

S. 4610

A. 6721

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

March 31, 2015

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

AN ACT to amend chapter 41 of the laws of 1985 relating to providing for the construction of a civic center in Albany and making appropriations relating to the construction of such facility, in relation to the repayment of such appropriation (Part A); to amend the economic development law, in relation to START-UP NY airport facilities (Part B); to amend the alcoholic beverage control law, in relation to licenses to sell at retail for consumption on the premises (Part C); to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part D); establishing a commission on legislative, judicial and executive compensation, and providing for the powers and duties of the commission and for the dissolution of the commission and repealing chapter 567 of the laws of 2010 relating to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers (Part E); to permit authorized state entities to utilize the design-build method for infrastructure projects; and providing for the repeal of such provisions upon expiration thereof (Part F); establishing the New York State water infrastructure improvement act of 2015 (Part G); to amend the state finance law, in relation to the creation of a new dedicated infrastructure investment fund (Part H); and to provide for the administration of certain funds and accounts related to the 2015-16 budget, authorizing certain payments and transfers; to amend the state finance law, in relation to the rainy day reserve fund and the school tax relief fund; to amend the state finance law, in relation to payments, transfers and deposits; to amend the state finance law, in relation to the issuance of bonds and notes; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the

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

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

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

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

12 PART A

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

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

26 S 2. This act shall take effect immediately.

27 PART B

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

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

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

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

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

5 S 3. This act shall take effect immediately.

6 PART C

7 Section 1. Subdivision 7 of section 64 of the alcoholic beverage  
8 control law is amended by adding a new paragraph (e-7) to read as  
9 follows:

10 (E-7) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
11 SION, THE AUTHORITY MAY ISSUE A RETAIL LICENSE FOR ON-PREMISES CONSUMP-  
12 TION FOR A PREMISES WHICH SHALL BE WITHIN TWO HUNDRED FEET OF A BUILDING  
13 OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE, OR OTHER PLACE OF  
14 WORSHIP, PROVIDED SUCH PREMISES CONSTITUTES A PREMISES FOR THE SALE OF  
15 FOOD OR BEVERAGES AT RETAIL FOR CONSUMPTION ON THE PREMISES LOCATED  
16 WHOLLY WITHIN THE BOUNDARIES OF THE BOROUGH OF MANHATTAN IN THE CITY AND  
17 COUNTY OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

18 BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY  
19 SIDE OF 63RD STREET WITH THE EASTERLY SIDE OF PARK (FORMERLY FOURTH)  
20 AVENUE, RUNNING THENCE EASTERLY ALONG SAID NORTHERLY SIDE OF 63RD STREET  
21 ONE HUNDRED (100) FEET; THENCE NORTHERLY AND PARALLEL WITH PARK AVENUE  
22 ONE HUNDRED (100) FEET AND FIVE (5) INCHES; THENCE RUNNING WESTERLY AND  
23 PARALLEL WITH 63RD STREET ONE HUNDRED (100) FEET TO THE EASTERLY SIDE OF  
24 PARK AVENUE; THENCE SOUTHERLY ALONG THE SAID EASTERLY SIDE OF PARK  
25 AVENUE ONE HUNDRED (100) FEET AND FIVE (5) INCHES TO THE POINT OR PLACE  
26 OF BEGINNING, THE PREMISES KNOWN AS 583 PARK AVENUE.

27 S 2. This act shall take effect immediately.

28 PART D

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

32 SUBCHAPTER 3-A  
33 CORPORATE TAX OF 2015

- 34 SECTION 11-651 APPLICABILITY.
- 35 11-652 DEFINITIONS.
- 36 11-653 IMPOSITION OF TAX; EXEMPTIONS.
- 37 11-654 COMPUTATION OF TAX.
- 38 11-654.1 NET OPERATING LOSS.
- 39 11-654.2 RECEIPTS ALLOCATION.
- 40 11-654.3 COMBINED REPORTS.
- 41 11-655 REPORTS.
- 42 11-656 PAYMENT AND LIEN OF TAX.
- 43 11-657 DECLARATION OF ESTIMATED TAX.
- 44 11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX.
- 45 11-659 COLLECTION OF TAXES.
- 46 11-660 LIMITATIONS OF TIME.

47 S 11-651 APPLICABILITY. 1. NOTWITHSTANDING ANYTHING TO THE CONTRARY  
48 IN THIS CHAPTER, THIS SUBCHAPTER SHALL APPLY TO CORPORATIONS FOR TAX  
49 YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT  
50 THAT IT SHALL NOT APPLY TO ANY CORPORATION THAT (A) HAS AN ELECTION IN  
51 EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE  
52 INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (B) IS A QUALIFIED

1 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF  
2 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL  
3 REVENUE CODE OF 1986, AS AMENDED, IN ANY TAX YEAR COMMENCING ON OR AFTER  
4 SUCH DATE. SUBCHAPTERS TWO AND THREE OF THIS CHAPTER SHALL NOT APPLY TO  
5 CORPORATIONS TO WHICH THIS SUBCHAPTER APPLIES FOR TAX YEARS COMMENCING  
6 ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT TO THE EXTENT  
7 PROVIDED IN THIS SUBCHAPTER AND TO THE EXTENT THAT THE EFFECT OF THE  
8 APPLICATION OF SUBCHAPTERS TWO AND THREE TO TAX YEARS COMMENCING PRIOR  
9 TO JANUARY FIRST, TWO THOUSAND FIFTEEN CARRIES OVER TO TAX YEARS  
10 COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

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

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

24 (B) (1) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, AN UNINCOR-  
25 PORATED ORGANIZATION THAT (I) IS DESCRIBED IN SUBPARAGRAPH ONE OR THREE  
26 OF PARAGRAPH (A) OF THIS SUBDIVISION, (II) WAS SUBJECT TO THE PROVISIONS  
27 OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEAR BEGINNING IN NINETEEN  
28 HUNDRED NINETY-FIVE, AND (III) MADE A ONE-TIME ELECTION NOT TO BE TREAT-  
29 ED AS A CORPORATION AND, INSTEAD, TO CONTINUE TO BE SUBJECT TO THE  
30 PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEARS BEGINNING  
31 IN NINETEEN HUNDRED NINETY-SIX AND THEREAFTER, SHALL CONTINUE TO BE  
32 SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE  
33 YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX.

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

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

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

47 2-A. THE TERM "TAXPAYER" MEANS ANY CORPORATION SUBJECT TO TAX UNDER  
48 THIS SUBCHAPTER.

49 3. INTENTIONALLY OMITTED.

50 3-A. THE TERM "STOCK" MEANS AN INTEREST IN A CORPORATION THAT IS  
51 TREATED AS EQUITY FOR FEDERAL INCOME TAX PURPOSES.

52 4. (A) THE TERM "INVESTMENT CAPITAL" MEANS INVESTMENTS IN STOCKS THAT:  
53 (I) SATISFY THE DEFINITION OF A CAPITAL ASSET UNDER SECTION 1221 OF THE  
54 INTERNAL REVENUE CODE AT ALL TIMES THE TAXPAYER OWNED SUCH STOCKS DURING  
55 THE TAXABLE YEAR; (II) ARE HELD BY THE TAXPAYER FOR INVESTMENT FOR MORE  
56 THAN ONE YEAR; (III) THE DISPOSITIONS OF WHICH ARE, OR WOULD BE, TREATED

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

24 (B) THERE SHALL BE DEDUCTED FROM INVESTMENT CAPITAL ANY LIABILITIES  
25 WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO INVESTMENT CAPITAL. IF  
26 THE AMOUNT OF THOSE LIABILITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPI-  
27 TAL, THE AMOUNT OF INVESTMENT CAPITAL SHALL BE ZERO.

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

43 (D) IF A TAXPAYER ACQUIRES STOCK THAT IS A CAPITAL ASSET UNDER SECTION  
44 1221 OF THE INTERNAL REVENUE CODE DURING THE TAXABLE YEAR AND OWNS THAT  
45 STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE PRESUMED, SOLELY  
46 FOR THE PURPOSES OF DETERMINING WHETHER THAT STOCK SHOULD BE CLASSIFIED  
47 AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, THAT THE TAXPAYER HELD THAT  
48 STOCK FOR MORE THAN ONE YEAR. HOWEVER, IF THE TAXPAYER DOES NOT IN FACT  
49 OWN THAT STOCK AT THE TIME IT ACTUALLY FILES ITS ORIGINAL REPORT FOR THE  
50 TAXABLE YEAR IN WHICH IT ACQUIRED THE STOCK, THEN THE PRESUMPTION IN THE  
51 PRECEDING SENTENCE SHALL NOT APPLY AND THE ACTUAL PERIOD OF TIME DURING  
52 WHICH THE TAXPAYER OWNED THE STOCK SHALL BE USED TO DETERMINE WHETHER  
53 THE STOCK SHOULD BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS  
54 ACQUIRED. IF THE TAXPAYER RELIES ON THE PRESUMPTION IN THE FIRST  
55 SENTENCE OF THIS PARAGRAPH BUT DOES NOT OWN THE STOCK FOR MORE THAN ONE  
56 YEAR, THE TAXPAYER MUST INCREASE ITS TOTAL BUSINESS CAPITAL IN THE IMME-

1 DIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT INCLUDED IN INVESTMENT  
2 CAPITAL FOR THAT STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE TO THAT  
3 STOCK COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION AND MUST  
4 INCREASE ITS BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING TAXABLE YEAR  
5 BY THE AMOUNT OF INCOME AND NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT  
6 STOCK INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST DEDUCTIONS  
7 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS PROVIDED IN SUBDI-  
8 VISION FIVE OF THIS SECTION.

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

13 5. (A)(I) THE TERM "INVESTMENT INCOME" MEANS INCOME, INCLUDING CAPI-  
14 TAL GAINS IN EXCESS OF CAPITAL LOSSES, FROM INVESTMENT CAPITAL, TO THE  
15 EXTENT INCLUDED IN COMPUTING ENTIRE NET INCOME, LESS, IN THE DISCRETION  
16 OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS ALLOWABLE IN  
17 COMPUTING ENTIRE NET INCOME WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUT-  
18 ABLE TO INVESTMENT CAPITAL OR INVESTMENT INCOME, PROVIDED, HOWEVER, THAT  
19 IN NO CASE SHALL INVESTMENT INCOME EXCEED ENTIRE NET INCOME.

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

24 (III) IF THE TAXPAYER'S INVESTMENT INCOME DETERMINED WITHOUT REGARD TO  
25 THE INTEREST DEDUCTIONS SUBTRACTED UNDER SUBPARAGRAPH (I) OF THIS PARA-  
26 GRAPH COMPRISES MORE THAN EIGHT PERCENT OF THE TAXPAYER'S ENTIRE NET  
27 INCOME, INVESTMENT INCOME DETERMINED WITHOUT REGARD TO SUCH INTEREST  
28 DEDUCTIONS CANNOT EXCEED EIGHT PERCENT OF THE TAXPAYER'S ENTIRE NET  
29 INCOME.

30 (B) IN LIEU OF SUBTRACTING FROM INVESTMENT INCOME THE AMOUNT OF THOSE  
31 INTEREST DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO  
32 REDUCE ITS TOTAL INVESTMENT INCOME, DETERMINED AFTER APPLYING THE LIMI-  
33 TATION IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, BY  
34 FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST  
35 ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND (C) OF SUBDI-  
36 VISION FIVE-A OF THIS SECTION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS  
37 ELECTION, THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARA-  
38 GRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF THIS SECTION. A TAXPAYER  
39 THAT DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO INVESTMENT CAPITAL  
40 WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

43 5-A. (A) THE TERM "OTHER EXEMPT INCOME" MEANS THE SUM OF EXEMPT CFC  
44 INCOME AND EXEMPT UNITARY CORPORATION DIVIDENDS.

45 (B) "EXEMPT CFC INCOME" MEANS THE INCOME REQUIRED TO BE INCLUDED IN  
46 THE TAXPAYER'S FEDERAL GROSS INCOME PURSUANT TO SUBSECTION (A) OF  
47 SECTION NINE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, RECEIVED  
48 FROM A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE  
49 TAXPAYER BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER,  
50 LESS, IN THE DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST  
51 DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT INCOME. IN LIEU  
52 OF SUBTRACTING FROM ITS EXEMPT CFC INCOME THE AMOUNT OF THOSE INTEREST  
53 DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE ITS  
54 TOTAL EXEMPT CFC INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS  
55 ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN  
56 PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (C) OF

1 THIS SUBDIVISION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION,  
2 THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF  
3 SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (C) OF THIS SUBDIVISION.  
4 A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO EXEMPT  
5 CFC INCOME WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

35 (D) IF THE TAXPAYER ATTRIBUTES INTEREST DEDUCTIONS TO OTHER EXEMPT  
36 INCOME AND THE AMOUNT DEDUCTED EXCEEDS OTHER EXEMPT INCOME, THE EXCESS  
37 OF THE INTEREST DEDUCTIONS OVER OTHER EXEMPT INCOME MUST BE ADDED BACK  
38 TO ENTIRE NET INCOME. IN NO CASE SHALL OTHER EXEMPT INCOME EXCEED ENTIRE  
39 NET INCOME.

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

42 6. (A) THE TERM "BUSINESS CAPITAL" MEANS ALL ASSETS, OTHER THAN  
43 INVESTMENT CAPITAL AND STOCK ISSUED BY THE TAXPAYER, LESS LIABILITIES  
44 NOT DEDUCTED FROM INVESTMENT CAPITAL; PROVIDED, HOWEVER, BUSINESS CAPI-  
45 TAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME, LOSS OR EXPENSE OF WHICH  
46 ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT  
47 FULLY DEPRECIATED OR EXPENSED OR DEPRECIATED OR EXPENSED TO A NOMINAL  
48 AMOUNT) IN THE COMPUTATION OF ENTIRE NET INCOME FOR THE TAXABLE YEAR.

49 (B) PROVIDED, FURTHER, "BUSINESS CAPITAL" SHALL NOT INCLUDE ASSETS TO  
50 THE EXTENT EMPLOYED FOR THE PURPOSE OF GENERATING INCOME WHICH IS  
51 EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE PROVISIONS OF PARAGRAPH  
52 (C-1) OF SUBDIVISION EIGHT OF THIS SECTION AND SHALL BE COMPUTED WITHOUT  
53 REGARD TO LIABILITIES DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH  
54 ASSETS, BUT ONLY IF AIR CARRIERS ORGANIZED IN THE UNITED STATES AND  
55 OPERATING IN THE FOREIGN COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS  
56 ITS MAJOR BASE OF OPERATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR



1 HEADQUARTERED (IF NOT IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPER-  
2 ATIONS) ARE NOT SUBJECT TO ANY TAX BASED ON OR MEASURED BY CAPITAL  
3 IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVI-  
4 SION THEREOF, OR IF TAXED, ARE PROVIDED AN EXEMPTION, EQUIVALENT TO THAT  
5 PROVIDED FOR HEREIN, FROM ANY TAX BASED ON OR MEASURED BY CAPITAL  
6 IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES AND FROM ANY SUCH TAX  
7 IMPOSED BY ANY POLITICAL SUBDIVISION THEREOF.

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

14 8. THE TERM "ENTIRE NET INCOME" MEANS TOTAL NET INCOME FROM ALL SOURC-  
15 ES, WHICH SHALL BE PRESUMABLY THE SAME AS THE ENTIRE TAXABLE INCOME,  
16 WHICH, EXCEPT AS HEREAFTER PROVIDED IN THIS SUBDIVISION,

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

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

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

31 (A) ENTIRE NET INCOME SHALL NOT INCLUDE:

32 (1) INTENTIONALLY OMITTED;

33 (2) INTENTIONALLY OMITTED;

34 (2-A) ANY AMOUNTS TREATED AS DIVIDENDS PURSUANT TO SECTION  
35 SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE;

36 (3) BONA FIDE GIFTS;

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

42 (5) ANY REFUND OR CREDIT OF A TAX IMPOSED UNDER THIS CHAPTER, OR  
43 IMPOSED BY ARTICLE NINE, NINE-A, TWENTY-THREE, OR FORMER ARTICLE THIR-  
44 TY-TWO OF THE TAX LAW, FOR WHICH TAX NO EXCLUSION OR DEDUCTION WAS  
45 ALLOWED IN DETERMINING THE TAXPAYER'S ENTIRE NET INCOME UNDER THIS  
46 SUBCHAPTER, SUBCHAPTER TWO, OR SUBCHAPTER THREE OF THIS CHAPTER FOR ANY  
47 PRIOR YEAR;

48 (6) INTENTIONALLY OMITTED;

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

52 (8) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-  
53 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF  
54 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
55 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF  
56 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,

1 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH  
2 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED  
3 EIGHTY-NINE, ANY AMOUNT WHICH IS INCLUDED IN THE TAXPAYER'S FEDERAL  
4 TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE  
5 PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS  
6 ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

7 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-  
8 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF  
9 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
10 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF  
11 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,  
12 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH  
13 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED  
14 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER COULD HAVE EXCLUDED FROM  
15 FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PROVIDED FOR IN SUCH  
16 PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO  
17 JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

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

20 (11) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS  
21 SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE  
22 AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF PARAGRAPH (B) OF THIS SUBDI-  
23 VISION ATTRIBUTABLE TO SUCH PROPERTY EXCEEDS THE AGGREGATE OF THE  
24 AMOUNTS DESCRIBED IN PARAGRAPH (J) OF THIS SUBDIVISION ATTRIBUTABLE TO  
25 SUCH PROPERTY;

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

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

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

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

35 (A-1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, IN THE  
36 CASE OF A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP SUBJECT TO THE TAX  
37 IMPOSED BY CHAPTER ELEVEN OF THIS TITLE AS A UTILITY, AS DEFINED IN  
38 SUBDIVISION SIX OF SECTION 11-1101 OF SUCH CHAPTER, ENTIRE NET INCOME  
39 SHALL NOT INCLUDE THE TAXPAYER'S DISTRIBUTIVE OR PRO RATA SHARE FOR  
40 FEDERAL INCOME TAX PURPOSES OF ANY ITEM OF INCOME, GAIN, LOSS OR  
41 DEDUCTION OF SUCH PARTNERSHIP, OR ANY ITEM OF INCOME, GAIN, LOSS OR  
42 DEDUCTION OF SUCH PARTNERSHIP THAT THE TAXPAYER IS REQUIRED TO TAKE INTO  
43 ACCOUNT SEPARATELY FOR FEDERAL INCOME TAX PURPOSES.

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

46 (1) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF  
47 THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS  
48 DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, (I)  
49 ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK,  
50 SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFEC-  
51 TIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED  
52 STATES PURSUANT TO SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL  
53 REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER  
54 ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME  
55 WOULD BE TREATED AS EFFECTIVELY CONNECTED IN THE ABSENCE OF SUCH  
56 EXEMPTION PROVIDED THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE

1 TAXATION OF SUCH INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE  
2 TREATED AS EFFECTIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM  
3 GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION ONE HUNDRED THREE OF  
4 THE INTERNAL REVENUE CODE;

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

7 (3) TAXES ON OR MEASURED BY PROFITS OR INCOME PAID OR ACCRUED TO THE  
8 UNITED STATES, ANY OF ITS POSSESSIONS, TERRITORIES OR COMMONWEALTHS,  
9 INCLUDING TAXES IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERAL-  
10 LY IMPOSED BY ANY POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED  
11 STATES, OR TAXES PAID OR ACCRUED TO THE STATE UNDER ARTICLE NINE,  
12 NINE-A, THIRTEEN-A OR THIRTY-TWO OF THE TAX LAW AS IN EFFECT ON DECEMBER  
13 THIRTY-FIRST, TWO THOUSAND FOURTEEN;

14 (3-A) TAXES ON OR MEASURED BY PROFITS OR INCOME, OR WHICH INCLUDE  
15 PROFITS OR INCOME AS A MEASURE, PAID OR ACCRUED TO ANY OTHER STATE OF  
16 THE UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR TO THE  
17 DISTRICT OF COLUMBIA, INCLUDING TAXES EXPRESSLY IN LIEU OF ANY OF THE  
18 FOREGOING TAXES OTHERWISE GENERALLY IMPOSED BY ANY OTHER STATE OF THE  
19 UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF  
20 COLUMBIA;

21 (4) TAXES IMPOSED UNDER THIS CHAPTER;

22 (4-A) INTENTIONALLY OMITTED;

23 (4-B) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE  
24 TAX LAW IN DETERMINING THE ENTIRE TAXABLE INCOME FOR A RELOCATION  
25 DESCRIBED IN SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER  
26 WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY  
27 DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS  
28 NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVI-  
29 SION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

30 (4-C) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE  
31 TAX LAW FOR A RELOCATION DESCRIBED IN SUBDIVISION FOURTEEN OF SECTION  
32 11-654 OF THIS SUBCHAPTER IN DETERMINING THE ENTIRE TAXABLE INCOME WHICH  
33 THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPART-  
34 MENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT  
35 IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION  
36 FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

37 (4-D) INTENTIONALLY OMITTED;

38 (4-E) INTENTIONALLY OMITTED;

39 (5) INTENTIONALLY OMITTED;

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

43 (7) ANY AMOUNT BY REASON OF THE GRANTING, ISSUING OR ASSUMING OF A  
44 RESTRICTED STOCK OPTION, AS DEFINED IN THE INTERNAL REVENUE CODE OF  
45 NINETEEN HUNDRED FIFTY-FOUR, OR BY REASON OF THE TRANSFER OF THE SHARE  
46 OF STOCK UPON THE EXERCISE OF THE OPTION, UNLESS SUCH SHARE IS DISPOSED  
47 OF BY THE GRANTEE OF THE OPTION WITHIN TWO YEARS FROM THE DATE OF THE  
48 GRANTING OF THE OPTION OR WITHIN SIX MONTHS AFTER THE TRANSFER OF SUCH  
49 SHARE TO THE GRANTEE;

50 (8) INTENTIONALLY OMITTED;

51 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-  
52 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF  
53 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
54 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF  
55 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,  
56 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH

1 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED  
2 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER CLAIMED AS A DEDUCTION IN  
3 COMPUTING ITS FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION  
4 MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN  
5 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN  
6 HUNDRED EIGHTY-FOUR;

7 (10) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-  
8 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF  
9 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
10 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF  
11 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,  
12 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH  
13 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED  
14 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER WOULD HAVE BEEN REQUIRED TO  
15 INCLUDE IN THE COMPUTATION OF ITS FEDERAL TAXABLE INCOME HAD IT NOT MADE  
16 THE ELECTION PERMITTED PURSUANT TO SUCH PARAGRAPH EIGHT AS IT WAS IN  
17 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN  
18 HUNDRED EIGHTY-FOUR;

19 (11) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-  
20 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING  
21 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH  
22 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED  
23 EIGHTY F OF THE INTERNAL REVENUE CODE, PROPERTY SUBJECT TO THE  
24 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
25 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING  
26 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR AND PROPERTY  
27 OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAM-  
28 BOAT, FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES,  
29 WHICH IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN  
30 HUNDRED EIGHTY-NINE, THE AMOUNT ALLOWABLE AS A DEDUCTION DETERMINED  
31 UNDER SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE;

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

37 (13) INTENTIONALLY OMITTED;

38 (14) INTENTIONALLY OMITTED;

39 (15) INTENTIONALLY OMITTED;

40 (16) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF  
41 SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
42 CODE, OTHER THAN QUALIFIED RESURGENCE ZONE PROPERTY DESCRIBED IN  
43 PARAGRAPH (M) OF THIS SUBDIVISION, AND OTHER THAN QUALIFIED NEW YORK  
44 LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (B) OF  
45 SECTION FOURTEEN HUNDRED L OF THE INTERNAL REVENUE CODE (WITHOUT REGARD  
46 TO CLAUSE (I) OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH), THE AMOUNT ALLOW-  
47 ABLE AS A DEDUCTION UNDER SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTER-  
48 NAL REVENUE CODE;

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

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

3 (19) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR TAXES IMPOSED UNDER ARTI-  
4 CLE TWENTY-THREE OF THE TAX LAW.

5 (C) INTENTIONALLY OMITTED.

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

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

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

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

43 (F) INTENTIONALLY OMITTED.

44 (G) AT THE ELECTION OF THE TAXPAYER, A DEDUCTION SHALL BE ALLOWED FOR  
45 EXPENDITURES PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE  
46 CONSTRUCTION, RECONSTRUCTION, ERECTION OR IMPROVEMENT OF INDUSTRIAL  
47 WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES.

48 (1)(I) THE TERM "INDUSTRIAL WASTE TREATMENT FACILITIES" SHALL MEAN  
49 FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF INDUS-  
50 TRIAL WASTE (AS THE TERM "INDUSTRIAL WASTE" IS DEFINED IN SECTION  
51 17-0105 OF THE ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY  
52 PRECEDING THE POINT OF SUCH TREATMENT, NEUTRALIZATION OR STABILIZATION  
53 TO THE POINT OF DISPOSAL, INCLUDING THE NECESSARY PUMPING AND TRANSMIT-  
54 TING FACILITIES, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY  
55 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING  
56 PROCESS OR ARE MARKETABLE.

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

13 (2) HOWEVER, SUCH DEDUCTION SHALL BE ALLOWED ONLY (I) WITH RESPECT TO  
14 TANGIBLE PROPERTY WHICH IS DEPRECIABLE, PURSUANT TO SECTION ONE HUNDRED  
15 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVING A SITUS IN THE CITY AND  
16 USED IN THE TAXPAYER'S TRADE OR BUSINESS, THE CONSTRUCTION, RECON-  
17 STRUCTION, ERECTION OR IMPROVEMENT OF WHICH, IN THE CASE OF INDUSTRIAL  
18 WASTE TREATMENT FACILITIES, IS INITIATED ON OR AFTER JANUARY FIRST,  
19 NINETEEN HUNDRED SIXTY-SIX, AND ONLY FOR EXPENDITURES PAID OR INCURRED  
20 PRIOR TO JANUARY FIRST, NINETEEN HUNDRED SEVENTY-TWO, OR WHICH, IN THE  
21 CASE OF AIR POLLUTION CONTROL FACILITIES, IS INITIATED ON OR AFTER JANU-  
22 ARY FIRST, NINETEEN HUNDRED SIXTY-SIX, AND

23 (II) ON CONDITION THAT SUCH FACILITIES HAVE BEEN CERTIFIED BY THE  
24 STATE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR THE STATE COMMIS-  
25 SIONER'S DESIGNATED REPRESENTATIVE, IN THE SAME MANNER AS PROVIDED FOR  
26 IN SECTION 17-0707 OR 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, AS  
27 APPLICABLE, AS COMPLYING WITH APPLICABLE PROVISIONS OF THE ENVIRONMENTAL  
28 CONSERVATION LAW, THE STATE SANITARY CODE AND REGULATIONS, PERMITS OR  
29 ORDERS ISSUED PURSUANT THERETO, AND

30 (III) ON CONDITION THAT ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL  
31 SUCCEEDING TAXABLE YEARS BE COMPUTED WITHOUT ANY DEDUCTIONS FOR SUCH  
32 EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY OTHER THAN THE  
33 DEDUCTIONS ALLOWED BY THIS PARAGRAPH EXCEPT TO THE EXTENT THAT THE BASIS  
34 OF THE PROPERTY MAY BE ATTRIBUTABLE TO FACTORS OTHER THAN SUCH EXPENDI-  
35 TURES, OR IN CASE A DEDUCTION IS ALLOWABLE PURSUANT TO THIS PARAGRAPH  
36 FOR ONLY A PART OF SUCH EXPENDITURES, ON CONDITION THAT ANY DEDUCTION  
37 ALLOWED FOR FEDERAL INCOME TAX PURPOSES FOR SUCH EXPENDITURES OR FOR  
38 DEPRECIATION OF THE SAME PROPERTY BE PROPORTIONATELY REDUCED IN COMPUT-  
39 ING ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE  
40 YEARS, AND

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

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

1 (II) IF A DEDUCTION IS ALLOWED AS HEREIN PROVIDED FOR EXPENDITURES  
2 PAID OR INCURRED DURING ANY TAXABLE YEAR ON THE BASIS OF A TEMPORARY  
3 CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVA-  
4 TION LAW AND IF THE TAXPAYER FAILS TO OBTAIN A PERMANENT CERTIFICATE OF  
5 COMPLIANCE UPON COMPLETION OF THE FACILITIES WITH RESPECT TO WHICH SUCH  
6 TEMPORARY CERTIFICATE WAS ISSUED, THE TAXPAYER SHALL REPORT SUCH FAILURE  
7 IN ITS REPORT FOR THE TAXABLE YEAR DURING WHICH SUCH FACILITIES ARE  
8 COMPLETED, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE  
9 YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR  
10 CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH  
11 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION  
12 THREE OF SECTION 11-674 OF THIS CHAPTER.

13 (4) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED  
14 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO THIS  
15 PARAGRAPH, SUCH DEDUCTION SHALL BE DISREGARDED IN COMPUTING GAIN OR  
16 LOSS, AND THE GAIN OR LOSS ON THE SALE OR OTHER DISPOSITION OF SUCH  
17 PROPERTY SHALL BE THE GAIN OR LOSS ENTERING INTO THE COMPUTATION OF  
18 ENTIRE TAXABLE INCOME WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE  
19 UNITED STATES TREASURY FOR SUCH TAXABLE YEAR;

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

44 (I) IF THE PERIOD COVERED BY A REPORT UNDER THIS SUBCHAPTER IS OTHER  
45 THAN THE PERIOD COVERED BY THE REPORT OF THE UNITED STATES TREASURY  
46 DEPARTMENT, ENTIRE NET INCOME SHALL BE DETERMINED BY MULTIPLYING THE  
47 FEDERAL TAXABLE INCOME (AS ADJUSTED PURSUANT TO THE PROVISIONS OF THIS  
48 SUBCHAPTER) BY THE NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF  
49 COVERED BY THE REPORT UNDER THIS SUBCHAPTER AND DIVIDING BY THE NUMBER  
50 OF CALENDAR MONTHS OR MAJOR PARTS THEREOF COVERED BY THE REPORT TO SUCH  
51 DEPARTMENT. IF IT SHALL APPEAR THAT SUCH METHOD OF DETERMINING ENTIRE  
52 NET INCOME DOES NOT PROPERLY REFLECT THE TAXPAYER'S INCOME DURING THE  
53 PERIOD COVERED BY THE REPORT UNDER THIS SUBCHAPTER, THE COMMISSIONER OF  
54 FINANCE SHALL BE AUTHORIZED IN HIS OR HER DISCRETION TO DETERMINE SUCH  
55 ENTIRE NET INCOME SOLELY ON THE BASIS OF THE TAXPAYER'S INCOME DURING  
56 THE PERIOD COVERED BY ITS REPORT UNDER THIS SUBCHAPTER.

1 (J) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-  
2 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING  
3 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH  
4 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED  
5 EIGHTY F OF THE INTERNAL REVENUE CODE AND PROPERTY SUBJECT TO THE  
6 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
7 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING  
8 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR, AND PROVIDED  
9 A DEDUCTION HAS NOT BEEN EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO  
10 SUBPARAGRAPH NINE OF PARAGRAPH (B) OF THIS SUBDIVISION, A TAXPAYER SHALL  
11 BE ALLOWED WITH RESPECT TO PROPERTY WHICH IS SUBJECT TO THE PROVISIONS  
12 OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE THE  
13 DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN  
14 OF THE INTERNAL REVENUE CODE AS SUCH SECTION WOULD HAVE APPLIED TO PROP-  
15 erty PLACED IN SERVICE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED  
16 EIGHTY. THIS PARAGRAPH SHALL NOT APPLY TO PROPERTY OF A TAXPAYER PRINCI-  
17 PALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGA-  
18 TION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH IS PLACED IN  
19 SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED EIGHTY-NINE.

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

38 (L) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (K) OF THIS  
39 SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE  
40 NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS  
41 FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH TWELVE OF PARAGRAPH (A)  
42 AND SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUT-  
43 ABLE TO SUCH PROPERTY.

44 (M) FOR PURPOSES OF THIS PARAGRAPH AND PARAGRAPH (L) OF THIS SUBDIVI-  
45 SION, QUALIFIED RESURGENCE ZONE PROPERTY SHALL MEAN QUALIFIED PROPERTY  
46 DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (K) OF SECTION ONE HUNDRED  
47 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE SUBSTANTIALLY ALL OF THE USE OF  
48 WHICH IS IN THE RESURGENCE ZONE, AS DEFINED BELOW, AND IS IN THE ACTIVE  
49 CONDUCT OF A TRADE OR BUSINESS BY THE TAXPAYER IN SUCH ZONE, AND THE  
50 ORIGINAL USE OF WHICH IN THE RESURGENCE ZONE COMMENCES WITH THE TAXPAYER  
51 AFTER SEPTEMBER TENTH, TWO THOUSAND ONE. THE RESURGENCE ZONE SHALL MEAN  
52 THE AREA OF NEW YORK COUNTY BOUNDED ON THE SOUTH BY A LINE RUNNING FROM  
53 THE INTERSECTION OF THE HUDSON RIVER WITH THE HOLLAND TUNNEL, AND  
54 RUNNING THENCE EAST TO CANAL STREET, THEN RUNNING ALONG THE CENTERLINE  
55 OF CANAL STREET TO THE INTERSECTION OF THE BOWERY AND CANAL STREET,  
56 RUNNING THENCE IN A SOUTHEASTERLY DIRECTION DIAGONALLY ACROSS MANHATTAN



1 BRIDGE PLAZA, TO THE MANHATTAN BRIDGE, AND THENCE ALONG THE CENTERLINE  
2 OF THE MANHATTAN BRIDGE TO THE POINT WHERE THE CENTERLINE OF THE MANHAT-  
3 TAN BRIDGE WOULD INTERSECT WITH THE EASTERLY BANK OF THE EAST RIVER, AND  
4 BOUNDED ON THE NORTH BY A LINE RUNNING FROM THE INTERSECTION OF THE  
5 HUDSON RIVER WITH THE HOLLAND TUNNEL AND RUNNING THENCE NORTH ALONG WEST  
6 AVENUE TO THE INTERSECTION OF CLARKSON STREET THEN RUNNING EAST ALONG  
7 THE CENTERLINE OF CLARKSON STREET TO THE INTERSECTION OF WASHINGTON  
8 AVENUE, THEN RUNNING SOUTH ALONG THE CENTERLINE OF WASHINGTON AVENUE TO  
9 THE INTERSECTION OF WEST HOUSTON STREET, THEN EAST ALONG THE CENTERLINE  
10 OF WEST HOUSTON STREET, THEN AT THE INTERSECTION OF THE AVENUE OF THE  
11 AMERICAS CONTINUING EAST ALONG THE CENTERLINE OF EAST HOUSTON STREET TO  
12 THE EASTERLY BANK OF THE EAST RIVER.

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

18 (II) "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATU-  
19 TORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED  
20 MEMBER'S NET INCOME MULTIPLIED BY THE ALLOCATION PERCENTAGE, IF ANY,  
21 APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION.  
22 FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY  
23 CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID  
24 CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE  
25 TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN  
26 THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR  
27 PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX  
28 FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR  
29 OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE  
30 RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR  
31 COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF  
32 TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY  
33 RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY  
34 SUCH CREDIT OR SIMILAR ADJUSTMENT.

35 (III) ROYALTY PAYMENTS ARE PAYMENTS DIRECTLY CONNECTED TO THE ACQUISSI-  
36 TION, USE, MAINTENANCE OR MANAGEMENT, OWNERSHIP, SALE, EXCHANGE, OR ANY  
37 OTHER DISPOSITION OF LICENSES, TRADEMARKS, COPYRIGHTS, TRADE NAMES,  
38 TRADE DRESS, SERVICE MARKS, MASK WORKS, TRADE SECRETS, PATENTS AND ANY  
39 OTHER SIMILAR TYPES OF INTANGIBLE ASSETS AS DETERMINED BY THE COMMIS-  
40 SIONER OF FINANCE, AND INCLUDE AMOUNTS ALLOWABLE AS INTEREST DEDUCTIONS  
41 UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE INTERNAL REVENUE CODE TO  
42 THE EXTENT SUCH AMOUNTS ARE DIRECTLY OR INDIRECTLY FOR, RELATED TO OR IN  
43 CONNECTION WITH THE ACQUISITION, USE, MAINTENANCE OR MANAGEMENT, OWNER-  
44 SHIP, SALE, EXCHANGE OR DISPOSITION OF SUCH INTANGIBLE ASSETS.

