTED BY THE TAXPAYER OR ANY AFFILIATES OF  
6 THE TAXPAYER, THAT ARE PAID OR REIMBURSED BY THE TAXPAYER. QUALIFIED  
7 HIGH-TECHNOLOGY EXPENDITURES DO NOT INCLUDE ROOM AND BOARD, COMPUTER  
8 HARDWARE OR SOFTWARE NOT SPECIFICALLY ASSIGNED FOR SUCH COURSE OR COURSE-  
9 ES, LATE-CHARGES, FINES OR MEMBERSHIP DUES AND SIMILAR EXPENSES. SUCH  
10 QUALIFIED EXPENDITURES SHALL NOT BE ELIGIBLE FOR THE CREDIT PROVIDED BY  
11 THIS SECTION UNLESS THE EMPLOYEE FOR WHOM THE EXPENDITURES ARE DISBURSED  
12 IS CONTINUOUSLY EMPLOYED BY THE TAXPAYER IN A FULL-TIME, FULL-YEAR POSI-  
13 TION PRIMARILY LOCATED AT A QUALIFIED SITE DURING THE PERIOD OF SUCH  
14 COURSEWORK AND LASTING THROUGH AT LEAST ONE HUNDRED EIGHTY DAYS AFTER  
15 THE SATISFACTORY COMPLETION OF THE QUALIFYING COURSE-WORK. QUALIFIED  
16 HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL NOT INCLUDE EXPENSES FOR  
17 IN-HOUSE OR SHARED TRAINING OUTSIDE OF A CITY HIGHER EDUCATION INSTITU-  
18 TION OR THE USE OF CONSULTANTS OUTSIDE OF CREDIT GRANTING COURSES,  
19 WHETHER SUCH CONSULTANTS FUNCTION INSIDE OF SUCH HIGHER EDUCATION INSTI-  
20 TUTION OR NOT.

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

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

54 (VI) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC INCUBATOR  
55 FACILITY" SHALL MEAN A FACILITY PROVIDING LOW-COST SPACE, TECHNICAL  
56 ASSISTANCE, SUPPORT SERVICES AND EDUCATIONAL OPPORTUNITIES, INCLUDING

1 BUT NOT LIMITED TO CENTRAL SERVICES PROVIDED BY THE MANAGER OF THE  
2 FACILITY TO THE TENANTS OF THE FACILITY, TO AN ENTITY LOCATED IN THE  
3 CITY. SUCH ENTITY'S PRIMARY ACTIVITY MUST BE IN BIOTECHNOLOGIES, AND  
4 SUCH ENTITY MUST BE IN THE FORMATIVE STAGE OF DEVELOPMENT. THE ACADEMIC  
5 INCUBATOR FACILITY AND THE ENTITY MUST ACT IN PARTNERSHIP WITH AN  
6 ACCREDITED POST-SECONDARY COLLEGE OR UNIVERSITY LOCATED IN THE CITY. AN  
7 ACADEMIC INCUBATOR FACILITY'S MISSION SHALL BE TO PROMOTE JOB CREATION,  
8 ENTREPRENEURSHIP, TECHNOLOGY TRANSFER, AND PROVIDE SUPPORT SERVICES TO  
9 INCUBATOR TENANTS, INCLUDING, BUT NOT LIMITED TO, BUSINESS PLANNING,  
10 MANAGEMENT ASSISTANCE, FINANCIAL-PACKAGING, LINKAGES TO FINANCING  
11 SERVICES, AND COORDINATING WITH OTHER SOURCES OF ASSISTANCE.

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

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

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

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

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

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



1 SUBDIVISION IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE  
2 TAXPAYER'S BASE YEAR EMPLOYMENT, THE CREDIT SHALL BE ZERO.

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

7 (3) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVID-  
8 UALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH  
9 INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING  
10 EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO  
11 OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR  
12 YEAR OR OTHER APPLICABLE PERIOD.

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

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

28 S 11-654.1 NET OPERATING LOSS. 1. IN COMPUTING THE BUSINESS INCOME  
29 SUBJECT TO TAX, TAXPAYERS SHALL BE ALLOWED BOTH A PRIOR NET OPERATING  
30 LOSS CONVERSION SUBTRACTION UNDER SUBDIVISION TWO OF THIS SECTION AND A  
31 NET OPERATING LOSS DEDUCTION UNDER SUBDIVISION THREE OF THIS SECTION.  
32 THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION COMPUTED UNDER  
33 SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED AGAINST BUSINESS INCOME  
34 BEFORE THE NET OPERATING LOSS DEDUCTION COMPUTED UNDER SUBDIVISION THREE  
35 OF THIS SECTION.

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

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

40 (2) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF  
41 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION  
42 EIGHT OF SECTION 11-602 OF THIS CHAPTER OR SUBDIVISION (K-1) OF SECTION  
43 11-641 OF THIS CHAPTER AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIR-  
44 TY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS NOT DEDUCTIBLE IN PREVIOUS  
45 TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER ON THE LAST DAY OF THE BASE  
46 YEAR SUBJECT TO THE LIMITATIONS FOR DEDUCTION UNDER SUCH SECTIONS,  
47 INCLUDING ANY NET OPERATING LOSS SUSTAINED BY THE TAXPAYER DURING THE  
48 BASE YEAR.

49 (3) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION PERCENT-  
50 AGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION  
51 11-604 OF THIS CHAPTER FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION  
52 PERCENTAGE AS CALCULATED UNDER SECTION 11-642 OF THIS CHAPTER FOR  
53 PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH  
54 SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

55 (4) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE  
56 YEAR AS CALCULATED UNDER SUBDIVISION ONE OF SECTION 11-604 OF THIS CHAP-

TER OR SECTION 11-643.5 OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

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

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

(2) THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH SHALL THEN BE DIVIDED BY EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PER CENTUM. THIS RESULT SHALL EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL.

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

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

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

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

(3) IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR AND FILES A SEPARATE REPORT FOR A SUBSEQUENT TAXABLE YEAR, THEN THE AMOUNT OF REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE PROPORTIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND THE REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO

1 THE REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDING-  
2 LY.

3 (4) IF A TAXPAYER FILED A SEPARATE REPORT FOR THE BASE YEAR AND IS  
4 PROPERLY INCLUDED IN A COMBINED REPORT FOR A SUBSEQUENT TAXABLE YEAR,  
5 THEN THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL OF THE  
6 COMBINED GROUP SHALL BE INCREASED BY THE AMOUNT OF THE REMAINING PRIOR  
7 NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER AT THE  
8 TIME THE TAXPAYER IS PROPERLY INCLUDED IN THE COMBINED GROUP.

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

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

15 (E) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-  
16 ATING LOSS INCURRED DURING ANY YEAR COMMENCING AFTER JANUARY FIRST, TWO  
17 THOUSAND FIFTEEN IF THE TAXPAYER WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO  
18 OR THREE OF THIS CHAPTER IN THAT YEAR; PROVIDED, HOWEVER, ANY YEAR  
19 COMMENCING AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN THAT THE TAXPAYER  
20 WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO OR THREE OF THIS CHAPTER IN THAT  
21 YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE  
22 NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS MAY BE CARRIED  
23 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 APPORTIONMENT. 1. THE PERCENTAGE OF RECEIPTS OF  
37 THE TAXPAYER TO BE ALLOCATED TO THE CITY FOR PURPOSES OF SUBPARAGRAPH  
38 TWO OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS  
39 SUBCHAPTER SHALL BE EQUAL TO THE RECEIPTS FRACTION DETERMINED PURSUANT  
40 TO THIS SECTION. THE RECEIPTS FRACTION IS A FRACTION, DETERMINED BY  
41 INCLUDING ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS  
42 DESCRIBED IN THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE  
43 TAXPAYER'S BUSINESS INCOME (DETERMINED WITHOUT REGARD TO THE MODIFICA-  
44 TION PROVIDED IN SUBPARAGRAPH FOURTEEN OF PARAGRAPH (A) OF SUBDIVISION  
45 EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER) FOR THE TAXABLE YEAR. THE  
46 NUMERATOR OF THE RECEIPTS FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE  
47 AMOUNTS REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE  
48 PROVISIONS OF THIS SECTION AND THE DENOMINATOR OF THE RECEIPTS FRACTION  
49 SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN  
50 THE DENOMINATOR 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 SHALL BE INCLUDED IN THE DENOMINATOR OF  
41 THE RECEIPTS FRACTION.

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

54 (B) RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR GRANTING OF REMOTE  
55 ACCESS TO DIGITAL PRODUCTS WITHIN THE CITY, DETERMINED ACCORDING TO THE  
56 HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF

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

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

23 5. (A) A FINANCIAL INSTRUMENT IS A "QUALIFIED FINANCIAL INSTRUMENT" IF  
24 IT IS ELIGIBLE OR REQUIRED TO BE MARKED TO MARKET UNDER SECTION FOUR  
25 HUNDRED SEVENTY-FIVE OR SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL  
26 REVENUE CODE, PROVIDED THAT LOANS SECURED BY REAL PROPERTY SHALL NOT BE  
27 QUALIFIED FINANCIAL INSTRUMENTS. A FINANCIAL INSTRUMENT IS A "NONQUALI-  
28 FIED FINANCIAL INSTRUMENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRU-  
29 MENT.

30 (1) IN DETERMINING THE INCLUSION OF RECEIPTS AND NET GAINS FROM QUALI-  
31 FIED FINANCIAL INSTRUMENTS IN THE RECEIPTS FRACTION, TAXPAYERS MAY ELECT  
32 TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN THIS SUBPARAGRAPH FOR  
33 QUALIFIED FINANCIAL INSTRUMENTS. THE ELECTION IS IRREVOCABLE, APPLIES TO  
34 ALL QUALIFIED FINANCIAL INSTRUMENTS, AND MUST BE MADE ON AN ANNUAL BASIS  
35 ON THE TAXPAYER'S ORIGINAL, TIMELY FILED RETURN. IF THE TAXPAYER ELECTS  
36 THE FIXED PERCENTAGE METHOD, THEN ALL INCOME, GAIN OR LOSS, INCLUDING  
37 MARKED TO MARKET NET GAINS AS DEFINED IN CLAUSE (X) OF SUBPARAGRAPH TWO  
38 OF THIS PARAGRAPH FROM QUALIFIED FINANCIAL INSTRUMENTS CONSTITUTE BUSI-  
39 NESS INCOME, GAIN OR LOSS. IF THE TAXPAYER DOES NOT ELECT TO USE THE  
40 FIXED PERCENTAGE METHOD, THEN RECEIPTS AND NET GAINS ARE INCLUDED IN THE  
41 RECEIPTS FRACTION IN ACCORDANCE WITH THE CUSTOMER SOURCING METHOD  
42 DESCRIBED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH. UNDER THE FIXED  
43 PERCENTAGE METHOD, EIGHT PERCENT OF ALL NET INCOME (NOT LESS THAN ZERO)  
44 FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE NUMERATOR  
45 OF THE RECEIPTS FRACTION. ALL NET INCOME (NOT LESS THAN ZERO) FROM QUAL-  
46 IFIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
47 RECEIPTS FRACTION.

48 (2) RECEIPTS AND NET GAINS FROM QUALIFIED FINANCIAL INSTRUMENTS, IN  
49 CASES WHERE THE TAXPAYER DID NOT ELECT TO USE THE FIXED PERCENTAGE METH-  
50 OD DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH, AND FROM NONQUALI-  
51 FIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE RECEIPTS FRACTION IN  
52 ACCORDANCE WITH THIS SUBPARAGRAPH. FOR PURPOSES OF THIS PARAGRAPH, AN  
53 INDIVIDUAL IS DEEMED TO BE LOCATED WITHIN THE CITY IF HIS OR HER BILLING  
54 ADDRESS IS WITHIN THE CITY. A BUSINESS ENTITY IS DEEMED TO BE LOCATED  
55 WITHIN THE CITY IF ITS COMMERCIAL DOMICILE IS LOCATED WITHIN THE CITY.

1 (I)(A) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY REAL PROP-  
2 ERTY LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE  
3 RECEIPTS FRACTION. RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY  
4 REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN  
5 THE DENOMINATOR OF THE RECEIPTS FRACTION.

6 (B) RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL  
7 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF  
8 THE BORROWER IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST  
9 FROM LOANS NOT SECURED BY REAL PROPERTY, WHETHER THE BORROWER IS LOCATED  
10 WITHIN OR WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
11 RECEIPTS FRACTION.

12 (C) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY REAL  
13 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS  
14 PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE SALES OF  
15 LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE RECEIPTS  
16 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE NET GAINS BY A FRACTION,  
17 THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS FROM SALES  
18 OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE CITY AND THE DENOM-  
19 INATOR OF WHICH SHALL BE THE GROSS PROCEEDS FROM SALES OF LOANS SECURED  
20 BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY. GROSS PROCEEDS  
21 SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE  
22 THE LOANS BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN  
23 ZERO) FROM SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND  
24 WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS  
25 FRACTION.