45 (IV) A VALID BUSINESS PURPOSE IS ONE OR MORE BUSINESS PURPOSES, OTHER  
46 THAN THE AVOIDANCE OR REDUCTION OF TAXATION, WHICH ALONE OR IN COMBINA-  
47 TION CONSTITUTE THE PRIMARY MOTIVATION FOR SOME BUSINESS ACTIVITY OR  
48 TRANSACTION, WHICH ACTIVITY OR TRANSACTION CHANGES IN A MEANINGFUL WAY,  
49 APART FROM TAX EFFECTS, THE ECONOMIC POSITION OF THE TAXPAYER. THE  
50 ECONOMIC POSITION OF THE TAXPAYER INCLUDES AN INCREASE IN THE MARKET  
51 SHARE OF THE TAXPAYER, OR THE ENTRY BY THE TAXPAYER INTO NEW BUSINESS  
52 MARKETS.

53 (2) ROYALTY EXPENSE ADD BACKS. (I) EXCEPT WHERE A TAXPAYER IS INCLUDED  
54 IN A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER  
55 WITH THE APPLICABLE RELATED MEMBER, FOR THE PURPOSE OF COMPUTING ENTIRE  
56 NET INCOME OR OTHER APPLICABLE TAXABLE BASIS, A TAXPAYER MUST ADD BACK

1 ROYALTY PAYMENTS DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN  
2 CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR  
3 MORE RELATED MEMBERS DURING THE TAXABLE YEAR TO THE EXTENT DEDUCTIBLE IN  
4 CALCULATING FEDERAL TAXABLE INCOME.

5 (II) EXCEPTIONS. (A) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL  
6 NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB-  
7 LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM  
8 SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING  
9 REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR  
10 ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBI-  
11 NATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID,  
12 ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE  
13 SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH  
14 PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS-  
15 ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE  
16 RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

17 (B) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE  
18 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND  
19 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE  
20 RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN  
21 THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION  
22 THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT  
23 PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE  
24 EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC-  
25 TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT  
26 APPLIED TO THE TAXPAYER UNDER SECTION 11-604 OF THIS CHAPTER FOR THE  
27 TAXABLE YEAR.

28 (C) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE  
29 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND  
30 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE  
31 ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGAN-  
32 IZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE  
33 RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHEN-  
34 SIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III)  
35 THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE  
36 THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE  
37 TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS  
38 TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT  
39 IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR  
40 INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSI-  
41 NESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

42 (D) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE  
43 TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLI-  
44 CATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMIS-  
45 SIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICA-  
46 TION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE  
47 CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE  
48 TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

49 (O) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS  
50 DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE  
51 DEDUCTIONS ALLOWABLE UNDER SECTIONS ONE HUNDRED SEVENTY-NINE, ONE  
52 HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE  
53 CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER  
54 AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION TWO  
55 HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE, DETERMINED AS IF SUCH  
56 SPORT UTILITY VEHICLE WERE A PASSENGER AUTOMOBILE AS DEFINED IN SUCH

1 PARAGRAPH FIVE. FOR PURPOSES OF SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B)  
2 AND PARAGRAPH (K) OF THIS SUBDIVISION, THE TERMS QUALIFIED RESURGENCE  
3 ZONE PROPERTY AND QUALIFIED NEW YORK LIBERTY ZONE PROPERTY DESCRIBED IN  
4 PARAGRAPH TWO OF SUBSECTION B OF SECTION FOURTEEN HUNDRED L OF THE  
5 INTERNAL REVENUE CODE SHALL NOT INCLUDE ANY SPORT UTILITY VEHICLE THAT  
6 IS NOT A PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION  
7 (D) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE.

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

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

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

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

25 (II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE  
26 TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE  
27 ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION  
28 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

29 (2-A) TO BE A SMALL THRIFT INSTITUTION, A TAXPAYER MUST SATISFY THE  
30 FOLLOWING CONDITIONS:

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

34 (II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE  
35 TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE  
36 ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION  
37 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

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

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

44 (B) MULTIPLY THE AMOUNT DETERMINED IN SUBCLAUSE (A) OF THIS CLAUSE BY  
45 FIFTY PERCENT. THIS PRODUCT IS THE AMOUNT OF THE DEDUCTION ALLOWED UNDER  
46 THIS PARAGRAPH.

47 (II)(A) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST  
48 INCOME FROM LOANS LESS GROSS INTEREST EXPENSE FROM LOANS. GROSS INTEREST  
49 EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING GROSS INTEREST EXPENSE  
50 BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL VALUE OF  
51 LOANS OWNED BY THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXA-  
52 BLE YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE  
53 THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR.

54 (B) MEASUREMENT OF ASSETS. FOR PURPOSES OF THIS CLAUSE: (I) TOTAL  
55 ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET,

1 COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF  
2 THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

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

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

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

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

19 (A) THE LOAN IS ORIGINATED BY THE QUALIFIED COMMUNITY BANK OR SMALL  
20 THRIFT INSTITUTION OR PURCHASED BY THE QUALIFIED COMMUNITY BANK OR SMALL  
21 THRIFT INSTITUTION IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH  
22 A COMMITMENT TO PURCHASE MADE BY THE BANK OR THRIFT INSTITUTION PRIOR TO  
23 THE LOAN'S ORIGINATION.

24 (B) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,  
25 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND  
26 EITHER THE BORROWER IS LOCATED IN THIS CITY AS DETERMINED UNDER SECTION  
27 11-654.2 OF THIS SUBCHAPTER AND THE LOAN IS NOT SECURED BY REAL PROPER-  
28 TY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN THE CITY.

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

34 (R) A SMALL THRIFT INSTITUTION OR A QUALIFIED COMMUNITY BANK, AS  
35 DEFINED IN PARAGRAPH (Q) OF THIS SUBDIVISION, THAT MAINTAINED A CAPTIVE  
36 REIT ON APRIL FIRST, TWO THOUSAND FOURTEEN SHALL UTILIZE A REIT  
37 SUBTRACTION EQUAL TO ONE HUNDRED SIXTY PERCENT OF THE DIVIDENDS PAID  
38 DEDUCTIONS ALLOWED TO THAT CAPTIVE REIT FOR THE TAXABLE YEAR FOR FEDERAL  
39 INCOME TAX PURPOSES AND SHALL NOT BE ALLOWED TO UTILIZE THE SUBTRACTION  
40 MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS UNDER PARAGRAPH (Q)  
41 OF THIS SUBDIVISION OR THE SUBTRACTION MODIFICATION FOR QUALIFIED RESI-  
42 DENTIAL LOAN PORTFOLIOS UNDER PARAGRAPH (S) OF THIS SUBDIVISION IN ANY  
43 TAX YEAR IN WHICH SUCH THRIFT INSTITUTION OR COMMUNITY BANK MAINTAINS  
44 THAT CAPTIVE REIT.

45 (S) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFO-  
46 LIOS. (1)(I) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED  
47 IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS  
48 DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (Q) OF THIS SUBDIVISION AND  
49 MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARA-  
50 GRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING  
51 ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (A) THIRTY-TWO PERCENT OF  
52 ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH  
53 EXCEEDS (B) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS  
54 ONE HUNDRED SIXTY-SIX AND FIVE HUNDRED EIGHTY-FIVE OF THE INTERNAL  
55 REVENUE CODE LESS ANY AMOUNTS INCLUDED IN FEDERAL TAXABLE INCOME AS A  
56 RESULT OF A RECOVERY OF A LOAN.

1 (II)(A) IF THE TAXPAYER IS IN A COMBINED REPORT UNDER SECTION 11-654.3  
2 OF THIS SUBCHAPTER, THIS DEDUCTION WILL BE COMPUTED ON A COMBINED BASIS.  
3 IN THAT INSTANCE, THE ENTIRE NET INCOME OF THE COMBINED REPORTING GROUP  
4 FOR PURPOSES OF THIS PARAGRAPH SHALL BE MULTIPLIED BY A FRACTION, THE  
5 NUMERATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE THRIFT INSTI-  
6 TUTIONS AND QUALIFIED COMMUNITY BANKS INCLUDED IN THE COMBINED REPORT  
7 AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE  
8 CORPORATIONS INCLUDED IN THE COMBINED REPORT.

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

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

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

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

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

30 (2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (I) A TAXPAYER MAINTAINS A  
31 QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE  
32 AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE  
33 THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS  
34 DESCRIBED IN SUBCLAUSES (A) THROUGH (L) OF THIS CLAUSE, WITH THE APPLI-  
35 CATION OF THE RULE IN THE LAST UNDESIGNATED SUBCLAUSE OF THIS CLAUSE. IF  
36 THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF  
37 WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY  
38 AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNI-  
39 TY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP. ASSETS: (A) CASH,  
40 WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH ITEMS IN THE  
41 PROCESS OF COLLECTION, DEPOSITS WITH OTHER FINANCIAL INSTITUTIONS,  
42 INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL RESERVE BANKS  
43 AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH AND CASH  
44 EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERVING AS  
45 COLLATERAL FOR SECURITIES LENDING TRANSACTIONS; (B) OBLIGATIONS OF THE  
46 UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK  
47 OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERN-  
48 MENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLI-  
49 TICAL SUBDIVISION THEREOF; (C) LOANS SECURED BY A DEPOSIT OR SHARE OF A  
50 MEMBER; (D) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR,  
51 FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR  
52 REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE  
53 IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY  
54 FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS SUBCLAUSE, RESI-  
55 DENTIAL REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS,  
56 FACILITIES IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROP-

1 ERTY USED ON A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED  
2 ON A TRANSIENT BASIS; (E) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF  
3 DEFAULTED LOANS DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (F) ANY REGU-  
4 LAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS DEFINED IN SECTION  
5 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE PROPORTION WHICH THE  
6 ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED IN ANY OF THE PRECED-  
7 ING SUBCLAUSES OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE PERCENT OR  
8 MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN SUBCLAUSES (A)  
9 THROUGH (E) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC SHALL QUAL-  
10 IFY; (G) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A  
11 FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST  
12 PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH  
13 SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN,  
14 WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS  
15 CLAUSE AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR  
16 WHICH CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE  
17 TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (H) CERTIF-  
18 ICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION ORGANIZED UNDER A  
19 STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPORATION TO INSURE THE  
20 DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS; (I) LOANS SECURED BY  
21 AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE INSTITUTIONS OR FACILI-  
22 TIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMARILY FOR RESIDENTIAL  
23 PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDERCARE, EMPLOYEES, OR  
24 MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILITIES; (J) LOANS MADE  
25 FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY EDUCATION OR VOCA-  
26 TIONAL TRAINING; (K) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSI-  
27 NESS WHICH CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC  
28 AND INVESTING IN LOANS; AND (L) LOANS FOR WHICH THE TAXPAYER IS THE  
29 CREDITOR AND WHICH ARE WHOLLY SECURED BY LOANS DESCRIBED IN SUBCLAUSE  
30 (D) OF THIS CLAUSE.

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

35 (II) AT THE ELECTION OF THE TAXPAYER, THE PERCENTAGE SPECIFIED IN  
36 CLAUSE (I) OF THIS SUBPARAGRAPH SHALL BE APPLIED ON THE BASIS OF THE  
37 AVERAGE ASSETS OUTSTANDING DURING THE TAXABLE YEAR, IN LIEU OF THE CLOSE  
38 OF THE TAXABLE YEAR. THE TAXPAYER CAN ELECT TO COMPUTE AN AVERAGE USING  
39 THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR AND ON THE LAST  
40 DAY OF EACH SUBSEQUENT QUARTER, OR MONTH OR DAY DURING THE TAXABLE YEAR.  
41 THIS ELECTION MAY BE MADE ANNUALLY.

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

49 (IV) FOR PURPOSES OF SUBCLAUSE (D) OF CLAUSE (I) OF THIS SUBPARAGRAPH,  
50 LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE  
51 DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY  
52 IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESI-  
53 DENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF  
54 ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY  
55 TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES  
56 RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY

1 INTEREST IN A REMIC QUALIFIES UNDER SUBCLAUSE (F) OF CLAUSE (I) OF THIS  
2 SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC  
3 SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING SUBCLAUSE UNDER  
4 PRINCIPLES SIMILAR TO THE PRINCIPLE OF SUCH SUBCLAUSE (F), EXCEPT THAT  
5 IF SUCH REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS  
6 ONE REMIC FOR PURPOSES OF SUCH SUBCLAUSE (F).

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

10 (T) SUBTRACTION MODIFICATION FOR QUALIFIED AFFORDABLE HOUSING AND LOW  
11 INCOME COMMUNITY LOANS.

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

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

18 (A) IF THE TOTAL AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS  
19 OF THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT,  
20 THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION  
21 11-654.3 OF THIS SUBCHAPTER, DOES NOT EXCEED ONE HUNDRED BILLION  
22 DOLLARS, THE TAXPAYER'S NET INTEREST INCOME FROM QUALIFYING LOANS, OR

23 (B) IF THE TOTAL AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS  
24 OF THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT,  
25 THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION  
26 11-654.3 OF THIS SUBCHAPTER, EXCEEDS ONE HUNDRED BILLION DOLLARS BUT IS  
27 LESS THAN ONE HUNDRED FIFTY BILLION DOLLARS, THE TAXPAYER'S NET INTEREST  
28 INCOME FROM QUALIFYING LOANS MULTIPLIED BY A FRACTION, THE NUMERATOR OF  
29 WHICH IS ONE HUNDRED FIFTY BILLION DOLLARS MINUS THE TOTAL AVERAGE VALUE  
30 DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR IF THE TAXPAY-  
31 ER IS INCLUDED IN A COMBINED REPORT, THE ASSETS OF THE COMBINED REPORT-  
32 ING GROUP OF THE TAXPAYER UNDER SECTION 11-654.3 OF THIS SUBCHAPTER, AND  
33 THE DENOMINATOR OF WHICH IS FIFTY BILLION DOLLARS.

34 (II)(A) NET INTEREST INCOME FROM QUALIFYING LOANS SHALL MEAN THE  
35 TAXPAYER'S NET INTEREST INCOME FROM LOANS DURING THE TAXABLE YEAR MULTI-  
36 PLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INTEREST INCOME  
37 DURING THE TAXABLE YEAR FROM QUALIFYING LOANS AND THE DENOMINATOR OF  
38 WHICH IS THE GROSS INTEREST INCOME FROM ALL LOANS.

39 (B) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST INCOME  
40 DURING THE TAXABLE YEAR FROM LOANS LESS GROSS INTEREST EXPENSE FROM  
41 LOANS. GROSS INTEREST EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING  
42 GROSS INTEREST EXPENSE BY A FRACTION, THE NUMERATOR OF WHICH IS THE  
43 AVERAGE TOTAL VALUE OF LOANS OWNED BY THE TAXPAYER DURING THE TAXABLE  
44 YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE  
45 TAXPAYER FOR THE YEAR.

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

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

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

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

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

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

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

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

15 (I) THE LOAN IS SECURED BY A HOUSING ACCOMMODATION LOCATED WITHIN THE  
16 CITY, WHERE THERE ARE RENTAL UNITS IN SUCH HOUSING ACCOMMODATION THAT  
17 ARE QUALIFYING UNITS, WHICH FOR PURPOSES OF THIS SUBCLAUSE, MEANS UNITS  
18 SUBJECT TO RENT CONTROL, RENT STABILIZATION OR TO A REGULATORY AGREE-  
19 MENT, PROVIDED THAT, EACH SUCH LOAN WILL BE CONSIDERED A QUALIFYING LOAN  
20 FOR PURPOSES OF THIS PARAGRAPH ONLY IN PROPORTION TO A PERCENTAGE EQUAL  
21 TO THE NUMBER OF QUALIFYING UNITS DIVIDED BY THE TOTAL NUMBER OF ALL  
22 RESIDENTIAL AND COMMERCIAL UNITS LOCATED ON THE SITE OF THE REAL PROPER-  
23 TY SECURING THE LOAN, AS DETERMINED AS OF THE DATE THE LOAN IS MADE.

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

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

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

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

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

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

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



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

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

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

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

32 11. THE TERM "INTERNAL REVENUE CODE" MEANS, UNLESS OTHERWISE SPECIF-  
33 ICALLY STATED IN THIS SUBCHAPTER, THE INTERNAL REVENUE CODE OF 1986, AS  
34 AMENDED.

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

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

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

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

49 FOR PURPOSES OF THIS SUBDIVISION, "AFFILIATED GROUP" HAS THE SAME  
50 MEANING AS THAT TERM IS GIVEN IN SECTION FIFTEEN HUNDRED FOUR OF THE  
51 INTERNAL REVENUE CODE, EXCEPT THAT THE TERM "COMMON PARENT CORPORATION"  
52 IN THAT SECTION IS DEEMED TO MEAN ANY PERSON, AS DEFINED IN SECTION  
53 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE AND REFER-  
54 ENCES TO "AT LEAST EIGHTY PERCENT" IN SECTION FIFTEEN HUNDRED FOUR OF  
55 THE INTERNAL REVENUE CODE ARE TO BE READ AS "FIFTY PERCENT OR MORE;"  
56 SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE IS TO BE READ

1 WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF THAT  
2 SECTION; "PREMIUMS" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN PARA-  
3 GRAPH ONE OF SUBDIVISION (C) OF SECTION FIFTEEN HUNDRED TEN OF THE TAX  
4 LAW, EXCEPT THAT IT INCLUDES CONSIDERATION FOR ANNUITY CONTRACTS AND  
5 EXCLUDES ANY PART OF THE CONSIDERATION FOR INSURANCE, REINSURANCE OR  
6 ANNUITY CONTRACTS THAT DO NOT PROVIDE BONA FIDE INSURANCE, REINSURANCE  
7 OR ANNUITY BENEFITS; AND "GROSS RECEIPTS" INCLUDES THE AMOUNTS INCLUDED  
8 IN GROSS RECEIPTS FOR PURPOSES OF PARAGRAPH FIFTEEN OF SUBSECTION (C) OF  
9 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT THOSE  
10 AMOUNTS ALSO INCLUDE ALL PREMIUMS AS DEFINED IN THIS SUBDIVISION.

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

19 S 11-653 IMPOSITION OF TAX; EXEMPTIONS. 1. (A) FOR THE PRIVILEGE OF  
20 DOING BUSINESS, OR OF EMPLOYING CAPITAL, OR OF OWNING OR LEASING PROPER-  
21 TY IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY, OR OF MAINTAINING  
22 AN OFFICE IN THE CITY, FOR ALL OR ANY PART OF EACH OF ITS FISCAL OR  
23 CALENDAR YEARS, EVERY DOMESTIC OR FOREIGN CORPORATION, EXCEPT CORPO-  
24 RATIONS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, SHALL ANNUALLY  
25 PAY A TAX, UPON THE BASIS OF ITS BUSINESS INCOME, OR UPON SUCH OTHER  
26 BASIS AS MAY BE APPLICABLE AS HEREINAFTER PROVIDED, FOR SUCH FISCAL OR  
27 CALENDAR YEAR OR PART THEREOF, ON A REPORT WHICH SHALL BE FILED, EXCEPT  
28 AS HEREINAFTER PROVIDED, ON OR BEFORE THE FIFTEENTH DAY OF MARCH NEXT  
29 SUCCEEDING THE CLOSE OF EACH SUCH YEAR, OR, IN THE CASE OF A TAXPAYER  
30 WHICH REPORTS ON THE BASIS OF A FISCAL YEAR, WITHIN TWO AND ONE-HALF  
31 MONTHS AFTER THE CLOSE OF SUCH FISCAL YEAR, AND SHALL BE PAID AS HEREIN-  
32 AFTER PROVIDED.

33 (B) INTENTIONALLY OMITTED.

34 (C) A CORPORATION IS DOING BUSINESS IN THE CITY IF (1) IT HAS ISSUED  
35 CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING  
36 ADDRESS WITHIN THE CITY AS OF THE LAST DAY OF ITS TAXABLE YEAR, (2) IT  
37 HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF  
38 LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE  
39 LOCATIONS IN THE CITY TO WHOM THE CORPORATION REMITTED PAYMENTS FOR  
40 CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (3) THE SUM OF THE  
41 NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH PLUS  
42 THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARA-  
43 GRAPH TWO OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED IN THIS  
44 SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND  
45 ENTERTAINMENT CARDS.

46 (D) INTENTIONALLY OMITTED.

47 (E) INTENTIONALLY OMITTED.

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

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

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

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

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

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

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

19 (F) ANY COMBINATION OF THE FOREGOING ACTIVITIES.

20 2-A. AN ALIEN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS,  
21 EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE  
22 IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, IF ITS ACTIVITIES IN  
23 THE CITY ARE LIMITED SOLELY TO:

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

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

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

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

45 3. ANY RECEIVER, REFEREE, TRUSTEE, ASSIGNEE OR OTHER FIDUCIARY, OR ANY  
46 OFFICER OR AGENT APPOINTED BY ANY COURT, WHO CONDUCTS THE BUSINESS OF  
47 ANY CORPORATION, SHALL BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER  
48 IN THE SAME MANNER AND TO THE SAME EXTENT AS IF THE BUSINESS WERE  
49 CONDUCTED BY THE AGENTS OR OFFICERS OF SUCH CORPORATION. A DISSOLVED  
50 CORPORATION WHICH CONTINUES TO CONDUCT BUSINESS SHALL ALSO BE SUBJECT TO  
51 THE TAX IMPOSED BY THIS SUBCHAPTER.

52 4. (A) CORPORATIONS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE,  
53 ANY TRUST COMPANY ORGANIZED UNDER A LAW OF THIS STATE ALL OF THE STOCK  
54 OF WHICH IS OWNED BY NOT LESS THAN TWENTY SAVINGS BANKS ORGANIZED UNDER  
55 A LAW OF THIS STATE, HOUSING COMPANIES ORGANIZED AND OPERATING PURSUANT  
56 TO THE PROVISIONS OF ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW,

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

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

36 (C) IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT THE APPLI-  
37 CATION OF THE PROVISIO OF PARAGRAPH (A) OF THIS SUBDIVISION, DOES NOT  
38 FAIRLY AND EQUITABLY REFLECT THE PORTION OF THE TAXPAYER'S BUSINESS  
39 INCOME ALLOCABLE TO THE CITY WHICH IS ATTRIBUTABLE TO ITS CITY ACTIV-  
40 ITIES WHICH ARE NOT TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE, THE  
41 COMMISSIONER OF FINANCE MAY PRESCRIBE OTHER MEANS OR METHODS OF DETER-  
42 MINING SUCH PORTION, INCLUDING THE USE OF THE BOOKS AND RECORDS OF THE  
43 TAXPAYER, IF THE COMMISSIONER OF FINANCE FINDS THAT SUCH MEANS OR METH-  
44 ODS USED IN KEEPING THEM FAIRLY AND EQUITABLY REFLECT SUCH PORTION.

45 5. INTENTIONALLY OMITTED.

46 6. INTENTIONALLY OMITTED.

47 7. FOR ANY TAXABLE YEAR OF A REAL ESTATE INVESTMENT TRUST, AS DEFINED  
48 IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, IN  
49 WHICH SUCH TRUST IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION  
50 EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUCH TRUST SHALL BE SUBJECT TO A  
51 TAX COMPUTED UNDER EITHER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH  
52 (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, OR CLAUSE  
53 (IV), WHICHEVER IS GREATER. IN THE CASE OF SUCH A REAL ESTATE INVESTMENT  
54 TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS  
55 CHAPTER, THE TERM "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT  
56 TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF

1 SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED  
2 FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER  
3 PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN  
4 OF SUCH CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SUBDIVISION EIGHT  
5 OF SECTION 11-652 OF THIS SUBCHAPTER INCLUDING THE MODIFICATIONS  
6 REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF SECTION  
7 11-654 OF THIS SUBCHAPTER.

8 8. FOR ANY TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY, AS DEFINED  
9 IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, IN  
10 WHICH SUCH COMPANY IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION  
11 EIGHT HUNDRED FIFTY-TWO OF SUCH CODE, SUCH COMPANY SHALL BE SUBJECT TO A  
12 TAX COMPUTED UNDER EITHER CLAUSE ONE OR FOUR OF SUBPARAGRAPH (A) OF  
13 PARAGRAPH E OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER,  
14 WHICHEVER IS GREATER. IN THE CASE OF SUCH A REGULATED INVESTMENT COMPA-  
15 NY, INCLUDING A CAPTIVE RIC AS DEFINED IN SECTION 11-601 OF THIS CHAP-  
16 TER, THE TERM "ENTIRE NET INCOME" USED IN SUBDIVISION ONE OF THIS  
17 SECTION MEANS "INVESTMENT COMPANY TAXABLE INCOME" AS DEFINED IN PARA-  
18 GRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO, AS  
19 MODIFIED BY SECTION EIGHT HUNDRED FIFTY-FIVE, OF THE INTERNAL REVENUE  
20 CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF  
21 SECTION EIGHT HUNDRED FIFTY-TWO OF SUCH CODE SUBJECT TO THE MODIFICA-  
22 TIONS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAP-  
23 TER, INCLUDING THE MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF  
24 SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.

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

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

29 (B) INTENTIONALLY OMITTED.

30 (C) INTENTIONALLY OMITTED.

31 (D) INTENTIONALLY OMITTED.

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

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

35 (I) AN AMOUNT COMPUTED ON ITS BUSINESS INCOME OR THE PORTION OF SUCH  
36 BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED,  
37 SUBJECT TO THE APPLICATION OF PARAGRAPHS (J) AND (K) OF THIS SUBDIVISION  
38 AND ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION  
39 THREE OF THIS SECTION, AT THE RATE OF (1) NINE PER CENTUM FOR FINANCIAL  
40 CORPORATIONS, AS DEFINED IN THIS CLAUSE, OR (2) EIGHT AND EIGHTY-FIVE  
41 ONE HUNDREDTHS PER CENTUM FOR ALL OTHER CORPORATIONS. FOR PURPOSES OF  
42 THIS CLAUSE, "FINANCIAL CORPORATION" MEANS A CORPORATION OR, IF THE  
43 CORPORATION IS INCLUDED IN A COMBINED GROUP, A COMBINED GROUP, THAT (A)  
44 HAS TOTAL ASSETS REFLECTED ON ITS BALANCE SHEET AT THE END OF ITS TAXA-  
45 BLE YEAR IN EXCESS OF ONE HUNDRED BILLION DOLLARS, COMPUTED UNDER GENER-  
46 ALLY ACCEPTED ACCOUNTING PRINCIPLES AND (B)(I) ALLOCATES MORE THAN FIFTY  
47 PERCENT OF THE RECEIPTS INCLUDED IN THE DENOMINATOR OF ITS RECEIPTS  
48 FRACTION, DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER, PURSUANT  
49 TO SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER FOR ITS TAXA-  
50 BLE YEAR, OR (II) IS ITSELF OR IS INCLUDED IN A COMBINED GROUP IN WHICH  
51 MORE THAN FIFTY PERCENT OF THE TOTAL ASSETS REFLECTED ON ITS BALANCE  
52 SHEET AT THE END OF ITS TAXABLE YEAR ARE HELD BY ONE OR MORE CORPO-  
53 RATIONS THAT ARE CLASSIFIED AS (A) REGISTERED UNDER STATE LAW AS A BANK  
54 HOLDING COMPANY OR REGISTERED UNDER THE FEDERAL BANK HOLDING COMPANY ACT  
55 OF 1956 (12 U.S.C. S 1841, ET SEQ., AS AMENDED), OR REGISTERED AS A  
56 SAVINGS AND LOAN HOLDING COMPANY UNDER THE FEDERAL NATIONAL HOUSING ACT

1 (12 U.S.C. 1701, AS AMENDED), (B) A NATIONAL BANK ORGANIZED AND EXISTING  
 2 AS A NATIONAL BANK ASSOCIATION PURSUANT TO THE PROVISIONS OF THE  
 3 NATIONAL BANK ACT, 12 U.S.C. 21 ET. SEQ., (C) A SAVINGS ASSOCIATION OR  
 4 FEDERAL SAVINGS BANK AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT, 12  
 5 U.S.C. S 1813(B)(1), (D) A BANK, SAVINGS ASSOCIATION, OR THRIFT INSTITU-  
 6 TION INCORPORATED OR ORGANIZED UNDER THE LAWS OF ANY STATE, (E) A CORPO-  
 7 RATION ORGANIZED UNDER THE PROVISIONS OF 12 U.S.C. SS 611 TO 631, (F) AN  
 8 AGENCY OR BRANCH OR A FOREIGN DEPOSITORY AS DEFINED IN 12 U.S.C. S 3101,  
 9 (G) A REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER REGISTERED  
 10 AS SUCH BY THE SECURITIES AND EXCHANGE COMMISSION OR THE COMMODITIES  
 11 FUTURES TRADING COMMISSION, WHICH SHALL INCLUDE AN OTC DERIVATIVES DEAL-  
 12 ER AS DEFINED UNDER REGULATIONS OF THE SECURITIES AND EXCHANGE COMMIS-  
 13 SION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE OF FEDERAL REGU-  
 14 LATIONS (17 CFR 240.3B-12), OR (H) ANY CORPORATION WHOSE VOTING STOCK IS  
 15 MORE THAN FIFTY PERCENT OWNED, DIRECTLY OR INDIRECTLY, BY ANY PERSON OR  
 16 BUSINESS ENTITY DESCRIBED IN SUBITEMS (A) THROUGH (G) OF THIS ITEM,  
 17 OTHER THAN AN INSURANCE COMPANY TAXABLE UNDER ARTICLE THIRTY-THREE OF  
 18 THE TAX LAW; OR

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

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

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

25 (C) IN THE CASE OF THE PORTION OF TOTAL BUSINESS CAPITAL DIRECTLY  
 26 ATTRIBUTABLE TO A CORPORATION THAT IS OR WOULD BE TAXABLE UNDER CHAPTER  
 27 ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS  
 28 TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER) OR  
 29 A CORPORATION THAT WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION  
 30 UNDER FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE  
 31 CODE OF THE CITY OF NEW YORK AS IN EFFECT ON JUNE THIRTIETH, NINETEEN  
 32 HUNDRED SEVENTY-FOUR, BY SEVEN AND ONE-HALF ONE-HUNDREDTHS PER CENTUM;  
 33 AND

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

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

42 (III) INTENTIONALLY OMITTED.

43 (IV) IF NEW YORK CITY RECEIPTS ARE:

	FIXED DOLLAR MINIMUM TAX IS:
44 NOT MORE THAN \$100,000	\$25
45 MORE THAN \$100,000 BUT NOT OVER \$250,000	\$75
46 MORE THAN \$250,000 BUT NOT OVER \$500,000	\$175
47 MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$500
48 MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,500
49 MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,500
50 MORE THAN \$25,000,000 BUT NOT OVER \$50,000,000	\$5,000
51 MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
52 MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
53 MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
54 MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
55 OVER \$1,000,000,000	\$200,000

1 FOR PURPOSES OF THIS CLAUSE, NEW YORK CITY RECEIPTS ARE THE RECEIPTS  
2 COMPUTED IN ACCORDANCE WITH SECTION 11-654.2 OF THIS SUBCHAPTER FOR THE  
3 TAXABLE YEAR. IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT  
4 PRESCRIBED BY THIS CLAUSE SHALL BE REDUCED BY TWENTY-FIVE PERCENT IF THE  
5 PERIOD FOR WHICH THE TAXPAYER IS SUBJECT TO TAX IS MORE THAN SIX MONTHS  
6 BUT NOT MORE THAN NINE MONTHS AND BY FIFTY PERCENT IF THE PERIOD FOR  
7 WHICH THE TAXPAYER IS SUBJECT TO TAX IS NOT MORE THAN SIX MONTHS. IF THE  
8 TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW YORK CITY  
9 RECEIPTS FOR PURPOSES OF THIS CLAUSE IS DETERMINED BY DIVIDING THE  
10 AMOUNT OF THE RECEIPTS FOR THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN  
11 THE TAXABLE YEAR AND MULTIPLYING THE RESULT BY TWELVE.

12 (F) INTENTIONALLY OMITTED.

13 (G) INTENTIONALLY OMITTED.

14 (H) INTENTIONALLY OMITTED.

15 (I) INTENTIONALLY OMITTED.

16 (J) (1) IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS  
17 HEREINAFTER PROVIDED IS LESS THAN ONE MILLION DOLLARS, THE AMOUNT  
18 COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS  
19 SUBDIVISION SHALL BE AT THE RATE OF SIX AND FIVE-TENTHS PER CENTUM OF  
20 THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER  
21 PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E)  
22 OF SUBDIVISION THREE OF THIS SECTION;

23 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE AMOUNT OF  
24 BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS ONE  
25 MILLION DOLLARS OR GREATER BUT LESS THAN ONE MILLION FIVE HUNDRED THOU-  
26 SAND DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF  
27 PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF (I) SIX AND  
28 FIVE-TENTHS PER CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER  
29 CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED  
30 BUSINESS INCOME LESS ONE MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS  
31 FIVE HUNDRED THOUSAND DOLLARS, OF THE AMOUNT OF BUSINESS INCOME ALLO-  
32 CATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICA-  
33 TION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS  
34 SECTION;

35 (3) PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF  
36 THE AMOUNT OF BUSINESS INCOME BEFORE ALLOCATION IS TWO MILLION DOLLARS  
37 OR GREATER BUT LESS THAN THREE MILLION DOLLARS, THE RATE OF TAX PROVIDED  
38 FOR IN THIS PARAGRAPH SHALL NOT BE LESS THAN (I) SIX AND FIVE-TENTHS PER  
39 CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER CENTUM MULTI-  
40 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS BUSINESS INCOME BEFORE  
41 ALLOCATION LESS TWO MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS ONE  
42 MILLION DOLLARS, AND PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE  
43 CONTRARY, IF THE AMOUNT OF BUSINESS INCOME BEFORE ALLOCATION IS THREE  
44 MILLION DOLLARS OR GREATER, THE RATE OF TAX SHALL BE EIGHT AND  
45 EIGHTY-FIVE ONE-HUNDREDTHS PERCENTUM OR, IN THE CASE OF A FINANCIAL  
46 CORPORATION, AS DEFINED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH  
47 (E) OF SUBDIVISION ONE OF SECTION 11-654, IF THE AMOUNT OF BUSINESS  
48 INCOME BEFORE ALLOCATION IS THREE MILLION DOLLARS OR GREATER THE RATE OF  
49 TAX SHALL BE NINE PER CENTUM.

50 (K)(1) FOR QUALIFIED NEW YORK MANUFACTURING CORPORATIONS AS DEFINED IN  
51 SUBPARAGRAPH FOUR OF THIS PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME  
52 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS LESS THAN TEN  
53 MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE  
54 OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF FOUR AND  
55 FOUR HUNDRED TWENTY-FIVE ONE THOUSANDTHS PER CENTUM, OF ITS BUSINESS  
56 INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY

1 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF  
2 THIS SECTION;

3 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH FOR QUALIFIED NEW  
4 YORK MANUFACTURING CORPORATIONS AS DEFINED IN SUBPARAGRAPH FOUR OF THIS  
5 PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS  
6 HEREINAFTER PROVIDED IS TEN MILLION DOLLARS OR GREATER BUT LESS THAN  
7 TWENTY MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARA-  
8 GRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF  
9 (I) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUSANDTHS PER CENTUM, PLUS  
10 (II) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUSANDTHS PER CENTUM MULTI-  
11 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED BUSINESS INCOME  
12 LESS TEN MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS TEN MILLION  
13 DOLLARS, OF ITS BUSINESS INCOME OR THE PORTION OF SUCH BUSINESS INCOME  
14 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY  
15 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF  
16 THIS SECTION;

17 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF BUSI-  
18 NESS INCOME BEFORE ALLOCATION IS TWENTY MILLION DOLLARS OR GREATER BUT  
19 LESS THAN FORTY MILLION DOLLARS, THE RATE OF TAX PROVIDED FOR IN THIS  
20 PARAGRAPH SHALL NOT BE LESS THAN (I) FOUR AND FOUR HUNDRED TWENTY-FIVE  
21 ONE THOUSANDTHS PERCENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-FIVE  
22 ONE THOUSANDTHS PERCENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF  
23 WHICH IS BUSINESS INCOME BEFORE ALLOCATION LESS TWENTY MILLION DOLLARS  
24 AND THE DENOMINATOR OF WHICH IS TWENTY MILLION DOLLARS, AND PROVIDED,  
25 HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF  
26 BUSINESS INCOME BEFORE ALLOCATION IS FORTY MILLION DOLLARS OR GREATER,  
27 THE RATE OF TAX SHALL BE EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS PER  
28 CENTUM.

29 (4)(I) AS USED IN THIS SUBPARAGRAPH, THE TERM "MANUFACTURING CORPO-  
30 RATION" MEANS A CORPORATION PRINCIPALLY ENGAGED IN THE MANUFACTURING AND  
31 SALE THEREOF OF TANGIBLE PERSONAL PROPERTY; AND THE TERM "MANUFACTURING"  
32 INCLUDES THE PROCESS (INCLUDING THE ASSEMBLY PROCESS) (A) OF WORKING RAW  
33 MATERIALS INTO WARES SUITABLE FOR USE OR (B) WHICH GIVES NEW SHAPES, NEW  
34 QUALITIES OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH  
35 SOME ARTIFICIAL PROCESS, BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND  
36 OTHER SIMILAR EQUIPMENT. MOREOVER, IN THE CASE OF A COMBINED REPORT, A  
37 COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURING CORPORATION" FOR  
38 PURPOSES OF THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE  
39 TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS  
40 PARAGRAPH, OR ANY COMBINATION THEREOF. A TAXPAYER OR, IN THE CASE OF A  
41 COMBINED REPORT, A COMBINED GROUP, SHALL BE "PRINCIPALLY ENGAGED" IN  
42 ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY  
43 PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPEC-  
44 TIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY  
45 SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTER-  
46 CORPORATE RECEIPTS SHALL BE ELIMINATED.

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

53 (5) FOR PURPOSES OF SUBCLAUSE (A) OF CLAUSE (II) OF SUBPARAGRAPH FOUR  
54 OF THIS PARAGRAPH, PROPERTY INCLUDES TANGIBLE PERSONAL PROPERTY AND  
55 OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS  
56 OF BUILDINGS, WHICH ARE: DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED



1 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVE A USEFUL LIFE OF FOUR  
2 YEARS OR MORE, ARE ACQUIRED BY PURCHASE AS DEFINED IN SUBSECTION (D) OF  
3 SECTION ONE HUNDRED SEVENTY-NINE OF THE INTERNAL REVENUE CODE, HAVE A  
4 SITUS IN THE STATE AND ARE PRINCIPALLY USED BY THE TAXPAYER IN THE  
5 PRODUCTION OF GOODS BY MANUFACTURING. PROPERTY USED IN THE PRODUCTION OF  
6 GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY  
7 WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY,  
8 EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION  
9 OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERA-  
10 TION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE  
11 PRODUCTS THAT ARE PRODUCED.

12 2. THE AMOUNT OF INVESTMENT CAPITAL AND BUSINESS CAPITAL SHALL BE  
13 DETERMINED BY TAKING THE AVERAGE VALUE OF THE GROSS ASSETS INCLUDED  
14 THEREIN (LESS LIABILITIES DEDUCTIBLE THEREFROM PURSUANT TO THE  
15 PROVISIONS OF SUBDIVISIONS FOUR AND SIX OF SECTION 11-652 OF THIS  
16 SUBCHAPTER), AND, IF THE PERIOD COVERED BY THE REPORT IS OTHER THAN A  
17 PERIOD OF TWELVE CALENDAR MONTHS, BY MULTIPLYING SUCH VALUE BY THE  
18 NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF INCLUDED IN SUCH PERI-  
19 OD, AND DIVIDING THE PRODUCT THUS OBTAINED BY TWELVE. FOR PURPOSES OF  
20 THIS SUBDIVISION, REAL PROPERTY AND MARKETABLE SECURITIES SHALL BE  
21 VALUED AT FAIR MARKET VALUE AND THE VALUE OF PERSONAL PROPERTY OTHER  
22 THAN MARKETABLE SECURITIES SHALL BE THE VALUE THEREOF SHOWN ON THE BOOKS  
23 AND RECORDS OF THE TAXPAYER IN ACCORDANCE WITH GENERALLY ACCEPTED  
24 ACCOUNTING PRINCIPLES.

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

27 (A) MULTIPLY ITS BUSINESS INCOME BY A BUSINESS ALLOCATION PERCENTAGE  
28 TO BE DETERMINED BY:

29 (1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE TAXPAY-  
30 ER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT,  
31 WITHIN THE CITY DURING THE PERIOD COVERED BY ITS REPORT BEARS TO THE  
32 AVERAGE VALUE OF ALL THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY,  
33 WHETHER OWNED OR RENTED TO IT, WHEREVER SITUATED DURING SUCH PERIOD. FOR  
34 THE PURPOSE OF THIS SUBPARAGRAPH, THE TERM "VALUE OF THE TAXPAYER'S REAL  
35 AND TANGIBLE PERSONAL PROPERTY" SHALL MEAN THE ADJUSTED BASES OF SUCH  
36 PROPERTIES FOR FEDERAL INCOME TAX PURPOSES (EXCEPT THAT IN THE CASE OF  
37 RENTED PROPERTY SUCH VALUE SHALL MEAN THE PRODUCT OF (I) EIGHT AND (II)  
38 THE GROSS RENTS PAYABLE FOR THE RENTAL OF SUCH PROPERTY DURING THE TAXA-  
39 BLE YEAR); PROVIDED, HOWEVER, THAT THE TAXPAYER MAY MAKE A ONE-TIME,  
40 REVOCABLE ELECTION, PURSUANT TO REGULATIONS PROMULGATED BY THE COMMIS-  
41 SIONER OF FINANCE TO USE FAIR MARKET VALUE AS THE VALUE OF ALL OF ITS  
42 REAL AND TANGIBLE PERSONAL PROPERTY, PROVIDED THAT SUCH ELECTION IS MADE  
43 ON OR BEFORE THE DUE DATE FOR FILING A REPORT UNDER SECTION 11-655 OF  
44 THIS SUBCHAPTER FOR THE TAXPAYER'S FIRST TAXABLE YEAR COMMENCING ON OR  
45 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND PROVIDED THAT SUCH  
46 ELECTION SHALL NOT APPLY TO ANY TAXABLE YEAR WITH RESPECT TO WHICH THE  
47 TAXPAYER IS INCLUDED ON A COMBINED REPORT UNLESS EACH OF THE TAXPAYERS  
48 INCLUDED ON SUCH REPORT HAS MADE SUCH AN ELECTION WHICH REMAINS IN  
49 EFFECT FOR SUCH YEAR OR TO ANY TAXPAYER THAT WAS SUBJECT TO TAX UNDER  
50 SUBCHAPTER TWO OF THIS CHAPTER AND DID NOT HAVE AN ELECTION IN EFFECT  
51 UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION  
52 11-604 OF THIS CHAPTER ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;

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

55 (3) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER  
56 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF

1 EMPLOYEES WITHIN THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS, TO THE  
2 TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY  
3 COMPUTED, DURING SUCH PERIOD OF ALL THE TAXPAYER'S EMPLOYEES WITHIN AND  
4 WITHOUT THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS; AND  
5 (4) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE  
6 RESULT BY THE NUMBER OF PERCENTAGES.  
7 (5) INTENTIONALLY OMITTED.  
8 (6) INTENTIONALLY OMITTED.  
9 (7) INTENTIONALLY OMITTED.  
10 (8) INTENTIONALLY OMITTED.  
11 (9) INTENTIONALLY OMITTED.  
12 (10) NOTWITHSTANDING SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH,  
13 THE BUSINESS ALLOCATION PERCENTAGE, TO THE EXTENT THAT IT IS COMPUTED BY  
14 REFERENCE TO THE PERCENTAGES DETERMINED UNDER SUBPARAGRAPHS ONE, TWO AND  
15 THREE OF THIS PARAGRAPH, SHALL BE COMPUTED IN THE MANNER SET FORTH IN  
16 THIS SUBPARAGRAPH.  
17 (I) INTENTIONALLY OMITTED.  
18 (II) INTENTIONALLY OMITTED.  
19 (III) INTENTIONALLY OMITTED.  
20 (IV) INTENTIONALLY OMITTED.  
21 (V) INTENTIONALLY OMITTED.  
22 (VI) INTENTIONALLY OMITTED.  
23 (VII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSI-  
24 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE  
25 FOLLOWING PERCENTAGES:  
26 (A) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
27 SUBPARAGRAPH ONE OF THIS PARAGRAPH;  
28 (B) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER  
29 SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND  
30 (C) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER  
31 SUBPARAGRAPH THREE OF THIS PARAGRAPH.  
32 (VIII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSI-  
33 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE  
34 FOLLOWING PERCENTAGES:  
35 (A) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-  
36 MINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;  
37 (B) THE PRODUCT OF EIGHTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED  
38 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND  
39 (C) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-  
40 MINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.  
41 (IX) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSI-  
42 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE  
43 FOLLOWING PERCENTAGES:  
44 (A) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE  
45 DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;  
46 (B) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED  
47 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND  
48 (C) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE  
49 DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.  
50 (X) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND SEVENTEEN, THE  
51 BUSINESS ALLOCATION PERCENTAGE SHALL BE THE PERCENTAGE DETERMINED UNDER  
52 SUBPARAGRAPH TWO OF THIS PARAGRAPH.  
53 (XI) THE COMMISSIONER OF FINANCE SHALL PROMULGATE RULES NECESSARY TO  
54 IMPLEMENT THE PROVISIONS OF THIS SUBPARAGRAPH UNDER SUCH CIRCUMSTANCES  
55 WHERE ANY OF THE PERCENTAGES TO BE DETERMINED UNDER SUBPARAGRAPH ONE,

1 TWO OR THREE OF THIS PARAGRAPH CANNOT BE DETERMINED BECAUSE THE TAXPAYER  
2 HAS NO PROPERTY, RECEIPTS OR WAGES WITHIN OR WITHOUT THE CITY.

3 (XII) NOTWITHSTANDING THE PROVISIONS OF CLAUSES (VIII), (IX), AND (X)  
4 OF THIS SUBPARAGRAPH, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY  
5 FIRST, TWO THOUSAND EIGHTEEN, A TAXPAYER THAT HAS FIFTY MILLION DOLLARS  
6 OR LESS OF RECEIPTS ALLOCATED TO THE CITY AS DETERMINED UNDER SECTION  
7 11-654.2 OF THIS SUBCHAPTER, OR, IF THE TAXPAYER IS INCLUDED IN A  
8 COMBINED GROUP, A COMBINED GROUP THAT HAS FIFTY MILLION DOLLARS OR LESS  
9 OF RECEIPTS ALLOCATED TO THE CITY AS DETERMINED UNDER SECTION 11-654.2  
10 OF THIS SUBCHAPTER, MAY MAKE A ONE-TIME ELECTION TO DETERMINE ITS BUSI-  
11 NESS ALLOCATION PERCENTAGE BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

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

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

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

18 THE ELECTION PROVIDED FOR IN THIS CLAUSE MUST BE MADE ON AN ORIGINAL  
19 OR AMENDED REPORT FILED PURSUANT TO SECTION 11-655 OF THIS SUBCHAPTER  
20 FOR THE TAXPAYER'S OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP,  
21 THE COMBINED GROUP'S, FIRST TAXABLE YEAR COMMENCING ON OR AFTER JANUARY  
22 FIRST, TWO THOUSAND EIGHTEEN AND SHALL REMAIN IN EFFECT UNTIL REVOKED BY  
23 THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP, THE  
24 COMBINED GROUP. AN ELECTION SHALL BE REVOKED UNDER THIS CLAUSE ON AN  
25 ORIGINAL OR AMENDED REPORT FILED PURSUANT TO SECTION 11-655 OF THIS  
26 SUBCHAPTER FOR THE TAXPAYER'S, OR IF THE TAXPAYER IS INCLUDED IN A  
27 COMBINED GROUP, THE COMBINED GROUP'S, FIRST TAXABLE YEAR WITH RESPECT TO  
28 WHICH SUCH REVOCATION IS TO BE EFFECTIVE. IF THE TAXPAYER IS A MEMBER OF  
29 A COMBINED GROUP, AN ELECTION OR REVOCATION BY THE TAXPAYER UNDER THIS  
30 CLAUSE SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

31 (11) A FOREIGN AIR CARRIER DESCRIBED IN THE FIRST SENTENCE OF SUBPARA-  
32 GRAPH ONE OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF SECTION 11-652 OF  
33 THIS SUBCHAPTER SHALL DETERMINE ITS BUSINESS ALLOCATION PERCENTAGE  
34 PURSUANT TO SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH, AS MODI-  
35 FIED BY SUBPARAGRAPH TEN OF THIS PARAGRAPH, EXCEPT THAT THE NUMERATORS  
36 AND DENOMINATORS INVOLVED IN SUCH COMPUTATION SHALL EXCLUDE PROPERTY TO  
37 THE EXTENT EMPLOYED IN GENERATING INCOME EXCLUDED FROM ENTIRE NET INCOME  
38 FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF  
39 SECTION 11-652 OF THIS SUBCHAPTER, EXCLUDE SUCH RECEIPTS AS ARE EXCLUDED  
40 FROM ENTIRE NET INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1)  
41 OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, AND EXCLUDE  
42 WAGES, SALARIES OR OTHER PERSONAL SERVICE COMPENSATION WHICH ARE DIRECT-  
43 LY ATTRIBUTABLE TO THE GENERATION OF INCOME EXCLUDED FROM ENTIRE NET  
44 INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION  
45 EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER.

46 (B) INTENTIONALLY OMITTED.

47 (C) INTENTIONALLY OMITTED.

48 (D) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED  
49 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO  
50 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION  
51 11-604 OF THIS CHAPTER OR SUBDIVISION (K) OF SECTION 11-641 OF THIS  
52 CHAPTER IN ANY PERIOD IN WHICH THE TAXPAYER WAS SUBJECT TO TAX UNDER  
53 SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING INTO  
54 THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN  
55 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED  
56 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN

1 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR  
2 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO  
3 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO  
4 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION  
5 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-  
6 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR  
7 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS  
8 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED  
9 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

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

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

30 4-A. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE  
31 TAX UNDER THIS SUBCHAPTER USING ANY METHOD REQUIRED OR PERMITTED IN  
32 REGULATIONS OF THE COMMISSIONER OF FINANCE.

33 5. INTENTIONALLY OMITTED.

34 6. INTENTIONALLY OMITTED.

35 7. INTENTIONALLY OMITTED.

36 8. INTENTIONALLY OMITTED.

37 9. IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY BUSINESS  
38 ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED DOES NOT PROP-  
39 ERLY REFLECT THE ACTIVITY, BUSINESS, INCOME OR CAPITAL OF A TAXPAYER  
40 WITHIN THE CITY, THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED IN HIS  
41 OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY REQUEST THAT THE  
42 COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE OR MORE OF THE  
43 FACTORS THEREIN, (B) INCLUDING ONE OR MORE OTHER FACTORS, SUCH AS  
44 EXPENSES, PURCHASES, CONTRACT VALUES (MINUS SUBCONTRACT VALUES), (C)  
45 EXCLUDING ONE OR MORE ASSETS IN COMPUTING SUCH ALLOCATION PERCENTAGE,  
46 PROVIDED THE INCOME THEREFROM, IS ALSO EXCLUDED IN DETERMINING ENTIRE  
47 NET INCOME, OR (D) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO  
48 EFFECT A FAIR AND PROPER ALLOCATION OF THE INCOME AND CAPITAL REASONABLY  
49 ATTRIBUTABLE TO THE CITY. THE PARTY SEEKING THE ADJUSTMENT SHALL BEAR  
50 THE BURDEN OF PROOF TO DEMONSTRATE THAT THE BUSINESS ALLOCATION PERCENT-  
51 AGE DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER  
52 REFLECTION OF THE TAXPAYER'S INCOME OR CAPITAL WITHIN THE CITY AND THAT  
53 THE PROPOSED ADJUSTMENT IS APPROPRIATE. THE COMMISSIONER OF FINANCE  
54 FROM TIME TO TIME SHALL PUBLISH ALL RULINGS OF GENERAL PUBLIC INTEREST  
55 WITH RESPECT TO ANY APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION.

56 10. INTENTIONALLY OMITTED.

1 11. INTENTIONALLY OMITTED.

2 12. INTENTIONALLY OMITTED.

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

7 (1)(I) WHERE A TAXPAYER SHALL HAVE RELOCATED TO THE CITY FROM A  
8 LOCATION OUTSIDE THE STATE, AND BY SUCH RELOCATION SHALL HAVE CREATED A  
9 MINIMUM OF ONE HUNDRED INDUSTRIAL OR COMMERCIAL EMPLOYMENT OPPORTU-  
10 NITIES; AND WHERE SUCH TAXPAYER SHALL HAVE ENTERED INTO A WRITTEN LEASE  
11 FOR THE RELOCATION PREMISES, THE TERMS OF WHICH LEASE PROVIDE FOR  
12 INCREASED ADDITIONAL PAYMENTS TO THE LANDLORD WHICH ARE BASED SOLELY AND  
13 DIRECTLY UPON ANY INCREASE OR ADDITION IN REAL ESTATE TAXES IMPOSED ON  
14 THE LEASED PREMISES, THE TAXPAYER UPON APPROVAL AND CERTIFICATION BY THE  
15 INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD AS HEREINAFTER PROVIDED SHALL  
16 BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE  
17 AMOUNT OF SUCH CREDIT SHALL BE AN AMOUNT EQUAL TO THE ANNUAL INCREASED  
18 PAYMENTS ACTUALLY MADE BY THE TAXPAYER TO THE LANDLORD WHICH ARE SOLELY  
19 AND DIRECTLY ATTRIBUTABLE TO AN INCREASE OR ADDITION TO THE REAL ESTATE  
20 TAX IMPOSED UPON THE LEASED PREMISES. SUCH CREDIT SHALL BE ALLOWED ONLY  
21 TO THE EXTENT THAT THE TAXPAYER HAS NOT OTHERWISE CLAIMED SAID AMOUNT AS  
22 A DEDUCTION AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER.

23 (II) THE INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD IN APPROVING AND  
24 CERTIFYING TO THE QUALIFICATIONS OF THE TAXPAYER TO RECEIVE THE TAX  
25 CREDIT PROVIDED FOR HEREIN SHALL FIRST DETERMINE THAT THE APPLICANT HAS  
26 MET THE REQUIREMENTS OF THIS SECTION, AND FURTHER, THAT THE GRANTING OF  
27 THE TAX CREDIT TO THE APPLICANT IS IN THE "PUBLIC INTEREST". IN DETER-  
28 MINING THAT THE GRANTING OF THE TAX CREDIT IS IN THE PUBLIC INTEREST,  
29 THE BOARD SHALL MAKE AFFIRMATIVE FINDINGS THAT: THE GRANTING OF THE TAX  
30 CREDIT TO THE APPLICANT WILL NOT EFFECT AN UNDUE HARDSHIP ON SIMILAR  
31 TAXPAYERS ALREADY LOCATED WITHIN THE CITY; THE EXISTENCE OF THIS TAX  
32 INCENTIVE HAS BEEN INSTRUMENTAL IN BRINGING ABOUT THE RELOCATION OF THE  
33 APPLICANT TO THE CITY; AND THE GRANTING OF THE TAX CREDIT WILL FOSTER  
34 THE ECONOMIC RECOVERY AND ECONOMIC DEVELOPMENT OF THE CITY.

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

39 (2) WHEN USED IN THIS SUBDIVISION:

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

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

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

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

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

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

1 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
2 SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CRED-  
3 ITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF  
4 SECTION 11-677 OF THIS CHAPTER.

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

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

27 THE COMMISSIONER OF FINANCE IS EMPOWERED TO PROMULGATE RULES AND REGU-  
28 LATIONS AND TO PRESCRIBE THE FORM OF APPLICATION TO BE USED BY A TAXPAY-  
29 ER SEEKING THE CREDIT PROVIDED HEREUNDER.

30 (2) WHEN USED IN THIS SUBDIVISION:

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

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

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

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

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

45 (VI) "EMPLOYMENT OPPORTUNITY RELOCATION COSTS" MEANS THE COSTS  
46 INCURRED BY THE TAXPAYER IN MOVING FURNITURE, FILES, PAPERS AND OFFICE  
47 EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS  
48 INCURRED BY THE TAXPAYER IN THE MOVING AND INSTALLATION OF MACHINERY AND  
49 EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS OF  
50 INSTALLATION OF TELEPHONES AND OTHER COMMUNICATIONS EQUIPMENT REQUIRED  
51 AS A RESULT OF THE RELOCATION TO THE CITY FROM A LOCATION OUTSIDE THE  
52 STATE; THE COST INCURRED IN THE PURCHASE OF OFFICE FURNITURE AND  
53 FIXTURES REQUIRED AS A RESULT OF THE RELOCATION TO THE CITY FROM A  
54 LOCATION OUTSIDE THE STATE; AND THE COST OF RENOVATION OF THE PREMISES  
55 TO BE OCCUPIED AS A RESULT OF THE RELOCATION; PROVIDED, HOWEVER, THAT  
56 SUCH RENOVATION COSTS SHALL BE ALLOWABLE ONLY TO THE EXTENT THAT THEY DO

1 NOT EXCEED SEVENTY-FIVE CENTS PER SQUARE FOOT OF THE TOTAL AREA UTILIZED  
2 BY THE TAXPAYER IN THE OCCUPIED PREMISES.

3 (B) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL  
4 BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR  
5 REFUNDED WITHOUT INTEREST IN ACCORDANCE WITH THE PROVISIONS OF SECTION  
6 11-677 OF THIS CHAPTER.

7 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE  
8 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR  
9 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET  
10 FORTH IN SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER FOR AN  
11 ELIGIBLE EMPLOYMENT RELOCATION, A CREDIT SHALL BE ALLOWED TO THE TAXPAY-  
12 ER UNDER THIS SUBDIVISION FOR ANY TAX YEAR BEGINNING ON OR AFTER JANUARY  
13 FIRST, TWO THOUSAND FIFTEEN, IN THE SAME AMOUNT AND TO THE SAME EXTENT  
14 THAT A CREDIT, OR THE UNUSED PORTION THEREOF, WOULD HAVE BEEN ALLOWED  
15 UNDER SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER, AS IN  
16 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVI-  
17 SION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

18 15. INTENTIONALLY OMITTED.

19 16. INTENTIONALLY OMITTED.

20 17. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A  
21 TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-B  
22 OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE  
23 TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE  
24 AMOUNT DETERMINED BY MULTIPLYING FIVE HUNDRED DOLLARS OR, IN THE CASE OF  
25 A TAXPAYER THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE  
26 TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST,  
27 NINETEEN HUNDRED NINETY-FIVE, ONE THOUSAND DOLLARS OR, IN THE CASE OF AN  
28 ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH  
29 TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY  
30 FIRST, TWO THOUSAND, FOR A RELOCATION TO ELIGIBLE PREMISES LOCATED WITH-  
31 IN A REVITALIZATION AREA DEFINED IN SUBDIVISION (N) OF SECTION 22-621 OF  
32 THIS CODE, THREE THOUSAND DOLLARS, BY THE NUMBER OF ELIGIBLE AGGREGATE  
33 EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR  
34 WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED;  
35 PROVIDED, HOWEVER, WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION  
36 FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO  
37 THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE NOT WITHIN A REVITALIZA-  
38 TION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO  
39 SUBDIVISION (J) OF SECTION 22-621 OF THIS CODE IS BEFORE JULY FIRST,  
40 NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER  
41 OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS,  
42 AND WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIF-  
43 ICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND  
44 THREE, TO ELIGIBLE PREMISES THAT ARE WITHIN A REVITALIZATION AREA, IF  
45 THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF  
46 SUCH SECTION IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE  
47 AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT  
48 SHARES SHALL BE FIVE HUNDRED DOLLARS, AND IF THE DATE OF SUCH RELOCATION  
49 AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS ON OR AFTER  
50 JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, AND BEFORE JULY FIRST, TWO  
51 THOUSAND, ONE THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NO CREDIT SHALL  
52 BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES;  
53 PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-  
54 SION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF  
55 SECTION 22-622 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS  
56 TAX IMPOSED BY CHAPTER ELEVEN OF THIS TITLE; AND PROVIDED THAT IN THE

1 CASE OF AN ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B  
2 OF SUCH TITLE TWENTY-TWO CERTIFICATIONS OF ELIGIBILITY FOR MORE THAN ONE  
3 RELOCATION, THE PORTION OF THE TOTAL AMOUNT OF ELIGIBLE AGGREGATE  
4 EMPLOYMENT SHARES TO BE MULTIPLIED BY THE DOLLAR AMOUNT SPECIFIED IN  
5 THIS SUBDIVISION FOR EACH SUCH CERTIFICATION OF A RELOCATION SHALL BE  
6 THE NUMBER OF TOTAL ATTRIBUTED ELIGIBLE AGGREGATE EMPLOYMENT SHARES  
7 DETERMINED WITH RESPECT TO SUCH RELOCATION PURSUANT TO SUBDIVISION (O)  
8 OF SECTION 22-621 OF THIS CODE. FOR PURPOSES OF THIS SUBDIVISION, THE  
9 TERMS "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "RELOCATE," "RETAIL ACTIV-  
10 ITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED BY SECTION  
11 22-621 OF THIS CODE.

12 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE  
13 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO PARTICULAR PREM-  
14 ISSES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE FIRST  
15 TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE  
16 MAINTAINED WITH RESPECT TO SUCH PREMISES AND FOR ANY OF THE TWELVE  
17 SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT  
18 SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES; PROVIDED THAT THE  
19 CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCU-  
20 LATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES  
21 MAINTAINED WITH RESPECT TO SUCH PREMISES IN THE TWELFTH SUCCEEDING TAXA-  
22 BLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS  
23 SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF  
24 DAYS THE ELIGIBLE BUSINESS MAINTAINED EMPLOYMENT SHARES IN THE ELIGIBLE  
25 PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH  
26 IS THE NUMBER OF DAYS IN SUCH TWELFTH SUCCEEDING TAXABLE YEAR DURING  
27 WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH  
28 RESPECT TO SUCH PREMISES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS  
29 SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-  
30 SION FOR ANY TAXABLE YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE  
31 EXCESS MAY BE CARRIED OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING  
32 TAXABLE YEARS AND, TO THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE  
33 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEARS.

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

37 (D) IN THE CASE OF A TAXPAYER THAT HAS OBTAINED A CERTIFICATION OF  
38 ELIGIBILITY PURSUANT TO CHAPTER SIX-B OF TITLE TWENTY-TWO OF THIS CODE  
39 DATED ON OR AFTER JULY FIRST, TWO THOUSAND FOR A RELOCATION TO ELIGIBLE  
40 PREMISES LOCATED WITHIN THE REVITALIZATION AREA DEFINED IN SUBDIVISION  
41 (N) OF SECTION 22-621 OF THIS CODE, THE CREDITS ALLOWED UNDER THIS  
42 SUBDIVISION, OR IN THE CASE OF A TAXPAYER THAT HAS RELOCATED MORE THAN  
43 ONCE, THE PORTION OF SUCH CREDITS ATTRIBUTED TO SUCH CERTIFICATION OF  
44 ELIGIBILITY PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AGAINST THE  
45 TAX IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF SUCH RELOCATION AND  
46 FOR THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF  
47 SUCH RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE  
48 TAXPAYER TO BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE  
49 WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE  
50 YEARS, SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY  
51 SUCCEEDING TAXABLE YEAR; PROVIDED, HOWEVER, THAT THIS PARAGRAPH SHALL  
52 NOT APPLY TO ANY RELOCATION FOR WHICH AN APPLICATION FOR A CERTIFICATION  
53 OF ELIGIBILITY WAS NOT SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND  
54 THREE, UNLESS THE DATE OF SUCH RELOCATION IS ON OR AFTER JULY FIRST, TWO  
55 THOUSAND.



1 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE  
2 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-  
3 TER SIX-B OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-  
4 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,  
5 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION SEVENTEEN OF  
6 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS CHAPTER FOR  
7 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER  
8 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR  
9 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE  
10 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION  
11 SEVENTEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS  
12 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,  
13 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE  
14 YEAR.

15 17-A. INTENTIONALLY OMITTED.

16 17-B. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, AN  
17 ELIGIBLE BUSINESS THAT FIRST ENTERS INTO A BINDING CONTRACT ON OR AFTER  
18 JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR LEASE ELIGIBLE PREMISES TO  
19 WHICH IT RELOCATES SHALL BE ALLOWED A ONE-TIME CREDIT AGAINST THE TAX  
20 IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED IN THE MANNER  
21 HEREINAFTER PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF SUCH CREDIT  
22 SHALL BE ONE THOUSAND DOLLARS PER FULL-TIME EMPLOYEE; PROVIDED, HOWEVER,  
23 THAT THE AMOUNT OF SUCH CREDIT SHALL NOT EXCEED THE LESSER OF ACTUAL  
24 RELOCATION COSTS OR ONE HUNDRED THOUSAND DOLLARS.

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

27 (1) "ELIGIBLE BUSINESS" MEANS ANY BUSINESS SUBJECT TO TAX UNDER THIS  
28 SUBCHAPTER THAT (I) HAS BEEN CONDUCTING SUBSTANTIAL BUSINESS OPERATIONS  
29 AND ENGAGING PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT ONE  
30 OR MORE LOCATIONS WITHIN THE CITY OF NEW YORK OR OUTSIDE THE STATE OF  
31 NEW YORK CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL MONTHS  
32 IMMEDIATELY PRECEDING RELOCATION, (II) HAS LEASED THE PREMISES FROM  
33 WHICH IT RELOCATES CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL  
34 MONTHS IMMEDIATELY PRECEDING RELOCATION, (III) FIRST ENTERS INTO A BIND-  
35 ING CONTRACT ON OR AFTER JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR  
36 LEASE ELIGIBLE PREMISES TO WHICH SUCH BUSINESS WILL RELOCATE, AND (IV)  
37 WILL BE ENGAGED PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT  
38 SUCH ELIGIBLE PREMISES.

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

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

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

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

54 (6) "INDUSTRIAL AND MANUFACTURING ACTIVITIES" MEANS ACTIVITIES INVOLV-  
55 ING THE ASSEMBLY OF GOODS TO CREATE A DIFFERENT ARTICLE, OR THE PROCESS-

1 ING, FABRICATION, OR PACKAGING OF GOODS. INDUSTRIAL AND MANUFACTURING  
2 ACTIVITIES SHALL NOT INCLUDE WASTE MANAGEMENT OR UTILITY SERVICES.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (C) IF SUCH PARTNER'S NET TOTAL DISTRIBUTIVE SHARE OF INCOME, GAIN,  
39 LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, ANY UNINCORPORATED  
40 BUSINESS IS LESS THAN ZERO, SUCH NET TOTAL SHALL BE TREATED AS ZERO. THE  
41 AMOUNT DETERMINED IN THIS SUBPARAGRAPH SHALL NOT BE LESS THAN ZERO.

42 (B)(1) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN PARAGRAPH (A) OF  
43 THIS SUBDIVISION, IN THE CASE OF A CORPORATION THAT, BEFORE THE APPLICA-  
44 TION OF THIS SUBDIVISION OR ANY OTHER CREDIT ALLOWED BY THIS SECTION, IS  
45 LIABLE FOR THE TAX ON BUSINESS INCOME UNDER CLAUSE (I) OF SUBPARAGRAPH  
46 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, THE CREDIT OR  
47 THE SUM OF THE CREDITS THAT MAY BE TAKEN BY SUCH CORPORATION FOR A TAXA-  
48 BLE YEAR UNDER THIS SUBDIVISION WITH RESPECT TO AN UNINCORPORATED BUSI-  
49 NESS OR UNINCORPORATED BUSINESSES IN WHICH IT IS A PARTNER SHALL NOT  
50 EXCEED THE TAX SO COMPUTED, WITHOUT ALLOWANCE OF ANY CREDITS ALLOWED BY  
51 THIS SECTION, MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS FOUR  
52 AND THE DENOMINATOR OF WHICH IS EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS  
53 PROVIDED, HOWEVER, IN THE CASE OF A TAXPAYER THAT IS SUBJECT TO PARA-  
54 GRAPH (J) OR (K) OF SUBDIVISION ONE OF THIS SECTION, SUCH DENOMINATOR  
55 SHALL BE THE RATE OF TAX AS DETERMINED BY SUCH PARAGRAPH (J) OR (K) FOR  
56 THE TAXABLE YEAR. IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION OR THE

1 SUM OF SUCH CREDITS EXCEEDS THE PRODUCT OF SUCH TAX AND SUCH FRACTION,  
2 THE AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD, IN ORDER, TO EACH OF  
3 THE SEVEN IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO THE EXTENT NOT  
4 PREVIOUSLY TAKEN, SHALL BE ALLOWED AS A CREDIT IN EACH OF SUCH YEARS. IN  
5 APPLYING THE PROVISIONS OF THE PRECEDING SENTENCE, THE CREDIT DETERMINED  
6 FOR THE TAXABLE YEAR UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE  
7 TAKEN BEFORE TAKING ANY CREDIT CARRYFORWARD PURSUANT TO THIS PARAGRAPH  
8 AND THE CREDIT CARRYFORWARD ATTRIBUTABLE TO THE EARLIEST TAXABLE YEAR  
9 SHALL BE TAKEN BEFORE TAKING A CREDIT CARRYFORWARD ATTRIBUTABLE TO A  
10 SUBSEQUENT TAXABLE YEAR.

11 (2) INTENTIONALLY OMITTED.

12 (2-A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE  
13 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR  
14 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET  
15 FORTH IN SUBDIVISION EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR IN  
16 SECTION 11-643.8 OF THIS CHAPTER FOR A TAX PAID UNDER CHAPTER FIVE OF  
17 THIS TITLE IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-  
18 SAND FIFTEEN, THE TAXPAYER MAY CARRY FORWARD THE UNUSED PORTION OF SUCH  
19 CREDIT UNDER THIS SUBDIVISION TO ANY TAXABLE YEAR BEGINNING ON OR AFTER  
20 JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME  
21 EXTENT, INCLUDING THE SAME LIMITATIONS, THAT THE CREDIT, OR THE UNUSED  
22 PORTION THEREOF, WOULD HAVE BEEN ALLOWED TO BE CARRIED FORWARD UNDER  
23 SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION EIGHTEEN OF SECTION  
24 11-604 OF THIS CHAPTER OR PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION  
25 11-643.8 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO  
26 THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAY-  
27 ER FOR SUCH TAXABLE YEAR.

28 (3) NO CREDIT ALLOWED UNDER THIS SUBDIVISION MAY BE TAKEN IN A TAXABLE  
29 YEAR BY A TAXPAYER THAT, IN THE ABSENCE OF SUCH CREDIT, WOULD BE LIABLE  
30 FOR THE TAX COMPUTED ON THE BASIS OF BUSINESS CAPITAL UNDER CLAUSE (II)  
31 OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION  
32 OR THE FIXED-DOLLAR MINIMUM TAX UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF  
33 PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

34 (C) FOR CORPORATIONS THAT FILE A REPORT ON A COMBINED BASIS PURSUANT  
35 TO SECTION 11-654.3 OF THIS SUBCHAPTER, THE CREDIT ALLOWED BY THIS  
36 SUBDIVISION SHALL BE COMPUTED AS IF THE COMBINED GROUP WERE THE PARTNER  
37 IN EACH UNINCORPORATED BUSINESS FROM WHICH ANY OF THE MEMBERS OF SUCH  
38 GROUP HAD A DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS, PROVIDED, HOWEV-  
39 ER, IF MORE THAN ONE MEMBER OF THE COMBINED GROUP IS A PARTNER IN THE  
40 SAME UNINCORPORATED BUSINESS, FOR PURPOSES OF THE CALCULATION REQUIRED  
41 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, THE NUMERATOR  
42 OF THE FRACTION DESCRIBED IN CLAUSE (II) OF SUCH SUBPARAGRAPH ONE SHALL  
43 BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS  
44 AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED  
45 BUSINESS OF ALL OF THE PARTNERS OF THE UNINCORPORATED BUSINESS WITHIN  
46 THE COMBINED GROUP FOR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED  
47 FOR EACH PARTNER) IS GREATER THAN ZERO, AND THE DENOMINATOR OF SUCH  
48 FRACTION SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF  
49 INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE  
50 UNINCORPORATED BUSINESS OF ALL PARTNERS IN THE UNINCORPORATED BUSINESS  
51 FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH  
52 PARTNER) IS GREATER THAN ZERO.