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

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

44 (II) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTER-  
45 EST AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED  
46 STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE  
47 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS CONSTITUT-  
48 ING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT  
49 INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK OR ITS  
50 POLITICAL SUBDIVISIONS, INCLUDING THE CITY, SHALL BE INCLUDED IN THE  
51 DENOMINATOR OF THE RECEIPTS FRACTION. FIFTY PERCENT OF THE RECEIPTS  
52 CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF  
53 DEBT INSTRUMENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS  
54 SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

55 (III) ASSET BACKED SECURITIES AND OTHER GOVERNMENT AGENCY DEBT. EIGHT  
56 PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES OR OTHER

1 SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO  
2 SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION  
3 (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), THE FEDERAL  
4 HOME LOAN MORTGAGE CORPORATION (FHLMC), OR THE SMALL BUSINESS ADMINIS-  
5 TRATION, OR EIGHT PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECU-  
6 RITIES ISSUED BY OTHER ENTITIES SHALL BE INCLUDED IN THE NUMERATOR OF  
7 THE RECEIPTS FRACTION. EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN  
8 ZERO) FROM (A) SALES OF ASSET BACKED SECURITIES OR OTHER SECURITIES  
9 ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO SECURITIES  
10 ISSUED BY GNMA, FNMA, FHLMC, OR THE SMALL BUSINESS ADMINISTRATION, OR  
11 (B) SALES OF OTHER ASSET BACKED SECURITIES THAT ARE SOLD THROUGH A  
12 REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED EXCHANGE,  
13 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. THE AMOUNT  
14 OF NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER ASSET BACKED SECU-  
15 RITIES NOT REFERENCED IN SUBCLAUSE (A) OR (B) OF THIS CLAUSE INCLUDED IN  
16 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-  
17 ING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE  
18 AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED IN THE  
19 CITY AND THE DENOMINATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS  
20 FROM SUCH SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY.  
21 RECEIPTS CONSTITUTING INTEREST INCOME FROM ASSET BACKED SECURITIES AND  
22 OTHER SECURITIES REFERENCED IN THIS CLAUSE AND NET GAINS (NOT LESS THAN  
23 ZERO) FROM SALES OF ASSET BACKED SECURITIES AND OTHER SECURITIES REFER-  
24 ENCED IN THIS CLAUSE SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
25 RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE  
26 DEDUCTION OF ANY COST TO ACQUIRE THE SECURITIES BUT SHALL NOT BE LESS  
27 THAN ZERO.

28 (IV) RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS SHALL BE  
29 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE COMMERCIAL  
30 DOMICILE OF THE ISSUING CORPORATION IS WITHIN THE CITY. EIGHT PERCENT OF  
31 THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS SOLD  
32 THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED  
33 EXCHANGE SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.  
34 THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES OF CORPO-  
35 RATE BONDS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE  
36 DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF  
37 WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS  
38 LOCATED WITHIN THE CITY AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF  
39 GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE  
40 CITY. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS, WHETHER THE  
41 ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITHOUT THE CITY,  
42 AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS TO  
43 PURCHASERS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMI-  
44 NATOR OF THE RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER  
45 THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT SHALL NOT BE LESS  
46 THAN ZERO.

47 (V) EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM  
48 REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL  
49 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. NET INTEREST  
50 INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECU-  
51 RITIES BORROWING AGREEMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
52 RECEIPTS FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREE-  
53 MENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE DETERMINED FOR  
54 PURPOSES OF THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE  
55 FROM THE TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREE-  
56 MENTS BUT SHALL NOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT



1 OF SUCH INTEREST EXPENSE SHALL BE THE INTEREST EXPENSE ASSOCIATED WITH  
2 THE SUM OF THE VALUE OF THE TAXPAYER'S REPURCHASE AGREEMENTS WHERE IT IS  
3 THE SELLER/BORROWER PLUS THE VALUE OF THE TAXPAYER'S SECURITIES LENDING  
4 AGREEMENTS WHERE IT IS THE SECURITIES LENDER, PROVIDED SUCH SUM IS  
5 LIMITED TO THE SUM OF THE VALUE OF THE TAXPAYER'S REVERSE REPURCHASE  
6 AGREEMENTS WHERE IT IS THE PURCHASER/LENDER PLUS THE VALUE OF THE  
7 TAXPAYER'S SECURITIES LENDING AGREEMENTS WHERE IT IS THE SECURITIES  
8 BORROWER.

9 (VI) EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN ZERO) FROM  
10 FEDERAL FUNDS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-  
11 TION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS SHALL BE  
12 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. NET INTEREST FROM  
13 FEDERAL FUNDS SHALL BE DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE  
14 FROM FEDERAL FUNDS.

15 (VII) DIVIDENDS FROM STOCK, NET GAINS (NOT LESS THAN ZERO) FROM SALES  
16 OF STOCK AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF PARTNERSHIP  
17 INTERESTS SHALL NOT BE INCLUDED IN EITHER THE NUMERATOR OR DENOMINATOR  
18 OF THE RECEIPTS FRACTION UNLESS THE COMMISSIONER OF FINANCE DETERMINES  
19 PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION THAT INCLUSION OF SUCH  
20 DIVIDENDS AND NET GAINS (NOT LESS THAN ZERO) IS NECESSARY TO PROPERLY  
21 REFLECT THE BUSINESS INCOME OR CAPITAL OF THE TAXPAYER.

22 (VIII)(A) RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRU-  
23 MENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE  
24 PAYOR IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST FROM  
25 OTHER FINANCIAL INSTRUMENTS, WHETHER THE PAYOR IS WITHIN OR WITHOUT THE  
26 CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

27 (B) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL  
28 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL  
29 INSTRUMENTS WHERE THE PURCHASER OR PAYOR IS LOCATED WITHIN THE CITY  
30 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION, PROVIDED  
31 THAT, IF THE PURCHASER OR PAYOR IS A REGISTERED SECURITIES BROKER OR  
32 DEALER OR THE TRANSACTION IS MADE THROUGH A LICENSED EXCHANGE, THEN  
33 EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) OR OTHER INCOME (NOT  
34 LESS THAN ZERO) SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-  
35 TION. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL  
36 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL  
37 INSTRUMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-  
38 TION.

39 (IX) NET INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMOD-  
40 ITIES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS  
41 PROVIDED IN THIS CLAUSE. THE AMOUNT OF NET INCOME FROM SALES OF PHYS-  
42 ICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION  
43 SHALL BE DETERMINED BY MULTIPLYING THE NET INCOME FROM SALES OF PHYSICAL  
44 COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF  
45 RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY DELIVERED TO POINTS  
46 WITHIN THE CITY OR, IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL  
47 COMMODITY, SOLD TO PURCHASERS LOCATED WITHIN THE CITY, AND THE DENOMINA-  
48 TOR OF WHICH SHALL BE THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL  
49 COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE CITY OR,  
50 IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL COMMODITY, SOLD TO  
51 PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY. NET INCOME (NOT LESS  
52 THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES SHALL BE INCLUDED IN THE  
53 DENOMINATOR OF THE RECEIPTS FRACTION. NET INCOME (NOT LESS THAN ZERO)  
54 FROM SALES OF PHYSICAL COMMODITIES SHALL BE DETERMINED AFTER THE  
55 DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL COMMODITIES.

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

(B) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM SUCH TYPE OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMERATOR OF THE RECEIPTS FRACTION FOR THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH AND THE DENOMINATOR OF WHICH SHALL BE THE DENOMINATOR OF THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR WHICH THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

(C) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRUMENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I) THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE, AND THE DENOMINATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I) THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

(B) RECEIPTS OF A REGISTERED SECURITIES BROKER OR DEALER FROM SECURITIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH EIGHT 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. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (E) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE.

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

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

10 (3) (I) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY  
11 SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES  
12 FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY THAT IS CONTEMPLATING  
13 ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR  
14 MANAGING AN UNDERWRITING SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY  
15 IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH CUSTOMER  
16 WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE CITY.

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

20 (III) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE  
21 PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETING AND  
22 THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURI-  
23 TIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION  
24 AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S  
25 FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPA-  
26 Rately. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY  
27 THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO  
28 THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE  
29 TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE  
30 TAXPAYER IS NOT THE LEAD UNDERWRITER.

31 (4) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO  
32 BE GENERATED WITHIN THE CITY IF THE MAILING ADDRESS IN THE RECORD OF THE  
33 TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH ACCOUNT  
34 MAINTENANCE FEES IS WITHIN THE CITY.

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

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

47 (7) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPAR-  
48 AGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES  
49 CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR  
50 DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING  
51 FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY TO  
52 THE EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS. THE AMOUNT OF SUCH  
53 RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE  
54 CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER  
55 RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH  
56 FOUR OF THIS PARAGRAPH AS RESULT OF A SECURITIES CORRESPONDENT RELATION-

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

(D) RECEIPTS RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE OF MANAGEMENT, ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVESTMENT COMPANY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. THE PORTION OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK CITY PORTION) SHALL BE DETERMINED AS PROVIDED IN THIS PARAGRAPH.

(1) THE NEW YORK CITY PORTION SHALL BE THE PRODUCT OF THE TOTAL OF SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERATOR OF THAT FRACTION SHALL BE THE SUM OF THE MONTHLY PERCENTAGES (AS

1 DEFINED HEREINAFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPA-  
2 NY'S TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR  
3 ENDS WITHIN THE TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH  
4 DURING WHICH THE INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE  
5 MONTHLY PERCENTAGE FOR EACH SUCH MONTH SHALL BE DETERMINED BY DIVIDING  
6 THE NUMBER OF SHARES IN THE INVESTMENT COMPANY THAT ARE OWNED ON THE  
7 LAST DAY OF THE MONTH BY SHAREHOLDERS THAT ARE LOCATED IN THE CITY BY  
8 THE TOTAL NUMBER OF SHARES IN THE INVESTMENT COMPANY OUTSTANDING ON THAT  
9 DATE. THE DENOMINATOR OF THE FRACTION SHALL BE THE NUMBER OF SUCH MONTH-  
10 LY PERCENTAGES.

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

16 (II) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INVESTMENT COMPANY"  
17 MEANS A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION EIGHT  
18 HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, AND A PARTNERSHIP TO  
19 WHICH SUBSECTION (A) OF SECTION SEVEN THOUSAND SEVEN HUNDRED FOUR OF THE  
20 INTERNAL REVENUE CODE APPLIES (BY VIRTUE OF PARAGRAPH THREE OF  
21 SUBSECTION (C) OF SECTION SEVEN THOUSAND SEVEN HUNDRED FOUR OF SUCH  
22 CODE) AND THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF SECTION EIGHT  
23 HUNDRED FIFTY-ONE OF SUCH CODE. THE PRECEDING SENTENCE SHALL BE APPLIED  
24 TO THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES OF THE BUSINESS  
25 ENTITY THAT IS ASSERTED TO CONSTITUTE AN INVESTMENT COMPANY THAT ENDS  
26 WITHIN THE TAXABLE YEAR OF THE TAXPAYER.

27 (III) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "RECEIPTS RECEIVED FROM  
28 AN INVESTMENT COMPANY" INCLUDES AMOUNTS RECEIVED DIRECTLY FROM AN  
29 INVESTMENT COMPANY AS WELL AS AMOUNTS RECEIVED FROM THE SHAREHOLDERS IN  
30 SUCH INVESTMENT COMPANY, IN THEIR CAPACITY AS SUCH.

31 (IV) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "MANAGEMENT SERVICES"  
32 MEANS THE RENDERING OF INVESTMENT ADVICE TO AN INVESTMENT COMPANY,  
33 MAKING DETERMINATIONS AS TO WHEN SALES AND PURCHASES OF SECURITIES ARE  
34 TO BE MADE ON BEHALF OF AN INVESTMENT COMPANY, OR THE SELLING OR  
35 PURCHASING OF SECURITIES CONSTITUTING ASSETS OF AN INVESTMENT COMPANY,  
36 AND RELATED ACTIVITIES, BUT ONLY WHERE SUCH ACTIVITY OR ACTIVITIES ARE  
37 PERFORMED PURSUANT TO A CONTRACT WITH THE INVESTMENT COMPANY ENTERED  
38 INTO PURSUANT TO SUBSECTION (A) OF SECTION FIFTEEN OF THE FEDERAL  
39 INVESTMENT COMPANY ACT OF NINETEEN HUNDRED FORTY, AS AMENDED.

40 (V) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DISTRIBUTION SERVICES"  
41 MEANS THE SERVICES OF ADVERTISING, SERVICING INVESTOR ACCOUNTS (INCLUD-  
42 ING REDEMPTIONS), MARKETING SHARES OR SELLING SHARES OF AN INVESTMENT  
43 COMPANY, BUT, IN THE CASE OF ADVERTISING, SERVICING INVESTOR ACCOUNTS  
44 (INCLUDING REDEMPTIONS) OR MARKETING SHARES, ONLY WHERE SUCH SERVICE IS  
45 PERFORMED BY A PERSON WHO IS (OR WAS, IN THE CASE OF A CLOSED END COMPA-  
46 NY) ALSO ENGAGED IN THE SERVICE OF SELLING SUCH SHARES. IN THE CASE OF  
47 AN OPEN END COMPANY, SUCH SERVICE OF SELLING SHARES MUST BE PERFORMED  
48 PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO SUBSECTION (B) OF  
49 SECTION FIFTEEN OF THE FEDERAL INVESTMENT COMPANY ACT OF NINETEEN  
50 HUNDRED FORTY, AS AMENDED.

51 (VI) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ADMINISTRATION  
52 SERVICES" INCLUDES CLERICAL, ACCOUNTING, BOOKKEEPING, DATA PROCESSING,  
53 INTERNAL AUDITING, LEGAL AND TAX SERVICES PERFORMED FOR AN INVESTMENT  
54 COMPANY BUT ONLY IF THE PROVIDER OF SUCH SERVICE OR SERVICES DURING THE  
55 TAXABLE YEAR IN WHICH SUCH SERVICE OR SERVICES ARE SOLD ALSO SELLS

MANAGEMENT OR DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH INVESTMENT COMPANY.

(E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOWING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY, BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN UPON REASONABLE INQUIRY: (1) THE SEAT OF MANAGEMENT AND CONTROL OF THE BUSINESS ENTITY; AND (2) THE BILLING ADDRESS OF THE BUSINESS ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILIGENCE BEFORE REJECTING THE FIRST METHOD IN THIS HIERARCHY AND PROCEEDING TO THE NEXT METHOD.

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

6. RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE RAILROAD, WHETHER OR NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED RAILROAD, PALACE CAR OR SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS OR A TRUCKING BUSINESS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF RECEIPTS FROM SUCH BUSINESS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE MILES IN SUCH BUSINESS WITHIN THE CITY DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE MILES IN SUCH BUSINESS WITHIN AND WITHOUT THE CITY DURING SUCH PERIOD. RECEIPTS FROM THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

1 FINANCE MAY ALSO EXEMPT FROM SUCH PERCENTAGE AIRCRAFT ARRIVALS AND  
2 DEPARTURES OF ALL NON-REVENUE FLIGHTS INCLUDING FLIGHTS INVOLVING THE  
3 TRANSPORTATION OF OFFICERS OR EMPLOYEES RECEIVING AIR TRANSPORTATION TO  
4 PERFORM MAINTENANCE OR REPAIR SERVICES OR WHERE SUCH OFFICERS OR EMPLOY-  
5 EES ARE TRANSPORTED IN CONJUNCTION WITH AN EMERGENCY SITUATION OR THE  
6 INVESTIGATION OF AN AIR DISASTER (OTHER THAN ON A SCHEDULED FLIGHT);  
7 PROVIDED, HOWEVER, THAT ARRIVALS AND DEPARTURES OF FLIGHTS TRANSPORTING  
8 OFFICERS AND EMPLOYEES RECEIVING AIR TRANSPORTATION FOR PURPOSES OTHER  
9 THAN SPECIFIED ABOVE (WITHOUT REGARD TO REMUNERATION) SHALL BE INCLUDED  
10 IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE;

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

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

18 (II) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS  
19 THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND  
20 THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAY-  
21 ER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM  
22 THE TRANSPORTATION OF REVENUE PASSENGERS AND REVENUE PROPERTY FIRST  
23 RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT  
24 AIRPORTS; AND THE TERM "REVENUE TONS HANDLED BY THE TAXPAYER AT  
25 AIRPORTS" MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED  
26 POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGI-  
27 NATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT  
28 AIRPORTS.

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

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

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

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

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

43 8. (A) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS  
44 OR PERIODICALS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL  
45 BE DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION,  
46 THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF NEWSPAPERS AND PERIODICALS  
47 DELIVERED TO POINTS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL  
48 BE THE NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN  
49 AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTIS-  
50 ING IN NEWSPAPERS OR PERIODICALS SHALL BE INCLUDED IN THE DENOMINATOR OF  
51 THE RECEIPTS FRACTION.

52 (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR  
53 RADIO INCLUDED IN THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-  
54 ING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH  
55 SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE CITY AND THE  
56 DENOMINATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN

1 AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVER-  
2 TISING ON TELEVISION OR RADIO SHALL BE INCLUDED IN THE DENOMINATOR OF  
3 THE RECEIPTS FRACTION.

4 (C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN  
5 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR  
6 DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF  
7 WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR  
8 SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE  
9 NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING  
10 THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH SHALL  
11 BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE CITY AND THE DENOMINA-  
12 TOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND  
13 WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING  
14 DESCRIBED IN THIS PARAGRAPH SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
15 RECEIPTS FRACTION.

16 9. RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH  
17 PIPES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS  
18 FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION  
19 OF GAS THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION  
20 SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY  
21 A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TAXPAYER'S TRANSPORTA-  
22 TION UNITS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE  
23 TAXPAYER'S TRANSPORTATION UNITS WITHIN AND WITHOUT THE CITY. A TRANSPOR-  
24 TATION UNIT IS THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A  
25 DISTANCE OF ONE MILE. THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTA-  
26 TION OR TRANSMISSION OF GAS THROUGH PIPES SHALL BE INCLUDED IN THE  
27 DENOMINATOR OF THE RECEIPTS FRACTION.

28 10. (A) RECEIPTS FROM SERVICES NOT ADDRESSED IN SUBDIVISIONS ONE  
29 THROUGH NINE OR SUBDIVISION TWELVE OF THIS SECTION AND OTHER BUSINESS  
30 RECEIPTS NOT ADDRESSED IN SUCH SUBDIVISIONS SHALL BE INCLUDED IN THE  
31 NUMERATOR OF THE RECEIPTS FRACTION IF THE LOCATION OF THE CUSTOMER IS  
32 WITHIN THE CITY. SUCH RECEIPTS FROM CUSTOMERS WITHIN AND WITHOUT THE  
33 CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.  
34 WHETHER THE RECEIPTS ARE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-  
35 TION SHALL BE DETERMINED ACCORDING TO THE HIERARCHY OF METHODS SET FORTH  
36 IN PARAGRAPH (B) OF THIS SUBDIVISION. THE TAXPAYER MUST EXERCISE DUE  
37 DILIGENCE UNDER EACH METHOD DESCRIBED IN SUCH PARAGRAPH BEFORE REJECTING  
38 IT AND PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS  
39 DETERMINATION ON INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT  
40 WOULD BE KNOWN TO THE TAXPAYER UPON REASONABLE INQUIRY.

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

48 11. IF IT SHALL APPEAR THAT THE RECEIPTS FRACTION DETERMINED PURSUANT  
49 TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE TAXPAYER'S  
50 BUSINESS INCOME OR CAPITAL WITHIN THE CITY, THE COMMISSIONER OF FINANCE  
51 IS AUTHORIZED IN HIS OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY  
52 REQUEST THAT THE COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE  
53 OR MORE ITEMS IN SUCH DETERMINATION, (B) INCLUDING ONE OR MORE OTHER  
54 ITEMS IN SUCH DETERMINATION, OR (C) ANY OTHER SIMILAR OR DIFFERENT METH-  
55 OD CALCULATED TO EFFECT A FAIR AND PROPER APPORTIONMENT OF THE BUSINESS  
56 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 THREE OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER.

1 (C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT  
2 UNDER THIS SECTION DOES NOT INCLUDE (1) A CORPORATION THAT IS TAXABLE  
3 UNDER A TAX IMPOSED BY SUBCHAPTER TWO OF THIS CHAPTER OR CHAPTER ELEVEN  
4 OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS TAXABLE  
5 UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER), OR WOULD  
6 BE TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OF THIS CHAPTER OR  
7 CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES  
8 THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS  
9 SUBCHAPTER), OR WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION  
10 UNDER THE FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRA-  
11 TIVE CODE AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR;  
12 (2) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE  
13 RIC; OR (3) AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTER-  
14 NATIONAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED  
15 IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO  
16 EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE  
17 THREE OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF  
18 THIS SUBCHAPTER. IF A CORPORATION IS SUBJECT TO TAX UNDER THIS SUBCHAP-  
19 TER SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER INTEREST IN  
20 A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING  
21 OR LEASING PROPERTY, MAINTAINING AN OFFICE IN THIS STATE, OR DERIVING  
22 RECEIPTS FROM ACTIVITY IN THIS STATE, AND NONE OF THE CORPORATION'S  
23 RELATED CORPORATIONS ARE SUBJECT TO TAX UNDER THIS SUBCHAPTER, SUCH  
24 CORPORATION SHALL NOT BE REQUIRED OR PERMITTED TO FILE A COMBINED REPORT  
25 UNDER THIS SECTION WITH SUCH RELATED CORPORATIONS.

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

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

38 (B) THE ELECTION UNDER THIS SUBDIVISION SHALL BE MADE ON AN ORIGINAL,  
39 TIMELY FILED RETURN OF THE COMBINED GROUP. ANY CORPORATION ENTERING A  
40 COMMONLY OWNED GROUP SUBSEQUENT TO THE YEAR OF ELECTION SHALL BE  
41 INCLUDED IN THE COMBINED GROUP AND IS CONSIDERED TO HAVE WAIVED ANY  
42 OBJECTION TO ITS INCLUSION IN THE COMBINED GROUP.

43 (C) THE ELECTION SHALL BE IRREVOCABLE, AND BINDING FOR AND APPLICABLE  
44 TO THE TAXABLE YEAR FOR WHICH IT IS MADE AND FOR THE NEXT SIX TAXABLE  
45 YEARS. THE ELECTION WILL AUTOMATICALLY BE RENEWED FOR ANOTHER SEVEN  
46 TAXABLE YEARS AFTER IT HAS BEEN IN EFFECT FOR SEVEN TAXABLE YEARS UNLESS  
47 IT IS AFFIRMATIVELY REVOKED. THE REVOCATION SHALL BE MADE ON AN  
48 ORIGINAL, TIMELY FILED RETURN FOR THE FIRST TAXABLE YEAR AFTER THE  
49 COMPLETION OF A SEVEN YEAR PERIOD FOR WHICH AN ELECTION UNDER THIS  
50 SUBDIVISION WAS IN PLACE. IN THE CASE OF A REVOCATION, A NEW ELECTION  
51 UNDER THIS SUBDIVISION SHALL NOT BE PERMITTED IN ANY OF THE IMMEDIATELY  
52 FOLLOWING THREE TAXABLE YEARS. IN DETERMINING THE SEVEN AND THREE YEAR  
53 PERIODS DESCRIBED IN THIS PARAGRAPH, SHORT TAXABLE YEARS SHALL NOT BE  
54 CONSIDERED OR COUNTED.

55 4. (A) IN COMPUTING THE TAX BASES FOR A COMBINED REPORT, THE COMBINED  
56 GROUP SHALL GENERALLY BE TREATED AS A SINGLE CORPORATION, EXCEPT AS

1 OTHERWISE PROVIDED, AND SUBJECT TO ANY REGULATIONS OR GUIDANCE ISSUED BY  
2 THE COMMISSIONER OF FINANCE OR THE DEPARTMENT OF FINANCE.

3 (B)(1) IN COMPUTING COMBINED BUSINESS INCOME, ALL INTERCORPORATE DIVI-  
4 DENDS SHALL BE ELIMINATED, AND ALL OTHER INTERCORPORATE TRANSACTIONS  
5 SHALL BE DEFERRED IN A MANNER SIMILAR TO THE UNITED STATES TREASURY  
6 REGULATIONS RELATING TO INTERCOMPANY TRANSACTIONS UNDER SECTION FIFTEEN  
7 HUNDRED TWO OF THE INTERNAL REVENUE CODE.

8 (2) IN COMPUTING COMBINED CAPITAL, ALL INTERCORPORATE STOCKHOLDINGS,  
9 INTERCORPORATE BILLS, INTERCORPORATE NOTES RECEIVABLE AND PAYABLE,  
10 INTERCORPORATE ACCOUNTS RECEIVABLE AND PAYABLE, AND OTHER INTERCORPORATE  
11 INDEBTEDNESS, SHALL BE ELIMINATED.

12 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,  
13 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED  
14 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS  
15 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE  
16 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION  
17 11-654 OF THIS SUBCHAPTER, OR ANY OTHER APPLICABLE SECTION OF THIS  
18 SUBCHAPTER, LIMITS A CREDIT TO THE FIXED DOLLAR MINIMUM AMOUNT  
19 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-  
20 VISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, SUCH FIXED DOLLAR MINI-  
21 MUM AMOUNT SHALL BE THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE  
22 TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

23 (D)(1) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE  
24 COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE  
25 COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED  
26 CAPITAL OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE  
27 DESIGNATED AGENT OF THE COMBINED GROUP AND THE MEMBERS OF THE COMBINED  
28 GROUP. A COMBINED NET OPERATING LOSS DEDUCTION IS EQUAL TO THE AMOUNT OF  
29 COMBINED NET OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS  
30 THAT ARE CARRIED FORWARD OR CARRIED BACK TO A PARTICULAR TAXABLE YEAR. A  
31 COMBINED NET OPERATING LOSS IS THE COMBINED BUSINESS LOSS INCURRED IN A  
32 PARTICULAR TAXABLE YEAR MULTIPLIED BY THE COMBINED BUSINESS ALLOCATION  
33 PERCENTAGE FOR THAT YEAR DETERMINED AS PROVIDED IN SUBDIVISION FIVE OF  
34 THIS SECTION.