53 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE CREDIT  
54 ALLOWABLE UNDER THIS SUBDIVISION SHALL BE TAKEN PRIOR TO THE TAKING OF  
55 ANY OTHER CREDIT ALLOWED BY THIS SECTION. NOTWITHSTANDING ANY OTHER  
56 PROVISION OF THIS SUBCHAPTER, THE APPLICATION OF THIS SUBDIVISION SHALL

1 NOT CHANGE THE BASIS ON WHICH THE TAXPAYER'S TAX IS COMPUTED UNDER PARA-  
2 GRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

3 19. LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE CREDIT. (A)  
4 IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER THAT  
5 HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-C OF TITLE TWEN-  
6 TY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY  
7 THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE AMOUNT DETERMINED  
8 BY MULTIPLYING THREE THOUSAND DOLLARS BY THE NUMBER OF ELIGIBLE AGGRE-  
9 GATE EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE  
10 YEAR WITH RESPECT TO ELIGIBLE PREMISES TO WHICH THE TAXPAYER HAS RELO-  
11 CATED; PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR THE RELO-  
12 CATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES; PROVIDED, FURTHER, THAT  
13 NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO ANY TAXPAYER THAT  
14 HAS ELECTED PURSUANT TO SUBDIVISION (D) OF SECTION 22-624 OF THIS CODE  
15 TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS TAX IMPOSED UNDER CHAPTER  
16 ELEVEN OF THIS TITLE. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS  
17 "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "ELIGIBLE PREMISES," "RELOCATE,"  
18 "RETAIL ACTIVITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED  
19 BY SECTION 22-623 OF THIS CODE.

20 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE  
21 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES  
22 TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE TAXABLE  
23 YEAR OF THE RELOCATION AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE  
24 YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED  
25 WITH RESPECT TO ELIGIBLE PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR  
26 THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING  
27 THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH  
28 RESPECT TO ELIGIBLE PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY  
29 THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER  
30 OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE  
31 TAXPAYER MAINTAINED EMPLOYMENT SHARES IN ELIGIBLE PREMISES IN THE TAXA-  
32 BLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF  
33 DAYS IN SUCH TWELFTH TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE  
34 EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES.

35 (C) EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, IF THE  
36 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE  
37 YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE EXCESS MAY BE CARRIED  
38 OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO  
39 THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE DEDUCTED FROM THE TAXPAY-  
40 ER'S TAX FOR SUCH YEARS.

41 (D) THE CREDITS ALLOWED UNDER THIS SUBDIVISION, AGAINST THE TAX  
42 IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF THE RELOCATION AND FOR  
43 THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF SUCH  
44 RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE TAXPAYER TO  
45 BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE  
46 PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE YEARS,  
47 SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY SUCCEED-  
48 ING TAXABLE YEAR.

49 (E) THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE DEDUCTED  
50 AFTER THE CREDITS ALLOWED BY SUBDIVISIONS SEVENTEEN AND EIGHTEEN OF THIS  
51 SECTION, BUT PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS  
52 SECTION.

53 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE  
54 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-  
55 TER SIX-C OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-  
56 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,

1 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION NINETEEN OF  
2 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS CHAPTER FOR  
3 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER  
4 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR  
5 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE  
6 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION  
7 NINETEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS  
8 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,  
9 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE  
10 YEAR.

11 20. INTENTIONALLY OMITTED.

12 21. BIOTECHNOLOGY CREDIT. (A) (1) A TAXPAYER THAT IS A QUALIFIED  
13 EMERGING TECHNOLOGY COMPANY, ENGAGES IN BIOTECHNOLOGIES, AND MEETS THE  
14 ELIGIBILITY REQUIREMENTS OF THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT  
15 AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF CREDIT SHALL  
16 BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN SUBPARAGRAPHS THREE,  
17 FOUR AND FIVE OF THIS PARAGRAPH, SUBJECT TO THE LIMITATIONS IN SUBPARA-  
18 GRAPH SEVEN OF THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION. FOR  
19 THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED EMERGING TECHNOLOGY COMPA-  
20 NY" SHALL MEAN A COMPANY LOCATED IN THE CITY: (I) WHOSE PRIMARY PRODUCTS  
21 OR SERVICES ARE CLASSIFIED AS EMERGING TECHNOLOGIES AND WHOSE TOTAL  
22 ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS; OR (II) A COMPANY  
23 THAT HAS RESEARCH AND DEVELOPMENT ACTIVITIES IN THE CITY AND WHOSE RATIO  
24 OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES EQUALS OR EXCEEDS THE  
25 AVERAGE RATIO FOR ALL SURVEYED COMPANIES CLASSIFIED AS DETERMINED BY THE  
26 NATIONAL SCIENCE FOUNDATION IN THE MOST RECENT PUBLISHED RESULTS FROM  
27 ITS SURVEY OF INDUSTRY RESEARCH AND DEVELOPMENT, OR ANY COMPARABLE  
28 SUCCESSOR SURVEY AS DETERMINED BY THE DEPARTMENT OF FINANCE, AND WHOSE  
29 TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS. FOR THE  
30 PURPOSES OF THIS SUBDIVISION, THE DEFINITION OF RESEARCH AND DEVELOPMENT  
31 FUNDS SHALL BE THE SAME AS THAT USED BY THE NATIONAL SCIENCE FOUNDATION  
32 IN THE AFOREMENTIONED SURVEY. FOR THE PURPOSES OF THIS SUBDIVISION,  
33 "BIOTECHNOLOGIES" SHALL MEAN THE TECHNOLOGIES INVOLVING THE SCIENTIFIC  
34 MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE  
35 SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING  
36 THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED  
37 SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL  
38 APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS. ACTIVITIES  
39 INCLUDED WITH SUCH APPLICATIONS AND SERVICES SHALL INCLUDE, BUT NOT BE  
40 LIMITED TO, ALTERNATIVE MRNA SPLICING, DNA SEQUENCE AMPLIFICATION, ANTI-  
41 GENETIC SWITCHING BIOAUGMENTATION, BIOENRICHMENT, BIOREMEDIATION, CHRO-  
42 MOSOME WALKING, CYTOGENETIC ENGINEERING, DNA DIAGNOSIS, FINGERPRINTING,  
43 AND SEQUENCING, ELECTROPORATION, GENE TRANSLOCATION, GENETIC MAPPING,  
44 SITE-DIRECTED MUTAGENESIS, BIO-TRANSDUCTION, BIO-MECHANICAL AND BIO-E-  
45 LECTRICAL ENGINEERING, AND BIO-INFORMATICS.

46 (2) AN ELIGIBLE TAXPAYER SHALL (I) HAVE NO MORE THAN ONE HUNDRED  
47 FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED  
48 IN THE CITY, (II) HAVE A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET  
49 SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC  
50 AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING THE CALENDAR  
51 YEAR ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS  
52 CLAIMED, AND (III) HAVE GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF  
53 ITS "AFFILIATES" AND "RELATED MEMBERS" NOT EXCEEDING TWENTY MILLION  
54 DOLLARS FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR  
55 ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.  
56 FOR THE PURPOSES OF THIS SUBDIVISION, "AFFILIATES" SHALL MEAN THOSE

1 CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED  
2 IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE  
3 TAXPAYER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED  
4 MEMBERS" SHALL MEAN A PERSON, CORPORATION, OR OTHER ENTITY, INCLUDING AN  
5 ENTITY THAT IS TREATED AS A PARTNERSHIP OR OTHER PASS-THROUGH VEHICLE  
6 FOR PURPOSES OF FEDERAL TAXATION, WHETHER SUCH PERSON, CORPORATION OR  
7 ENTITY IS A TAXPAYER OR NOT, WHERE ONE SUCH PERSON, CORPORATION OR ENTI-  
8 TY, OR SET OF RELATED PERSONS, CORPORATIONS OR ENTITIES, DIRECTLY OR  
9 INDIRECTLY OWNS OR CONTROLS A CONTROLLING INTEREST IN ANOTHER ENTITY.  
10 SUCH ENTITY OR ENTITIES MAY INCLUDE ALL TAXPAYERS UNDER CHAPTERS FIVE,  
11 ELEVEN AND SEVENTEEN OF THIS TITLE, AND THIS SUBCHAPTER AND SUBCHAPTERS  
12 TWO AND THREE OF THIS CHAPTER. A CONTROLLING INTEREST SHALL MEAN, IN THE  
13 CASE OF A CORPORATION, EITHER THIRTY PERCENT OR MORE OF THE TOTAL  
14 COMBINED VOTING POWER OF ALL CLASSES OF STOCK OF SUCH CORPORATION, OR  
15 THIRTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST IN  
16 SUCH VOTING STOCK OF SUCH CORPORATION; AND IN THE CASE OF A PARTNERSHIP,  
17 ASSOCIATION, TRUST OR OTHER ENTITY, THIRTY PERCENT OR MORE OF THE CAPI-  
18 TAL, PROFITS OR BENEFICIAL INTEREST IN SUCH PARTNERSHIP, ASSOCIATION,  
19 TRUST OR OTHER ENTITY.

20 (3) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EIGHTEEN PER  
21 CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF  
22 RESEARCH AND DEVELOPMENT PROPERTY THAT IS ACQUIRED BY THE TAXPAYER BY  
23 PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED  
24 SEVENTY-NINE OF THE INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING  
25 THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH  
26 THE CREDIT IS CLAIMED. PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS  
27 PARAGRAPH ONLY, AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH  
28 PERCENTAGE OF THE (I) COST OR OTHER BASIS FOR FEDERAL INCOME TAX  
29 PURPOSES FOR PROPERTY USED IN THE TESTING OR INSPECTION OF MATERIALS AND  
30 PRODUCTS, (II) THE COSTS OR EXPENSES ASSOCIATED WITH QUALITY CONTROL OF  
31 THE RESEARCH AND DEVELOPMENT, (III) FEES FOR USE OF SOPHISTICATED TECH-  
32 NOLOGY FACILITIES AND PROCESSES, AND (IV) FEES FOR THE PRODUCTION OR  
33 EVENTUAL COMMERCIAL DISTRIBUTION OF MATERIALS AND PRODUCTS RESULTING  
34 FROM THE ACTIVITIES OF AN ELIGIBLE TAXPAYER AS LONG AS SUCH ACTIVITIES  
35 FALL UNDER ACTIVITIES RELATING TO BIOTECHNOLOGIES. THE COSTS, EXPENSES  
36 AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS  
37 PARAGRAPH SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT  
38 ALLOWED UNDER THIS SUBCHAPTER. FOR THE PURPOSES OF THIS SUBDIVISION,  
39 "RESEARCH AND DEVELOPMENT PROPERTY" SHALL MEAN PROPERTY THAT IS USED FOR  
40 PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR LABORATORY  
41 SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDINARY TESTING  
42 OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL, EFFICIENCY  
43 SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING, PROMOTIONS,  
44 OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMILAR PROJECTS.

45 (4) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR NINE PER CENTUM  
46 OF QUALIFIED RESEARCH EXPENSES PAID OR INCURRED BY THE TAXPAYER IN THE  
47 CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE  
48 CREDIT IS CLAIMED. FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED  
49 RESEARCH EXPENSES" SHALL MEAN EXPENSES ASSOCIATED WITH IN-HOUSE RESEARCH  
50 AND PROCESSES, AND COSTS ASSOCIATED WITH THE DISSEMINATION OF THE  
51 RESULTS OF THE PRODUCTS THAT DIRECTLY RESULT FROM SUCH RESEARCH AND  
52 DEVELOPMENT ACTIVITIES; PROVIDED, HOWEVER, THAT SUCH COSTS SHALL NOT  
53 INCLUDE ADVERTISING OR PROMOTION THROUGH MEDIA. IN ADDITION, COSTS ASSO-  
54 CIATED WITH THE PREPARATION OF PATENT APPLICATIONS, PATENT APPLICATION  
55 FILING FEES, PATENT RESEARCH FEES, PATENT EXAMINATIONS FEES, PATENT POST  
56 ALLOWANCE FEES, PATENT MAINTENANCE FEES, AND GRANT APPLICATION EXPENSES

1 AND FEES SHALL QUALIFY AS QUALIFIED RESEARCH EXPENSES. IN NO CASE SHALL  
2 THE CREDIT ALLOWED UNDER THIS SUBPARAGRAPH APPLY TO EXPENSES FOR LITI-  
3 GATION OR THE CHALLENGE OF ANOTHER ENTITY'S INTELLECTUAL PROPERTY  
4 RIGHTS, OR FOR CONTRACT EXPENSES INVOLVING OUTSIDE PAID CONSULTANTS.

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

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

13 (II) QUALIFIED HIGH-TECHNOLOGY TRAINING SHALL INCLUDE A COURSE OR  
14 COURSES TAKEN AND SATISFACTORILY COMPLETED BY AN EMPLOYEE OF THE TAXPAY-  
15 ER AT AN ACCREDITED, DEGREE GRANTING POST-SECONDARY COLLEGE OR UNIVERSI-  
16 TY IN THE CITY THAT (A) DIRECTLY RELATES TO BIOTECHNOLOGY ACTIVITIES,  
17 AND (B) IS INTENDED TO UPGRADE, RETRAIN OR IMPROVE THE PRODUCTIVITY OR  
18 THEORETICAL AWARENESS OF THE EMPLOYEE. SUCH COURSE OR COURSES MAY  
19 INCLUDE, BUT ARE NOT LIMITED TO, INSTRUCTION OR RESEARCH RELATING TO  
20 TECHNIQUES, META, MACRO, OR MICRO-THEORETICAL OR PRACTICAL KNOWLEDGE  
21 BASES OR FRONTIERS, OR ETHICAL CONCERNS RELATED TO SUCH ACTIVITIES. SUCH  
22 COURSE OR COURSES SHALL NOT INCLUDE CLASSES IN THE DISCIPLINES OF  
23 MANAGEMENT, ACCOUNTING OR THE LAW OR ANY CLASS DESIGNED TO FULFILL THE  
24 DISCIPLINE SPECIFIC REQUIREMENTS OF A DEGREE PROGRAM AT THE ASSOCIATE,  
25 BACCALAUREATE, GRADUATE OR PROFESSIONAL LEVEL OF THESE DISCIPLINES.  
26 SATISFACTORY COMPLETION OF A COURSE OR COURSES SHALL MEAN THE EARNING  
27 AND GRANTING OF CREDIT OR EQUIVALENT UNIT, WITH THE ATTAINMENT OF A  
28 GRADE OF "B" OR HIGHER IN A GRADUATE LEVEL COURSE OR COURSES, A GRADE OF  
29 "C" OR HIGHER IN AN UNDERGRADUATE LEVEL COURSE OR COURSES, OR A SIMILAR  
30 MEASURE OF COMPETENCY FOR A COURSE THAT IS NOT MEASURED ACCORDING TO A  
31 STANDARD GRADE FORMULA.

32 (III) QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL INCLUDE  
33 EXPENSES FOR TUITION AND MANDATORY FEES, SOFTWARE REQUIRED BY THE INSTI-  
34 TUTION, FEES FOR TEXTBOOKS OR OTHER LITERATURE REQUIRED BY THE INSTITU-  
35 TION OFFERING THE COURSE OR COURSES, MINUS APPLICABLE SCHOLARSHIPS AND  
36 TUITION OR FEE WAIVERS NOT GRANTED BY THE TAXPAYER OR ANY AFFILIATES OF  
37 THE TAXPAYER, THAT ARE PAID OR REIMBURSED BY THE TAXPAYER. QUALIFIED  
38 HIGH-TECHNOLOGY EXPENDITURES DO NOT INCLUDE ROOM AND BOARD, COMPUTER  
39 HARDWARE OR SOFTWARE NOT SPECIFICALLY ASSIGNED FOR SUCH COURSE OR COURSE-  
40 ES, LATE-CHARGES, FINES OR MEMBERSHIP DUES AND SIMILAR EXPENSES. SUCH  
41 QUALIFIED EXPENDITURES SHALL NOT BE ELIGIBLE FOR THE CREDIT PROVIDED BY  
42 THIS SECTION UNLESS THE EMPLOYEE FOR WHOM THE EXPENDITURES ARE DISBURSED  
43 IS CONTINUOUSLY EMPLOYED BY THE TAXPAYER IN A FULL-TIME, FULL-YEAR POSI-  
44 TION PRIMARILY LOCATED AT A QUALIFIED SITE DURING THE PERIOD OF SUCH  
45 COURSEWORK AND LASTING THROUGH AT LEAST ONE HUNDRED EIGHTY DAYS AFTER  
46 THE SATISFACTORY COMPLETION OF THE QUALIFYING COURSE-WORK. QUALIFIED  
47 HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL NOT INCLUDE EXPENSES FOR  
48 IN-HOUSE OR SHARED TRAINING OUTSIDE OF A CITY HIGHER EDUCATION INSTITU-  
49 TION OR THE USE OF CONSULTANTS OUTSIDE OF CREDIT GRANTING COURSES,  
50 WHETHER SUCH CONSULTANTS FUNCTION INSIDE OF SUCH HIGHER EDUCATION INSTI-  
51 TUTION OR NOT.

52 (IV) IF A TAXPAYER RELOCATES FROM AN ACADEMIC BUSINESS INCUBATOR  
53 FACILITY PARTNERED WITH AN ACCREDITED POST-SECONDARY EDUCATION INSTITU-  
54 TION LOCATED WITHIN THE CITY, WHICH PROVIDES SPACE AND BUSINESS SUPPORT  
55 SERVICES TO TAXPAYERS, TO ANOTHER SITE, THE CREDIT PROVIDED IN THIS  
56 SUBDIVISION SHALL BE ALLOWED FOR ALL EXPENDITURES REFERENCED IN CLAUSE



1 (III) OF THIS SUBPARAGRAPH PAID OR INCURRED IN THE TWO PRECEDING CALEN-  
2 DAR YEARS THAT THE TAXPAYER WAS LOCATED IN SUCH AN INCUBATOR FACILITY  
3 FOR EMPLOYEES OF THE TAXPAYER WHO ALSO RELOCATE FROM SAID INCUBATOR  
4 FACILITY TO SUCH CITY SITE AND ARE EMPLOYED AND PRIMARILY LOCATED BY THE  
5 TAXPAYER IN THE CITY. SUCH EXPENDITURES IN THE TWO PRECEDING YEARS  
6 SHALL BE ADDED TO THE AMOUNTS OTHERWISE QUALIFYING FOR THE CREDIT  
7 PROVIDED BY THIS SUBDIVISION THAT WERE PAID OR INCURRED IN THE CALENDAR  
8 YEAR THAT THE TAXPAYER RELOCATES FROM SUCH A FACILITY. SUCH EXPENDITURES  
9 SHALL INCLUDE EXPENSES PAID FOR AN ELIGIBLE EMPLOYEE WHO IS A FULL-TIME,  
10 FULL-YEAR EMPLOYEE OF SAID TAXPAYER DURING THE CALENDAR YEAR THAT THE  
11 TAXPAYER RELOCATED FROM AN INCUBATOR FACILITY NOTWITHSTANDING (A) THAT  
12 SUCH EMPLOYEE WAS EMPLOYED FULL OR PART-TIME AS AN OFFICER, STAFF-PERSON  
13 OR PAID INTERN OF THE TAXPAYER WHEN SUCH TAXPAYER WAS LOCATED AT SUCH  
14 INCUBATOR FACILITY OR (B) THAT SUCH EMPLOYEE WAS NOT CONTINUOUSLY  
15 EMPLOYED WHEN SUCH TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY DURING  
16 THE ONE HUNDRED EIGHTY DAY PERIOD REFERRED TO IN CLAUSE (III) OF THIS  
17 SUBPARAGRAPH, PROVIDED SUCH EMPLOYEE RECEIVED WAGES OR EQUIVALENT INCOME  
18 FOR AT LEAST SEVEN HUNDRED FIFTY HOURS DURING ANY TWENTY-FOUR MONTH  
19 PERIOD WHEN THE TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY. SUCH  
20 EXPENDITURES SHALL INCLUDE PAYMENTS MADE TO SUCH EMPLOYEE AFTER THE  
21 TAXPAYER HAS RELOCATED FROM THE INCUBATOR FACILITY FOR QUALIFIED EXPEND-  
22 ITURES IF SUCH PAYMENTS ARE MADE TO REIMBURSE AN EMPLOYEE FOR EXPENDI-  
23 TURES PAID BY THE EMPLOYEE DURING SUCH TWO PRECEDING YEARS. THE CREDIT  
24 PROVIDED UNDER THIS PARAGRAPH SHALL BE ALLOWED IN ANY TAXABLE YEAR THAT  
25 THE TAXPAYER QUALIFIES AS AN ELIGIBLE TAXPAYER.

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

29 (VI) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC INCUBATOR  
30 FACILITY" SHALL MEAN A FACILITY PROVIDING LOW-COST SPACE, TECHNICAL  
31 ASSISTANCE, SUPPORT SERVICES AND EDUCATIONAL OPPORTUNITIES, INCLUDING  
32 BUT NOT LIMITED TO CENTRAL SERVICES PROVIDED BY THE MANAGER OF THE  
33 FACILITY TO THE TENANTS OF THE FACILITY, TO AN ENTITY LOCATED IN THE  
34 CITY. SUCH ENTITY'S PRIMARY ACTIVITY MUST BE IN BIOTECHNOLOGIES, AND  
35 SUCH ENTITY MUST BE IN THE FORMATIVE STAGE OF DEVELOPMENT. THE ACADEMIC  
36 INCUBATOR FACILITY AND THE ENTITY MUST ACT IN PARTNERSHIP WITH AN  
37 ACCREDITED POST-SECONDARY COLLEGE OR UNIVERSITY LOCATED IN THE CITY. AN  
38 ACADEMIC INCUBATOR FACILITY'S MISSION SHALL BE TO PROMOTE JOB CREATION,  
39 ENTREPRENEURSHIP, TECHNOLOGY TRANSFER, AND PROVIDE SUPPORT SERVICES TO  
40 INCUBATOR TENANTS, INCLUDING, BUT NOT LIMITED TO, BUSINESS PLANNING,  
41 MANAGEMENT ASSISTANCE, FINANCIAL-PACKAGING, LINKAGES TO FINANCING  
42 SERVICES, AND COORDINATING WITH OTHER SOURCES OF ASSISTANCE.

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

47 (7) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR  
48 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT  
49 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-  
50 VISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT  
51 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO  
52 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR  
53 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN  
54 ACCORDANCE WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER;  
55 PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679  
56 OF THIS CHAPTER, NO INTEREST SHALL BE PAID THEREON.

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

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

5 (I) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY A  
6 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR THAT ENDS WITH OR WITHIN  
7 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS AT LEAST ONE HUNDRED  
8 FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, ONE HUNDRED  
9 PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS  
10 CLAUSE EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER CALENDAR YEAR.  
11 PROVIDED, HOWEVER, THE INCREASE IN BASE YEAR EMPLOYMENT SHALL NOT APPLY  
12 TO A TAXPAYER ALLOWED A CREDIT UNDER THIS SUBDIVISION THAT WAS, (A)  
13 LOCATED OUTSIDE OF THE CITY, (B) NOT DOING BUSINESS, OR (C) DID NOT HAVE  
14 ANY EMPLOYEES, IN THE YEAR PRECEDING THE FIRST YEAR THAT THE CREDIT IS  
15 CLAIMED. ANY SUCH TAXPAYER SHALL BE ELIGIBLE FOR ONE HUNDRED PERCENT OF  
16 THE CREDIT FOR THE FIRST CALENDAR YEAR THAT ENDS WITH OR WITHIN THE  
17 TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, PROVIDED THAT SUCH TAXPAY-  
18 ER LOCATES IN THE CITY, BEGINS DOING BUSINESS IN THE CITY OR HIRES  
19 EMPLOYEES IN THE CITY DURING SUCH CALENDAR YEAR AND IS OTHERWISE ELIGI-  
20 BLE FOR THE CREDIT PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

21 (II) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY A  
22 TAXPAYER IN THE CITY DURING THE CALENDAR YEAR THAT ENDS WITH OR WITHIN  
23 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS LESS THAN ONE  
24 HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, FIFTY  
25 PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS  
26 CLAUSE EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS PER CALENDAR  
27 YEAR. IN THE CASE OF AN ENTITY LOCATED IN THE CITY RECEIVING SPACE AND  
28 BUSINESS SUPPORT SERVICES BY AN ACADEMIC INCUBATOR FACILITY, IF THE  
29 AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY SUCH ENTITY IN THE  
30 CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT ALLOWED UNDER THIS  
31 SUBDIVISION IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE  
32 TAXPAYER'S BASE YEAR EMPLOYMENT, THE CREDIT SHALL BE ZERO.

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

37 (3) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVID-  
38 UALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH  
39 INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING  
40 EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO  
41 OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR  
42 YEAR OR OTHER APPLICABLE PERIOD.

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

47 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE  
48 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR  
49 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET  
50 FORTH IN SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER FOR AN  
51 ELIGIBLE ACQUISITION OF PROPERTY AND/OR EXPENSE PAID OR INCURRED, A  
52 CREDIT SHALL BE ALLOWED TO THE TAXPAYER UNDER THIS SUBDIVISION FOR ANY  
53 TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN  
54 THE SAME AMOUNT AND TO THE SAME EXTENT THAT A CREDIT WOULD HAVE BEEN  
55 ALLOWED UNDER SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER,

1 AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH  
2 SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.  
3 S 11-654.1 NET OPERATING LOSS. 1. IN COMPUTING THE BUSINESS INCOME  
4 SUBJECT TO TAX, TAXPAYERS SHALL BE ALLOWED BOTH A PRIOR NET OPERATING  
5 LOSS CONVERSION SUBTRACTION UNDER SUBDIVISION TWO OF THIS SECTION AND A  
6 NET OPERATING LOSS DEDUCTION UNDER SUBDIVISION THREE OF THIS SECTION.  
7 THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION COMPUTED UNDER  
8 SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED AGAINST BUSINESS INCOME  
9 BEFORE THE NET OPERATING LOSS DEDUCTION COMPUTED UNDER SUBDIVISION THREE  
10 OF THIS SECTION.

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

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

15 (2) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF  
16 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION  
17 EIGHT OF SECTION 11-602 OF THIS CHAPTER OR SUBDIVISION (K-1) OF SECTION  
18 11-641 OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER  
19 THIRTY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS NOT DEDUCTIBLE IN PREVIOUS  
20 TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER ON THE LAST DAY OF THE BASE  
21 YEAR SUBJECT TO THE LIMITATIONS FOR DEDUCTION UNDER SUCH SECTIONS,  
22 INCLUDING ANY NET OPERATING LOSS SUSTAINED BY THE TAXPAYER DURING THE  
23 BASE YEAR.

24 (3) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION PERCENT-  
25 AGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION  
26 11-604 OF THIS CHAPTER FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION  
27 PERCENTAGE AS CALCULATED UNDER SECTION 11-642 OF THIS CHAPTER FOR  
28 PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH  
29 SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

30 (4) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE  
31 YEAR AS APPLIED TO ENTIRE NET INCOME AND CALCULATED UNDER SUBDIVISION  
32 ONE OF SECTION 11-604 OF THIS CHAPTER OR SUBDIVISION (A) OF SECTION  
33 11-643.5 OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN EFFECT ON DECEMBER  
34 THIRTY-FIRST, TWO THOUSAND FOURTEEN.

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

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

42 (2) THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH  
43 SHALL THEN BE DIVIDED BY EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PER CENTUM  
44 OR, IN THE CASE OF A FINANCIAL CORPORATION, AS DEFINED IN CLAUSE (I) OF  
45 SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654  
46 OF THIS SUBCHAPTER, THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF  
47 THIS PARAGRAPH SHALL THEN BE DIVIDED BY NINE PER CENTUM. THIS RESULT  
48 SHALL EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION  
49 SUBTRACTION POOL.

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

54 (4) IN LIEU OF THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION  
55 DESCRIBED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE TAXPAYER SO  
56 ELECTS, THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION

1 FOR ITS TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND  
2 FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN SHALL EQUAL, IN  
3 EACH YEAR, NOT MORE THAN ONE-HALF OF ITS PRIOR NET OPERATING LOSS  
4 CONVERSION SUBTRACTION POOL UNTIL THE POOL IS EXHAUSTED. IF THE POOL IS  
5 NOT EXHAUSTED AT THE END OF SUCH TIME PERIOD, THE REMAINDER OF THE POOL  
6 SHALL BE FORFEITED. THE TAXPAYER SHALL MAKE SUCH ELECTION, WHICH SHALL  
7 BE REVOCABLE, ON ITS FIRST RETURN FOR THE TAX YEAR BEGINNING ON OR AFTER  
8 JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOU-  
9 SAND SIXTEEN BY THE DUE DATE FOR SUCH RETURN (DETERMINED WITH REGARD TO  
10 EXTENSIONS).

11 (C) (1) WHERE A TAXPAYER WAS PROPERLY INCLUDED OR REQUIRED TO BE  
12 INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR PURSUANT TO SECTION  
13 11-605 OF THIS CHAPTER OR A COMBINED RETURN FOR THE BASE YEAR PURSUANT  
14 TO SECTION 11-646 OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON  
15 DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, AND THE MEMBERS OF THE  
16 COMBINED GROUP FOR THE BASE YEAR ARE THE SAME AS THE MEMBERS OF THE  
17 COMBINED GROUP FOR THE TAXABLE YEAR IMMEDIATELY SUCCEEDING THE BASE  
18 YEAR, THE COMBINED GROUP SHALL CALCULATE ITS PRIOR NET OPERATING LOSS  
19 CONVERSION SUBTRACTION POOL USING THE COMBINED GROUP'S TOTAL UNABSORBED  
20 NET OPERATING LOSS, BASE YEAR BAP, AND BASE YEAR TAX RATE.

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

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

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

44 (D) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO  
45 REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF  
46 THE TAX ON BUSINESS CAPITAL UNDER CLAUSE (II) OF SUBPARAGRAPH ONE OF  
47 PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER OR  
48 THE FIXED DOLLAR MINIMUM UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARA-  
49 GRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER.  
50 UNLESS THE TAXPAYER HAS MADE THE ELECTION PROVIDED FOR IN SUBPARAGRAPH  
51 FOUR OF PARAGRAPH (B) OF THIS SUBDIVISION, ANY AMOUNT OF UNUSED PRIOR  
52 NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE CARRIED FORWARD TO A  
53 SUBSEQUENT TAX YEAR OR SUBSEQUENT TAX YEARS UNTIL THE PRIOR NET OPERAT-  
54 ING LOSS CONVERSION SUBTRACTION POOL IS EXHAUSTED, BUT FOR NO LONGER  
55 THAN TWENTY TAXABLE YEARS OR THE TAXABLE YEAR BEGINNING ON OR AFTER  
56 JANUARY FIRST, TWO THOUSAND THIRTY-FIVE BUT BEFORE JANUARY FIRST, TWO

1 THOUSAND THIRTY-SIX, WHICHEVER COMES FIRST. SUCH AMOUNT CARRIED FORWARD  
2 SHALL NOT BE SUBJECT TO THE ONE-TENTH LIMITATION FOR THE SUBSEQUENT TAX  
3 YEAR OR YEARS UNDER SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVI-  
4 SION. HOWEVER, IF THE TAXPAYER ELECTS TO COMPUTE ITS PRIOR NET OPERATING  
5 LOSS CONVERSION SUBTRACTION PURSUANT TO SUBPARAGRAPH FOUR OF PARAGRAPH  
6 (B) OF THIS SUBDIVISION, THE TAXPAYER SHALL NOT CARRY FORWARD ANY UNUSED  
7 AMOUNT OF SUCH PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION TO ANY  
8 TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

9 3. IN COMPUTING BUSINESS INCOME, A NET OPERATING LOSS DEDUCTION SHALL  
10 BE ALLOWED. A NET OPERATING LOSS DEDUCTION SHALL BE THE AMOUNT OF NET  
11 OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED  
12 FORWARD OR CARRIED BACK TO A PARTICULAR TAXABLE YEAR. A NET OPERATING  
13 LOSS SHALL BE THE AMOUNT OF A BUSINESS LOSS INCURRED IN A PARTICULAR TAX  
14 YEAR MULTIPLIED BY THE BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR AS  
15 DETERMINED UNDER SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.  
16 THE MAXIMUM NET OPERATING LOSS DEDUCTION THAT IS ALLOWED IN A TAXABLE  
17 YEAR SHALL BE THE AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED  
18 BUSINESS INCOME TO THE HIGHER OF THE TAX ON BUSINESS CAPITAL UNDER  
19 CLAUSE (II) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF  
20 SECTION 11-654 OF THIS SUBCHAPTER OR THE FIXED DOLLAR MINIMUM AMOUNT  
21 UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION  
22 ONE OF SECTION 11-654 OF THIS SUBCHAPTER. SUCH NET OPERATING LOSS  
23 DEDUCTION AND NET OPERATING LOSS SHALL BE DETERMINED IN ACCORDANCE WITH  
24 THE FOLLOWING:

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

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

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

38 (D) A NET OPERATING LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS  
39 PRECEDING THE TAXABLE YEAR OF THE LOSS EXCEPT THAT NO LOSS MAY BE  
40 CARRIED BACK TO A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-  
41 SAND FIFTEEN. THE LOSS FIRST SHALL BE CARRIED TO THE EARLIEST OF THE  
42 THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS. IF IT IS NOT  
43 ENTIRELY USED IN THAT YEAR, IT SHALL BE CARRIED TO THE SECOND TAXABLE  
44 YEAR PRECEDING THE TAXABLE YEAR OF THE LOSS, AND ANY REMAINING AMOUNT  
45 SHALL BE CARRIED TO THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE  
46 YEAR OF THE LOSS. ANY UNUSED AMOUNT OF LOSS THEN REMAINING MAY BE  
47 CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS FOLLOWING THE TAXA-  
48 BLE YEAR OF THE LOSS. LOSSES CARRIED FORWARD ARE CARRIED FORWARD FIRST  
49 TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE TAXABLE YEAR OF THE LOSS,  
50 THEN TO THE SECOND TAXABLE YEAR FOLLOWING THE TAXABLE YEAR OF THE LOSS,  
51 AND THEN TO THE NEXT IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL  
52 THE LOSS IS USED UP OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE TAXABLE  
53 YEAR OF THE LOSS, WHICHEVER COMES FIRST.

54 (E) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-  
55 ATING LOSS INCURRED DURING ANY TAXABLE YEAR COMMENCING AFTER JANUARY  
56 FIRST, TWO THOUSAND FIFTEEN IF THE TAXPAYER WAS SUBJECT TO TAX UNDER

1 SUBCHAPTER TWO OR THREE OF THIS CHAPTER IN THAT YEAR; PROVIDED, HOWEVER,  
2 ANY YEAR COMMENCING AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN THAT THE  
3 TAXPAYER WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO OR THREE OF THIS CHAP-  
4 TER IN THAT YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF  
5 DETERMINING THE NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS  
6 MAY BE CARRIED FORWARD.

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

11 (G) A TAXPAYER MAY ELECT TO WAIVE THE ENTIRE CARRYBACK PERIOD WITH  
12 RESPECT TO A NET OPERATING LOSS. SUCH ELECTION MUST BE MADE ON THE  
13 TAXPAYER'S ORIGINAL TIMELY FILED RETURN (DETERMINED WITH REGARD TO  
14 EXTENSIONS) FOR THE TAXABLE YEAR OF THE NET OPERATING LOSS FOR WHICH THE  
15 ELECTION IS TO BE IN EFFECT. ONCE AN ELECTION IS MADE FOR A TAXABLE  
16 YEAR, IT SHALL BE IRREVOCABLE FOR THAT TAXABLE YEAR. A SEPARATE ELECTION  
17 MUST BE MADE FOR EACH TAXABLE YEAR OF THE LOSS. THIS ELECTION APPLIES TO  
18 ALL MEMBERS OF A COMBINED GROUP.