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

38 (3) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT, EITHER  
39 IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN WHICH A  
40 DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET OPERATING  
41 LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A SINGLE CORPO-  
42 RATION AND, TO THE EXTENT POSSIBLE AND NOT OTHERWISE INCONSISTENT WITH  
43 THIS SUBDIVISION, IS SUBJECT TO THE SAME LIMITATIONS THAT WOULD APPLY  
44 FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE AND THE  
45 CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD FILED FOR SUCH  
46 TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN WITH THE SAME  
47 CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPORATION FILES A  
48 COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPARATE RETURN OR  
49 CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE NET OPERATING  
50 LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP MUST BE  
51 COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED RETURN FOR THE  
52 SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

53 (4) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH  
54 A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING  
55 LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE  
56 COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPA-

1 RATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE  
2 SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH  
3 CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE  
4 GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT  
5 IN COMPUTING THE COMBINED NET OPERATING LOSS.

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

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

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

30 (2) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED  
31 UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET  
32 INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION EIGHT OF SECTION  
33 11-652 OF THIS SUBCHAPTER.

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

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

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

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

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

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

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

24 2. EVERY REPORT SHALL HAVE ANNEXED THERETO A CERTIFICATION BY THE  
25 PRESIDENT, VICE-PRESIDENT, TREASURER, ASSISTANT TREASURER, CHIEF  
26 ACCOUNTING OFFICER OR ANOTHER OFFICER OF THE TAXPAYER DULY AUTHORIZED SO  
27 TO ACT TO THE EFFECT THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE. IN  
28 THE CASE OF AN ASSOCIATION, WITHIN THE MEANING OF PARAGRAPH THREE OF  
29 SECTION (A) OF SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE  
30 CODE, A PUBLICLY-TRADED PARTNERSHIP TREATED AS A CORPORATION FOR  
31 PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO SECTION SEVENTY-SEVEN  
32 HUNDRED FOUR THEREOF AND ANY BUSINESS CONDUCTED BY A TRUSTEE OR TRUSTEES  
33 WHEREIN INTEREST OR OWNERSHIP IS EVIDENCED BY CERTIFICATES OR OTHER  
34 WRITTEN INSTRUMENTS, SUCH CERTIFICATION SHALL BE MADE BY ANY PERSON DULY  
35 AUTHORIZED SO TO ACT ON BEHALF OF SUCH ASSOCIATION, PUBLICLY-TRADED  
36 PARTNERSHIP OR BUSINESS. THE FACT THAT AN INDIVIDUAL'S NAME IS SIGNED ON  
37 A CERTIFICATION OF THE REPORT SHALL BE PRIMA FACIE EVIDENCE THAT SUCH  
38 INDIVIDUAL IS AUTHORIZED TO SIGN AND CERTIFY THE REPORT ON BEHALF OF THE  
39 CORPORATION. BLANK FORMS OF REPORTS SHALL BE FURNISHED BY THE COMMIS-  
40 SIONER OF FINANCE, ON APPLICATION, BUT FAILURE TO SECURE SUCH A BLANK  
41 SHALL NOT RELEASE ANY CORPORATION FROM THE OBLIGATION OF MAKING ANY  
42 REPORT REQUIRED BY THIS SUBCHAPTER.

43 2-A. THE COMMISSIONER OF FINANCE MAY PRESCRIBE REGULATIONS AND  
44 INSTRUCTIONS REQUIRING RETURNS OF INFORMATION TO BE MADE AND FILED IN  
45 CONJUNCTION WITH THE REPORTS REQUIRED TO BE FILED PURSUANT TO THIS  
46 SECTION, RELATING TO PAYMENTS MADE TO SHAREHOLDERS OWNING, DIRECTLY OR  
47 INDIRECTLY, INDIVIDUALLY OR IN THE AGGREGATE, MORE THAN FIFTY PERCENT OF  
48 THE ISSUED CAPITAL STOCK OF THE TAXPAYER, WHERE SUCH PAYMENTS ARE TREAT-  
49 ED AS PAYMENTS OF INTEREST IN THE COMPUTATION OF ENTIRE NET INCOME  
50 REPORTED ON SUCH REPORTS.

51 3. IF THE AMOUNT OF TAXABLE INCOME OR OTHER BASIS OF TAX FOR ANY YEAR  
52 OF ANY TAXPAYER AS RETURNED TO THE UNITED STATES TREASURY DEPARTMENT OR  
53 THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE IS CHANGED OR  
54 CORRECTED BY THE COMMISSIONER OF INTERNAL REVENUE OR OTHER OFFICER OF  
55 THE UNITED STATES OR THE NEW YORK STATE COMMISSIONER OF TAXATION AND  
56 FINANCE OR OTHER COMPETENT AUTHORITY, OR WHERE A RENEGOTIATION OF A

1 CONTRACT OR SUBCONTRACT WITH THE UNITED STATES OR THE STATE OF NEW YORK  
2 RESULTS IN A CHANGE IN TAXABLE INCOME OR OTHER BASIS OF TAX, OR WHERE A  
3 RECOVERY OF A WAR LOSS RESULTS IN A COMPUTATION OR RECOMPUTATION OF ANY  
4 TAX IMPOSED BY THE UNITED STATES OR THE STATE OF NEW YORK, OR IF A  
5 TAXPAYER, PURSUANT TO SUBSECTION (D) OF SECTION SIXTY-TWO HUNDRED THIR-  
6 TEEN OF THE INTERNAL REVENUE CODE, EXECUTES A NOTICE OF WAIVER OF THE  
7 RESTRICTIONS PROVIDED IN SUBSECTION (A) OF SAID SECTION, OR IF A TAXPAY-  
8 ER, PURSUANT TO SUBSECTION (F) OF SECTION ONE THOUSAND EIGHTY-ONE OF THE  
9 TAX LAW, EXECUTES A NOTICE OF WAIVER OF THE RESTRICTIONS PROVIDED IN  
10 SUBSECTION (C) OF SAID SECTION, SUCH TAXPAYER SHALL REPORT SUCH CHANGED  
11 OR CORRECTED TAXABLE INCOME OR OTHER BASIS OF TAX, OR THE RESULTS OF  
12 SUCH RENEGOTIATION, OR SUCH COMPUTATION, OR RECOMPUTATION, OR SUCH  
13 EXECUTION OF SUCH NOTICE OF WAIVER AND THE CHANGES OR CORRECTIONS OF THE  
14 TAXPAYER'S FEDERAL OR NEW YORK STATE TAXABLE INCOME OR OTHER BASIS OF  
15 TAX ON WHICH IT IS BASED, WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY  
16 DAYS, IN THE CASE OF A TAXPAYER MAKING A COMBINED REPORT UNDER THIS  
17 SUBCHAPTER FOR SUCH YEAR) AFTER SUCH EXECUTION OR THE FINAL DETERMI-  
18 NATION OF SUCH CHANGE OR CORRECTION OR RENEGOTIATION, OR SUCH COMPUTA-  
19 TION, OR RECOMPUTATION, OR AS REQUIRED BY THE COMMISSIONER OF FINANCE,  
20 AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE WHEREIN IT  
21 IS ERRONEOUS. THE ALLOWANCE OF A TENTATIVE CARRYBACK ADJUSTMENT BASED  
22 UPON A NET OPERATING LOSS CARRYBACK OR NET CAPITAL LOSS CARRYBACK PURSU-  
23 ANT TO SECTION SIXTY-FOUR HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE  
24 SHALL BE TREATED AS A FINAL DETERMINATION FOR PURPOSES OF THIS SUBDIVI-  
25 SION. ANY TAXPAYER FILING AN AMENDED RETURN WITH SUCH DEPARTMENT SHALL  
26 ALSO FILE WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF  
27 A TAXPAYER MAKING A COMBINED REPORT UNDER THIS SUBCHAPTER FOR SUCH YEAR)  
28 THEREAFTER AN AMENDED REPORT WITH THE COMMISSIONER OF FINANCE.

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

31 5. IN CASE IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY  
32 AGREEMENT, UNDERSTANDING OR ARRANGEMENT EXISTS BETWEEN THE TAXPAYER AND  
33 ANY OTHER CORPORATION OR ANY PERSON OR FIRM, WHEREBY THE ACTIVITY, BUSI-  
34 NESS, INCOME OR CAPITAL OF THE TAXPAYER WITHIN THE CITY IS IMPROPERLY OR  
35 INACCURATELY REFLECTED, THE COMMISSIONER OF FINANCE IS AUTHORIZED AND  
36 EMPOWERED, IN ITS DISCRETION AND IN SUCH MANNER AS IT MAY DETERMINE, TO  
37 ADJUST ITEMS OF INCOME, DEDUCTIONS AND CAPITAL, AND TO ELIMINATE ASSETS  
38 IN COMPUTING ANY ALLOCATION PERCENTAGE PROVIDED ONLY THAT ANY INCOME  
39 DIRECTLY TRACEABLE THERETO BE ALSO EXCLUDED FROM ENTIRE NET INCOME, SO  
40 AS EQUITABLY TO DETERMINE THE TAX. WHERE (A) ANY TAXPAYER CONDUCTS ITS  
41 ACTIVITY OR BUSINESS UNDER ANY AGREEMENT, ARRANGEMENT OR UNDERSTANDING  
42 IN SUCH MANNER AS EITHER DIRECTLY OR INDIRECTLY TO BENEFIT ITS MEMBERS  
43 OR STOCKHOLDERS, OR ANY OF THEM, OR ANY PERSON OR PERSONS DIRECTLY OR  
44 INDIRECTLY INTERESTED IN SUCH ACTIVITY OR BUSINESS, BY ENTERING INTO ANY  
45 TRANSACTION AT MORE OR LESS THAN A FAIR PRICE WHICH, BUT FOR SUCH AGREE-  
46 MENT, ARRANGEMENT OR UNDERSTANDING, MIGHT HAVE BEEN PAID OR RECEIVED  
47 THEREFOR, OR (B) ANY TAXPAYER, A SUBSTANTIAL PORTION OF WHOSE CAPITAL  
48 STOCK IS OWNED EITHER DIRECTLY OR INDIRECTLY BY ANOTHER CORPORATION,  
49 ENTERS INTO ANY TRANSACTION WITH SUCH OTHER CORPORATION ON SUCH TERMS AS  
50 TO CREATE AN IMPROPER LOSS OR NET INCOME, THE COMMISSIONER OF FINANCE  
51 MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER THE FAIR PROFITS,  
52 WHICH, BUT FOR SUCH AGREEMENT, ARRANGEMENT OR UNDERSTANDING, THE TAXPAY-  
53 ER MIGHT HAVE DERIVED FROM SUCH TRANSACTION. WHERE ANY TAXPAYER OWNS,  
54 DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF  
55 ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION FIFTEEN HUNDRED TWO-A  
56 OF THE TAX LAW AND FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE

1 TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSIONER OF FINANCE MAY  
2 INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED DISTRIB-  
3 UTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT IS IN  
4 EXCESS OF ITS NET PREMIUM INCOME.

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

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

10 8. WHERE THE STATE TAX COMMISSION CHANGES OR CORRECTS A TAXPAYER'S  
11 SALES AND COMPENSATING USE TAX LIABILITY WITH RESPECT TO THE PURCHASE OR  
12 USE OF ITEMS FOR WHICH A SALES OR COMPENSATING USE TAX CREDIT AGAINST  
13 THE TAX IMPOSED BY THIS SUBCHAPTER WAS CLAIMED, THE TAXPAYER SHALL  
14 REPORT SUCH CHANGE OR CORRECTION TO THE COMMISSIONER OF FINANCE WITHIN  
15 NINETY DAYS OF THE FINAL DETERMINATION OF SUCH CHANGE OR CORRECTION, OR  
16 AS REQUIRED BY THE COMMISSIONER OF FINANCE, AND SHALL CONCEDE THE ACCU-  
17 RACY OF SUCH DETERMINATION OR STATE WHEREIN IT IS ERRONEOUS. ANY TAXPAY-  
18 ER FILING AN AMENDED RETURN OR REPORT RELATING TO THE PURCHASE OR USE OF  
19 SUCH ITEMS SHALL ALSO FILE WITHIN NINETY DAYS THEREAFTER A COPY OF SUCH  
20 AMENDED RETURN OR REPORT WITH THE COMMISSIONER OF FINANCE.

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

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

27 (B) SUCH TAX, OR THE BALANCE THEREOF, IMPOSED ON ANY TAXPAYER WHICH  
28 CEASES TO DO BUSINESS IN THE CITY OR TO BE SUBJECT TO THE TAX IMPOSED BY  
29 THIS SUBCHAPTER SHALL BE PAYABLE TO THE COMMISSIONER OF FINANCE AT THE  
30 TIME THE REPORT IS REQUIRED TO BE FILED; ALL OTHER TAXES OF ANY SUCH  
31 TAXPAYER, WHICH PURSUANT TO THE FOREGOING PROVISIONS OF THIS SECTION  
32 WOULD OTHERWISE BE PAYABLE SUBSEQUENT TO THE TIME SUCH REPORT IS  
33 REQUIRED TO BE FILED, SHALL NEVERTHELESS BE PAYABLE AT SUCH TIME.

34 IF THE TAXPAYER, WITHIN THE TIME PRESCRIBED BY SECTION 11-655 OF THIS  
35 SUBCHAPTER, SHALL HAVE APPLIED FOR AN AUTOMATIC EXTENSION OF TIME TO  
36 FILE ITS ANNUAL REPORT AND SHALL HAVE PAID TO THE COMMISSIONER OF  
37 FINANCE ON OR BEFORE THE DATE SUCH APPLICATION IS FILED AN AMOUNT PROP-  
38 ERLY ESTIMATED AS PROVIDED BY SAID SECTION, THE ONLY AMOUNT PAYABLE IN  
39 ADDITION TO THE TAX SHALL BE INTEREST AT THE UNDERPAYMENT RATE SET BY  
40 THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER,  
41 OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF PERCENT PER  
42 ANNUM UPON THE AMOUNT BY WHICH THE TAX, OR THE PORTION THEREOF PAYABLE  
43 ON OR BEFORE THE DATE THE REPORT WAS REQUIRED TO BE FILED, EXCEEDS THE  
44 AMOUNT SO PAID. FOR PURPOSES OF THE PRECEDING SENTENCE:

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

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

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

55 3. INTENTIONALLY OMITTED.

1 S 11-657 DECLARATION OF ESTIMATED TAX. 1. EVERY TAXPAYER SUBJECT TO  
2 THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER SHALL MAKE A DECLARATION OF ITS ESTIMATED TAX FOR THE CURRENT PRIVILEGE PERIOD, CONTAINING  
3 SUCH INFORMATION AS THE COMMISSIONER OF FINANCE MAY PRESCRIBE BY REGULATIONS OR INSTRUCTIONS, IF SUCH ESTIMATED TAX CAN REASONABLY BE  
4 EXPECTED TO EXCEED ONE THOUSAND DOLLARS.

5  
6 2. THE TERM "ESTIMATED TAX" MEANS THE AMOUNT WHICH A TAXPAYER ESTIMATES TO BE THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER FOR THE  
7 CURRENT PRIVILEGE PERIOD, LESS THE AMOUNT WHICH IT ESTIMATES TO BE THE  
8 SUM OF ANY CREDITS ALLOWABLE AGAINST THE TAX.

9  
10 3. IN THE CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A CALENDAR  
11 YEAR, A DECLARATION OF ESTIMATED TAX SHALL BE FILED ON OR BEFORE JUNE  
12 FIFTEENTH OF THE CURRENT PRIVILEGE PERIOD, EXCEPT THAT IF THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION ARE FIRST MET:

13  
14 (A) AFTER MAY THIRTY-FIRST AND BEFORE SEPTEMBER FIRST OF SUCH CURRENT  
15 PRIVILEGE PERIOD, THE DECLARATION SHALL BE FILED ON OR BEFORE SEPTEMBER  
16 FIFTEENTH; OR

17  
18 (B) AFTER AUGUST THIRTY-FIRST AND BEFORE DECEMBER FIRST OF SUCH  
19 CURRENT PRIVILEGE PERIOD, THE DECLARATION SHALL BE FILED ON OR BEFORE  
20 DECEMBER FIFTEENTH.

21 4. A TAXPAYER MAY AMEND A DECLARATION UNDER REGULATIONS OF THE COMMISSIONER OF FINANCE.

22  
23 5. IF, ON OR BEFORE FEBRUARY FIFTEENTH OF THE SUCCEEDING YEAR IN THE  
24 CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A CALENDAR YEAR, A  
25 TAXPAYER FILES ITS REPORT FOR THE YEAR FOR WHICH THE DECLARATION IS  
26 REQUIRED, AND PAYS THEREWITH THE BALANCE, IF ANY, OF THE FULL AMOUNT OF  
27 THE TAX SHOWN TO BE DUE ON THE REPORT:

28 (A) SUCH REPORT SHALL BE CONSIDERED AS ITS DECLARATION IF NO DECLARATION IS REQUIRED TO BE FILED DURING THE CALENDAR OR FISCAL YEAR FOR  
29 WHICH THE TAX WAS IMPOSED, BUT IS OTHERWISE REQUIRED TO BE FILED ON OR  
30 BEFORE DECEMBER FIFTEENTH PURSUANT TO SUBDIVISION THREE OF THIS SECTION;  
31 AND

32  
33 (B) SUCH REPORT SHALL BE CONSIDERED AS THE AMENDMENT PERMITTED BY  
34 SUBDIVISION FOUR OF THIS SECTION TO BE FILED ON OR BEFORE DECEMBER  
35 FIFTEENTH IF THE TAX SHOWN ON THE REPORT IS GREATER THAN THE ESTIMATED  
36 TAX SHOWN ON A DECLARATION PREVIOUSLY MADE.

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

40 7. IF THE PRIVILEGE PERIOD FOR WHICH A TAX IS IMPOSED BY SECTION  
41 11-653 OF THIS SUBCHAPTER IS LESS THAN TWELVE MONTHS, EVERY TAXPAYER  
42 REQUIRED TO MAKE A DECLARATION OF ESTIMATED TAX FOR SUCH PRIVILEGE PERIOD SHALL MAKE SUCH A DECLARATION IN ACCORDANCE WITH REGULATIONS OF THE  
43 COMMISSIONER OF FINANCE.

44  
45 8. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF  
46 TIME, NOT TO EXCEED THREE MONTHS, FOR THE FILING OF ANY DECLARATION  
47 REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDITIONS AS IT  
48 MAY REQUIRE.

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



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

4 (A) IF THE DECLARATION IS FILED ON OR BEFORE JUNE FIFTEENTH, THE ESTI-  
5 MATED TAX SHOWN THEREON, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID  
6 DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS  
7 SECTION, SHALL BE PAID IN THREE EQUAL INSTALLMENTS. ONE OF SUCH INSTALL-  
8 MENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION, ONE  
9 SHALL BE PAID ON THE FOLLOWING SEPTEMBER FIFTEENTH, AND ONE ON THE  
10 FOLLOWING DECEMBER FIFTEENTH.

11 (B) IF THE DECLARATION IS FILED AFTER JUNE FIFTEENTH AND NOT AFTER  
12 SEPTEMBER FIFTEENTH OF SUCH PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE  
13 FILED ON OR BEFORE JUNE FIFTEENTH OF SUCH PERIOD, THE ESTIMATED TAX  
14 SHOWN ON SUCH DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY,  
15 PAID DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF  
16 THIS SECTION, SHALL BE PAID IN TWO EQUAL INSTALLMENTS. ONE OF SUCH  
17 INSTALLMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION  
18 AND ONE SHALL BE PAID ON THE FOLLOWING DECEMBER FIFTEENTH.

19 (C) IF THE DECLARATION IS FILED AFTER SEPTEMBER FIFTEENTH OF SUCH  
20 PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE FILED ON OR BEFORE SEPTEMBER  
21 FIFTEENTH OF SUCH PRIVILEGE PERIOD, THE ESTIMATED TAX SHOWN ON SUCH  
22 DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID IN RESPECT  
23 TO SUCH PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS SECTION,  
24 SHALL BE PAID IN FULL AT THE TIME OF THE FILING OF THE DECLARATION.

25 (D) IF THE DECLARATION IS FILED AFTER THE TIME PRESCRIBED THEREFOR, OR  
26 AFTER THE EXPIRATION OF ANY EXTENSION OF TIME THEREFOR, PARAGRAPHS (B)  
27 AND (C) OF THIS SUBDIVISION SHALL NOT APPLY, AND THERE SHALL BE PAID AT  
28 THE TIME OF SUCH FILING ALL INSTALLMENTS OF ESTIMATED TAX PAYABLE AT OR  
29 BEFORE SUCH TIME, AND THE REMAINING INSTALLMENTS SHALL BE PAID AT THE  
30 TIMES AT WHICH, AND IN THE AMOUNTS IN WHICH, THEY WOULD HAVE BEEN PAYA-  
31 BLE IF THE DECLARATION HAD BEEN FILED WHEN DUE.

32 3. IF ANY AMENDMENT OF A DECLARATION IS FILED, THE REMAINING INSTALL-  
33 MENTS, IF ANY, SHALL BE RATABLY INCREASED OR DECREASED (AS THE CASE MAY  
34 BE) TO REFLECT ANY INCREASE OR DECREASE IN THE ESTIMATED TAX BY REASON  
35 OF SUCH AMENDMENT, AND IF ANY AMENDMENT IS MADE AFTER SEPTEMBER  
36 FIFTEENTH OF THE PRIVILEGE PERIOD, ANY INCREASE IN THE ESTIMATED TAX BY  
37 REASON THEREOF SHALL BE PAID AT THE TIME OF MAKING SUCH AMENDMENT.

38 4. ANY AMOUNT PAID SHALL BE APPLIED AFTER PAYMENT AS A FIRST INSTALL-  
39 MENT AGAINST THE ESTIMATED TAX OF THE TAXPAYER FOR THE CURRENT PRIVILEGE  
40 PERIOD SHOWN ON THE DECLARATION REQUIRED TO BE FILED PURSUANT TO SECTION  
41 11-657 OF THIS SUBCHAPTER OR, IF NO DECLARATION OF ESTIMATED TAX IS  
42 REQUIRED TO BE FILED BY THE TAXPAYER PURSUANT TO SUCH SECTION, ANY SUCH  
43 AMOUNT SHALL BE CONSIDERED A PAYMENT ON ACCOUNT OF THE TAX SHOWN ON THE  
44 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR SUCH PRIVILEGE PERIOD.

45 5. NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679 OF THIS CHAPTER OR  
46 OF SECTION THREE-A OF THE GENERAL MUNICIPAL LAW, IF AN AMOUNT PAID  
47 PURSUANT TO SUBDIVISION ONE OF THIS SECTION EXCEEDS THE TAX SHOWN ON THE  
48 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR THE PRIVILEGE PERIOD  
49 DURING WHICH THE AMOUNT WAS PAID, INTEREST SHALL BE ALLOWED AND PAID ON  
50 THE AMOUNT BY WHICH THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION  
51 EXCEEDS SUCH TAX, AT THE OVERPAYMENT RATE SET BY THE COMMISSIONER OF  
52 FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER, OR, IF NO RATE IS  
53 SET, AT THE RATE OF FOUR PERCENT PER ANNUM FROM THE DATE OF PAYMENT OF  
54 THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION TO THE FIFTEENTH DAY OF  
55 THE THIRD MONTH FOLLOWING THE CLOSE OF THE PRIVILEGE PERIOD, PROVIDED,  
56 HOWEVER, THAT NO INTEREST SHALL BE ALLOWED OR PAID UNDER THIS SUBDIVI-

SION IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR OR IF SUCH INTEREST BECOMES PAYABLE SOLELY BECAUSE OF A CARRYBACK OF A NET OPERATING LOSS IN A SUBSEQUENT PRIVILEGE PERIOD.

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

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

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

9. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF TIME, NOT TO EXCEED SIX MONTHS, FOR PAYMENT OF ANY INSTALLMENT OF ESTIMATED TAX REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDITIONS AS THE COMMISSIONER OF FINANCE MAY REQUIRE INCLUDING THE FURNISHING OF A BOND OR OTHER SECURITY BY THE TAXPAYER IN AN AMOUNT NOT EXCEEDING TWICE THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS GRANTED, PROVIDED HOWEVER THAT INTEREST AT THE UNDERPAYMENT RATE SET BY THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS SUBCHAPTER, OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF PERCENT PER ANNUM FOR THE PERIOD OF THE EXTENSION SHALL BE CHARGED AND COLLECTED ON THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS GRANTED UNDER THIS SUBDIVISION.