19 S 11-654.2 RECEIPTS ALLOCATION. 1. THE PERCENTAGE OF RECEIPTS OF THE  
20 TAXPAYER TO BE ALLOCATED TO THE CITY FOR PURPOSES OF SUBPARAGRAPH TWO OF  
21 PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER  
22 SHALL BE EQUAL TO THE RECEIPTS FRACTION DETERMINED PURSUANT TO THIS  
23 SECTION. THE RECEIPTS FRACTION IS A FRACTION, DETERMINED BY INCLUDING  
24 ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS DESCRIBED IN  
25 THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE TAXPAYER'S  
26 BUSINESS INCOME (DETERMINED WITHOUT REGARD TO THE MODIFICATION PROVIDED  
27 IN SUBPARAGRAPH FOURTEEN OF PARAGRAPH (A) OF SUBDIVISION EIGHT OF  
28 SECTION 11-652 OF THIS SUBCHAPTER) FOR THE TAXABLE YEAR. THE NUMERATOR  
29 OF THE RECEIPTS FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS  
30 REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE PROVISIONS OF  
31 THIS SECTION AND THE DENOMINATOR OF THE RECEIPTS FRACTION SHALL BE EQUAL  
32 TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE DENOMINATOR  
33 PURSUANT TO THE PROVISIONS OF THIS SECTION.

34 2. (A) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIP-  
35 MENTS ARE MADE TO POINTS WITHIN THE CITY OR THE DESTINATION OF THE PROP-  
36 erty IS A POINT WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF  
37 THE RECEIPTS FRACTION. RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY  
38 WHERE SHIPMENTS ARE MADE TO POINTS WITHIN AND WITHOUT THE CITY OR THE  
39 DESTINATION IS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE  
40 DENOMINATOR OF THE RECEIPTS FRACTION.

41 (B) RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN THE  
42 CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.  
43 RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN AND WITH-  
44 OUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-  
45 TION.

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

51 (D) NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY  
52 LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE  
53 RECEIPTS FRACTION. NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL  
54 PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE  
55 DENOMINATOR OF THE RECEIPTS FRACTION.

1 3. (A) RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY  
2 LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE  
3 RECEIPTS FRACTION. RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL  
4 PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE  
5 DENOMINATOR OF THE RECEIPTS FRACTION.

6 (B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADE-  
7 MARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE CITY SHALL BE  
8 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS OF ROYAL-  
9 TIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTAN-  
10 GIBLE PERSONAL PROPERTY WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN  
11 THE DENOMINATOR OF THE RECEIPTS FRACTION. A PATENT, COPYRIGHT, TRADE-  
12 MARK, OR SIMILAR INTANGIBLE PERSONAL PROPERTY IS USED WITHIN THE CITY TO  
13 THE EXTENT THAT THE ACTIVITIES THEREUNDER ARE CARRIED ON WITHIN THE  
14 CITY.

15 (C) RECEIPTS FROM THE SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE  
16 TELEVISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A  
17 REGULARLY SCHEDULED BASIS) TAKING PLACE WITHIN THE CITY AS A RESULT OF  
18 THE RENDITION OF SERVICES BY EMPLOYEES OF THE CORPORATION, AS ATHLETES,  
19 ENTERTAINERS OR PERFORMING ARTISTS, SHALL BE INCLUDED IN THE NUMERATOR  
20 OF THE RECEIPTS FRACTION TO THE EXTENT THAT SUCH RECEIPTS ARE ATTRIBUT-  
21 ABLE TO SUCH TRANSMISSIONS RECEIVED OR EXHIBITED WITHIN THE CITY.  
22 RECEIPTS FROM ALL SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE TELE-  
23 VISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A REGU-  
24 LARLY SCHEDULED BASIS) SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
25 RECEIPTS FRACTION.

26 4. (A) FOR PURPOSES OF DETERMINING THE RECEIPTS FRACTION UNDER THIS  
27 SECTION, THE TERM "DIGITAL PRODUCT" MEANS ANY PROPERTY OR SERVICE, OR  
28 COMBINATION THEREOF, OF WHATEVER NATURE DELIVERED TO THE PURCHASER  
29 THROUGH THE USE OF WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO  
30 WAVE, SATELLITE OR SIMILAR SUCCESSOR MEDIA, OR ANY COMBINATION THEREOF.  
31 DIGITAL PRODUCT INCLUDES, BUT IS NOT LIMITED TO, AN AUDIO WORK, AUDI-  
32 OVISUAL WORK, VISUAL WORK, BOOK OR LITERARY WORK, GRAPHIC WORK, GAME,  
33 INFORMATION OR ENTERTAINMENT SERVICE, STORAGE OF DIGITAL PRODUCTS AND  
34 COMPUTER SOFTWARE BY WHATEVER MEANS DELIVERED. THE TERM "DELIVERED TO"  
35 INCLUDES FURNISHED OR PROVIDED TO OR ACCESSED BY. A DIGITAL PRODUCT  
36 SHALL NOT INCLUDE LEGAL, MEDICAL, ACCOUNTING, ARCHITECTURAL, RESEARCH,  
37 ANALYTICAL, ENGINEERING OR CONSULTING SERVICES PROVIDED BY THE TAXPAYER.

38 (B) RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR GRANTING OF REMOTE  
39 ACCESS TO DIGITAL PRODUCTS WITHIN THE CITY, DETERMINED ACCORDING TO THE  
40 HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF  
41 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE INCLUDED IN THE NUMERATOR OF  
42 THE RECEIPTS FRACTION. RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR  
43 GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN AND WITHOUT THE  
44 CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. THE  
45 TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN  
46 PARAGRAPH (C) OF THIS SUBDIVISION BEFORE REJECTING IT AND PROCEEDING TO  
47 THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS DETERMINATION ON  
48 INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN TO  
49 THE TAXPAYER UPON REASONABLE INQUIRY. IF THE RECEIPT FOR A DIGITAL PROD-  
50 UCT IS COMPRISED OF A COMBINATION OF PROPERTY AND SERVICES, IT CANNOT BE  
51 DIVIDED INTO SEPARATE COMPONENTS AND SHALL BE CONSIDERED TO BE ONE  
52 RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING  
53 PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

54 (C) THE HIERARCHY OF SOURCING METHODS IS AS FOLLOWS: (1) THE CUSTOM-  
55 ER'S PRIMARY USE LOCATION OF THE DIGITAL PRODUCT; (2) THE LOCATION WHERE  
56 THE DIGITAL PRODUCT IS RECEIVED BY THE CUSTOMER, OR IS RECEIVED BY A

1 PERSON DESIGNATED FOR RECEIPT BY THE CUSTOMER; (3) THE RECEIPTS FRACTION  
2 DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR  
3 FOR SUCH DIGITAL PRODUCT; OR (4) THE RECEIPTS FRACTION IN THE CURRENT  
4 TAXABLE YEAR FOR THOSE DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE  
5 HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARA-  
6 GRAPH.

7 5. (A) A FINANCIAL INSTRUMENT IS A "NONQUALIFIED FINANCIAL INSTRU-  
8 MENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRUMENT. A QUALIFIED FINAN-  
9 CIAL INSTRUMENT MEANS A FINANCIAL INSTRUMENT THAT IS OF A TYPE DESCRIBED  
10 IN ANY OF CLAUSE (I), (II), (III), (IV), (VII), (VIII) OR (IX) OF  
11 SUBPARAGRAPH TWO OF THIS PARAGRAPH AND THAT HAS BEEN MARKED TO MARKET IN  
12 THE TAXABLE YEAR BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF  
13 THE INTERNAL REVENUE CODE. FURTHER, IF THE TAXPAYER HAS IN THE TAXABLE  
14 YEAR MARKED TO MARKET A FINANCIAL INSTRUMENT OF THE TYPE DESCRIBED IN  
15 ANY OF CLAUSE (I), (II), (III), (IV), (VII), (VIII) OR (IX) OF SUBPARA-  
16 GRAPH TWO OF THIS PARAGRAPH, THEN ANY FINANCIAL INSTRUMENT WITHIN THAT  
17 TYPE DESCRIBED IN THE ABOVE SPECIFIED CLAUSE OR CLAUSES THAT HAS NOT  
18 BEEN MARKED TO MARKET BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256  
19 OF THE INTERNAL REVENUE CODE IS A QUALIFIED FINANCIAL INSTRUMENT IN THE  
20 TAXABLE YEAR. NOTWITHSTANDING THE TWO PRECEDING SENTENCES, (I) A LOAN  
21 SECURED BY REAL PROPERTY SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT,  
22 (II) IF THE ONLY LOANS THAT ARE MARKED TO MARKET BY THE TAXPAYER UNDER  
23 SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE ARE LOANS  
24 SECURED BY REAL PROPERTY, THEN NO LOANS SHALL BE QUALIFIED FINANCIAL  
25 INSTRUMENTS, AND (III) STOCK THAT IS INVESTMENT CAPITAL AS DEFINED IN  
26 PARAGRAPH (A) OF SUBDIVISION 4 OF SECTION 11-652 OF THIS SUBCHAPTER  
27 SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT. IF A CORPORATION IS  
28 INCLUDED IN A COMBINED REPORT, THE DEFINITION OF QUALIFIED FINANCIAL  
29 INSTRUMENT SHALL BE DETERMINED ON A COMBINED BASIS.

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 (DETERMINED WITH REGARD  
36 TO EXTENSIONS). IF THE TAXPAYER ELECTS THE FIXED PERCENTAGE METHOD,  
37 THEN ALL INCOME, GAIN OR LOSS, INCLUDING MARKED TO MARKET NET GAINS AS  
38 DEFINED IN CLAUSE (X) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH, FROM QUALI-  
39 FIED FINANCIAL INSTRUMENTS CONSTITUTE BUSINESS INCOME, GAIN OR LOSS. IF  
40 THE TAXPAYER DOES NOT ELECT TO USE THE FIXED PERCENTAGE METHOD, THEN  
41 RECEIPTS AND NET GAINS ARE INCLUDED IN THE RECEIPTS FRACTION IN ACCORD-  
42 ANCE WITH THE CUSTOMER SOURCING METHOD DESCRIBED IN SUBPARAGRAPH TWO OF  
43 THIS PARAGRAPH. UNDER THE FIXED PERCENTAGE METHOD, EIGHT PERCENT OF ALL  
44 NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS  
45 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. ALL NET  
46 INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL  
47 BE INCLUDED IN THE DENOMINATOR OF THE 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.

1 (X)(A) FOR PURPOSES OF THIS SUBDIVISION, "MARKED TO MARKET" MEANS THAT  
2 A FINANCIAL INSTRUMENT IS, UNDER SECTION FOUR HUNDRED SEVENTY-FIVE OR  
3 SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, TREATED  
4 BY THE TAXPAYER AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS  
5 DAY OF THE TAXPAYER'S TAXABLE YEAR. "MARKED TO MARKET GAIN OR LOSS"  
6 MEANS THE GAIN OR LOSS RECOGNIZED BY THE TAXPAYER UNDER SECTION FOUR  
7 HUNDRED SEVENTY-FIVE OR SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL  
8 REVENUE CODE BECAUSE THE FINANCIAL INSTRUMENT IS TREATED AS SOLD FOR ITS  
9 FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXPAYER'S TAXABLE  
10 YEAR.

11 (B) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM  
12 EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN  
13 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-  
14 ING THE MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM SUCH TYPE  
15 OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE  
16 THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF  
17 FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS  
18 SUBPARAGRAPH AND THE DENOMINATOR OF WHICH SHALL BE THE DENOMINATOR OF  
19 THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRU-  
20 MENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED  
21 TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR  
22 WHICH THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS IS DETERMINED  
23 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-  
24 INATOR OF THE RECEIPTS FRACTION.

25 (C) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS  
26 NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE  
27 TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRU-  
28 MENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF  
29 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINAN-  
30 CIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL  
31 BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT  
32 LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION,  
33 THE NUMERATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS  
34 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)  
35 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE, AND  
36 THE DENOMINATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS  
37 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)  
38 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE.  
39 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO  
40 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IS DETERMINED  
41 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-  
42 INATOR OF THE RECEIPTS FRACTION.

43 (B) RECEIPTS OF A REGISTERED SECURITIES BROKER OR DEALER FROM SECURI-  
44 TIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARA-  
45 GRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN  
46 SUBPARAGRAPHS ONE THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH  
47 ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR  
48 OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN  
49 AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE  
50 RECEIPTS FRACTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURI-  
51 TIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (C)  
52 OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE AND  
53 THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO  
54 OF SUBSECTION (E) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL  
55 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 MARKETED 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 RECORDS OF  
33 THE 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 A RESULT OF A SECURITIES CORRESPONDENT

1 RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE  
2 TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH  
3 RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY TO THE EXTENT  
4 SET FORTH IN EACH OF SUCH SUBPARAGRAPHS.

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

10 (C) RECEIPTS RELATING TO THE BANK, CREDIT, TRAVEL, AND ENTERTAINMENT  
11 CARD ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENER-  
12 ATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF  
13 THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE CITY  
14 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS  
15 FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE CITY SHALL BE  
16 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

17 (1) RECEIPTS CONSTITUTING INTEREST, AND FEES AND PENALTIES IN THE  
18 NATURE OF INTEREST, FROM BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD  
19 RECEIVABLES SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE MAIL-  
20 ING ADDRESS OF THE CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS WITHIN  
21 THE CITY;

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

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

33 (4) RECEIPTS FROM CREDIT CARD AUTHORIZATION PROCESSING, AND CLEARING  
34 AND SETTLEMENT PROCESSING RECEIVED BY A CREDIT CARD PROCESSOR SHALL BE  
35 DEEMED TO BE GENERATED WITHIN THE CITY IF THE LOCATION WHERE THE CREDIT  
36 CARD PROCESSOR'S CUSTOMER ACCESSES THE CREDIT CARD PROCESSOR'S NETWORK  
37 IS LOCATED WITHIN THE CITY. THE AMOUNT OF ALL OTHER RECEIPTS RECEIVED BY  
38 A CREDIT CARD PROCESSOR NOT SPECIFICALLY ADDRESSED IN SUBDIVISIONS ONE  
39 THROUGH NINE OR SUBDIVISION TWELVE OF THIS SECTION DEEMED TO BE GENER-  
40 ATED WITHIN THE CITY SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT  
41 OF SUCH OTHER RECEIPTS BY THE AVERAGE OF (I) EIGHT PERCENT AND (II) THE  
42 PERCENT OF NEW YORK CITY ACCESS POINTS. THE PERCENT OF NEW YORK CITY  
43 ACCESS POINTS SHALL BE THE NUMBER OF LOCATIONS IN NEW YORK CITY FROM  
44 WHICH THE CREDIT CARD PROCESSOR'S CUSTOMERS ACCESS THE CREDIT CARD  
45 PROCESSOR'S NETWORK DIVIDED BY THE TOTAL NUMBER OF LOCATIONS IN THE  
46 UNITED STATES WHERE THE CREDIT CARD PROCESSOR'S CUSTOMERS ACCESS THE  
47 CREDIT CARD PROCESSOR'S NETWORK.

48 (D) RECEIPTS RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE  
49 OF MANAGEMENT, ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVEST-  
50 MENT COMPANY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-  
51 TION. THE PORTION OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE  
52 RECEIPTS FRACTION (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK CITY  
53 PORTION) SHALL BE DETERMINED AS PROVIDED IN THIS PARAGRAPH.

54 (1) THE NEW YORK CITY PORTION SHALL BE THE PRODUCT OF THE TOTAL OF  
55 SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERA-  
56 TOR 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

1 MANAGEMENT OR DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH  
2 INVESTMENT COMPANY.

3 (E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOW-  
4 ING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY,  
5 BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD  
6 BE KNOWN UPON REASONABLE INQUIRY: (1) THE SEAT OF MANAGEMENT AND CONTROL  
7 OF THE BUSINESS ENTITY; AND (2) THE BILLING ADDRESS OF THE BUSINESS  
8 ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILI-  
9 GENCE BEFORE REJECTING THE FIRST METHOD IN THIS HIERARCHY AND PROCEEDING  
10 TO THE NEXT METHOD.

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

18 6. RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE  
19 RAILROAD, WHETHER OR NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED  
20 RAILROAD, PALACE CAR OR SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS  
21 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS.  
22 THE AMOUNT OF RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS OR A  
23 TRUCKING BUSINESS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION  
24 SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF RECEIPTS FROM SUCH  
25 BUSINESS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE MILES IN  
26 SUCH BUSINESS WITHIN THE CITY DURING THE PERIOD COVERED BY THE TAXPAY-  
27 ER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE MILES IN SUCH  
28 BUSINESS WITHIN AND WITHOUT THE CITY DURING SUCH PERIOD. RECEIPTS FROM  
29 THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS SHALL BE  
30 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

31 7. (A) RECEIPTS OF A TAXPAYER ACTING AS PRINCIPAL FROM THE ACTIVITY OF  
32 AIR FREIGHT FORWARDING AND LIKE INDIRECT AIR CARRIER RECEIPTS ARISING  
33 FROM SUCH ACTIVITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS  
34 FRACTION AS FOLLOWS: ONE HUNDRED PERCENT OF SUCH RECEIPTS IF BOTH THE  
35 PICKUP AND DELIVERY ASSOCIATED WITH SUCH RECEIPTS ARE MADE WITHIN THE  
36 CITY AND FIFTY PERCENT OF SUCH RECEIPTS IF EITHER THE PICKUP OR DELIVERY  
37 ASSOCIATED WITH SUCH RECEIPTS IS MADE WITHIN THIS CITY. SUCH RECEIPTS,  
38 WHETHER THE PICKUP OR DELIVERY ASSOCIATED WITH THE RECEIPTS IS WITHIN OR  
39 WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS  
40 FRACTION.

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

48 (A) THE PERCENTAGE DETERMINED BY DIVIDING THE AIRCRAFT ARRIVALS AND  
49 DEPARTURES WITHIN THE CITY BY THE TAXPAYER DURING THE PERIOD COVERED BY  
50 ITS REPORT BY THE TOTAL AIRCRAFT ARRIVALS AND DEPARTURES WITHIN AND  
51 WITHOUT THE CITY DURING SUCH PERIOD; PROVIDED, HOWEVER, ARRIVALS AND  
52 DEPARTURES SOLELY FOR MAINTENANCE OR REPAIR, REFUELING (WHERE NO DEBAR-  
53 KATION OR EMBARKATION OF TRAFFIC OCCURS), ARRIVALS AND DEPARTURES OF  
54 FERRY AND PERSONNEL TRAINING FLIGHTS OR ARRIVALS AND DEPARTURES IN THE  
55 EVENT OF EMERGENCY SITUATIONS SHALL NOT BE INCLUDED IN COMPUTING SUCH  
56 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 NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETER-  
54 MINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE  
55 NUMERATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN  
56 THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR

1 LISTENERS WITHIN AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM  
2 SALES OF ADVERTISING ON TELEVISION OR RADIO SHALL BE INCLUDED IN THE  
3 DENOMINATOR OF 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 ALLOCATION OF THE BUSINESS  
56 INCOME AND CAPITAL REASONABLY ATTRIBUTED TO THE CITY. THE PARTY SEEKING

1 THE ADJUSTMENT SHALL BEAR THE BURDEN OF PROOF TO DEMONSTRATE THAT THE  
2 RECEIPTS FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN  
3 A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN  
4 THE CITY AND THAT THE PROPOSED ADJUSTMENT IS APPROPRIATE.

5 12. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE  
6 NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS  
7 FROM THE OPERATION OF VESSELS INCLUDED IN THE NUMERATOR OF THE RECEIPTS  
8 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF SUCH RECEIPTS  
9 BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF  
10 WORKING DAYS OF THE VESSELS OWNED OR LEASED BY THE TAXPAYER IN TERRITO-  
11 RIAL WATERS OF THE CITY DURING THE PERIOD COVERED BY THE TAXPAYER'S  
12 REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF  
13 WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY THE TAXPAYER DURING SUCH  
14 PERIOD. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE  
15 DENOMINATOR OF THE RECEIPTS FRACTION.

16 S 11-654.3 COMBINED REPORTS. 1. (A) THE TAX ON A COMBINED REPORT SHALL  
17 BE THE HIGHEST OF (1) THE COMBINED BUSINESS INCOME MULTIPLIED BY THE TAX  
18 RATE SPECIFIED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF  
19 SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER; (2) THE COMBINED  
20 CAPITAL MULTIPLIED BY THE TAX RATE SPECIFIED IN CLAUSE (II) OF SUBPARA-  
21 GRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS  
22 SUBCHAPTER, BUT NOT EXCEEDING THE LIMITATION PROVIDED FOR IN SUCH CLAUSE  
23 (II); OR (3) THE FIXED DOLLAR MINIMUM THAT IS ATTRIBUTABLE TO THE DESIG-  
24 NATED AGENT OF THE COMBINED GROUP. IN ADDITION, THE TAX ON A COMBINED  
25 REPORT SHALL INCLUDE THE FIXED DOLLAR MINIMUM TAX SPECIFIED IN CLAUSE  
26 (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION  
27 11-654 OF THIS SUBCHAPTER FOR EACH MEMBER OF THE COMBINED GROUP, OTHER  
28 THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

29 (B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED  
30 BUSINESS INCOME OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY,  
31 REDUCED BY ANY PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY  
32 NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE COMBINED CAPI-  
33 TAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE COMBINED GROUP  
34 THAT IS ALLOCATED TO THE CITY.

35 2. (A) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, ANY  
36 TAXPAYER (1) WHICH OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY MORE  
37 THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF ONE OR  
38 MORE OTHER CORPORATIONS, OR (2) MORE THAN FIFTY PERCENT OF THE VOTING  
39 POWER OF THE CAPITAL STOCK OF WHICH IS OWNED OR CONTROLLED EITHER  
40 DIRECTLY OR INDIRECTLY BY ONE OR MORE OTHER CORPORATIONS, OR (3) MORE  
41 THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF WHICH AND  
42 THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, IS OWNED OR  
43 CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME INTERESTS, AND (4) THAT  
44 IS ENGAGED IN A UNITARY BUSINESS WITH THOSE CORPORATIONS (HEREINAFTER  
45 REFERRED TO AS "RELATED CORPORATIONS"), SHALL MAKE A COMBINED REPORT  
46 WITH THOSE OTHER CORPORATIONS.

47 (B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEAN-  
48 ING OF THIS SECTION SHALL ALSO INCLUDE (1) A CAPTIVE REIT AND A CAPTIVE  
49 RIC; (2) A COMBINABLE CAPTIVE INSURANCE COMPANY; AND (3) AN ALIEN CORPO-  
50 RATION THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVI-  
51 SION IF (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT  
52 CORPORATION IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION  
53 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II)  
54 IT HAS EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO  
55 CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION  
56 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 OR THREE OF THIS CHAPTER OR CHAP-  
4 TER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT  
5 IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER),  
6 OR WOULD BE TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF  
7 THIS CHAPTER OR CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF  
8 UTILITY SERVICES THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE  
9 AND THIS SUBCHAPTER), OR WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPO-  
10 RATION UNDER THE FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE  
11 ADMINISTRATIVE CODE AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED  
12 SEVENTY-FOUR; (2) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS  
13 NOT A CAPTIVE RIC; OR (3) AN ALIEN CORPORATION THAT UNDER ANY PROVISION  
14 OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION"  
15 AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND  
16 HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO  
17 CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION  
18 11-652 OF THIS SUBCHAPTER. IF A CORPORATION IS SUBJECT TO TAX UNDER  
19 THIS SUBCHAPTER SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER  
20 INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING  
21 CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THIS  
22 CITY, AND NONE OF THE CORPORATION'S RELATED CORPORATIONS ARE SUBJECT TO  
23 TAX UNDER THIS SUBCHAPTER, SUCH CORPORATION SHALL NOT BE REQUIRED OR  
24 PERMITTED TO FILE A COMBINED REPORT UNDER THIS SECTION WITH SUCH RELATED  
25 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 BUSINESS CAPITAL, AND FIXED DOLLAR MINIMUM  
35 AMOUNT OF ALL MEMBERS OF THE GROUP IN ACCORDANCE WITH PARAGRAPH FOUR OF  
36 THIS SUBDIVISION, WHETHER OR NOT THAT BUSINESS INCOME OR BUSINESS CAPI-  
37 TAL IS FROM A SINGLE UNITARY BUSINESS.

38 (B) THE ELECTION UNDER THIS SUBDIVISION SHALL BE MADE ON AN ORIGINAL,  
39 TIMELY FILED RETURN (DETERMINED WITH REGARD TO EXTENSIONS) OF THE  
40 COMBINED GROUP. ANY CORPORATION ENTERING A COMMONLY OWNED GROUP SUBSE-  
41 QUENT TO THE YEAR OF ELECTION SHALL BE INCLUDED IN THE COMBINED GROUP  
42 AND IS CONSIDERED TO HAVE WAIVED ANY OBJECTION TO ITS INCLUSION IN THE  
43 COMBINED GROUP.

44 (C) THE ELECTION SHALL BE IRREVOCABLE, AND BINDING FOR AND APPLICABLE  
45 TO THE TAXABLE YEAR FOR WHICH IT IS MADE AND FOR THE NEXT SIX TAXABLE  
46 YEARS. THE ELECTION WILL AUTOMATICALLY BE RENEWED FOR ANOTHER SEVEN  
47 TAXABLE YEARS AFTER IT HAS BEEN IN EFFECT FOR SEVEN TAXABLE YEARS UNLESS  
48 IT IS AFFIRMATIVELY REVOKED. THE REVOCATION SHALL BE MADE ON AN  
49 ORIGINAL, TIMELY FILED RETURN (DETERMINED WITH REGARD TO EXTENSIONS) FOR  
50 THE FIRST TAXABLE YEAR AFTER THE COMPLETION OF A SEVEN YEAR PERIOD FOR  
51 WHICH AN ELECTION UNDER THIS SUBDIVISION WAS IN PLACE. IN THE CASE OF A  
52 REVOCATION, A NEW ELECTION UNDER THIS SUBDIVISION SHALL NOT BE PERMITTED  
53 IN ANY OF THE IMMEDIATELY FOLLOWING THREE TAXABLE YEARS. IN DETERMINING  
54 THE SEVEN AND THREE YEAR PERIODS DESCRIBED IN THIS PARAGRAPH, SHORT  
55 TAXABLE YEARS SHALL NOT BE CONSIDERED OR COUNTED.

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

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

10 (2) IN COMPUTING COMBINED CAPITAL, ALL INTERCORPORATE STOCKHOLDINGS,  
11 INTERCORPORATE BILLS, INTERCORPORATE NOTES RECEIVABLE AND PAYABLE,  
12 INTERCORPORATE ACCOUNTS RECEIVABLE AND PAYABLE, AND OTHER INTERCORPORATE  
13 INDEBTEDNESS, SHALL BE ELIMINATED.

14 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,  
15 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED  
16 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS  
17 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE  
18 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION  
19 11-654 OF THIS SUBCHAPTER, OR ANY OTHER APPLICABLE SECTION OF THIS  
20 SUBCHAPTER, LIMITS A CREDIT TO THE FIXED DOLLAR MINIMUM AMOUNT  
21 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-  
22 VISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, SUCH FIXED DOLLAR MINI-  
23 MUM AMOUNT SHALL BE THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE  
24 TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

25 (D)(1) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE  
26 COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE  
27 COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED  
28 CAPITAL OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE  
29 DESIGNATED AGENT OF THE COMBINED GROUP. A COMBINED NET OPERATING LOSS  
30 DEDUCTION IS EQUAL TO THE AMOUNT OF COMBINED NET OPERATING LOSS OR LOSS-  
31 ES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD OR CARRIED  
32 BACK TO A PARTICULAR TAXABLE YEAR. A COMBINED NET OPERATING LOSS IS THE  
33 COMBINED BUSINESS LOSS INCURRED IN A PARTICULAR TAXABLE YEAR MULTIPLIED  
34 BY THE COMBINED BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR DETERMINED  
35 AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

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

39 (3) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT, EITHER  
40 IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN WHICH A  
41 DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET OPERATING  
42 LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A SINGLE CORPO-  
43 RATION AND, TO THE EXTENT POSSIBLE AND NOT OTHERWISE INCONSISTENT WITH  
44 THIS SUBDIVISION, IS SUBJECT TO THE SAME LIMITATIONS THAT WOULD APPLY  
45 FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE AND THE  
46 CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD FILED FOR SUCH  
47 TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN WITH THE SAME  
48 CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPORATION FILES A  
49 COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPARATE RETURN OR  
50 CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE NET OPERATING  
51 LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP MUST BE  
52 COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED RETURN FOR THE  
53 SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

54 (4) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH  
55 A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING  
56 LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE

1 COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPA-  
2 RATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE  
3 SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH  
4 CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE  
5 GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT  
6 IN COMPUTING THE COMBINED NET OPERATING LOSS.

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

13 (E)(I) ANY ELECTION MADE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION  
14 FIVE, PARAGRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF SECTION 11-652 OF  
15 THIS SUBCHAPTER, AND PARAGRAPH (G) OF SUBDIVISION THREE OF SECTION  
16 11-654.1 OF THIS SUBCHAPTER SHALL APPLY TO ALL MEMBERS OF THE COMBINED  
17 GROUP.

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

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

37 (2) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED  
38 UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET  
39 INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION EIGHT OF SECTION  
40 11-652 OF THIS SUBCHAPTER.

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

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

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

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

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

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

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

31 2. EVERY REPORT SHALL HAVE ANNEXED THERETO A CERTIFICATION BY THE  
32 PRESIDENT, VICE-PRESIDENT, TREASURER, ASSISTANT TREASURER, CHIEF  
33 ACCOUNTING OFFICER OR ANOTHER OFFICER OF THE TAXPAYER DULY AUTHORIZED SO  
34 TO ACT TO THE EFFECT THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE. IN  
35 THE CASE OF AN ASSOCIATION, WITHIN THE MEANING OF PARAGRAPH THREE OF  
36 SECTION (A) OF SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE  
37 CODE, A PUBLICLY-TRADED PARTNERSHIP TREATED AS A CORPORATION FOR  
38 PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO SECTION SEVENTY-SEVEN  
39 HUNDRED FOUR THEREOF AND ANY BUSINESS CONDUCTED BY A TRUSTEE OR TRUSTEES  
40 WHEREIN INTEREST OR OWNERSHIP IS EVIDENCED BY CERTIFICATES OR OTHER  
41 WRITTEN INSTRUMENTS, SUCH CERTIFICATION SHALL BE MADE BY ANY PERSON DULY  
42 AUTHORIZED SO TO ACT ON BEHALF OF SUCH ASSOCIATION, PUBLICLY-TRADED  
43 PARTNERSHIP OR BUSINESS. THE FACT THAT AN INDIVIDUAL'S NAME IS SIGNED ON  
44 A CERTIFICATION OF THE REPORT SHALL BE PRIMA FACIE EVIDENCE THAT SUCH  
45 INDIVIDUAL IS AUTHORIZED TO SIGN AND CERTIFY THE REPORT ON BEHALF OF THE  
46 CORPORATION. BLANK FORMS OF REPORTS SHALL BE FURNISHED BY THE COMMIS-  
47 SIONER OF FINANCE, ON APPLICATION, BUT FAILURE TO SECURE SUCH A BLANK  
48 SHALL NOT RELEASE ANY CORPORATION FROM THE OBLIGATION OF MAKING ANY  
49 REPORT REQUIRED BY THIS SUBCHAPTER.

50 2-A. THE COMMISSIONER OF FINANCE MAY PRESCRIBE REGULATIONS AND  
51 INSTRUCTIONS REQUIRING RETURNS OF INFORMATION TO BE MADE AND FILED IN  
52 CONJUNCTION WITH THE REPORTS REQUIRED TO BE FILED PURSUANT TO THIS  
53 SECTION, RELATING TO PAYMENTS MADE TO SHAREHOLDERS OWNING, DIRECTLY OR  
54 INDIRECTLY, INDIVIDUALLY OR IN THE AGGREGATE, MORE THAN FIFTY PERCENT OF  
55 THE ISSUED CAPITAL STOCK OF THE TAXPAYER, WHERE SUCH PAYMENTS ARE TREAT-

1 ED AS PAYMENTS OF INTEREST IN THE COMPUTATION OF ENTIRE NET INCOME  
2 REPORTED ON SUCH REPORTS.

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

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

39 5. IN CASE IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY  
40 AGREEMENT, UNDERSTANDING OR ARRANGEMENT EXISTS BETWEEN THE TAXPAYER AND  
41 ANY OTHER CORPORATION OR ANY PERSON OR FIRM, WHEREBY THE ACTIVITY, BUSI-  
42 NESS, INCOME OR CAPITAL OF THE TAXPAYER WITHIN THE CITY IS IMPROPERLY OR  
43 INACCURATELY REFLECTED, THE COMMISSIONER OF FINANCE IS AUTHORIZED AND  
44 EMPOWERED, IN ITS DISCRETION AND IN SUCH MANNER AS IT MAY DETERMINE, TO  
45 ADJUST ITEMS OF INCOME, DEDUCTIONS AND CAPITAL, AND TO ELIMINATE ASSETS  
46 IN COMPUTING ANY ALLOCATION PERCENTAGE PROVIDED ONLY THAT ANY INCOME  
47 DIRECTLY TRACEABLE THERETO BE ALSO EXCLUDED FROM ENTIRE NET INCOME, SO  
48 AS EQUITABLY TO DETERMINE THE TAX. WHERE (A) ANY TAXPAYER CONDUCTS ITS  
49 ACTIVITY OR BUSINESS UNDER ANY AGREEMENT, ARRANGEMENT OR UNDERSTANDING  
50 IN SUCH MANNER AS EITHER DIRECTLY OR INDIRECTLY TO BENEFIT ITS MEMBERS  
51 OR STOCKHOLDERS, OR ANY OF THEM, OR ANY PERSON OR PERSONS DIRECTLY OR  
52 INDIRECTLY INTERESTED IN SUCH ACTIVITY OR BUSINESS, BY ENTERING INTO ANY  
53 TRANSACTION AT MORE OR LESS THAN A FAIR PRICE WHICH, BUT FOR SUCH AGREE-  
54 MENT, ARRANGEMENT OR UNDERSTANDING, MIGHT HAVE BEEN PAID OR RECEIVED  
55 THEREFOR, OR (B) ANY TAXPAYER, A SUBSTANTIAL PORTION OF WHOSE CAPITAL  
56 STOCK IS OWNED EITHER DIRECTLY OR INDIRECTLY BY ANOTHER CORPORATION,



1 ENTERS INTO ANY TRANSACTION WITH SUCH OTHER CORPORATION ON SUCH TERMS AS  
2 TO CREATE AN IMPROPER LOSS OR NET INCOME, THE COMMISSIONER OF FINANCE  
3 MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER THE FAIR PROFITS,  
4 WHICH, BUT FOR SUCH AGREEMENT, ARRANGEMENT OR UNDERSTANDING, THE TAXPAY-  
5 ER MIGHT HAVE DERIVED FROM SUCH TRANSACTION. WHERE ANY TAXPAYER OWNS,  
6 DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF  
7 ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION FIFTEEN HUNDRED TWO-A  
8 OF THE TAX LAW AND FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE  
9 TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSIONER OF FINANCE MAY  
10 INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED DISTRIB-  
11 UTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT IS IN  
12 EXCESS OF ITS NET PREMIUM INCOME.

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

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

18 8. WHERE THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE  
19 CHANGES OR CORRECTS A TAXPAYER'S SALES AND COMPENSATING USE TAX LIABIL-  
20 ITY WITH RESPECT TO THE PURCHASE OR USE OF ITEMS FOR WHICH A SALES OR  
21 COMPENSATING USE TAX CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER  
22 WAS CLAIMED, THE TAXPAYER SHALL REPORT SUCH CHANGE OR CORRECTION TO THE  
23 COMMISSIONER OF FINANCE WITHIN NINETY DAYS OF THE FINAL DETERMINATION OF  
24 SUCH CHANGE OR CORRECTION, OR AS REQUIRED BY THE COMMISSIONER OF  
25 FINANCE, AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE  
26 WHEREIN IT IS ERRONEOUS. ANY TAXPAYER FILING AN AMENDED RETURN OR REPORT  
27 RELATING TO THE PURCHASE OR USE OF SUCH ITEMS SHALL ALSO FILE WITHIN  
28 NINETY DAYS THEREAFTER A COPY OF SUCH AMENDED RETURN OR REPORT WITH THE  
29 COMMISSIONER OF FINANCE.