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

11. INTENTIONALLY OMITTED.

S 11-659 COLLECTION OF TAXES. EVERY FOREIGN CORPORATION (OTHER THAN A MONEYED CORPORATION) SUBJECT TO THE PROVISIONS OF THIS SUBCHAPTER, EXCEPT A CORPORATION HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, SHALL FILE IN THE DEPARTMENT OF STATE A CERTIFICATE OF DESIGNATION IN ITS CORPORATE NAME, SIGNED AND ACKNOWLEDGED BY ITS PRESIDENT OR A VICE-PRESIDENT OR ITS SECRETARY OR TREASURER, UNDER ITS CORPORATE SEAL, DESIGNATING THE SECRETARY OF STATE AS ITS AGENT UPON WHOM PROCESS IN ANY ACTION PROVIDED FOR BY THIS SUBCHAPTER MAY BE SERVED WITHIN THIS STATE, AND SETTING FORTH AN ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL A COPY OF ANY SUCH PROCESS AGAINST THE CORPORATION WHICH MAY BE SERVED UPON THE SECRETARY OF STATE. IN CASE ANY SUCH CORPORATION SHALL HAVE FAILED TO FILE SUCH CERTIFICATE OF DESIGNATION, IT SHALL BE DEEMED TO HAVE DESIGNATED THE SECRETARY OF STATE AS ITS AGENT UPON WHOM SUCH PROCESS AGAINST IT MAY BE SERVED; AND UNTIL A CERTIFICATE OF DESIGNATION SHALL HAVE BEEN FILED THE CORPORATION SHALL BE DEEMED TO HAVE DIRECTED THE SECRETARY OF STATE TO MAIL COPIES OF PROCESS SERVED UPON HIM OR HER TO THE CORPORATION AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE STATE. WHEN A CERTIFICATE OF DESIGNATION HAS BEEN FILED BY SUCH CORPORATION THE SECRETARY OF STATE SHALL MAIL COPIES OF PROCESS THEREAFTER SERVED UPON THE SECRETARY OF STATE TO THE ADDRESS SET FORTH IN SUCH CERTIFICATE. ANY SUCH CORPORATION, FROM TIME TO TIME, MAY CHANGE THE ADDRESS TO WHICH THE SECRETARY OF STATE IS DIRECTED TO MAIL COPIES OF PROCESS, BY FILING A CERTIFICATE TO THAT EFFECT EXECUTED, SIGNED AND

1 ACKNOWLEDGED IN LIKE MANNER AS A CERTIFICATE OF DESIGNATION AS HEREIN  
2 PROVIDED. SERVICE OF PROCESS UPON ANY SUCH CORPORATION OR UPON ANY  
3 CORPORATION HAVING A CERTIFICATE OF AUTHORITY UNDER SECTION EIGHT  
4 HUNDRED FIVE OF THE LIMITED LIABILITY COMPANY LAW OR HAVING AUTHORITY TO  
5 DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS  
6 CORPORATION LAW, IN ANY ACTION COMMENCED AT ANY TIME PURSUANT TO THE  
7 PROVISIONS OF THIS SUBCHAPTER, MAY BE MADE BY EITHER: (A) PERSONALLY  
8 DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE, A DEPUTY SECRE-  
9 TARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE TO  
10 RECEIVE SUCH SERVICE DUPLICATE COPIES THEREOF AT THE OFFICE OF THE  
11 DEPARTMENT OF STATE IN THE CITY OF ALBANY, IN WHICH EVENT THE SECRETARY  
12 OF STATE SHALL FORTHWITH SEND BY REGISTERED MAIL, RETURN RECEIPT  
13 REQUESTED, ONE OF SUCH COPIES TO THE CORPORATION AT THE ADDRESS DESIG-  
14 NATED BY IT OR AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE  
15 STATE, OR (B) PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF  
16 STATE, A DEPUTY SECRETARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE  
17 SECRETARY OF STATE TO RECEIVE SUCH SERVICE, A COPY THEREOF AT THE OFFICE  
18 OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY AND BY DELIVERING A  
19 COPY THEREOF TO, AND LEAVING SUCH COPY WITH, THE PRESIDENT, VICE-PRESI-  
20 DENT, SECRETARY, ASSISTANT SECRETARY, TREASURER, ASSISTANT TREASURER, OR  
21 CASHIER OF SUCH CORPORATION, OR THE OFFICER PERFORMING CORRESPONDING  
22 FUNCTIONS UNDER ANOTHER NAME, OR A DIRECTOR OR MANAGING AGENT OF SUCH  
23 CORPORATION, PERSONALLY WITHOUT THE STATE. PROOF OF SUCH PERSONAL  
24 SERVICE WITHOUT THE STATE SHALL BE FILED WITH THE CLERK OF THE COURT IN  
25 WHICH THE ACTION IS PENDING WITHIN THIRTY DAYS AFTER SUCH SERVICE, AND  
26 SUCH SERVICE SHALL BE COMPLETE TEN DAYS AFTER PROOF THEREOF IS FILED.

27 S 11-660 LIMITATIONS OF TIME. THE PROVISIONS OF THE CIVIL PRACTICE LAW  
28 AND RULES RELATIVE TO THE LIMITATION OF TIME ENFORCING A CIVIL REMEDY  
29 SHALL NOT APPLY TO ANY PROCEEDING OR ACTION TAKEN TO LEVY, APPRAISE,  
30 ASSESS, DETERMINE OR ENFORCE THE COLLECTION OF ANY TAX OR PENALTY  
31 PRESCRIBED BY THIS SUBCHAPTER, PROVIDED, HOWEVER, THAT AS TO REAL ESTATE  
32 IN THE HANDS OF PERSONS WHO ARE OWNERS THEREOF WHO WOULD BE PURCHASERS  
33 IN GOOD FAITH BUT FOR SUCH TAX OR PENALTY AND AS TO THE LIEN ON REAL  
34 ESTATE OF MORTGAGES HELD BY PERSONS WHO WOULD BE HOLDERS THEREOF IN GOOD  
35 FAITH BUT FOR SUCH TAX OR PENALTY, ALL SUCH TAXES AND PENALTIES SHALL  
36 CEASE TO BE A LIEN ON SUCH REAL ESTATE AS AGAINST SUCH PURCHASERS OR  
37 HOLDERS AFTER THE EXPIRATION OF TEN YEARS FROM THE DATE SUCH TAXES  
38 BECAME DUE AND PAYABLE. THE LIMITATIONS HEREIN PROVIDED FOR SHALL NOT  
39 APPLY TO ANY TRANSFER FROM A CORPORATION TO A PERSON OR CORPORATION WITH  
40 INTENT TO AVOID PAYMENT OF ANY TAXES, OR WHERE WITH LIKE INTENT THE  
41 TRANSFER IS MADE TO A GRANTEE CORPORATION, OR ANY SUBSEQUENT GRANTEE  
42 CORPORATION, CONTROLLED BY SUCH GRANTOR OR WHICH HAS ANY COMMUNITY OF  
43 INTEREST WITH IT, EITHER THROUGH STOCK OWNERSHIP OR OTHERWISE.

44 S 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section  
45 11-508 of the administrative code of the city of New York, as added by  
46 chapter 485 of the laws of 1994, is amended to read as follows:

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

1 or obligor subject to chapter eleven of this title as a utility corpo-  
2 ration, gross income.

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

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

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

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

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

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

29 (2) FOR THE PRIVILEGE OF DOING BUSINESS IN THE CITY IN A CORPORATE OR  
30 ORGANIZED CAPACITY, A TAX, COMPUTED UNDER SECTION 11-643 OF THIS PART,  
31 IS HEREBY ANNUALLY IMPOSED ON EVERY BANKING CORPORATION FOR EACH TAXABLE  
32 YEAR, OR ANY PART THEREOF, COMMENCING ON OR AFTER JANUARY FIRST, TWO  
33 THOUSAND FIFTEEN, WHERE SUCH BANKING CORPORATION (I) HAS AN ELECTION IN  
34 EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE  
35 INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (II) IS A QUALIFIED  
36 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF  
37 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL  
38 REVENUE CODE OF 1986, AS AMENDED.

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

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

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

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

54 S 7. Subdivision 1 and paragraph (a) of subdivision 2 of section  
55 11-671 of the administrative code of the city of New York are amended to  
56 read as follows:

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

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

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

11 (a) If the taxpayer fails to comply with subchapter two [or], three OR  
12 THREE-A of this chapter in not reporting a change or correction or rene-  
13 gotiation, or computation or recomputation of tax, increasing or  
14 decreasing its federal or New York state taxable income, alternative  
15 minimum taxable income or other basis of tax as reported on its federal  
16 or New York state income tax return or in not reporting a change or  
17 correction or renegotiation, or computation or recomputation of tax,  
18 which is treated in the same manner as if it were a deficiency for  
19 federal or New York state income tax purposes or in not filing an  
20 amended return or in not reporting the execution of a notice of waiver  
21 executed pursuant to subsection (d) of section six thousand two hundred  
22 thirteen of the internal revenue code or pursuant to subdivision (f) of  
23 section one thousand eighty-one of the tax law, instead of the mode and  
24 time of assessment provided for in subdivision two of this section, the  
25 commissioner of finance may assess a deficiency based upon such  
26 increased or decreased federal or New York state taxable income, alter-  
27 native minimum taxable income or other basis of tax by mailing to the  
28 taxpayer a notice of additional tax due specifying the amount of the  
29 deficiency, and such deficiency, together with the interest, additions  
30 to tax and penalties stated in such notice, shall be deemed assessed on  
31 the date such notice is mailed unless within thirty days after the mail-  
32 ing of such notice a report of the federal or New York state change or  
33 correction or renegotiation, or computation or recomputation of tax, or  
34 an amended return, where such return was required by subchapter two  
35 [or], three OR THREE-A, is filed accompanied by a statement showing  
36 wherein such federal or New York state determination and such notice of  
37 additional tax due are erroneous.

38 7. Two or more corporations. In case of a combined return under  
39 subchapter two OR THREE-A or a consolidated return under subchapter  
40 three of two or more corporations, the commissioner of finance may  
41 determine a deficiency of tax under subchapter two [or subchapter],  
42 three OR THREE-A of this chapter with respect to the entire tax due upon  
43 such return against any taxpayer included therein. In the case of a  
44 taxpayer which might have been included in such a return under subchap-  
45 ter two [or subchapter], three OR THREE-A of this chapter when the tax  
46 was originally reported, the commissioner of finance may determine a  
47 deficiency of tax under subchapter two [or], three OR THREE-A of this  
48 chapter against such taxpayer and against any other taxpayers which  
49 might have been included in such a return.

50 8. Deficiency defined. For the purposes of this subchapter, a defi-  
51 ciency means the amount of the tax imposed by the named subchapters, or  
52 any of them, less: (a) the amount shown as the tax upon the taxpayer's  
53 return (whether the return was made or the tax computed by it or by the  
54 commissioner of finance), and less (b) the amounts previously assessed  
55 (or collected without assessment) as a deficiency and plus (c) the  
56 amount of any rebates. For the purpose of this definition, the tax

1 imposed by subchapter two [or], three OR THREE-A of this chapter and the  
2 tax shown on the return shall both be determined without regard to any  
3 payment of estimated tax; and a rebate means so much of an abatement,  
4 credit, refund or other repayment (whether or not erroneous) as was made  
5 on the ground that the amounts entering into the definition of a defi-  
6 ciency showed a balance in favor of the taxpayer.

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

9 (a) If a taxpayer fails to comply with subchapter two OR THREE-A of  
10 this chapter in not reporting a change or correction of its sales and  
11 compensating use tax liability or in not filing a copy of an amended  
12 return or report relating to its sales and compensating use tax liabil-  
13 ity, instead of the mode and time of assessment provided for in subdivi-  
14 sion two of this section, the commissioner of finance may assess a defi-  
15 ciency based upon such changed or corrected sales and compensating use  
16 tax liability, as same relates to credits claimed under subchapter two  
17 OR THREE-A of this chapter, by mailing to the taxpayer a notice of addi-  
18 tional tax due specifying the amount of the deficiency, and such defi-  
19 ciency, together with the interest, additions to tax and penalties stat-  
20 ed in such notice, shall be deemed assessed on the date such notice is  
21 mailed unless within thirty days after the mailing of such notice a  
22 report of the state change or correction or a copy of an amended return  
23 or report, where such copy was required by subchapter two OR THREE-A, is  
24 filed accompanied by a statement showing wherein such state determi-  
25 nation and such notice of additional tax due are erroneous.

26 (b) Such notice shall not be considered as a notice of deficiency for  
27 the purposes of this section, subdivision six of section 11-678 (limit-  
28 ing credits or refunds after petition to the tax appeals tribunal), or  
29 subdivision two of section 11-680 (authorizing the filing of a petition  
30 with the tax appeals tribunal based on a notice of deficiency), nor  
31 shall such assessment or the collection thereof be prohibited by the  
32 provisions of subdivision three of this section.

33 (c) If the taxpayer has terminated its existence, a notice of addi-  
34 tional tax due may be mailed to its last known address in or out of the  
35 city, and such notice shall be sufficient for purposes of this subchap-  
36 ter. If the commissioner of finance has received notice that a person is  
37 acting for the taxpayer in a fiduciary capacity, a copy of such notice  
38 shall also be mailed to the fiduciary named in such notice.

39 S 9. Subdivisions 1 and 3 of section 11-673 of the administrative code  
40 of the city of New York, the first undesignated paragraph of subdivision  
41 1 as amended by chapter 808 of the laws of 1992, are amended to read as  
42 follows:

43 1. Assessment date. The amount of tax which a return shows to be due,  
44 or the amount of tax which a return would have shown to be due but for a  
45 mathematical error, shall be deemed to be assessed on the date of filing  
46 of the return (including any amended return showing an increase of tax).  
47 If a notice of deficiency has been mailed, the amount of the deficiency  
48 shall be deemed to be assessed on the date specified in subdivision two  
49 of section 11-672 of this subchapter if no petition is both served on  
50 the commissioner of finance and filed with the tax appeals tribunal, or  
51 if a petition is so served and filed, then upon the date when a decision  
52 of the tax appeals tribunal establishing the amount of the deficiency  
53 becomes final. If a report or an amended return filed pursuant to  
54 subchapter two [or], three OR THREE-A of this chapter concedes the accu-  
55 racy of a federal or New York state adjustment or change or correction  
56 or renegotiation or computation or recomputation of tax, any deficiency

1 in tax under subchapter two [or], three OR THREE-A of this chapter  
2 resulting therefrom shall be deemed to be assessed on the date of filing  
3 such report or amended return, and such assessment shall be timely  
4 notwithstanding section 11-674 of this chapter.

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

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

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

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

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

34 S 10. Subdivisions 3 and 4 of section 11-674 of the administrative  
35 code of the city of New York, subparagraph 3 of paragraph (a) and para-  
36 graph (c) of subdivision 3 as amended by chapter 525 of the laws of 1988  
37 and paragraph (d) of subdivision 3 as amended by local law number 57 of  
38 the city of New York for the year 2001, are amended to read as follows:

39 3. Exceptions.

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

41 (1) no return is filed,

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

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

53 (4) in the case of the tax imposed under subchapter two OR THREE-A of  
54 this chapter, the taxpayer fails to file a report or amended return or  
55 report required thereunder, in respect of a change or correction of  
56 sales and compensating use tax liability, relating to the purchase or

1 use of items for which a sales or compensating use tax credit against  
2 the tax imposed by subchapter two OR THREE-A was claimed.

3 (b) Extension by agreement. Where, before the expiration of the time  
4 prescribed in this section for the assessment of tax, both the commis-  
5 sioner of finance and the taxpayer have consented in writing to its  
6 assessment after such time, the tax may be assessed at any time prior to  
7 the expiration of the period agreed upon. The period so agreed upon may  
8 be extended by subsequent agreements in writing made before the expira-  
9 tion of the period previously agreed upon.

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

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

33 (e) Recovery of erroneous refund. An erroneous refund shall be consid-  
34 ered an underpayment of tax on the date made, and an assessment of a  
35 deficiency arising out of an erroneous refund may be made at any time  
36 within two years from the making of the refund, except that the assess-  
37 ment may be made within five years from the making of the refund if it  
38 appears that any part of the refund was induced by fraud or misrepresen-  
39 tation of a material fact.

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

46 (1) (A) such written request notifies the commissioner of finance that  
47 the taxpayer contemplates dissolution at or before the expiration of  
48 such eighteen-month period, (B) the dissolution is in good faith begun  
49 before the expiration of such eighteen-month period, (C) the dissolution  
50 is completed;

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

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



1 (g) Change of the allocation of taxpayer's income or capital. [No]  
2 (1) WITH REGARD TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO  
3 THOUSAND FIFTEEN, NO change of the allocation of income or capital upon  
4 which the taxpayer's return (or any additional assessment) was based  
5 shall be made where an assessment of tax is made during the additional  
6 period of limitation under subparagraph three or four of paragraph (a),  
7 or under paragraph (c), (d) or (i); and where any such assessment has  
8 been made, or where a notice of deficiency has been mailed to the  
9 taxpayer on the basis of any such proposed assessment, no change of the  
10 allocation of income or capital shall be made in a proceeding on the  
11 taxpayer's claim for refund of such assessment or on the taxpayer's  
12 petition for redetermination of such deficiency.

13 (2) WITH REGARD TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,  
14 TWO THOUSAND FIFTEEN, NO CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL  
15 UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS  
16 BASED SHALL BE MADE WHERE AN ASSESSMENT OF TAX IS MADE DURING THE ADDI-  
17 TIONAL PERIOD OF LIMITATION UNDER SUBPARAGRAPH THREE OR FOUR OF PARA-  
18 GRAPH (A) OR UNDER PARAGRAPH (C), (D) OR (I), EXCEPT TO THE EXTENT SUCH  
19 ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW YORK STATE TAXABLE  
20 INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX, OR BASED ON A  
21 CHANGE, CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON THE EXECUTION OF  
22 A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER, OR COMPUTATION  
23 OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT  
24 WERE A DEFICIENCY FOR NEW YORK STATE INCOME TAX PURPOSES; AND WHERE ANY  
25 SUCH ASSESSMENT HAS BEEN MADE, OR WHERE A NOTICE OF DEFICIENCY HAS BEEN  
26 MAILED TO THE TAXPAYER ON THE BASIS OF ANY SUCH PROPOSED ASSESSMENT, NO  
27 CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL SHALL BE MADE IN A  
28 PROCEEDING ON THE TAXPAYER'S CLAIM FOR REFUND OF SUCH ASSESSMENT OR ON  
29 THE TAXPAYER'S PETITION FOR REDETERMINATION OF SUCH DEFICIENCY, EXCEPT  
30 TO THE EXTENT SUCH ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW  
31 YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX,  
32 OR BASED ON A CHANGE OR CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON  
33 THE EXECUTION OF A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER,  
34 OR COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME  
35 MANNER AS IF IT WERE AN OVERPAYMENT FOR NEW YORK STATE INCOME TAX  
36 PURPOSES.

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

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

55 4. Omission of income on return. The tax may be assessed at any time  
56 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 estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this subchapter, or, if no rate is set, at the rate of seven and one-half percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the third month following the close of the taxable year. The amount of the underpayment shall be, with respect to any installment of estimated tax computed on the basis of the preceding year's tax, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment or, with respect to any other installment of estimated tax, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety percent of the tax shown on the return for the taxable year (or if no return was filed, ninety percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. In any case in which there would be no underpayment if "eighty percent" were substituted for "ninety percent" each place it appears in this subdivision, the addition to the tax shall be equal to seventy-five percent of the amount otherwise determined. No underpayment shall be

1 deemed to exist with respect to a declaration or installment otherwise  
2 due on or after the termination of existence of the taxpayer.

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

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

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

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

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

26 2. Credits against estimated tax. The commissioner of finance may  
27 prescribe regulations providing for the crediting against the estimated  
28 tax under subchapter two [or], three OR THREE-A of this chapter for any  
29 taxable year of the amount determined to be an overpayment of tax under  
30 any such subchapter for a preceding taxable year. If any overpayment of  
31 tax is so claimed as a credit against estimated tax for the succeeding  
32 taxable year, such amount shall be considered as a payment of the tax  
33 under subchapter two [or], three OR THREE-A of this chapter for the  
34 succeeding taxable year (whether or not claimed as a credit in the  
35 declaration of estimated tax for such succeeding taxable year), and no  
36 claim for credit or refund of such overpayment shall be allowed for the  
37 taxable year for which the overpayment arises.

38 S 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administra-  
39 tive code of the city of New York, subdivision 3 as amended by chapter  
40 241 of the laws of 1989 and subdivision 4 as amended by local law number  
41 57 of the city of New York for the year 2001, are amended to read as  
42 follows:

43 3. Notice of change or correction of federal or New York state income  
44 or other basis of tax. If a taxpayer is required by subchapter two [or],  
45 three OR THREE-A of this chapter to file a report or amended return in  
46 respect of (a) a decrease or increase in federal or New York state taxa-  
47 ble income, alternative minimum taxable income or other basis of tax or  
48 federal or New York state tax, (b) a federal or New York state change or  
49 correction or renegotiation, or computation or recomputation of tax,  
50 which is treated in the same manner as if it were an overpayment for  
51 federal or New York state income tax purposes, claim for credit or  
52 refund of any resulting overpayment of tax shall be filed by the taxpay-  
53 er within two years from the time such report or amended return was  
54 required to be filed with the commissioner of finance. If the report or  
55 amended return required by subchapter two [or], three OR THREE-A of this  
56 chapter is not filed within the ninety day period therein specified, no

1 interest shall be payable on any claim for credit or refund of the over-  
2 payment attributable to the federal or New York state change or  
3 correction. The amount of such credit or refund:

4 (c) shall, (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO  
5 THOUSAND FIFTEEN, be computed without change of the allocation of income  
6 or capital upon which the taxpayer's return (or any additional assess-  
7 ment) was based, and, (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANU-  
8 ARY FIRST, TWO THOUSAND FIFTEEN, BE COMPUTED WITHOUT CHANGE OF THE ALLO-  
9 CATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY  
10 ADDITIONAL ASSESSMENT) WAS BASED TO THE EXTENT THAT THE CLAIM FOR REFUND  
11 ARISES FROM A DECREASE OR INCREASE IN FEDERAL TAXABLE INCOME OR OTHER  
12 BASIS OF TAX OR FEDERAL TAX, OR FROM A FEDERAL CHANGE, CORRECTION, RENE-  
13 GOTIATION, COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE  
14 SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR FEDERAL INCOME TAX  
15 PURPOSES, AND

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

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

25 4. Overpayment attributable to net operating loss carry back or capi-  
26 tal loss carry back. A claim for credit or refund of so much of an over-  
27 payment under subchapter two OR THREE-A of this chapter as is attribut-  
28 able to the application to the taxpayer of a net operating loss carry  
29 back or a capital loss carry back shall be filed within three years from  
30 the time the return was due (including extensions thereof) for the taxa-  
31 ble year of the loss, or within the period prescribed in subdivision two  
32 in respect of such taxable year, or within the period prescribed in  
33 subdivision three, where applicable, in respect to the taxable year to  
34 which the net operating loss or capital loss is carried back, whichever  
35 expires the latest. Where such claim for credit or refund is filed after  
36 the expiration of the period prescribed in subdivision one or in subdivi-  
37 sion two where applicable, in respect to the taxable year to which the  
38 net operating loss or capital loss is carried back, the amount of such  
39 credit or refund shall be computed without change of the allocation of  
40 income or capital upon which the taxpayer's return (or any additional  
41 assessment) was based.

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

52 11. Notice of change or correction of sales and compensating use tax  
53 liability. (a) If a taxpayer is required by subchapter two OR THREE-A of  
54 this chapter to file a report or amended return in respect of a change  
55 or correction of its sales and compensating use tax liability, claim for  
56 credit or refund of any resulting overpayment of tax shall be filed by

1 the taxpayer within two years from the time such report or amended  
2 return was required to be filed with the commissioner of finance. The  
3 amount of such credit or refund shall be computed without change of the  
4 allocation of income or capital upon which the taxpayer's return (or any  
5 additional assessment) was based, and shall not exceed the amount of the  
6 reduction in tax attributable to such change or correction of sales and  
7 compensating use tax liability.

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

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

16 4. Refund of tax caused by carryback. For purposes of this section, if  
17 any overpayment of tax imposed by subchapter two OR THREE-A of this  
18 chapter results from a carryback of a net operating loss or a net capi-  
19 tal loss, such overpayment shall be deemed not to have been made prior  
20 to the filing date for the taxable year in which such net operating loss  
21 or net capital loss arises. Such filing date shall be determined without  
22 regard to extensions of time to file. For purposes of subdivision three  
23 of this section any overpayment described herein shall be treated as an  
24 overpayment for the loss year and such subdivision shall be applied with  
25 respect to such overpayment by treating the return for the loss year as  
26 not filed before claim for such overpayment is filed. The term "loss  
27 year" means the taxable year in which such loss arises.

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

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

35 (d) Restriction on further notices of deficiency. If the taxpayer  
36 files a petition with the tax appeals tribunal under this section, no  
37 notice of deficiency under section 11-672 of this subchapter may there-  
38 after be issued by the commissioner of finance for the same taxable  
39 year, except in case of fraud or with respect to an increase or decrease  
40 in federal or New York state taxable income, alternative minimum taxable  
41 income or other basis of tax or federal or New York state tax or a  
42 federal or New York state change or correction or renegotiation, or  
43 computation or recomputation of tax, which is treated in the same manner  
44 as if it were a deficiency for federal or New York state income tax  
45 purposes, required to be reported under subchapter two [or], three OR  
46 THREE-A of this chapter or with respect to a state change or correction  
47 of sales and compensating use tax liability required to be reported  
48 under subchapter two OR THREE-A of this chapter.

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

52 (c) whether the petitioner is liable for any increase in a deficiency  
53 where such increase is asserted initially after a notice of deficiency  
54 was mailed and a petition under this section filed, unless such increase  
55 in deficiency is the result of an increase or decrease in federal or New  
56 York state taxable income, alternative minimum taxable income or other

1 basis of tax or federal or New York state tax or a federal or New York  
2 state change or correction or renegotiation, or computation or recompu-  
3 tation of tax, which is treated in the same manner as if it were a defi-  
4 ciency for federal or New York state income tax purposes, required to be  
5 reported under subchapter two [or], three OR THREE-A of this chapter,  
6 and of which increase, decrease, change or correction or renegotiation,  
7 or computation or recomputation, the commissioner of finance had no  
8 notice at the time he or she mailed the notice of deficiency or unless  
9 such increase in deficiency is the result of a change or correction of  
10 sales and compensating use tax liability required to be reported under  
11 subchapter two OR THREE-A of this chapter, and of which change or  
12 correction the commissioner of finance had no notice at the time he or  
13 she mailed the notice of deficiency; and

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

17 (a) Authority to set interest rates. The commissioner of finance shall  
18 set the overpayment and underpayment rates of interest to be paid pursu-  
19 ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675,  
20 11-676, and 11-679 of this chapter, but if no such rate or rates of  
21 interest are set, such overpayment rate shall be deemed to be set at six  
22 percent per annum and such underpayment rates shall be deemed to be set  
23 at seven and one-half percent per annum. Such overpayment and underpay-  
24 ment rates shall be the rates prescribed in paragraph (b) of this subdivi-  
25 sion but the underpayment rate shall not be less than seven and one-  
26 half percent per annum. Any such rates set by the commissioner of  
27 finance shall apply to taxes, or any portion thereof, which remain or  
28 become due or overpaid on or after the date on which such rates become  
29 effective and shall apply only with respect to interest computed or  
30 computable for periods or portions of periods occurring in the period  
31 during which such rates are in effect.