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

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

36 (B) SUCH TAX, OR THE BALANCE THEREOF, IMPOSED ON ANY TAXPAYER WHICH  
37 CEASES TO DO BUSINESS IN THE CITY OR TO BE SUBJECT TO THE TAX IMPOSED BY  
38 THIS SUBCHAPTER SHALL BE PAYABLE TO THE COMMISSIONER OF FINANCE AT THE  
39 TIME THE REPORT IS REQUIRED TO BE FILED; ALL OTHER TAXES OF ANY SUCH  
40 TAXPAYER, WHICH PURSUANT TO THE FOREGOING PROVISIONS OF THIS SECTION  
41 WOULD OTHERWISE BE PAYABLE SUBSEQUENT TO THE TIME SUCH REPORT IS  
42 REQUIRED TO BE FILED, SHALL NEVERTHELESS BE PAYABLE AT SUCH TIME.

43 IF THE TAXPAYER, WITHIN THE TIME PRESCRIBED BY SECTION 11-655 OF THIS  
44 SUBCHAPTER, SHALL HAVE APPLIED FOR AN AUTOMATIC EXTENSION OF TIME TO  
45 FILE ITS ANNUAL REPORT AND SHALL HAVE PAID TO THE COMMISSIONER OF  
46 FINANCE ON OR BEFORE THE DATE SUCH APPLICATION IS FILED AN AMOUNT PROP-  
47 ERLY ESTIMATED AS PROVIDED BY SAID SECTION, THE ONLY AMOUNT PAYABLE IN  
48 ADDITION TO THE TAX SHALL BE INTEREST AT THE UNDERPAYMENT RATE SET BY  
49 THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER,  
50 OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF PERCENT PER  
51 ANNUM UPON THE AMOUNT BY WHICH THE TAX, OR THE PORTION THEREOF PAYABLE  
52 ON OR BEFORE THE DATE THE REPORT WAS REQUIRED TO BE FILED, EXCEEDS THE  
53 AMOUNT SO PAID. FOR PURPOSES OF THE PRECEDING SENTENCE:

54 (1) AN AMOUNT SO PAID SHALL BE DEEMED PROPERLY ESTIMATED IF IT IS  
55 EITHER: (I) NOT LESS THAN NINETY PERCENT OF THE TAX AS FINALLY DETER-  
56 MINED, OR (II) NOT LESS THAN THE TAX SHOWN ON THE TAXPAYER'S REPORT FOR

1 THE PRECEDING TAXABLE YEAR, IF SUCH PRECEDING YEAR WAS A TAXABLE YEAR OF  
2 TWELVE MONTHS; AND

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

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

8 3. INTENTIONALLY OMITTED.

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

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

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

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

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

29 4. A TAXPAYER MAY AMEND A DECLARATION UNDER REGULATIONS OF THE COMMIS-  
30 SIONER OF FINANCE.

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

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

41 (B) SUCH REPORT SHALL BE CONSIDERED AS THE AMENDMENT PERMITTED BY  
42 SUBDIVISION FOUR OF THIS SECTION TO BE FILED ON OR BEFORE DECEMBER  
43 FIFTEENTH IF THE TAX SHOWN ON THE REPORT IS GREATER THAN THE ESTIMATED  
44 TAX SHOWN ON A DECLARATION PREVIOUSLY MADE.

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

48 7. IF THE PRIVILEGE PERIOD FOR WHICH A TAX IS IMPOSED BY SECTION  
49 11-653 OF THIS SUBCHAPTER IS LESS THAN TWELVE MONTHS, EVERY TAXPAYER  
50 REQUIRED TO MAKE A DECLARATION OF ESTIMATED TAX FOR SUCH PRIVILEGE PERI-  
51 OD SHALL MAKE SUCH A DECLARATION IN ACCORDANCE WITH REGULATIONS OF THE  
52 COMMISSIONER OF FINANCE.

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

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

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

11 (A) IF THE DECLARATION IS FILED ON OR BEFORE JUNE FIFTEENTH, THE ESTI-  
12 MATED TAX SHOWN THEREON, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID  
13 DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS  
14 SECTION, SHALL BE PAID IN THREE EQUAL INSTALLMENTS. ONE OF SUCH INSTALL-  
15 MENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION, ONE  
16 SHALL BE PAID ON THE FOLLOWING SEPTEMBER FIFTEENTH, AND ONE ON THE  
17 FOLLOWING DECEMBER FIFTEENTH.

18 (B) IF THE DECLARATION IS FILED AFTER JUNE FIFTEENTH AND NOT AFTER  
19 SEPTEMBER FIFTEENTH OF SUCH PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE  
20 FILED ON OR BEFORE JUNE FIFTEENTH OF SUCH PERIOD, THE ESTIMATED TAX  
21 SHOWN ON SUCH DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY,  
22 PAID DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF  
23 THIS SECTION, SHALL BE PAID IN TWO EQUAL INSTALLMENTS. ONE OF SUCH  
24 INSTALLMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION  
25 AND ONE SHALL BE PAID ON THE FOLLOWING DECEMBER FIFTEENTH.

26 (C) IF THE DECLARATION IS FILED AFTER SEPTEMBER FIFTEENTH OF SUCH  
27 PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE FILED ON OR BEFORE SEPTEMBER  
28 FIFTEENTH OF SUCH PRIVILEGE PERIOD, THE ESTIMATED TAX SHOWN ON SUCH  
29 DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID IN RESPECT  
30 TO SUCH PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS SECTION,  
31 SHALL BE PAID IN FULL AT THE TIME OF THE FILING OF THE DECLARATION.

32 (D) IF THE DECLARATION IS FILED AFTER THE TIME PRESCRIBED THEREFOR, OR  
33 AFTER THE EXPIRATION OF ANY EXTENSION OF TIME THEREFOR, PARAGRAPHS (B)  
34 AND (C) OF THIS SUBDIVISION SHALL NOT APPLY, AND THERE SHALL BE PAID AT  
35 THE TIME OF SUCH FILING ALL INSTALLMENTS OF ESTIMATED TAX PAYABLE AT OR  
36 BEFORE SUCH TIME, AND THE REMAINING INSTALLMENTS SHALL BE PAID AT THE  
37 TIMES AT WHICH, AND IN THE AMOUNTS IN WHICH, THEY WOULD HAVE BEEN PAYA-  
38 BLE IF THE DECLARATION HAD BEEN FILED WHEN DUE.

39 3. IF ANY AMENDMENT OF A DECLARATION IS FILED, THE REMAINING INSTALL-  
40 MENTS, IF ANY, SHALL BE RATABLY INCREASED OR DECREASED (AS THE CASE MAY  
41 BE) TO REFLECT ANY INCREASE OR DECREASE IN THE ESTIMATED TAX BY REASON  
42 OF SUCH AMENDMENT, AND IF ANY AMENDMENT IS MADE AFTER SEPTEMBER  
43 FIFTEENTH OF THE PRIVILEGE PERIOD, ANY INCREASE IN THE ESTIMATED TAX BY  
44 REASON THEREOF SHALL BE PAID AT THE TIME OF MAKING SUCH AMENDMENT.

45 4. ANY AMOUNT PAID SHALL BE APPLIED AFTER PAYMENT AS A FIRST INSTALL-  
46 MENT AGAINST THE ESTIMATED TAX OF THE TAXPAYER FOR THE CURRENT PRIVILEGE  
47 PERIOD SHOWN ON THE DECLARATION REQUIRED TO BE FILED PURSUANT TO SECTION  
48 11-657 OF THIS SUBCHAPTER OR, IF NO DECLARATION OF ESTIMATED TAX IS  
49 REQUIRED TO BE FILED BY THE TAXPAYER PURSUANT TO SUCH SECTION, ANY SUCH  
50 AMOUNT SHALL BE CONSIDERED A PAYMENT ON ACCOUNT OF THE TAX SHOWN ON THE  
51 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR SUCH PRIVILEGE PERIOD.

52 5. NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679 OF THIS CHAPTER OR  
53 OF SECTION THREE-A OF THE GENERAL MUNICIPAL LAW, IF AN AMOUNT PAID  
54 PURSUANT TO SUBDIVISION ONE OF THIS SECTION EXCEEDS THE TAX SHOWN ON THE  
55 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR THE PRIVILEGE PERIOD  
56 DURING WHICH THE AMOUNT WAS PAID, INTEREST SHALL BE ALLOWED AND PAID ON

1 THE AMOUNT BY WHICH THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION  
2 EXCEEDS SUCH TAX, AT THE OVERPAYMENT RATE SET BY THE COMMISSIONER OF  
3 FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER, OR, IF NO RATE IS  
4 SET, AT THE RATE OF FOUR PERCENT PER ANNUM FROM THE DATE OF PAYMENT OF  
5 THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION TO THE FIFTEENTH DAY OF  
6 THE THIRD MONTH FOLLOWING THE CLOSE OF THE PRIVILEGE PERIOD, PROVIDED,  
7 HOWEVER, THAT NO INTEREST SHALL BE ALLOWED OR PAID UNDER THIS SUBDIVI-  
8 SION IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR OR IF SUCH INTEREST  
9 BECOMES PAYABLE SOLELY BECAUSE OF A CARRYBACK OF A NET OPERATING LOSS IN  
10 A SUBSEQUENT PRIVILEGE PERIOD.

11 6. AS USED IN THIS SECTION, "THE PRECEDING YEAR'S TAX" MEANS THE TAX  
12 IMPOSED UPON THE TAXPAYER BY SECTION 11-653 OF THIS SUBCHAPTER FOR THE  
13 PRECEDING CALENDAR OR FISCAL YEAR, OR, FOR PURPOSES OF COMPUTING THE  
14 FIRST INSTALLMENT OF ESTIMATED TAX WHEN AN APPLICATION HAS BEEN FILED  
15 FOR EXTENSION OF THE TIME FOR FILING THE REPORT REQUIRED TO BE FILED FOR  
16 SUCH PRECEDING CALENDAR OR FISCAL YEAR, THE AMOUNT PROPERLY ESTIMATED  
17 PURSUANT TO SECTION 11-657 OF THIS SUBCHAPTER AS THE TAX IMPOSED UPON  
18 THE TAXPAYER FOR SUCH CALENDAR OR FISCAL YEAR.

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

21 8. THE PROVISIONS OF THIS SECTION SHALL APPLY TO PRIVILEGE PERIODS OF  
22 TWELVE MONTHS OTHER THAN A CALENDAR YEAR BY THE SUBSTITUTION OF THE  
23 MONTHS OF SUCH FISCAL YEAR FOR THE CORRESPONDING MONTHS SPECIFIED IN  
24 SUCH PROVISIONS.

25 9. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF  
26 TIME, NOT TO EXCEED SIX MONTHS, FOR PAYMENT OF ANY INSTALLMENT OF ESTI-  
27 MATED TAX REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDI-  
28 TIONS AS THE COMMISSIONER OF FINANCE MAY REQUIRE INCLUDING THE FURNISH-  
29 ING OF A BOND OR OTHER SECURITY BY THE TAXPAYER IN AN AMOUNT NOT  
30 EXCEEDING TWICE THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT  
31 IS GRANTED, PROVIDED, HOWEVER, THAT INTEREST AT THE UNDERPAYMENT RATE  
32 SET BY THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS  
33 SUBCHAPTER, OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF  
34 PERCENT PER ANNUM FOR THE PERIOD OF THE EXTENSION SHALL BE CHARGED AND  
35 COLLECTED ON THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS  
36 GRANTED UNDER THIS SUBDIVISION.

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

39 11. INTENTIONALLY OMITTED.

40 S 11-659 COLLECTION OF TAXES. EVERY FOREIGN CORPORATION (OTHER THAN A  
41 MONEIED CORPORATION) SUBJECT TO THE PROVISIONS OF THIS SUBCHAPTER,  
42 EXCEPT A CORPORATION HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF  
43 SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, SHALL  
44 FILE IN THE DEPARTMENT OF STATE A CERTIFICATE OF DESIGNATION IN ITS  
45 CORPORATE NAME, SIGNED AND ACKNOWLEDGED BY ITS PRESIDENT OR A VICE-PRE-  
46 SIDENT OR ITS SECRETARY OR TREASURER, UNDER ITS CORPORATE SEAL, DESIG-  
47 NATING THE SECRETARY OF STATE AS ITS AGENT UPON WHOM PROCESS IN ANY  
48 ACTION PROVIDED FOR BY THIS SUBCHAPTER MAY BE SERVED WITHIN THIS STATE,  
49 AND SETTING FORTH AN ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL  
50 A COPY OF ANY SUCH PROCESS AGAINST THE CORPORATION WHICH MAY BE SERVED  
51 UPON THE SECRETARY OF STATE. IN CASE ANY SUCH CORPORATION SHALL HAVE  
52 FAILED TO FILE SUCH CERTIFICATE OF DESIGNATION, IT SHALL BE DEEMED TO  
53 HAVE DESIGNATED THE SECRETARY OF STATE AS ITS AGENT UPON WHOM SUCH PROC-  
54 ESS AGAINST IT MAY BE SERVED; AND UNTIL A CERTIFICATE OF DESIGNATION  
55 SHALL HAVE BEEN FILED THE CORPORATION SHALL BE DEEMED TO HAVE DIRECTED  
56 THE SECRETARY OF STATE TO MAIL COPIES OF PROCESS SERVED UPON HIM OR HER

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

34 S 11-660 LIMITATIONS OF TIME. THE PROVISIONS OF THE CIVIL PRACTICE LAW  
35 AND RULES RELATIVE TO THE LIMITATION OF TIME ENFORCING A CIVIL REMEDY  
36 SHALL NOT APPLY TO ANY PROCEEDING OR ACTION TAKEN TO LEVY, APPRAISE,  
37 ASSESS, DETERMINE OR ENFORCE THE COLLECTION OF ANY TAX OR PENALTY  
38 PRESCRIBED BY THIS SUBCHAPTER, PROVIDED, HOWEVER, THAT AS TO REAL ESTATE  
39 IN THE HANDS OF PERSONS WHO ARE OWNERS THEREOF WHO WOULD BE PURCHASERS  
40 IN GOOD FAITH BUT FOR SUCH TAX OR PENALTY AND AS TO THE LIEN ON REAL  
41 ESTATE OF MORTGAGES HELD BY PERSONS WHO WOULD BE HOLDERS THEREOF IN GOOD  
42 FAITH BUT FOR SUCH TAX OR PENALTY, ALL SUCH TAXES AND PENALTIES SHALL  
43 CEASE TO BE A LIEN ON SUCH REAL ESTATE AS AGAINST SUCH PURCHASERS OR  
44 HOLDERS AFTER THE EXPIRATION OF TEN YEARS FROM THE DATE SUCH TAXES  
45 BECAME DUE AND PAYABLE. THE LIMITATIONS HEREIN PROVIDED FOR SHALL NOT  
46 APPLY TO ANY TRANSFER FROM A CORPORATION TO A PERSON OR CORPORATION WITH  
47 INTENT TO AVOID PAYMENT OF ANY TAXES, OR WHERE WITH LIKE INTENT THE  
48 TRANSFER IS MADE TO A GRANTEE CORPORATION, OR ANY SUBSEQUENT GRANTEE  
49 CORPORATION, CONTROLLED BY SUCH GRANTOR OR WHICH HAS ANY COMMUNITY OF  
50 INTEREST WITH IT, EITHER THROUGH STOCK OWNERSHIP OR OTHERWISE.

51 S 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section  
52 11-508 of the administrative code of the city of New York, as added by  
53 chapter 485 of the laws of 1994, is amended to read as follows:

54 (A) In the case of an issuer or obligor subject to tax under subchap-  
55 ter two OR THREE-A of chapter six of this title, or subject to tax as a  
56 utility corporation under chapter eleven of this title, the issuer's

1 allocation percentage shall be the percentage of the appropriate measure  
2 (as defined hereinafter) which is required to be allocated within the  
3 city on the report or reports, if any, required of the issuer or obligor  
4 under chapter six or eleven of this title for the preceding year. The  
5 appropriate measure referred to in the preceding sentence shall be: in  
6 the case of an issuer or obligor subject to subchapter two OR THREE-A of  
7 chapter six of this title, entire capital; and in the case of an issuer  
8 or obligor subject to chapter eleven of this title as a utility corpo-  
9 ration, gross income.

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

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

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

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

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

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

36 (2) FOR THE PRIVILEGE OF DOING BUSINESS IN THE CITY IN A CORPORATE OR  
37 ORGANIZED CAPACITY, A TAX, COMPUTED UNDER SECTION 11-643 OF THIS PART,  
38 IS HEREBY ANNUALLY IMPOSED ON EVERY BANKING CORPORATION FOR EACH TAXABLE  
39 YEAR, OR ANY PART THEREOF, COMMENCING ON OR AFTER JANUARY FIRST, TWO  
40 THOUSAND FIFTEEN, WHERE SUCH BANKING CORPORATION (I) HAS AN ELECTION IN  
41 EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE  
42 INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (II) IS A QUALIFIED  
43 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF  
44 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL  
45 REVENUE CODE OF 1986, AS AMENDED.

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

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

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

55 (2) taxes on or measured by income or profits paid or accrued within  
56 the taxable year to the United States, or any of its possessions or to

1 any foreign country and taxes imposed under article nine, nine-A, thir-  
2 teen-A or thirty-two of the tax law AS IN EFFECT ON DECEMBER  
3 THIRTY-FIRST, TWO THOUSAND FOURTEEN and any tax imposed under this part  
4 or subchapter two OR THREE-A of this chapter;

5 S 7. Subdivision 1 and paragraph (a) of subdivision 2 of section  
6 11-671 of the administrative code of the city of New York are amended to  
7 read as follows:

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

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

13 S 8. Paragraph (a) of subdivision 5 and subdivisions 7, 8 and 9 of  
14 section 11-672 of the administrative code of the city of New York, para-  
15 graph (a) of subdivision 5 as amended by chapter 525 of the laws of  
16 1988, and paragraph (b) of subdivision 9 as amended by chapter 808 of  
17 the laws of 1992, are amended to read as follows:

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

45 7. Two or more corporations. In case of a combined return under  
46 subchapter two OR THREE-A or a consolidated return under subchapter  
47 three of two or more corporations, the commissioner of finance may  
48 determine a deficiency of tax under subchapter two [or subchapter],  
49 three OR THREE-A of this chapter with respect to the entire tax due upon  
50 such return against any taxpayer included therein. In the case of a  
51 taxpayer which might have been included in such a return under subchap-  
52 ter two [or subchapter], three OR THREE-A of this chapter when the tax  
53 was originally reported, the commissioner of finance may determine a  
54 deficiency of tax under subchapter two [or], three OR THREE-A of this  
55 chapter against such taxpayer and against any other taxpayers which  
56 might have been included in such a return.

1 8. Deficiency defined. For the purposes of this subchapter, a defi-  
2 ciency means the amount of the tax imposed by the named subchapters, or  
3 any of them, less: (a) the amount shown as the tax upon the taxpayer's  
4 return (whether the return was made or the tax computed by it or by the  
5 commissioner of finance), and less (b) the amounts previously assessed  
6 (or collected without assessment) as a deficiency and plus (c) the  
7 amount of any rebates. For the purpose of this definition, the tax  
8 imposed by subchapter two [or], three OR THREE-A of this chapter and the  
9 tax shown on the return shall both be determined without regard to any  
10 payment of estimated tax; and a rebate means so much of an abatement,  
11 credit, refund or other repayment (whether or not erroneous) as was made  
12 on the ground that the amounts entering into the definition of a defi-  
13 ciency showed a balance in favor of the taxpayer.

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

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

33 (b) Such notice shall not be considered as a notice of deficiency for  
34 the purposes of this section, subdivision six of section 11-678 (limit-  
35 ing credits or refunds after petition to the tax appeals tribunal), or  
36 subdivision two of section 11-680 (authorizing the filing of a petition  
37 with the tax appeals tribunal based on a notice of deficiency), nor  
38 shall such assessment or the collection thereof be prohibited by the  
39 provisions of subdivision three of this section.

40 (c) If the taxpayer has terminated its existence, a notice of addi-  
41 tional tax due may be mailed to its last known address in or out of the  
42 city, and such notice shall be sufficient for purposes of this subchap-  
43 ter. If the commissioner of finance has received notice that a person is  
44 acting for the taxpayer in a fiduciary capacity, a copy of such notice  
45 shall also be mailed to the fiduciary named in such notice.

46 S 9. Subdivisions 1 and 3 of section 11-673 of the administrative code  
47 of the city of New York, the first undesignated paragraph of subdivision  
48 1 as amended by chapter 808 of the laws of 1992, are amended to read as  
49 follows:

50 1. Assessment date. The amount of tax which a return shows to be due,  
51 or the amount of tax which a return would have shown to be due but for a  
52 mathematical error, shall be deemed to be assessed on the date of filing  
53 of the return (including any amended return showing an increase of tax).  
54 If a notice of deficiency has been mailed, the amount of the deficiency  
55 shall be deemed to be assessed on the date specified in subdivision two  
56 of section 11-672 of this subchapter if no petition is both served on



1 the commissioner of finance and filed with the tax appeals tribunal, or  
2 if a petition is so served and filed, then upon the date when a decision  
3 of the tax appeals tribunal establishing the amount of the deficiency  
4 becomes final. If a report or an amended return filed pursuant to  
5 subchapter two [or], three OR THREE-A of this chapter concedes the accu-  
6 racy of a federal or New York state adjustment or change or correction  
7 or renegotiation or computation or recomputation of tax, any deficiency  
8 in tax under subchapter two [or], three OR THREE-A of this chapter  
9 resulting therefrom shall be deemed to be assessed on the date of filing  
10 such report or amended return, and such assessment shall be timely  
11 notwithstanding section 11-674 of this chapter.

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

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

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

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

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

41 S 10. Subdivisions 3 and 4 of section 11-674 of the administrative  
42 code of the city of New York, subparagraph 3 of paragraph (a) and para-  
43 graph (c) of subdivision 3 as amended by chapter 525 of the laws of 1988  
44 and paragraph (d) of subdivision 3 as amended by local law number 57 of  
45 the city of New York for the year 2001, are amended to read as follows:

46 3. Exceptions.

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

48 (1) no return is filed,

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

50 (3) in the case of the tax imposed under subchapter two [or], three OR  
51 THREE-A of this chapter, the taxpayer fails to file a report or amended  
52 return required thereunder, in respect of an increase or decrease in  
53 federal or New York state taxable income, alternative minimum taxable  
54 income or other basis of tax or federal or New York state tax, or in  
55 respect of a change or correction or renegotiation or in respect of the  
56 execution of a notice of waiver report of which is required thereunder,

1 or computation or recomputation of tax, which is treated in the same  
2 manner as if it were a deficiency for federal or New York state income  
3 tax purposes, or

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

10 (b) Extension by agreement. Where, before the expiration of the time  
11 prescribed in this section for the assessment of tax, both the commis-  
12 sioner of finance and the taxpayer have consented in writing to its  
13 assessment after such time, the tax may be assessed at any time prior to  
14 the expiration of the period agreed upon. The period so agreed upon may  
15 be extended by subsequent agreements in writing made before the expira-  
16 tion of the period previously agreed upon.

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

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

40 (e) Recovery of erroneous refund. An erroneous refund shall be consid-  
41 ered an underpayment of tax on the date made, and an assessment of a  
42 deficiency arising out of an erroneous refund may be made at any time  
43 within two years from the making of the refund, except that the assess-  
44 ment may be made within five years from the making of the refund if it  
45 appears that any part of the refund was induced by fraud or misrepresen-  
46 tation of a material fact.

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

53 (1) (A) such written request notifies the commissioner of finance that  
54 the taxpayer contemplates dissolution at or before the expiration of  
55 such eighteen-month period, (B) the dissolution is in good faith begun

1 before the expiration of such eighteen-month period, (C) the dissolution  
2 is completed;

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

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

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

9 (1) WITH REGARD TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO  
10 THOUSAND FIFTEEN, NO change of the allocation of income or capital upon  
11 which the taxpayer's return (or any additional assessment) was based  
12 shall be made where an assessment of tax is made during the additional  
13 period of limitation under subparagraph three or four of paragraph (a),  
14 or under paragraph (c), (d) or (i); and where any such assessment has  
15 been made, or where a notice of deficiency has been mailed to the  
16 taxpayer on the basis of any such proposed assessment, no change of the  
17 allocation of income or capital shall be made in a proceeding on the  
18 taxpayer's claim for refund of such assessment or on the taxpayer's  
19 petition for redetermination of such deficiency.

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

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

50 (i) Report of changed or corrected sales and compensating use tax  
51 liability. In the case of a tax imposed under subchapter two OR THREE-A  
52 of this chapter, if the taxpayer files a report or amended return or  
53 report required thereunder, in respect of a change or correction of  
54 sales and compensating use tax liability, the assessment (if not deemed  
55 to have been made upon the filing of the report) may be made at any time  
56 within two years after such report or amended return or report was

1 filed. The amount of such assessment of tax shall not exceed the amount  
2 of the increase in city tax attributable to such state change or  
3 correction. The provisions of this paragraph shall not affect the time  
4 within which or the amount for which an assessment may otherwise be  
5 made.

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

12 For the purposes of this subdivision:

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

18 (b) there shall not be taken into account any amount which is omitted  
19 in the return if such amount is disclosed in the return, or in a state-  
20 ment attached to the return, in a manner adequate to apprise the commis-  
21 sioner of finance of the nature and amount of such item.

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

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

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

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

39 3. Failure to file declaration or underpayment of estimated tax. If  
40 any taxpayer fails to file a declaration of estimated tax under subchap-  
41 ter two [or], three OR THREE-A of this chapter, or fails to pay all or  
42 any part of an amount which is applied as an installment against such  
43 estimated tax, it shall be deemed to have made an underpayment of esti-  
44 mated tax. There shall be added to the tax for the taxable year an  
45 amount at the underpayment rate set by the commissioner of finance  
46 pursuant to section 11-687 of this subchapter, or, if no rate is set, at  
47 the rate of seven and one-half percent per annum upon the amount of the  
48 underpayment for the period of the underpayment but not beyond the  
49 fifteenth day of the third month following the close of the taxable  
50 year. The amount of the underpayment shall be, with respect to any  
51 installment of estimated tax computed on the basis of the preceding  
52 year's tax, the excess of the amount required to be paid over the  
53 amount, if any, paid on or before the last day prescribed for such  
54 payment or, with respect to any other installment of estimated tax, the  
55 excess of the amount of the installment which would be required to be  
56 paid if the estimated tax were equal to ninety percent of the tax shown

1 on the return for the taxable year (or if no return was filed, ninety  
2 percent of the tax for such year) over the amount, if any, of the  
3 installment paid on or before the last day prescribed for such payment.  
4 In any case in which there would be no underpayment if "eighty percent"  
5 were substituted for "ninety percent" each place it appears in this  
6 subdivision, the addition to the tax shall be equal to seventy-five  
7 percent of the amount otherwise determined. No underpayment shall be  
8 deemed to exist with respect to a declaration or installment otherwise  
9 due on or after the termination of existence of the taxpayer.

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

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

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

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

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

33 2. Credits against estimated tax. The commissioner of finance may  
34 prescribe regulations providing for the crediting against the estimated  
35 tax under subchapter two [or], three OR THREE-A of this chapter for any  
36 taxable year of the amount determined to be an overpayment of tax under  
37 any such subchapter for a preceding taxable year. If any overpayment of  
38 tax is so claimed as a credit against estimated tax for the succeeding  
39 taxable year, such amount shall be considered as a payment of the tax  
40 under subchapter two [or], three OR THREE-A of this chapter for the  
41 succeeding taxable year (whether or not claimed as a credit in the  
42 declaration of estimated tax for such succeeding taxable year), and no  
43 claim for credit or refund of such overpayment shall be allowed for the  
44 taxable year for which the overpayment arises.

45 S 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administra-  
46 tive code of the city of New York, subdivision 3 as amended by chapter  
47 241 of the laws of 1989 and subdivision 4 as amended by local law number  
48 57 of the city of New York for the year 2001, are amended to read as  
49 follows:

50 3. Notice of change or correction of federal or New York state income  
51 or other basis of tax. If a taxpayer is required by subchapter two [or],  
52 three OR THREE-A of this chapter to file a report or amended return in  
53 respect of (a) a decrease or increase in federal or New York state taxa-  
54 ble income, alternative minimum taxable income or other basis of tax or  
55 federal or New York state tax, (b) a federal or New York state change or  
56 correction or renegotiation, or computation or recomputation of tax,

1 which is treated in the same manner as if it were an overpayment for  
2 federal or New York state income tax purposes, claim for credit or  
3 refund of any resulting overpayment of tax shall be filed by the taxpay-  
4 er within two years from the time such report or amended return was  
5 required to be filed with the commissioner of finance. If the report or  
6 amended return required by subchapter two [or], three OR THREE-A of this  
7 chapter is not filed within the ninety day period therein specified, no  
8 interest shall be payable on any claim for credit or refund of the over-  
9 payment attributable to the federal or New York state change or  
10 correction. The amount of such credit or refund:

11 (c) shall, (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO  
12 THOUSAND FIFTEEN, be computed without change of the allocation of income  
13 or capital upon which the taxpayer's return (or any additional assess-  
14 ment) was based, and, (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANU-  
15 ARY FIRST, TWO THOUSAND FIFTEEN, BE COMPUTED WITHOUT CHANGE OF THE ALLO-  
16 CATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY  
17 ADDITIONAL ASSESSMENT) WAS BASED TO THE EXTENT THAT THE CLAIM FOR REFUND  
18 ARISES FROM A DECREASE OR INCREASE IN FEDERAL TAXABLE INCOME OR OTHER  
19 BASIS OF TAX OR FEDERAL TAX, OR FROM A FEDERAL CHANGE, CORRECTION, RENE-  
20 GOTIATION, COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE  
21 SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR FEDERAL INCOME TAX  
22 PURPOSES, AND

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

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

32 4. Overpayment attributable to net operating loss carry back or capi-  
33 tal loss carry back. A claim for credit or refund of so much of an over-  
34 payment under subchapter two OR THREE-A of this chapter as is attribut-  
35 able to the application to the taxpayer of a net operating loss carry  
36 back or a capital loss carry back shall be filed within three years from  
37 the time the return was due (including extensions thereof) for the taxa-  
38 ble year of the loss, or within the period prescribed in subdivision two  
39 in respect of such taxable year, or within the period prescribed in  
40 subdivision three, where applicable, in respect to the taxable year to  
41 which the net operating loss or capital loss is carried back, whichever  
42 expires the latest. Where such claim for credit or refund is filed after  
43 the expiration of the period prescribed in subdivision one or in subdivi-  
44 sion two where applicable, in respect to the taxable year to which the  
45 net operating loss or capital loss is carried back, the amount of such  
46 credit or refund shall be computed without change of the allocation of  
47 income or capital upon which the taxpayer's return (or any additional  
48 assessment) was based.

49 9. Prepaid tax. For purposes of this section, any tax paid by the  
50 taxpayer before the last day prescribed for its payment (including any  
51 amount paid by the taxpayer as estimated tax for a taxable year) shall  
52 be deemed to have been paid by it on the fifteenth day of the third  
53 month following the close of the taxable year the income of which is the  
54 basis for tax under subchapter two [or], three OR THREE-A of this chap-  
55 ter, or on the last day prescribed in part one of subchapter three or  
56 subchapter four for the filing of a final return for such taxable year,

1 or portion thereof, determined in all cases without regard to any exten-  
2 sion of time granted the taxpayer.

3 11. Notice of change or correction of sales and compensating use tax  
4 liability. (a) If a taxpayer is required by subchapter two OR THREE-A of  
5 this chapter to file a report or amended return in respect of a change  
6 or correction of its sales and compensating use tax liability, claim for  
7 credit or refund of any resulting overpayment of tax shall be filed by  
8 the taxpayer within two years from the time such report or amended  
9 return was required to be filed with the commissioner of finance. The  
10 amount of such credit or refund shall be computed without change of the  
11 allocation of income or capital upon which the taxpayer's return (or any  
12 additional assessment) was based, and shall not exceed the amount of the  
13 reduction in tax attributable to such change or correction of sales and  
14 compensating use tax liability.

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

18 S 17. Subdivisions 4 and 6 of section 11-679 of the administrative  
19 code of the city of New York, subdivision 4 as amended by local law  
20 number 57 of the city of New York for the year 2001 and subdivision 6 as  
21 amended by chapter 241 of the laws of 1989, are amended to read as  
22 follows:

23 4. Refund of tax caused by carryback. For purposes of this section, if  
24 any overpayment of tax imposed by subchapter two OR THREE-A of this  
25 chapter results from a carryback of a net operating loss or a net capi-  
26 tal loss, such overpayment shall be deemed not to have been made prior  
27 to the filing date for the taxable year in which such net operating loss  
28 or net capital loss arises. Such filing date shall be determined without  
29 regard to extensions of time to file. For purposes of subdivision three  
30 of this section any overpayment described herein shall be treated as an  
31 overpayment for the loss year and such subdivision shall be applied with  
32 respect to such overpayment by treating the return for the loss year as  
33 not filed before claim for such overpayment is filed. The term "loss  
34 year" means the taxable year in which such loss arises.

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

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

42 (d) Restriction on further notices of deficiency. If the taxpayer  
43 files a petition with the tax appeals tribunal under this section, no  
44 notice of deficiency under section 11-672 of this subchapter may there-  
45 after be issued by the commissioner of finance for the same taxable  
46 year, except in case of fraud or with respect to an increase or decrease  
47 in federal or New York state taxable income, alternative minimum taxable  
48 income or other basis of tax or federal or New York state tax or a  
49 federal or New York state change or correction or renegotiation, or  
50 computation or recomputation of tax, which is treated in the same manner  
51 as if it were a deficiency for federal or New York state income tax  
52 purposes, required to be reported under subchapter two [or], three OR  
53 THREE-A of this chapter or with respect to a state change or correction  
54 of sales and compensating use tax liability required to be reported  
55 under subchapter two OR THREE-A of this chapter.

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

4 (c) whether the petitioner is liable for any increase in a deficiency  
5 where such increase is asserted initially after a notice of deficiency  
6 was mailed and a petition under this section filed, unless such increase  
7 in deficiency is the result of an increase or decrease in federal or New  
8 York state taxable income, alternative minimum taxable income or other  
9 basis of tax or federal or New York state tax or a federal or New York  
10 state change or correction or renegotiation, or computation or recompu-  
11 tation of tax, which is treated in the same manner as if it were a defi-  
12 ciency for federal or New York state income tax purposes, required to be  
13 reported under subchapter two [or], three OR THREE-A of this chapter,  
14 and of which increase, decrease, change or correction or renegotiation,  
15 or computation or recomputation, the commissioner of finance had no  
16 notice at the time he or she mailed the notice of deficiency or unless  
17 such increase in deficiency is the result of a change or correction of  
18 sales and compensating use tax liability required to be reported under  
19 subchapter two OR THREE-A of this chapter, and of which change or  
20 correction the commissioner of finance had no notice at the time he or  
21 she mailed the notice of deficiency; and

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

25 (a) Authority to set interest rates. The commissioner of finance shall  
26 set the overpayment and underpayment rates of interest to be paid pursu-  
27 ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675,  
28 11-676, and 11-679 of this chapter, but if no such rate or rates of  
29 interest are set, such overpayment rate shall be deemed to be set at six  
30 percent per annum and such underpayment rate shall be deemed to be set  
31 at seven and one-half percent per annum. Such overpayment and underpay-  
32 ment rates shall be the rates prescribed in paragraph (b) of this subdivi-  
33 sion but the underpayment rate shall not be less than seven and one-  
34 half percent per annum. Any such rates set by the commissioner of  
35 finance shall apply to taxes, or any portion thereof, which remain or  
36 become due or overpaid on or after the date on which such rates become  
37 effective and shall apply only with respect to interest computed or  
38 computable for periods or portions of periods occurring in the period  
39 during which such rates are in effect.

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

43 7. Notwithstanding anything in subdivision one of this section, the  
44 commissioner of finance may disclose to a taxpayer or a taxpayer's  
45 related member, as defined in paragraph (n) of subdivision eight of  
46 section 11-602, PARAGRAPH (N) OF SUBDIVISION EIGHT OF SECTION 11-652 or  
47 paragraph one of subdivision (q) of section 11-641 of this chapter,  
48 information relating to any royalty paid, incurred or received by such  
49 taxpayer or related member to or from the other, including the treatment  
50 of such payments by the taxpayer or the related member in any report or  
51 return transmitted to the commissioner of finance under this title.

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

55 (4) No tenant shall be authorized to receive a reduction in base rent  
56 subject to tax under the provisions of this subdivision, until the prem-



1 ises with respect to which it is claiming a reduction in base rent meet  
2 the requirements in the definition of eligible premises and until it has  
3 obtained a certification of eligibility from the mayor or an agency  
4 designated by the mayor, and an annual certification from the mayor or  
5 an agency designated by the mayor as to the number of eligible aggregate  
6 employment shares maintained by such tenant which may qualify for  
7 obtaining a base rent reduction for the tenant's tax year. Any written  
8 documentation submitted to the mayor or such agency or agencies in order  
9 to obtain any such certification shall be deemed a written instrument  
10 for purposes of section 175.00 of the penal law. Application fees for  
11 such certifications shall be determined by the mayor or such agency or  
12 agencies. No certification of eligibility shall be issued to an eligible  
13 business on or after July first, nineteen hundred ninety-nine unless  
14 such business meets the requirements of either subparagraph (a) or (b)  
15 below:

16 (a) (1) prior to such date such business has purchased, leased or  
17 entered into a contract to purchase or lease particular premises or a  
18 parcel on which will be constructed such premises or already owned such  
19 premises or parcel;

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

24 (3) prior to such date such business submits a preliminary application  
25 for a certification of eligibility to such mayor or such agency or agen-  
26 cies with respect to a proposed relocation to such particular premises;  
27 and

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

33 (b) (1) not later than June thirtieth, two thousand two, such business  
34 has purchased, leased or entered into a contract to purchase or lease  
35 particular premises wholly contained in a building in which at least an  
36 aggregate of forty per centum or two hundred thousand square feet,  
37 whichever is less, of the nonresidential floor area of such building has  
38 been purchased or leased by a business or businesses which meet or will  
39 meet the requirements of subparagraph (a) of this paragraph with respect  
40 to such floor area and which are or will become certified as eligible to  
41 receive a credit under section 22-622 of this code with respect to such  
42 floor area;

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

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

49 Any tenant subject to a tax imposed under chapter five, or subchapter  
50 two [or], three OR THREE-A of chapter six, of this title obtaining a  
51 certification of eligibility pursuant to subdivision (b) of section  
52 22-622 of the code shall be deemed to have obtained the certification of  
53 eligibility required by this paragraph.

54 S 23. Subdivision (a) and the opening paragraph of subdivision (o) of  
55 section 22-621 of the administrative code of the city of New York,  
56 subdivision (a) as amended by chapter 149 of the laws of 1999 and the

1 opening paragraph of subdivision (o) as added by chapter 143 of the laws  
2 of 2004, are amended to read as follows:

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

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

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

39 (a) An eligible business that relocates as defined in subdivision (j)  
40 of section 22-621 of the code shall be allowed to receive a credit  
41 against a tax imposed by chapter five, or subchapter two [or], three OR  
42 THREE-A of chapter six, or chapter eleven, of title eleven of the code,  
43 as described in subdivision (i) of section 11-503, subdivision seventeen  
44 of section 11-604, SUBDIVISION SEVENTEEN OF SECTION 11-654, section  
45 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent  
46 subject to tax as described in subdivision f of section 11-704 of the  
47 code, provided, however, notwithstanding any other provision of law to  
48 the contrary, no such credit shall be allowed against the tax imposed  
49 under such chapter eleven for a relocation taking place prior to January  
50 first, nineteen hundred ninety-nine.

51 (d) An eligible business other than a utility company subject to the  
52 supervision of the department of public service shall not be authorized  
53 to receive a credit against the gross receipts tax imposed under chapter  
54 eleven of title eleven of the code, unless such eligible business elects  
55 to take the credit authorized by this section against the tax imposed by  
56 such chapter on an application filed with respect to the first relo-

1 cation of such business that qualifies or will qualify under this  
2 section, with the mayor or the agency designated by such mayor pursuant  
3 to subdivision (b) of this section. The election authorized by this  
4 subdivision may not be withdrawn after the issuance of such certifi-  
5 cation of eligibility. No taxpayer that has previously received a  
6 certification of eligibility to receive such credit against any tax  
7 imposed by chapter five or subchapter two [or], three OR THREE-A of  
8 chapter six of title eleven of the code may make the election authorized  
9 by this subdivision. No taxpayer that makes the election provided in  
10 this subdivision shall be authorized to take such credit against any tax  
11 imposed by chapter five or subchapter two [or], three OR THREE-A of  
12 chapter six of title eleven of the code.

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

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

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

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

31 (l) "Special eligible business" means any person subject to a tax  
32 imposed under chapter five, or subchapter two [or], three OR THREE-A of  
33 chapter six, or chapter eleven, of title eleven of the code, that: (1)  
34 has been conducting substantial business operations at one or more busi-  
35 ness locations outside the city of New York for the twenty-four consec-  
36 utive months immediately preceding the taxable year during which such  
37 eligible business relocates as defined in subdivision (m); (2) main-  
38 tained employment shares at premises in Manhattan in the city of New  
39 York at some time during the period beginning January first, two thou-  
40 sand two, and ending on the date it enters into a lease or a contract to  
41 purchase the premises that will qualify as eligible premises pursuant to  
42 this section, and (3) on or after June thirtieth, two thousand five,  
43 relocates as defined in subdivision (m) of this section all or part of  
44 such business operations.

45 S 26. Subdivisions (a) and (d) of section 22-624 of the administrative  
46 code of the city of New York, subdivision (a) as amended by section 11  
47 of part E of chapter 2 of the laws of 2005 and subdivision (d) as  
48 amended by section 12 of part E of chapter 2 of the laws of 2005, are  
49 amended to read as follows:

50 (a) An eligible business that relocates as defined in subdivision (j)  
51 of section 22-623 of this chapter or a special eligible business that  
52 relocates as defined in subdivision (m) of section 22-623 of this chap-  
53 ter shall be allowed to receive a credit against a tax imposed by chap-  
54 ter five, or subchapter two [or], three OR THREE-A of chapter six, or  
55 chapter eleven, of title eleven of the code, as described in subdivision  
56 (l) of section 11-503, subdivision nineteen of section 11-604, SUBDIVI-

1 SION NINETEEN OF SECTION 11-654, section 11-643.9 or section 11-1105.3  
2 of the code.

3 (d) An eligible business or special eligible business other than a  
4 utility company subject to the supervision of the department of public  
5 service shall not be authorized to receive a credit against the gross  
6 receipts tax imposed under chapter eleven of title eleven of the code  
7 unless such eligible business or special eligible business elects to  
8 take the credit authorized by this section against the tax imposed by  
9 such chapter on its application filed with the mayor or the agency  
10 designated by such mayor pursuant to subdivision (b) of this section.  
11 The election authorized by this subdivision may not be withdrawn after  
12 the issuance of such certification of eligibility. No taxpayer that has  
13 previously received a certification of eligibility to receive such cred-  
14 it against any tax imposed by chapter five or subchapter two [or], three  
15 OR THREE-A of chapter six of title eleven of the code may make the  
16 election authorized by this subdivision. No taxpayer that makes the  
17 election provided in this subdivision shall be authorized to take such  
18 credit against any tax imposed by chapter five or subchapter two [or],  
19 three OR THREE-A of chapter six of title eleven of the code.

20 S 27. No addition to tax under subdivision 3 of section 11-676 of the  
21 administrative code of the city of New York shall be imposed with  
22 respect to declarations or payments of estimated tax required under  
23 sections 11-657 and 11-658 of the administrative code of the city of New  
24 York for declarations otherwise required to be filed and payments other-  
25 wise required to be made, by reason of section one of this act, prior to  
26 or on June 15, 2015, on the condition that the taxpayer files such  
27 declarations and makes such payments no later than the first date  
28 following June 15, 2015 on which an installment of estimated tax is  
29 required to be paid, together with all other such declarations and  
30 payments then due.

31 S 28. Severability clause. If any clause, sentence, paragraph, subdi-  
32 vision, section or part of this act shall be adjudged by any court of  
33 competent jurisdiction to be invalid, such judgment shall not affect,  
34 impair, or invalidate the remainder thereof, but shall be confined in  
35 its operation to the clause, sentence, paragraph, subdivision, section  
36 or part thereof directly involved in the controversy in which such judg-  
37 ment shall have been rendered. It is hereby declared to be the intent of  
38 the legislature that this act would have been enacted even if such  
39 invalid provisions had not been included herein.

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

42

## PART E

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

47 S 2. 1. On the first of June of every fourth year, commencing June 1,  
48 2015, there shall be established a commission on legislative, judicial  
49 and executive compensation to examine, evaluate and make recommendations  
50 with respect to adequate levels of compensation and non-salary benefits  
51 for members of the legislature, judges and justices of the state-paid  
52 courts of the unified court system, statewide elected officials, and  
53 those state officers referred to in section 169 of the executive law.

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

6 (2) the prevailing adequacy of pay levels and non-salary benefits  
7 received by the judges and justices of the state-paid courts of the  
8 unified court system and housing judges of the civil court of the city  
9 of New York and determine whether any of such pay levels warrant adjust-  
10 ment; and

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

17 (2) on the first of January after the November general election at  
18 which members of the state legislature are elected following the year in  
19 which the commission is established, and on the first of January follow-  
20 ing the next such election, the like annual salaries and allowances of  
21 members of the legislature, and salaries of statewide elected officials  
22 and state officers referred to in section 169 of the executive law  
23 warrant an increase.

24 3. In discharging its responsibilities under subdivision two of this  
25 section, the commission shall take into account all appropriate factors  
26 including, but not limited to: the overall economic climate; rates of  
27 inflation; changes in public-sector spending; the levels of compensation  
28 and non-salary benefits received by executive branch officials and  
29 legislators of other states and of the federal government; the levels of  
30 compensation and non-salary benefits received by professionals in  
31 government, academia and private and nonprofit enterprise; and the  
32 state's ability to fund increases in compensation and non-salary bene-  
33 fits.

34 S 3. 1. The commission shall consist of seven members to be appointed  
35 as follows: three shall be appointed by the governor; one shall be  
36 appointed by the temporary president of the senate; one shall be  
37 appointed by the speaker of the assembly; and two shall be appointed by  
38 the chief judge of the state, one of whom shall serve as chair of the  
39 commission. With regard to any matters regarding legislative or execu-  
40 tive compensation, the chair shall preside but not vote. Vacancies in  
41 the commission shall be filled in the same manner as original appoint-  
42 ments. To the extent practicable, members of the commission shall have  
43 experience in one or more of the following: determination of executive  
44 compensation, human resource administration or financial management.

45 2. The commission shall only meet within the state, may hold public  
46 hearings, at least one of which shall be open for the public to provide  
47 comments and shall have all the powers of a legislative committee pursu-  
48 ant to the legislative law. It shall be governed by articles 6, 6-A and  
49 7 of the public officers law.

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

53 4. No member of the commission shall be disqualified from holding any  
54 other public office or employment, nor shall he or she forfeit any such  
55 office or employment by reason of his or her appointment pursuant to

1 this section, notwithstanding the provisions of any general, special or  
2 local law, regulation, ordinance or city charter.

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

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

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

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

34 S 4. Date of entitlement to salary increase. Notwithstanding the  
35 provisions of this act or of any other law, each increase in salary or  
36 compensation of any officer or employee provided by this act shall be  
37 added to the salary or compensation of such officer or employee at the  
38 beginning of that payroll period the first day of which is nearest to  
39 the effective date of such increase as provided in this act, or at the  
40 beginning of the earlier of two payroll periods the first days of which  
41 are nearest but equally near to the effective date of such increase as  
42 provided in this act; provided, however, the payment of such salary  
43 increase pursuant to this section on a date prior thereto instead of on  
44 such effective date, shall not operate to confer any additional salary  
45 rights or benefits on such officer or employee. The annual salaries as  
46 prescribed pursuant to this act whenever adjusted pursuant to the  
47 provisions of this act, shall be rounded up to the nearest multiple of  
48 one hundred dollars.

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

51 PART F

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

54 S 2. For the purposes of this act:

1 (a) "authorized state entity" shall mean the New York state thruway  
2 authority, the department of transportation, the office of parks, recre-  
3 ation and historic preservation, the department of environmental conser-  
4 vation and the New York state bridge authority.

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

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

10 2. The timeliness of the contractor's performance on previous  
11 projects;

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

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

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

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

18 7. The contractor's technical capacities;

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

20 9. The contractor's ability to assess and manage risk and minimize  
21 risk impact; and

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

24 Such basis shall reflect, wherever possible, objective and quantifi-  
25 able analysis.

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

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

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

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

36 S 3. Notwithstanding the provisions of section 38 of the highway law,  
37 section 136-a of the state finance law, section 359 of the public  
38 authorities law, section 7210 of the education law, and the provisions  
39 of any other law to the contrary, and in conformity with the require-  
40 ments of this act, an authorized state entity may utilize the alterna-  
41 tive delivery method referred to as design-build contracts, in consulta-  
42 tion with relevant local labor organizations and construction industry,  
43 for capital projects related to the state's physical infrastructure,  
44 including, but not limited to, the state's highways, bridges, dams,  
45 flood control projects, canals, and parks, including, but not limited  
46 to, to repair damage caused by natural disaster, to correct health and  
47 safety defects, to comply with federal and state laws, standards, and  
48 regulations, to extend the useful life of or replace the state's high-  
49 ways, bridges, dams, flood control projects, canals, and parks or to  
50 improve or add to the state's highways, bridges, dams, flood control  
51 projects, canals, and parks; provided that for the contracts executed by  
52 the department of transportation, the office of parks, recreation and  
53 historic preservation, or the department of environmental conservation,  
54 the total cost of each such project shall not be less than one million  
55 two hundred thousand dollars (\$1,200,000).

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

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

33 (b) Step two. Selection of the proposal which is the best value to the  
34 state. The authorized state entity shall issue a request for proposals  
35 to the entities listed pursuant to subdivision (a) of this section. If  
36 such an entity consists of a team of separate entities, the entities  
37 that comprise such a team must remain unchanged from the entity as list-  
38 ed pursuant to subdivision (a) of this section unless otherwise approved  
39 by the authorized state entity. The request for proposals shall set  
40 forth the project's scope of work, and other requirements, as determined  
41 by the authorized state entity. The request for proposals shall specify  
42 the criteria to be used to evaluate the responses and the relative  
43 weight of each such criteria. Such criteria shall include the  
44 proposal's cost, the quality of the proposal's solution, the qualifica-  
45 tions and experience of the design-build entity, and other factors  
46 deemed pertinent by the authorized state entity, which may include, but  
47 shall not be limited to, the proposal's project implementation, ability  
48 to complete the work in a timely and satisfactory manner, maintenance  
49 costs of the completed project, maintenance of traffic approach, and  
50 community impact. Any contract awarded pursuant to this act shall be  
51 awarded to a responsive and responsible entity that submits the  
52 proposal, which, in consideration of these and other specified criteria  
53 deemed pertinent to the project, offers the best value to the state, as  
54 determined by the authorized state entity. Nothing herein shall be  
55 construed to prohibit the authorized entity from negotiating final  
56 contract terms and conditions including cost.



1 S 5. Any contract entered into pursuant to this act shall include a  
2 clause requiring that any professional services regulated by articles  
3 145, 147 and 148 of the education law shall be performed and stamped and  
4 sealed, where appropriate, by a professional licensed in accordance with  
5 such articles.

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

12 S 7. If otherwise applicable, capital projects undertaken by the  
13 authorized state entity pursuant to this act shall be subject to section  
14 135 of the state finance law and section 222 of the labor law.

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

20 S 9. Capital projects undertaken by the authorized state entity pursu-  
21 ant to this act shall be subject to the requirements of article 8 of the  
22 environmental conservation law, and, where applicable, the requirements  
23 of the national environmental policy act.

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

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

31 S 12. Nothing contained in this act shall limit the right or obli-  
32 gation of the authorized state entity to comply with the provisions of  
33 any existing contract, including any existing contract with or for the  
34 benefit of the holders of the obligations of the authorized state enti-  
35 ty, or to award contracts as otherwise provided by law.

36 S 13. Alternative construction awarding processes. (a) Notwithstand-  
37 ing the provisions of any other law to the contrary, the authorized  
38 state entity may award a construction contract:

39 1. To the contractor offering the best value; or

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

45 (i) describe the scope of the work and the cost of performing such  
46 work;

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

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

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

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

53 3. Utilizing a lump sum contract in which the contractor agrees to  
54 accept a set dollar amount for a contract which comprises a single bid  
55 without providing a cost breakdown for all costs such as for equipment,

1 labor, materials, as well as such contractor's profit for completing all  
2 items of work comprising the project.

3 (b) Capital projects undertaken by an authorized state entity may  
4 include an incentive clause in the contract for various performance  
5 objectives, but the incentive clause shall not include an incentive that  
6 exceeds the quantifiable value of the benefit received by the state. The  
7 authorized state entity shall establish such performance and payment  
8 bonds as it deems necessary.

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

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

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

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

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

#### 44 PART G

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

47 S 2. For purposes of this act:

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

52 2. "construction" shall mean:

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

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

1 3. "municipality" shall mean any county, city, town, village, district  
2 corporation, county or town improvement district, school district, Indi-  
3 an nation or tribe recognized by the state or the United States with a  
4 reservation wholly or partly within the boundaries of New York state,  
5 any public benefit corporation or public authority established pursuant  
6 to the laws of New York or any agency of New York state which is  
7 empowered to construct and operate a water quality infrastructure  
8 project, or any two or more of the foregoing which are acting jointly in  
9 connection with a water quality infrastructure project.

10 S 3. 1. The environmental facilities corporation shall undertake and  
11 provide state financial assistance payments, from funds appropriated for  
12 such purpose, to municipalities in support of water quality infrastruc-  
13 ture projects provided, however, in any such year that funds are appro-  
14 priated for such purpose, no municipality shall receive more than five  
15 million dollars of appropriated funds. Such state financial assistance  
16 payments shall be awarded only to water quality infrastructure projects  
17 for:

18 (a) replacement or repair of infrastructure; or

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

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

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

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

33 5. In awarding such state financial assistance payments, the environ-  
34 mental facilities corporation shall consider and give preference to  
35 municipalities that meet the hardship criteria established by the envi-  
36 ronmental facilities corporation pursuant to section 1285-m of the  
37 public authorities law and projects that result in the greatest water  
38 quality improvement or greatest reduction in serious risk to public  
39 health. For the purposes of this act, the hardship criteria of section  
40 1285-m of the public authorities law shall also apply to sewage treat-  
41 ment works defined in section 17-1903 of the environmental conservation  
42 law.

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

44 PART H

45 Section 1. The state finance law is amended by adding a new section  
46 93-b to read as follows:

47 S 93-B. DEDICATED INFRASTRUCTURE INVESTMENT FUND. 1. DEDICATED INFRAS-  
48 TRUCTURE INVESTMENT FUND. (A) THERE IS HEREBY ESTABLISHED IN THE JOINT  
49 CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND  
50 FINANCE A SPECIAL FUND TO BE KNOWN AS THE "DEDICATED INFRASTRUCTURE  
51 INVESTMENT FUND".

52 (B) ACCOUNT. THE DEDICATED INFRASTRUCTURE INVESTMENT FUND SHALL  
53 CONSIST OF ONE ACCOUNT, THE "INFRASTRUCTURE INVESTMENT ACCOUNT". MONEYS

1 IN THIS ACCOUNT SHALL BE KEPT SEPARATE AND NOT COMMINGLED WITH ANY OTHER  
2 MONEYS IN THE CUSTODY OF THE COMPTROLLER.

3 (C) SOURCES OF FUNDS. THE SOURCES OF FUNDS SHALL CONSIST OF ALL MONEYS  
4 COLLECTED THEREFOR, OR MONEYS CREDITED, APPROPRIATED OR TRANSFERRED  
5 THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW OR ANY OTHER  
6 MONEYS MADE AVAILABLE FOR THE PURPOSES OF THE FUND. ANY INTEREST  
7 RECEIVED BY THE COMPTROLLER ON MONEYS ON DEPOSIT SHALL BE RETAINED AND  
8 BECOME PART OF THE FUND, UNLESS OTHERWISE DIRECTED BY LAW.

9 2. USES OF FUNDS. FOLLOWING APPROPRIATION BY THE LEGISLATURE, MONEYS  
10 IN THE INFRASTRUCTURE INVESTMENT ACCOUNT SHALL BE AVAILABLE TO FINANCE  
11 PROJECTS, WORKS, ACTIVITIES OR PURPOSES NECESSARY TO SUPPORT STATEWIDE  
12 INVESTMENTS AS APPROPRIATED BY THE LEGISLATURE. NOTHING CONTAINED IN  
13 THIS SECTION SHALL BE CONSTRUED TO LIMIT IN ANY WAY THE PROJECTS, WORKS,  
14 ACTIVITIES OR PURPOSES THAT CAN BE FINANCED FROM THIS ACCOUNT, INCLUDING  
15 BUT NOT LIMITED TO LOANS OF MONEY TO PUBLIC CORPORATIONS OR AUTHORITIES  
16 UNDER TERMS APPROVED BY THE DIRECTOR OF THE BUDGET.

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

31 (A) ECONOMIC DOWNTURN. NOTWITHSTANDING ANY LAW TO THE CONTRARY, FOR  
32 THE PURPOSE OF THIS SECTION, THE COMMISSIONER OF LABOR SHALL CALCULATE  
33 AND PUBLISH, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, A COMPOSITE  
34 INDEX OF BUSINESS CYCLE INDICATORS. SUCH INDEX SHALL BE CALCULATED USING  
35 MONTHLY DATA ON NEW YORK STATE EMPLOYMENT, TOTAL MANUFACTURING HOURS  
36 WORKED, AND UNEMPLOYMENT PREPARED BY THE DEPARTMENT OF LABOR OR ITS  
37 SUCCESSOR AGENCY, AND TOTAL SALES TAX COLLECTED NET OF LAW CHANGES,  
38 PREPARED BY THE DEPARTMENT OF TAXATION AND FINANCE OR ITS SUCCESSOR  
39 AGENCY. SUCH INDEX SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE PROCE-  
40 DURES FOR CALCULATING COMPOSITE INDEXES ISSUED BY THE CONFERENCE BOARD  
41 OR ITS SUCCESSOR ORGANIZATION, AND ADJUSTED FOR SEASONAL VARIATIONS IN  
42 ACCORDANCE WITH THE PROCEDURES ISSUED BY THE CENSUS BUREAU OF THE UNITED  
43 STATES DEPARTMENT OF COMMERCE OR ITS SUCCESSOR AGENCY. IF THE COMPOSITE  
44 INDEX DECLINES FOR FIVE CONSECUTIVE MONTHS, THE COMMISSIONER OF LABOR  
45 SHALL NOTIFY THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY  
46 PRESIDENT OF THE SENATE, AND THE MINORITY LEADERS OF THE ASSEMBLY AND  
47 THE SENATE. UPON SUCH NOTIFICATION, THE DIRECTOR OF THE BUDGET MAY  
48 AUTHORIZE AND DIRECT THE COMPTROLLER TO TRANSFER FROM THE DEDICATED  
49 INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND SUCH AMOUNTS AS THE  
50 DIRECTOR OF THE BUDGET DEEMS NECESSARY TO MEET THE REQUIREMENTS OF THE  
51 STATE FINANCIAL PLAN. THE AUTHORITY TO TRANSFER FUNDS UNDER THE  
52 PROVISIONS OF THIS PARAGRAPH SHALL LAPSE WHEN THE COMPOSITE INDEX SHALL  
53 HAVE INCREASED FOR FIVE CONSECUTIVE MONTHS OR TWELVE MONTHS FROM THE  
54 ORIGINAL NOTIFICATION OF THE COMMISSIONER OF LABOR, WHICHEVER OCCURS  
55 EARLIER. PROVIDED, HOWEVER, THAT FOR EVERY ADDITIONAL AND CONSECUTIVE  
56 MONTHLY DECLINE SUCCEEDING THE FIVE MONTH DECLINE SO NOTED BY THE

1 COMMISSIONER OF LABOR, THE TWELVE MONTH LAPSE DATE SHALL BE EXTENDED BY  
2 ONE ADDITIONAL MONTH.

3 (B) FEDERAL MEDICARE AND MEDICAID REVENUES. NOTWITHSTANDING ANY LAW TO  
4 THE CONTRARY, THE DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE  
5 COMPTROLLER TO TRANSFER FROM THE DEDICATED INFRASTRUCTURE INVESTMENT  
6 FUND TO THE GENERAL FUND AN AMOUNT NOT TO EXCEED THE DISALLOWANCES  
7 AND/OR SETTLEMENTS RELATED TO THE OVER-PAYMENTS OF FEDERAL MEDICARE AND  
8 MEDICAID REVENUES. IN THE EVENT THIS AUTHORIZATION IS UTILIZED, THE  
9 DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE COMPTROLLER TO  
10 TRANSFER SUCH AMOUNT AND THE CONCOMITANT REDUCTION IN STATE SHARE MEDI-  
11 CARE AND MEDICAID REVENUES FROM THE GENERAL FUND TO THE MISCELLANEOUS  
12 SPECIAL REVENUE FUND, MENTAL HYGIENE PROGRAM FUND (21907), THE MISCELLA-  
13 NEOUS SPECIAL REVENUE FUND, PATIENT INCOME ACCOUNT (21909), AND THE  
14 MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) STATEWIDE ESCROW FUND  
15 (60901).

16 (C) PRIOR TO AUTHORIZING ANY TRANSFER FROM THE DEDICATED INFRASTRUC-  
17 TURE INVESTMENT FUND ACCOUNTS PURSUANT TO THE PROVISIONS OF THIS  
18 SECTION, THE DIRECTOR OF THE BUDGET SHALL NOTIFY THE SPEAKER OF THE  
19 ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEAD-  
20 ERS OF THE ASSEMBLY AND THE SENATE. SUCH LETTER SHALL SPECIFY THE  
21 REASONS FOR THE TRANSFER AND THE AMOUNT THEREOF.

22 S 2. This act shall take effect immediately.

23

#### PART I

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

- 28 1. Tuition reimbursement account (20451).
- 29 2. Proprietary vocational school supervision account (20452).
- 30 3. Local government records management account (20501).
- 31 4. Child health plus program account (20810).
- 32 5. EPIC premium account (20818).
- 33 6. Education - New (20901).
- 34 7. VLT - Sound basic education fund (20904).
- 35 8. Sewage treatment program management and administration fund  
36 (21000).
- 37 9. Hazardous bulk storage account (21061).
- 38 10. Federal grants indirect cost recovery account (21065).
- 39 11. Low level radioactive waste account (21066).
- 40 12. Recreation account (21067).
- 41 13. Public safety recovery account (21077).
- 42 14. Environmental regulatory account (21081).
- 43 15. Natural resource account (21082).
- 44 16. Mined land reclamation program account (21084).
- 45 17. Great lakes restoration initiative account (21087).
- 46 18. Environmental protection and oil spill compensation fund (21200).
- 47 19. Public transportation systems account (21401).
- 48 20. Metropolitan mass transportation (21402).
- 49 21. Operating permit program account (21451).
- 50 22. Mobile source account (21452).
- 51 23. Statewide planning and research cooperative system account  
52 (21902).
- 53 24. OPWDD provider of service account (21903).
- 54 25. Mental hygiene program fund account (21907).

- 1 26. Mental hygiene patient income account (21909).
- 2 27. Financial control board account (21911).
- 3 28. Regulation of racing account (21912).
- 4 29. New York Metropolitan Transportation Council account (21913).
- 5 30. State university dormitory income reimbursable account (21937).
- 6 31. Energy research account (21943).
- 7 32. Criminal justice improvement account (21945).
- 8 33. Fingerprint identification and technology account (21950).
- 9 34. Environmental laboratory reference fee account (21959).
- 10 35. Clinical laboratory reference system assessment account (21962).
- 11 36. Indirect cost recovery account (21978).
- 12 37. High school equivalency program account (21979).
- 13 38. Multi-agency training account (21989).
- 14 39. Bell jar collection account (22003).
- 15 40. Industry and utility service account (22004).
- 16 41. Real property disposition account (22006).
- 17 42. Parking account (22007).
- 18 43. Asbestos safety training program account (22009).
- 19 44. Batavia school for the blind account (22032).
- 20 45. Investment services account (22034).
- 21 46. Surplus property account (22036).
- 22 47. Financial oversight account (22039).
- 23 48. Regulation of indian gaming account (22046).
- 24 49. Rome school for the deaf account (22053).
- 25 50. Seized assets account (22054).
- 26 51. Administrative adjudication account (22055).
- 27 52. Federal salary sharing account (22056).
- 28 53. New York City assessment account (22062).
- 29 54. Cultural education account (22063).
- 30 55. Local services account (22078).
- 31 56. DHCR mortgage servicing account (22085).
- 32 57. Department of motor vehicles compulsory insurance account (22087).
- 33 58. Housing indirect cost recovery account (22090).
- 34 59. Accident prevention course program account (22094).
- 35 60. DHCR-HCA application fee account (22100).
- 36 61. Low income housing monitoring account (22130).
- 37 62. Corporation administration account (22135).
- 38 63. Montrose veteran's home account (22144).
- 39 64. Deferred compensation administration account (22151).
- 40 65. Rent revenue other New York City account (22156).
- 41 66. Rent revenue account (22158).
- 42 67. Tax revenue arrearage account (22168).
- 43 68. State university general income offset account (22654).
- 44 69. State police motor vehicle law enforcement account (22802).
- 45 70. Highway safety program account (23001).
- 46 71. EFC drinking water program account (23101).
- 47 72. DOH drinking water program account (23102).
- 48 73. NYCCC operating offset account (23151).
- 49 74. Commercial gaming revenue account (23701).
- 50 75. Commercial gaming regulation account (23702).
- 51 76. Highway and bridge capital account (30051).
- 52 77. State university residence hall rehabilitation fund (30100).
- 53 78. State parks infrastructure account (30351).
- 54 79. Clean water/clean air implementation fund (30500).
- 55 80. Hazardous waste remedial cleanup account (31506).
- 56 81. Youth facilities improvement account (31701).

- 1 82. Housing assistance fund (31800).
- 2 83. Housing program fund (31850).
- 3 84. Highway facility purpose account (31951).
- 4 85. Information technology capital financing account (32215).
- 5 86. New York racing account (32213).
- 6 87. Mental hygiene facilities capital improvement fund (32300).
- 7 88. Correctional facilities capital improvement fund (32350).
- 8 89. New York State Storm Recovery Capital Fund (33000).
- 9 90. OGS convention center account (50318).
- 10 91. Centralized services fund (55000).
- 11 92. Archives records management account (55052).
- 12 93. Federal single audit account (55053).
- 13 94. Civil service law section II administrative account (55055).
- 14 95. Civil service EHS occupational health program account (55056).
- 15 96. Banking services account (55057).
- 16 97. Cultural resources survey account (55058).
- 17 98. Neighborhood work project (55059).
- 18 99. Automation & printing chargeback account (55060).
- 19 100. OFT NYT account (55061).
- 20 101. Data center account (55062).
- 21 102. Intrusion detection account (55066).
- 22 103. Domestic violence grant account (55067).
- 23 104. Centralized technology services account (55069).
- 24 105. Labor contact center account (55071).
- 25 106. Human services contact center account (55072).
- 26 107. Tax contact center account (55073).
- 27 108. Executive direction internal audit account (55251).
- 28 109. CIO Information technology centralized services account (55252).
- 29 110. Health insurance internal service account (55300).
- 30 111. Civil service employee benefits division administrative account
- 31 (55301).
- 32 112. Correctional industries revolving fund (55350).
- 33 113. Employees health insurance account (60201).
- 34 114. Medicaid management information system escrow fund (60900).
- 35 S 1-a. The state comptroller is hereby authorized and directed to loan
- 36 money in accordance with the provisions set forth in subdivision 5 of
- 37 section 4 of the state finance law to any account within the following
- 38 federal funds, provided the comptroller has made a determination that
- 39 sufficient federal grant award authority is available to reimburse such
- 40 loans:
- 41 1. Federal USDA-food and nutrition services fund (25000).
- 42 2. Federal health and human services fund (25100).
- 43 3. Federal education fund (25200).
- 44 4. Federal block grant fund (25250).
- 45 5. Federal miscellaneous operating grants fund (25300).
- 46 6. Federal unemployment insurance administration fund (25900).
- 47 7. Federal unemployment insurance occupational training fund (25950).
- 48 8. Federal emergency employment act fund (26000).
- 49 9. Federal capital projects fund (31350).
- 50 S 2. Notwithstanding any law to the contrary, and in accordance with
- 51 section 4 of the state finance law, the comptroller is hereby authorized
- 52 and directed to transfer, upon request of the director of the budget, on
- 53 or before March 31, 2016, up to the unencumbered balance or the follow-
- 54 ing amounts:
- 55 Economic Development and Public Authorities:

- 1 1. \$175,000 from the miscellaneous special revenue fund, underground  
2 facilities safety training account (22172), to the general fund.
- 3 2. An amount up to the unencumbered balance from the miscellaneous  
4 special revenue fund, business and licensing services account (21977),  
5 to the general fund.
- 6 3. \$14,810,000 from the miscellaneous special revenue fund, code  
7 enforcement account (21904), to the general fund.
- 8 4. \$3,000,000 from the general fund to the miscellaneous special  
9 revenue fund, tax revenue arrearage account (22168).
- 10 5. \$552,000 from the miscellaneous special revenue fund, consumer food  
11 industry account (21966), to the general fund.
- 12 Education:
- 13 1. \$2,219,000,000 from the general fund to the state lottery fund,  
14 education account (20901), as reimbursement for disbursements made from  
15 such fund for supplemental aid to education pursuant to section 92-c of  
16 the state finance law that are in excess of the amounts deposited in  
17 such fund for such purposes pursuant to section 1612 of the tax law.
- 18 2. \$950,000,000 from the general fund to the state lottery fund, VLT  
19 education account (20904), as reimbursement for disbursements made from  
20 such fund for supplemental aid to education pursuant to section 92-c of  
21 the state finance law that are in excess of the amounts deposited in  
22 such fund for such purposes pursuant to section 1612 of the tax law.
- 23 3. Moneys from the state lottery fund up to an amount deposited in  
24 such fund pursuant to section 1612 of the tax law in excess of the  
25 current year appropriation for supplemental aid to education pursuant to  
26 section 92-c of the state finance law.
- 27 4. \$300,000 from the local government records management improvement  
28 fund (20500) to the archives partnership trust fund (20350).
- 29 5. \$900,000 from the general fund to the miscellaneous special revenue  
30 fund, Batavia school for the blind account (22032).
- 31 6. \$900,000 from the general fund to the miscellaneous special revenue  
32 fund, Rome school for the deaf account (22053).
- 33 7. \$343,400,000 from the state university dormitory income fund  
34 (40350) to the miscellaneous special revenue fund, state university  
35 dormitory income reimbursable account (21937).
- 36 8. \$24,000,000 from any of the state education department special  
37 revenue and internal service funds to the miscellaneous special revenue  
38 fund, indirect cost recovery account (21978).
- 39 9. \$8,318,000 from the general fund to the state university income  
40 fund, state university income offset account (22654), for the state's  
41 share of repayment of the STIP loan.
- 42 10. \$45,000,000 from the state university income fund, state universi-  
43 ty hospitals income reimbursable account (22656) to the general fund for  
44 hospital debt service for the period April 1, 2015 through March 31,  
45 2016.
- 46 Environmental Affairs:
- 47 1. \$16,000,000 from any of the department of environmental conserva-  
48 tion's special revenue federal funds to the environmental conservation  
49 special revenue fund, federal indirect recovery account (21065).
- 50 2. \$2,000,000 from any of the department of environmental conserva-  
51 tion's special revenue federal funds to the conservation fund as neces-  
52 sary to avoid diversion of conservation funds.
- 53 3. \$3,000,000 from any of the office of parks, recreation and historic  
54 preservation capital projects federal funds and special revenue federal  
55 funds to the miscellaneous special revenue fund, federal grant indirect  
56 cost recovery account (22188).