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

35 7. Notwithstanding anything in subdivision one of this section, the  
36 commissioner of finance may disclose to a taxpayer or a taxpayer's  
37 related member, as defined in paragraph (n) of subdivision eight of  
38 section 11-602, PARAGRAPH (N) OF SUBDIVISION EIGHT OF SECTION 11-652 or  
39 paragraph one of subdivision (q) of section 11-641 of this chapter,  
40 information relating to any royalty paid, incurred or received by such  
41 taxpayer or related member to or from the other, including the treatment  
42 of such payments by the taxpayer or the related member in any report or  
43 return transmitted to the commissioner of finance under this title.

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

47 (4) No tenant shall be authorized to receive a reduction in base rent  
48 subject to tax under the provisions of this subdivision, until the prem-  
49 ises with respect to which it is claiming a reduction in base rent meet  
50 the requirements in the definition of eligible premises and until it has  
51 obtained a certification of eligibility from the mayor or an agency  
52 designated by the mayor, and an annual certification from the mayor or  
53 an agency designated by the mayor as to the number of eligible aggregate  
54 employment shares maintained by such tenant which may qualify for  
55 obtaining a base rent reduction for the tenant's tax year. Any written  
56 documentation submitted to the mayor or such agency or agencies in order

1 to obtain any such certification shall be deemed a written instrument  
2 for purposes of section 175.00 of the penal law. Application fees for  
3 such certifications shall be determined by the mayor or such agency or  
4 agencies. No certification of eligibility shall be issued to an eligible  
5 business on or after July first, nineteen hundred ninety-nine unless  
6 such business meets the requirements of either subparagraph (a) or (b)  
7 below:

8 (a) (1) prior to such date such business has purchased, leased or  
9 entered into a contract to purchase or lease particular premises or a  
10 parcel on which will be constructed such premises or already owned such  
11 premises or parcel;

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

16 (3) prior to such date such business submits a preliminary application  
17 for a certification of eligibility to such mayor or such agency or agen-  
18 cies with respect to a proposed relocation to such particular premises;  
19 and

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

25 (b) (1) not later than June thirtieth, two thousand two, such business  
26 has purchased, leased or entered into a contract to purchase or lease  
27 particular premises wholly contained in a building in which at least an  
28 aggregate of forty per centum or two hundred thousand square feet,  
29 whichever is less, of the nonresidential floor area of such building has  
30 been purchased or leased by a business or businesses which meet or will  
31 meet the requirements of subparagraph (a) of this paragraph with respect  
32 to such floor area and which are or will become certified as eligible to  
33 receive a credit under section 22-622 of this code with respect to such  
34 floor area;

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

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

41 Any tenant subject to a tax imposed under chapter five, or subchapter  
42 two [or], three OR THREE-A of chapter six, of this title obtaining a  
43 certification of eligibility pursuant to subdivision (b) of section  
44 22-622 of the code shall be deemed to have obtained the certification of  
45 eligibility required by this paragraph.

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

51 (a) "Eligible Business." Any person subject to a tax imposed under  
52 chapter five, or subchapter two [or], three OR THREE-A of chapter six,  
53 or chapter eleven, of title eleven of the code, that: (1) has been  
54 conducting substantial business operations at one or more business  
55 locations outside the eligible area for the twenty-four consecutive  
56 months immediately preceding the taxable year during which such eligible

1 business relocates as defined in subdivision (j) of this section; and  
2 (2) on or after May twenty-seventh, nineteen hundred eighty-seven relo-  
3 cates as defined in subdivision (j) of this section all or part of such  
4 business operations; and (3) either (i) on or after May twenty-seventh,  
5 nineteen hundred eighty-seven first enters into a contract to purchase  
6 or lease the premises to which it relocates as defined in subdivision  
7 (j) of this section, or a parcel on which will be constructed such prem-  
8 ises, or (ii) as of May twenty-seventh, nineteen hundred eighty-seven  
9 owns such parcel or premises and has not prior to such date made appli-  
10 cation for benefits pursuant to part four of subchapter two of chapter  
11 two of title eleven of the code.

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

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

31 (a) An eligible business that relocates as defined in subdivision (j)  
32 of section 22-621 of the code shall be allowed to receive a credit  
33 against a tax imposed by chapter five, or subchapter two [or], three OR  
34 THREE-A of chapter six, or chapter eleven, of title eleven of the code,  
35 as described in subdivision (i) of section 11-503, subdivision seventeen  
36 of section 11-604, SUBDIVISION SEVENTEEN OF SECTION 11-654, section  
37 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent  
38 subject to tax as described in subdivision f of section 11-704 of the  
39 code, provided, however, notwithstanding any other provision of law to  
40 the contrary, no such credit shall be allowed against the tax imposed  
41 under such chapter eleven for a relocation taking place prior to January  
42 first, nineteen hundred ninety-nine.

43 (d) An eligible business other than a utility company subject to the  
44 supervision of the department of public service shall not be authorized  
45 to receive a credit against the gross receipts tax imposed under chapter  
46 eleven of title eleven of the code, unless such eligible business elects  
47 to take the credit authorized by this section against the tax imposed by  
48 such chapter on an application filed with respect to the first relo-  
49 cation of such business that qualifies or will qualify under this  
50 section, with the mayor or the agency designated by such mayor pursuant  
51 to subdivision (b) of this section. The election authorized by this  
52 subdivision may not be withdrawn after the issuance of such certif-  
53 ication of eligibility. No taxpayer that has previously received a  
54 certification of eligibility to receive such credit against any tax  
55 imposed by chapter five or subchapter two [or], three OR THREE-A of  
56 chapter six of title eleven of the code may make the election authorized



1 by this subdivision. No taxpayer that makes the election provided in  
2 this subdivision shall be authorized to take such credit against any tax  
3 imposed by chapter five or subchapter two [or], three OR THREE-A of  
4 chapter six of title eleven of the code.

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

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

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

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

23 (l) "Special eligible business" means any person subject to a tax  
24 imposed under chapter five, or subchapter two [or], three OR THREE-A of  
25 chapter six, or chapter eleven, of title eleven of the code, that: (1)  
26 has been conducting substantial business operations at one or more busi-  
27 ness locations outside the city of New York for the twenty-four consec-  
28 utive months immediately preceding the taxable year during which such  
29 eligible business relocates as defined in subdivision (m); (2) main-  
30 tained employment shares at premises in Manhattan in the city of New  
31 York at some time during the period beginning January first, two thou-  
32 sand two, and ending on the date it enters into a lease or a contract to  
33 purchase the premises that will qualify as eligible premises pursuant to  
34 this section, and (3) on or after June thirtieth, two thousand five,  
35 relocates as defined in subdivision (m) of this section all or part of  
36 such business operations.

37 S 26. Subdivisions (a) and (d) of section 22-624 of the administrative  
38 code of the city of New York, subdivision (a) as amended by section 11  
39 of part E of chapter 2 of the laws of 2005 and subdivision (d) as  
40 amended by section 12 of part E of chapter 2 of the laws of 2005, are  
41 amended to read as follows:

42 (a) An eligible business that relocates as defined in subdivision (j)  
43 of section 22-623 of this chapter or a special eligible business that  
44 relocates as defined in subdivision (m) of section 22-623 of this chap-  
45 ter shall be allowed to receive a credit against a tax imposed by chap-  
46 ter five, or subchapter two [or], three OR THREE-A of chapter six, or  
47 chapter eleven, of title eleven of the code, as described in subdivision  
48 (l) of section 11-503, subdivision nineteen of section 11-604, SUBDIVI-  
49 SION NINETEEN OF SECTION 11-654, section 11-643.9 or section 11-1105.3  
50 of the code.

51 (d) An eligible business or special eligible business other than a  
52 utility company subject to the supervision of the department of public  
53 service shall not be authorized to receive a credit against the gross  
54 receipts tax imposed under chapter eleven of title eleven of the code  
55 unless such eligible business or special eligible business elects to  
56 take the credit authorized by this section against the tax imposed by

1 such chapter on its application filed with the mayor or the agency  
2 designated by such mayor pursuant to subdivision (b) of this section.  
3 The election authorized by this subdivision may not be withdrawn after  
4 the issuance of such certification of eligibility. No taxpayer that has  
5 previously received a certification of eligibility to receive such cred-  
6 it against any tax imposed by chapter five or subchapter two [or], three  
7 OR THREE-A of chapter six of title eleven of the code may make the  
8 election authorized by this subdivision. No taxpayer that makes the  
9 election provided in this subdivision shall be authorized to take such  
10 credit against any tax imposed by chapter five or subchapter two [or],  
11 three OR THREE-A of chapter six of title eleven of the code.

12 S 27. This act shall take effect immediately and shall apply to taxa-  
13 ble years beginning on or after January 1, 2015.

14

## PART RR

15 Section 1. Subdivision 2 of section 187-b of the tax law, as amended  
16 by section 1 of part G of chapter 59 of the laws of 2013, is amended to  
17 read as follows:

18 2. (A) Alternative fuel vehicle refueling property and electric vehi-  
19 cle recharging property. The credit under this section for alternative  
20 fuel vehicle refueling and electric vehicle recharging property shall  
21 equal for each installation of property the lesser of five thousand  
22 dollars or THE PRODUCT OF fifty percent [of the cost of any such proper-  
23 ty:

24 (a) which is] AND THE COST OF ANY SUCH PROPERTY LESS ANY COSTS PAID  
25 FROM THE PROCEEDS OF GRANTS.

26 (B) TO QUALIFY FOR THE CREDIT, THE PROPERTY MUST:

27 (I) BE located in this state;

28 [(b) which constitutes] (II) CONSTITUTE alternative fuel vehicle refu-  
29 eling property or electric vehicle recharging property; and

30 [(c) for which none of the cost has been] (III) NOT BE paid for from  
31 the proceeds of grants AWARDED BEFORE JANUARY FIRST, TWO THOUSAND  
32 FIFTEEN, including grants from the New York state energy research and  
33 development authority or the New York power authority.

34 S 2. Paragraph (b) of subdivision 30 of section 210-B of the tax law,  
35 as added by section 17 of part A of chapter 59 of the laws of 2014, is  
36 amended to read as follows:

37 (b) (I) Alternative fuel vehicle refueling property and electric vehi-  
38 cle recharging property. The credit under this subdivision for alterna-  
39 tive fuel vehicle refueling property and electric vehicle recharging  
40 property shall equal for each installation of property the lesser of  
41 five thousand dollars or THE PRODUCT OF fifty percent [of the cost of  
42 any such property:

43 (i) which is] AND THE COST OF ANY SUCH PROPERTY LESS ANY COSTS PAID  
44 FROM THE PROCEEDS OF GRANTS.

45 (II) TO QUALIFY FOR THE CREDIT, THE PROPERTY MUST:

46 (A) BE located in this state;

47 [(ii) which constitutes] (B) MUST CONSTITUTE alternative fuel vehicle  
48 refueling property or electric vehicle recharging property; and

49 [(iii) for which none of the cost has been] (C) NOT BE paid for from  
50 the proceeds of grants AWARDED BEFORE JANUARY FIRST, TWO THOUSAND  
51 FIFTEEN, including grants from the New York state energy research and  
52 development authority or the New York power authority.

1 S 3. Paragraph 2 of subsection (p) of section 606 of the tax law, as  
2 amended by section 3 of part G of chapter 59 of the laws of 2013, is  
3 amended to read as follows:

4 (2) (A) Alternative fuel vehicle refueling property and electric vehi-  
5 cle recharging property. The credit under this subsection for alterna-  
6 tive fuel vehicle refueling property or electric vehicle recharging  
7 property shall equal for each installation of property the lesser of  
8 five thousand dollars or THE PRODUCT OF fifty percent [of the cost of  
9 any such property

10 (A) which is] AND THE COST OF ANY SUCH PROPERTY LESS ANY COSTS PAID  
11 FROM THE PROCEEDS OF GRANTS.

12 (B) TO QUALIFY FOR THE CREDIT, THE PROPERTY MUST:

13 (I) BE located in this state;

14 [(B) which constitutes] (II) CONSTITUTE alternative fuel vehicle refu-  
15 eling property or electric vehicle recharging property; and

16 [(C) for which none of the cost has been] (III) NOT BE paid for from  
17 the proceeds of grants AWARDED BEFORE JANUARY FIRST, TWO THOUSAND  
18 FIFTEEN, including grants from the New York state energy research and  
19 development authority or the New York power authority.

20 S 4. This act shall take effect immediately, and shall apply to taxa-  
21 ble years beginning on or after January 1, 2015.

22 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
23 sion, section or part of this act shall be adjudged by any court of  
24 competent jurisdiction to be invalid, such judgment shall not affect,  
25 impair, or invalidate the remainder thereof, but shall be confined in  
26 its operation to the clause, sentence, paragraph, subdivision, section  
27 or part thereof directly involved in the controversy in which such judg-  
28 ment shall have been rendered. It is hereby declared to be the intent of  
29 the legislature that this act would have been enacted even if such  
30 invalid provisions had not been included herein.

31 S 3. This act shall take effect immediately provided, however, that  
32 the applicable effective date of Parts A through RR of this act shall be  
33 as specifically set forth in the last section of such Parts.