- 1 4. \$1,000,000 from any of the office of parks, recreation and historic  
2 preservation special revenue federal funds to the miscellaneous special  
3 revenue fund, I love NY water account (21930).
- 4 5. \$23,000,000 from the general fund to the environmental protection  
5 fund, environmental protection fund transfer account (30451).
- 6 6. \$8,500,000 from the general fund to the hazardous waste remedial  
7 fund, hazardous waste oversight and assistance account (31505).
- 8 7. \$25,000,000 from the environmental protection fund, environmental  
9 protection transfer account (30451), to the general fund.
- 10 Family Assistance:
- 11 1. \$10,000,000 from any of the office of children and family services,  
12 office of temporary and disability assistance, or department of health  
13 special revenue federal funds and the general fund, in accordance with  
14 agreements with social services districts, to the miscellaneous special  
15 revenue fund, office of human resources development state match account  
16 (21967).
- 17 2. \$3,000,000 from any of the office of children and family services  
18 or office of temporary and disability assistance special revenue federal  
19 funds to the miscellaneous special revenue fund, family preservation and  
20 support services and family violence services account (22082).
- 21 3. \$18,670,000 from any of the office of children and family services,  
22 office of temporary and disability assistance, or department of health  
23 special revenue federal funds and any other miscellaneous revenues  
24 generated from the operation of office of children and family services  
25 programs to the general fund.
- 26 4. \$166,000,000 from any of the office of temporary and disability  
27 assistance or department of health special revenue funds to the general  
28 fund.
- 29 5. \$2,500,000 from any of the office of temporary and disability  
30 assistance or office of children and family services special revenue  
31 federal funds to the miscellaneous special revenue fund, office of  
32 temporary and disability assistance program account (21980).
- 33 6. \$35,000,000 from any of the office of children and family services,  
34 office of temporary and disability assistance, department of labor, and  
35 department of health special revenue federal funds to the office of  
36 children and family services miscellaneous special revenue fund, multi-  
37 agency training contract account (21989).
- 38 7. \$65,000,000 from the miscellaneous special revenue fund, youth  
39 facility per diem account (22186), to the general fund.
- 40 8. \$621,850 from the general fund to the combined gifts, grants, and  
41 bequests fund, WB Hoyt Memorial account (20128).
- 42 9. \$3,100,000 from the miscellaneous special revenue fund, state  
43 central registry (22028), to the general fund.
- 44 General Government:
- 45 1. \$1,566,000 from the miscellaneous special revenue fund, examination  
46 and miscellaneous revenue account (22065) to the general fund.
- 47 2. \$12,500,000 from the general fund to the health insurance revolving  
48 fund (55300).
- 49 3. \$192,400,000 from the health insurance reserve receipts fund  
50 (60550) to the general fund.
- 51 4. \$150,000 from the general fund to the not-for-profit revolving loan  
52 fund (20650).
- 53 5. \$150,000 from the not-for-profit revolving loan fund (20650) to the  
54 general fund.
- 55 6. \$3,000,000 from the miscellaneous special revenue fund, surplus  
56 property account (22036), to the general fund.

- 1 7. \$19,900,000 from the general fund to the miscellaneous special  
2 revenue fund, alcoholic beverage control account (22033).
- 3 8. \$23,000,000 from the miscellaneous special revenue fund, revenue  
4 arrearage account (22024), to the general fund.
- 5 9. \$1,826,000 from the miscellaneous special revenue fund, revenue  
6 arrearage account (22024), to the miscellaneous special revenue fund,  
7 authority budget office account (22138).
- 8 10. \$1,000,000 from the miscellaneous special revenue fund, parking  
9 services account (22007), to the general fund, for the purpose of reim-  
10 bursing the costs of debt service related to state parking facilities.
- 11 11. \$21,794,000 from the general fund to the internal service fund,  
12 COPS account (55013).
- 13 12. \$8,360,000 from the general fund to the agencies internal service  
14 fund, central technology services account (55069), for the purpose of  
15 enterprise technology projects.
- 16 13. \$5,000,000 from the miscellaneous special revenue fund, workers'  
17 compensation account (21995), to the miscellaneous capital projects  
18 fund, workers' compensation board IT business process design fund.
- 19 Health:
- 20 1. \$30,000,000 from the miscellaneous special revenue fund, quality of  
21 care account (21915), to the general fund.
- 22 2. \$1,000,000 from the general fund to the combined gifts, grants and  
23 bequests fund, breast cancer research and education account (20155), an  
24 amount equal to the monies collected and deposited into that account in  
25 the previous fiscal year.
- 26 3. \$250,000 from the general fund to the combined gifts, grants and  
27 bequests fund, prostate cancer research, detection, and education  
28 account (20183), an amount equal to the moneys collected and deposited  
29 into that account in the previous fiscal year.
- 30 4. \$500,000 from the general fund to the combined gifts, grants and  
31 bequests fund, Alzheimer's disease research and assistance account  
32 (20143), an amount equal to the moneys collected and deposited into that  
33 account in the previous fiscal year.
- 34 5. \$30,295,000 from the HCRA resources fund (20800) to the miscella-  
35 neous special revenue fund, empire state stem cell trust fund account  
36 (22161).
- 37 6. \$30,000,000 from any of the department of health accounts within  
38 the federal health and human services fund to the miscellaneous special  
39 revenue fund, quality of care account (21915).
- 40 7. \$6,000,000 from the miscellaneous special revenue fund, certificate  
41 of need account (21920), to the miscellaneous capital projects fund,  
42 healthcare IT capital subfund.
- 43 8. \$1,000,000 from the miscellaneous special revenue fund, adminis-  
44 tration program account (21982), to the miscellaneous capital projects  
45 fund, healthcare IT capital account (32216).
- 46 9. \$1,000,000 from the miscellaneous special revenue fund, vital  
47 records account (22103), to the miscellaneous capital projects fund,  
48 healthcare IT capital account (32216).
- 49 10. \$55,000,000 from the HCRA resources fund (20800) to the capital  
50 projects fund (30000).
- 51 11. \$3,700,000 from the miscellaneous New York state agency fund,  
52 medical assistance account to the general fund.
- 53 12. \$6,740,000 from the general fund to the medical marihuana trust  
54 fund, health operation and oversight account (23755).
- 55 13. \$4,096,000 from the HCRA resources fund (20800), to the miscella-  
56 neous special revenue fund, cigarette strike force account.

1 14. \$3,086,000 from the miscellaneous special revenue fund, certifi-  
2 cate of need account (21920), to the general fund.

3 Labor:

4 1. \$400,000 from the miscellaneous special revenue fund, DOL fee and  
5 penalty account (21923), to the child performer's protection fund, child  
6 performer protection account (20401).

7 2. \$8,400,000 from the miscellaneous special revenue fund, DOL fee and  
8 penalty account (21923), to the general fund.

9 3. \$3,300,000 from the unemployment insurance interest and penalty  
10 fund, unemployment insurance special interest and penalty account  
11 (23601), to the general fund.

12 Mental Hygiene:

13 1. \$10,000,000 from the miscellaneous special revenue fund, mental  
14 hygiene patient income account (21909), to the miscellaneous special  
15 revenue fund, federal salary sharing account (22056).

16 2. \$15,000,000 from the miscellaneous special revenue fund, mental  
17 hygiene patient income account (21909), to the miscellaneous special  
18 revenue fund, provider of service accounts (21903).

19 3. \$15,000,000 from the miscellaneous special revenue fund, mental  
20 hygiene program fund account (21907), to the miscellaneous special  
21 revenue fund, provider of service account (21903).

22 4. \$1,400,000,000 from the general fund to the miscellaneous special  
23 revenue fund, mental hygiene patient income account (21909).

24 5. \$1,850,000,000 from the general fund to the miscellaneous special  
25 revenue fund, mental hygiene program fund account (21907).

26 6. \$100,000,000 from the miscellaneous special revenue fund, mental  
27 hygiene program fund account (21907), to the general fund.

28 7. \$100,000,000 from the miscellaneous special revenue fund, mental  
29 hygiene patient income account (21909), to the general fund.

30 8. \$292,888,000 from the chemical dependence service fund, chemical  
31 dependence service account (22700), to the general fund.

32 Public Protection:

33 1. \$1,350,000 from the miscellaneous special revenue fund, emergency  
34 management account (21944), to the general fund.

35 2. \$3,300,000 from the general fund to the miscellaneous special  
36 revenue fund, recruitment incentive account (22171).

37 3. \$13,000,000 from the general fund to the correctional industries  
38 revolving fund, correctional industries internal service account  
39 (55350).

40 4. \$3,000,000 from the federal miscellaneous operating grants fund,  
41 DMNA damage account (25324), to the general fund.

42 5. \$14,300,000 from the general fund to the miscellaneous special  
43 revenue fund, crimes against revenue program account (22015).

44 6. \$22,900,000 from the miscellaneous special revenue fund, criminal  
45 justice improvement account (21945), to the general fund.

46 7. \$50,000,000 from the miscellaneous special revenue fund, statewide  
47 public safety communications account (22123), to the general fund.

48 8. \$106,000,000 from the state police motor vehicle law enforcement  
49 and motor vehicle theft and insurance fraud prevention fund, state  
50 police motor vehicle enforcement account (22802), to the general fund  
51 for state operation expenses of the division of state police.

52 9. \$21,500,000 from the general fund to the correctional facilities  
53 capital improvement fund (32350).

54 10. \$5,000,000 from the general fund to the dedicated highway and  
55 bridge trust fund (30050) for the purpose of work zone safety activities

1 provided by the division of state police for the department of transpor-  
2 tation.

3 11. \$5,000,000 from the miscellaneous special revenue fund, statewide  
4 public safety communications account (22123), to the capital projects  
5 fund (30000).

6 12. \$2,900,000 from the miscellaneous special revenue fund, legal  
7 services assistance account (22096), to the general fund.

8 13. \$300,000 from the state police motor vehicle law enforcement and  
9 motor vehicle theft and insurance fraud prevention fund, motor vehicle  
10 theft and insurance fraud account (22801), to the general fund.

11 Transportation:

12 1. \$17,672,000 from the federal miscellaneous operating grants fund to  
13 the miscellaneous special revenue fund, New York Metropolitan Transpor-  
14 tation Council account (21913).

15 2. \$20,147,000 from the federal capital projects fund to the miscella-  
16 neous special revenue fund, New York Metropolitan Transportation Council  
17 account (21913).

18 3. \$15,700,000 from the miscellaneous special revenue fund, compulsory  
19 insurance account (22087), to the general fund.

20 4. \$14,878,096 from the general fund to the mass transportation oper-  
21 ating assistance fund, public transportation systems operating assist-  
22 ance account (21401), of which \$12,000,000 constitutes the base need for  
23 operations.

24 5. \$728,507,000 from the general fund to the dedicated highway and  
25 bridge trust fund (30050).

26 6. \$606,000 from the miscellaneous special revenue fund, accident  
27 prevention course program account (22094), to the general fund.

28 7. \$6,000 from the miscellaneous special revenue fund, motorcycle  
29 safety account (21976), to the general fund.

30 8. \$309,250,000 from the general fund to the MTA financial assistance  
31 fund, mobility tax trust account (23651).

32 9. \$20,000,000 from the mass transportation operating assistance fund,  
33 metropolitan mass transportation operating assistance account (21402),  
34 to the general debt service fund (40151), for reimbursement of the  
35 state's expenses in connection with payments of debt service and related  
36 expenses for the metropolitan transportation authority's state service  
37 contract bonds.

38 10. \$5,000,000 from the miscellaneous special revenue fund, transpor-  
39 tation regulation account (22067) to the dedicated highway and bridge  
40 trust fund (30050), for disbursements made from such fund for motor  
41 carrier safety that are in excess of the amounts deposited in the dedi-  
42 cated highway and bridge trust fund (30050) for such purpose pursuant to  
43 section 94 of the transportation law.

44 11. \$121,548,000 from the mass transportation operating assistance  
45 fund, metropolitan mass transportation operating assistance account  
46 (21402), to the transit assistance for capital investments fund, metro-  
47 politan transit assistance for capital investments account, for  
48 disbursements made from such fund pursuant to a chapter of the laws of  
49 2015.

50 Miscellaneous:

51 1. \$200,000,000 from the general fund to any funds or accounts for the  
52 purpose of reimbursing certain outstanding accounts receivable balances.

53 2. \$500,000,000 from the general fund to the debt reduction reserve  
54 fund (40000).

55 3. \$450,000,000 from the New York state storm recovery capital fund  
56 (33000) to the revenue bond tax fund (40152).

1 4. \$15,500,000 from the general fund, community projects account GG  
2 (10256), to the general fund, state purposes account (10050).

3 5. \$4,550,000,000 from the general fund to the dedicated infrastruc-  
4 ture investment fund infrastructure investment account.

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

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

11 1. Upon request of the commissioner of environmental conservation, up  
12 to \$11,354,000 from revenues credited to any of the department of envi-  
13 ronmental conservation special revenue funds, including \$3,285,400 from  
14 the environmental protection and oil spill compensation fund (21200),  
15 and \$1,779,600 from the conservation fund (21150), to the environmental  
16 conservation special revenue fund, indirect charges account (21060).

17 2. Upon request of the commissioner of agriculture and markets, up to  
18 \$3,000,000 from any special revenue fund or enterprise fund within the  
19 department of agriculture and markets to the general fund, to pay appro-  
20 priate administrative expenses.

21 3. Upon request of the commissioner of agriculture and markets, up to  
22 \$2,000,000 from the state exposition special fund, state fair receipts  
23 account (50051) to the miscellaneous capital projects fund, state fair  
24 capital improvement account (32208).

25 4. Upon request of the commissioner of the division of housing and  
26 community renewal, up to \$6,221,000 from revenues credited to any divi-  
27 sion of housing and community renewal federal or miscellaneous special  
28 revenue fund to the miscellaneous special revenue fund, housing indirect  
29 cost recovery account (22090).

30 5. Upon request of the commissioner of the division of housing and  
31 community renewal, up to \$5,500,000 may be transferred from any miscel-  
32 laneous special revenue fund account, to any miscellaneous special  
33 revenue fund.

34 6. Upon request of the commissioner of health up to \$5,000,000 from  
35 revenues credited to any of the department of health's special revenue  
36 funds, to the miscellaneous special revenue fund, administration account  
37 (21982).

38 S 4. On or before March 31, 2016, the comptroller is hereby authorized  
39 and directed to deposit earnings that would otherwise accrue to the  
40 general fund that are attributable to the operation of section 98-a of  
41 the state finance law, to the agencies internal service fund, banking  
42 services account (55057), for the purpose of meeting direct payments  
43 from such account.

44 S 5. Notwithstanding any law to the contrary, upon the direction of  
45 the director of the budget and upon requisition by the state university  
46 of New York, the dormitory authority of the state of New York is  
47 directed to transfer, up to \$22,000,000 in revenues generated from the  
48 sale of notes or bonds, to the state university of New York for  
49 reimbursement of bondable equipment for further transfer to the state's  
50 general fund.

51 S 6. Notwithstanding any law to the contrary, and in accordance with  
52 section 4 of the state finance law, the comptroller is hereby authorized  
53 and directed to transfer, upon request of the director of the budget and  
54 upon consultation with the state university chancellor or his or her  
55 designee, on or before March 31, 2016, up to \$16,000,000 from the state  
56 university income fund general revenue account (22653) to the state

1 general fund for debt service costs related to campus supported capital  
2 project costs for the NY-SUNY 2020 challenge grant program at the  
3 University at Buffalo.

4 S 7. Notwithstanding any law to the contrary, and in accordance with  
5 section 4 of the state finance law, the comptroller is hereby authorized  
6 and directed to transfer, upon request of the director of the budget and  
7 upon consultation with the state university chancellor or his or her  
8 designee, on or before March 31, 2016, up to \$6,500,000 from the state  
9 university income fund general revenue account (22653) to the state  
10 general fund for debt service costs related to campus supported capital  
11 project costs for the NY-SUNY 2020 challenge grant program at the  
12 University at Albany.

13 S 8. Notwithstanding any law to the contrary, the state university  
14 chancellor or his or her designee is authorized and directed to transfer  
15 estimated tuition revenue balances from the state university collection  
16 fund (61000) to the state university income fund, state university  
17 general revenue offset account (22655) on or before March 31, 2016.

18 S 9. Notwithstanding any law to the contrary, and in accordance with  
19 section 4 of the state finance law, the comptroller is hereby authorized  
20 and directed to transfer, upon request of the director of the budget, up  
21 to \$87,864,000 from the general fund to the state university income  
22 fund, state university hospitals income reimbursable account (22656)  
23 during the period July 1, 2015 through June 30, 2016 to reflect ongoing  
24 state subsidy of SUNY hospitals and to pay costs attributable to the  
25 SUNY hospitals' state agency status.

26 S 10. Notwithstanding any law to the contrary, and in accordance with  
27 section 4 of the state finance law, the comptroller is hereby authorized  
28 and directed to transfer, upon request of the director of the budget, up  
29 to \$1,004,249,800 from the general fund to the state university income  
30 fund, state university general revenue offset account (22655) during the  
31 period of July 1, 2015 through June 30, 2016 to support operations at  
32 the state university.

33 S 11. Notwithstanding any law to the contrary, and in accordance with  
34 section 4 of the state finance law, the comptroller is hereby authorized  
35 and directed to transfer, upon request of the director of the budget, up  
36 to \$3,370,000 from the general fund to the state university income fund,  
37 state university general revenue offset account (22655) during the peri-  
38 od of April 1, 2015 through June 30, 2015 to support operations at the  
39 state university.

40 S 12. Notwithstanding any law to the contrary, and in accordance with  
41 section 4 of the state finance law, the comptroller is hereby authorized  
42 and directed to transfer, upon request of the state university chancel-  
43 lor or his or her designee, up to \$55,000,000 from the state university  
44 income fund, state university hospitals income reimbursable account  
45 (22656), for services and expenses of hospital operations and capital  
46 expenditures at the state university hospitals; and the state university  
47 income fund, Long Island veterans' home account (22652) to the state  
48 university capital projects fund (32400) on or before June 30, 2016.

49 S 12-a. Subdivision 2 of section 92-cc of the state finance law, as  
50 amended by section 17 of part U of chapter 59 of the laws of 2012, is  
51 amended to read as follows:

52 2. Such fund shall have a maximum balance not to exceed [three] FIVE  
53 per centum of the aggregate amount projected to be disbursed from the  
54 general fund during the fiscal year immediately following the then-cur-  
55 rent fiscal year. At the request of the director of the budget, the  
56 state comptroller shall transfer monies to the rainy day reserve fund up

1 to and including an amount equivalent to [three-tenths of] SEVENTY-FIVE  
2 ONE-HUNDREDTHS OF one per centum of the aggregate amount projected to be  
3 disbursed from the general fund during the then-current fiscal year,  
4 unless such transfer would increase the rainy day reserve fund to an  
5 amount in excess of [three] FIVE per centum of the aggregate amount  
6 projected to be disbursed from the general fund during the fiscal year  
7 immediately following the then-current fiscal year, in which event such  
8 transfer shall be limited to such amount as will increase the rainy day  
9 reserve fund to such [three] FIVE per centum limitation.

10 S 13. Notwithstanding any law to the contrary, and in accordance with  
11 section 4 of the state finance law, the comptroller, after consultation  
12 with the state university chancellor or his or her designee, is hereby  
13 authorized and directed to transfer moneys, in the first instance, from  
14 the state university collection fund, Stony Brook hospital collection  
15 account (61006), Brooklyn hospital collection account (61007), and Syra-  
16 cuse hospital collection account (61008) to the state university income  
17 fund, state university hospitals income reimbursable account (22656) in  
18 the event insufficient funds are available in the state university  
19 income fund, state university hospitals income reimbursable account  
20 (22656) to permit the full transfer of moneys authorized for transfer,  
21 to the general fund for payment of debt service related to the SUNY  
22 hospitals. Notwithstanding any law to the contrary, the comptroller is  
23 also hereby authorized and directed, after consultation with the state  
24 university chancellor or his or her designee, to transfer moneys from  
25 the state university income fund to the state university income fund,  
26 state university hospitals income reimbursable account (22656) in the  
27 event insufficient funds are available in the state university income  
28 fund, state university hospitals income reimbursable account (22656) to  
29 pay hospital operating costs or to permit the full transfer of moneys  
30 authorized for transfer, to the general fund for payment of debt service  
31 related to the SUNY hospitals on or before March 31, 2016.

32 S 14. Notwithstanding any law to the contrary, upon the direction of  
33 the director of the budget and the chancellor of the state university of  
34 New York or his or her designee, and in accordance with section 4 of the  
35 state finance law, the comptroller is hereby authorized and directed to  
36 transfer monies from the state university dormitory income fund (40350)  
37 to the state university residence hall rehabilitation fund (30100), and  
38 from the state university residence hall rehabilitation fund (30100) to  
39 the state university dormitory income fund (40350), in a net amount not  
40 to exceed \$80 million.

41 S 15. Notwithstanding any law to the contrary, and in accordance with  
42 section 4 of the state finance law, the comptroller is hereby authorized  
43 and directed to transfer monies, upon request of the director of the  
44 budget, on or before March 31, 2016, from and to any of the following  
45 accounts: the miscellaneous special revenue fund, patient income account  
46 (21909), the miscellaneous special revenue fund, mental hygiene program  
47 fund account (21907), the miscellaneous special revenue fund, federal  
48 salary sharing account (22056), or the general fund in any combination,  
49 the aggregate of which shall not exceed \$350 million.

50 S 16. Notwithstanding any law to the contrary, and in accordance with  
51 section 4 of the state finance law, the comptroller is hereby authorized  
52 and directed to transfer, at the request of the director of the budget,  
53 up to \$500 million from the unencumbered balance of any special revenue  
54 fund or account, agency fund or account, internal service fund or  
55 account, enterprise fund or account, or any combination of such funds  
56 and accounts, to the general fund. The amounts transferred pursuant to

1 this authorization shall be in addition to any other transfers expressly  
2 authorized in the 2015-16 budget. Transfers from federal funds, debt  
3 service funds, capital projects funds, the community projects fund, or  
4 funds that would result in the loss of eligibility for federal benefits  
5 or federal funds pursuant to federal law, rule, or regulation as assent-  
6 ed to in chapter 683 of the laws of 1938 and chapter 700 of the laws of  
7 1951 are not permitted pursuant to this authorization.

8 S 16-a. Notwithstanding any law to the contrary, and in accordance  
9 with section 4 of the state finance law, the comptroller is hereby  
10 authorized and directed to transfer, at the request of the director of  
11 the budget, up to 28 million dollars (\$28,000,000) from the unencumbered  
12 balance of any special revenue fund or account, or combination of funds  
13 and accounts, to the community projects fund. The amounts transferred  
14 pursuant to this authorization shall be in addition to any other trans-  
15 fers expressly authorized in the 2014-15 budget. Transfers from federal  
16 funds, debt services funds, capital projects funds, or funds that would  
17 result in the loss of eligibility for federal benefits or federal funds  
18 pursuant to federal law, rule, or regulation as assented to in chapter  
19 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not  
20 permitted pursuant to this authorization. The director of the budget  
21 shall (a) have received a request in writing from one or both houses of  
22 the legislature, and (b) notify both houses of the legislature in writ-  
23 ing prior to initiating transfers pursuant to this authorization. The  
24 comptroller shall provide the director of the budget, the chair of the  
25 senate finance committee, and the chair of the assembly ways and means  
26 committee with an accurate accounting and report of any transfers that  
27 occur pursuant to this section on or before the fifteenth day of the  
28 following month in which such transfers occur.

29 S 17. Notwithstanding any law to the contrary, and in accordance with  
30 section 4 of the state finance law, the comptroller is hereby authorized  
31 and directed to transfer, at the request of the director of the budget,  
32 up to \$100 million from any non-general fund or account, or combination  
33 of funds and accounts, to the miscellaneous special revenue fund, tech-  
34 nology financing account (22207) or the miscellaneous capital projects  
35 fund, information technology capital financing account (32215), for the  
36 purpose of consolidating technology procurement and services. The  
37 amounts transferred to the miscellaneous special revenue fund, technolo-  
38 gy financing account (22207) pursuant to this authorization shall be  
39 equal to or less than the amount of such monies intended to support  
40 information technology costs which are attributable, according to a  
41 plan, to such account made in pursuance to an appropriation by law.  
42 Transfers to the technology financing account shall be completed from  
43 amounts collected by non-general funds or accounts pursuant to a fund  
44 deposit schedule or permanent statute, and shall be transferred to the  
45 technology financing account pursuant to a schedule agreed upon by the  
46 affected agency commissioner. Transfers from funds that would result in  
47 the loss of eligibility for federal benefits or federal funds pursuant  
48 to federal law, rule, or regulation as assented to in chapter 683 of the  
49 laws of 1938 and chapter 700 of the laws of 1951 are not permitted  
50 pursuant to this authorization.

51 S 18. Notwithstanding any law to the contrary, and in accordance with  
52 section 4 of the state finance law, the comptroller is hereby authorized  
53 and directed to transfer, at the request of the director of the budget,  
54 up to \$300 million from any non-general fund or account, or combination  
55 of funds and accounts, to the general fund for the purpose of consol-  
56 idating technology procurement and services. The amounts transferred



1 pursuant to this authorization shall be equal to or less than the amount  
2 of such monies intended to support information technology costs which  
3 are attributable, according to a plan, to such account made in pursuance  
4 to an appropriation by law. Transfers to the general fund shall be  
5 completed from amounts collected by non-general funds or accounts pursu-  
6 ant to a fund deposit schedule. Transfers from funds that would result  
7 in the loss of eligibility for federal benefits or federal funds pursu-  
8 ant to federal law, rule, or regulation as assented to in chapter 683 of  
9 the laws of 1938 and chapter 700 of the laws of 1951 are not permitted  
10 pursuant to this authorization.

11 S 19. Notwithstanding any provision of law to the contrary, as deemed  
12 feasible and advisable by its trustees, the power authority of the state  
13 of New York is authorized and directed to (i) make a contribution to the  
14 state treasury to the credit of the general fund, or as otherwise  
15 directed in writing by the director of the budget, in an amount of up to  
16 \$90,000,000 for the state fiscal year commencing April 1, 2015, the  
17 proceeds of which will be utilized to support energy-related initiatives  
18 of the state, or for economic development purposes, and (ii) transfer up  
19 to \$25,000,000 of any such contribution by June 30, 2015 and the remain-  
20 der of any such contribution by March 31, 2016. Such economic develop-  
21 ment purposes may include, but shall not be limited to, efforts to  
22 attract and expand business investment and job creation in New York  
23 state through the Open for Business program as well as all expenses  
24 associated with Global NY and trade missions, domestic and interna-  
25 tional, promoting New York businesses; provided that in the event any  
26 contributed funds are used by a state agency or public authority for the  
27 purpose of advertising and promoting the benefits of the START-UP NY  
28 program, no more than sixty percent of the contributed funds used for  
29 such purpose shall be used for advertising and promotion outside the  
30 state of New York.

31 S 20. Notwithstanding any provision of law, rule or regulation to the  
32 contrary, the New York State energy research and development authority  
33 is authorized and directed to make a contribution to the state treasury  
34 to the credit of the general fund in the amount of \$41,000,000 from  
35 proceeds collected by the authority from the auction or sale of carbon  
36 dioxide emission allowances allocated by the department of environmental  
37 conservation under the Regional Greenhouse Gas Initiative on or before  
38 March 31, 2016.

39 S 21. Subdivision 5 of section 97-rrr of the state finance law, as  
40 amended by section 20 of part I of chapter 55 of the laws of 2014, is  
41 amended to read as follows:

42 5. Notwithstanding the provisions of section one hundred seventy-one-a  
43 of the tax law, as separately amended by chapters four hundred eighty-  
44 one and four hundred eighty-four of the laws of nineteen hundred eight-  
45 y-one, and notwithstanding the provisions of chapter ninety-four of the  
46 laws of two thousand eleven, or any other provisions of law to the  
47 contrary, during the fiscal year beginning April first, two thousand  
48 [fourteen] FIFTEEN, the state comptroller is hereby authorized and  
49 directed to deposit to the fund created pursuant to this section from  
50 amounts collected pursuant to article twenty-two of the tax law and  
51 pursuant to a schedule submitted by the director of the budget, up to  
52 [\$3,429,375,000] \$3,382,279,000, as may be certified in such schedule as  
53 necessary to meet the purposes of such fund for the fiscal year begin-  
54 ning April first, two thousand [fourteen] FIFTEEN.

55 S 22. The comptroller is authorized and directed to deposit to the  
56 general fund-state purposes account reimbursements from moneys appropri-

1 ated or reappropriated to the correctional facilities capital improve-  
2 ment fund by a chapter of the laws of 2015. Reimbursements shall be  
3 available for spending from appropriations made to the department of  
4 corrections and community supervision in the general fund-state purposes  
5 accounts by a chapter of the laws of 2015 for costs associated with the  
6 administration and security of capital projects and for other costs  
7 which are attributable, according to a plan, to such capital projects.

8 S 23. Notwithstanding any other law, rule, or regulation to the  
9 contrary, the state comptroller is hereby authorized and directed to use  
10 any balance remaining in the mental health services fund debt service  
11 appropriation, after payment by the state comptroller of all obligations  
12 required pursuant to any lease, sublease, or other financing arrangement  
13 between the dormitory authority of the state of New York as successor to  
14 the New York state medical care facilities finance agency, and the  
15 facilities development corporation pursuant to chapter 83 of the laws of  
16 1995 and the department of mental hygiene for the purpose of making  
17 payments to the dormitory authority of the state of New York for the  
18 amount of the earnings for the investment of monies deposited in the  
19 mental health services fund that such agency determines will or may have  
20 to be rebated to the federal government pursuant to the provisions of  
21 the internal revenue code of 1986, as amended, in order to enable such  
22 agency to maintain the exemption from federal income taxation on the  
23 interest paid to the holders of such agency's mental services facilities  
24 improvement revenue bonds. Annually on or before each June 30th, such  
25 agency shall certify to the state comptroller its determination of the  
26 amounts received in the mental health services fund as a result of the  
27 investment of monies deposited therein that will or may have to be  
28 rebated to the federal government pursuant to the provisions of the  
29 internal revenue code of 1986, as amended.

30 S 24. Subdivision 8 of section 68-b of the state finance law, as  
31 amended by section 44 of part HH of chapter 57 of the laws of 2013, is  
32 amended to read as follows:

33 8. Revenue bonds may only be issued for authorized purposes, as  
34 defined in section sixty-eight-a of this article. Notwithstanding the  
35 foregoing, the dormitory authority of the state of New York [and], the  
36 urban development corporation AND THE NEW YORK STATE THRUWAY AUTHORITY  
37 may issue revenue bonds for any authorized purpose of any other such  
38 authorized issuer through March thirty-first, two thousand [fifteen]  
39 TWENTY. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRUWAY  
40 AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC  
41 AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE PUBLIC  
42 AUTHORITIES LAW. The authorized issuers shall not issue any revenue  
43 bonds in an amount in excess of statutory authorizations for such  
44 authorized purposes. Authorizations for such authorized purposes shall  
45 be reduced in an amount equal to the amount of revenue bonds issued for  
46 such authorized purposes under this article. Such reduction shall not be  
47 made in relation to revenue bonds issued to fund reserve funds, if any,  
48 and costs of issuance, if these items are not counted under existing  
49 authorizations, nor shall revenue bonds issued to refund bonds issued  
50 under existing authorizations reduce the amount of such authorizations.

51 S 24-a. Subdivision 8 of section 69-n of the state finance law, as  
52 added by section 58 of part HH of chapter 57 of the laws of 2013, is  
53 amended to read as follows:

54 8. Revenue bonds may only be issued for authorized purposes, as  
55 defined in section sixty-nine-m of this article. Notwithstanding the  
56 foregoing, any authorized issuer may issue revenue bonds for any author-

1 ized purpose. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRU-  
2 WAY AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE  
3 PUBLIC AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE  
4 PUBLIC AUTHORITIES LAW. The authorized issuers shall not issue any  
5 revenue bonds in an amount in excess of statutory authorizations for  
6 such authorized purposes. Authorizations for such authorized purposes  
7 shall be reduced in an amount equal to the amount of revenue bonds  
8 issued for such authorized purposes under this article. Such reduction  
9 shall not be made in relation to revenue bonds issued to fund reserve  
10 funds, if any, and costs of issuance, if these items are not counted  
11 under existing authorizations, nor shall revenue bonds issued to refund  
12 bonds issued under existing authorizations reduce the amount of such  
13 authorizations.

14 S 25. Subdivision 1 of section 47 of section 1 of chapter 174 of the  
15 laws of 1968, constituting the New York state urban development corpo-  
16 ration act, as amended by section 28 of part I of chapter 55 of the laws  
17 of 2014, is amended to read as follows:

18 1. Notwithstanding the provisions of any other law to the contrary,  
19 the dormitory authority and the corporation are hereby authorized to  
20 issue bonds or notes in one or more series for the purpose of funding  
21 project costs for the office of information technology services, depart-  
22 ment of law, and other state costs associated with such capital  
23 projects. The aggregate principal amount of bonds authorized to be  
24 issued pursuant to this section shall not exceed [one] TWO hundred  
25 [eighty-two] SIXTY-NINE million [four] ONE hundred forty thousand  
26 dollars, excluding bonds issued to fund one or more debt service reserve  
27 funds, to pay costs of issuance of such bonds, and bonds or notes issued  
28 to refund or otherwise repay such bonds or notes previously issued. Such  
29 bonds and notes of the dormitory authority and the corporation shall not  
30 be a debt of the state, and the state shall not be liable thereon, nor  
31 shall they be payable out of any funds other than those appropriated by  
32 the state to the dormitory authority and the corporation for principal,  
33 interest, and related expenses pursuant to a service contract and such  
34 bonds and notes shall contain on the face thereof a statement to such  
35 effect. Except for purposes of complying with the internal revenue code,  
36 any interest income earned on bond proceeds shall only be used to pay  
37 debt service on such bonds.

38 S 26. Section 1 of chapter 174 of the laws of 1968, constituting the  
39 New York state urban development corporation act, is amended by adding a  
40 new section 51 to read as follows:

41 S 51. 1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE  
42 CONTRARY, THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION  
43 ARE HEREBY AUTHORIZED TO ISSUE BONDS OR NOTES IN ONE OR MORE SERIES FOR  
44 THE PURPOSE OF FUNDING PROJECT COSTS FOR THE NONPROFIT INFRASTRUCTURE  
45 CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCIATED WITH SUCH  
46 CAPITAL PROJECTS. THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AUTHORIZED TO  
47 BE ISSUED PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY MILLION  
48 DOLLARS, EXCLUDING BONDS ISSUED TO FUND ONE OR MORE DEBT SERVICE RESERVE  
49 FUNDS, TO PAY COSTS OF ISSUANCE OF SUCH BONDS, AND BONDS OR NOTES ISSUED  
50 TO REFUND OR OTHERWISE REPAY SUCH BONDS OR NOTES PREVIOUSLY ISSUED. SUCH  
51 BONDS AND NOTES OF THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT  
52 CORPORATION SHALL NOT BE A DEBT OF THE STATE, AND THE STATE SHALL NOT BE  
53 LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF ANY FUNDS OTHER THAN  
54 THOSE APPROPRIATED BY THE STATE TO THE DORMITORY AUTHORITY AND THE URBAN  
55 DEVELOPMENT CORPORATION FOR PRINCIPAL, INTEREST, AND RELATED EXPENSES  
56 PURSUANT TO A SERVICE CONTRACT AND SUCH BONDS AND NOTES SHALL CONTAIN ON

1 THE FACE THEREOF A STATEMENT TO SUCH EFFECT. EXCEPT FOR PURPOSES OF  
2 COMPLYING WITH THE INTERNAL REVENUE CODE, ANY INTEREST INCOME EARNED ON  
3 BOND PROCEEDS SHALL ONLY BE USED TO PAY DEBT SERVICE ON SUCH BONDS.

4 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN  
5 ORDER TO ASSIST THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPO-  
6 RATION IN UNDERTAKING THE FINANCING FOR PROJECT COSTS FOR THE NONPROFIT  
7 INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCI-  
8 ATED WITH SUCH CAPITAL PROJECTS, THE DIRECTOR OF THE BUDGET IS HEREBY  
9 AUTHORIZED TO ENTER INTO ONE OR MORE SERVICE CONTRACTS WITH THE DORMITO-  
10 RY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, NONE OF WHICH SHALL  
11 EXCEED THIRTY YEARS IN DURATION, UPON SUCH TERMS AND CONDITIONS AS THE  
12 DIRECTOR OF THE BUDGET AND THE DORMITORY AUTHORITY AND THE URBAN DEVEL-  
13 OPMENT CORPORATION AGREE, SO AS TO ANNUALLY PROVIDE TO THE DORMITORY  
14 AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, IN THE AGGREGATE, A SUM  
15 NOT TO EXCEED THE PRINCIPAL, INTEREST, AND RELATED EXPENSES REQUIRED FOR  
16 SUCH BONDS AND NOTES. ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO THIS  
17 SECTION SHALL PROVIDE THAT THE OBLIGATION OF THE STATE TO PAY THE AMOUNT  
18 THEREIN PROVIDED SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE  
19 MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED  
20 EXECUTORY ONLY TO THE EXTENT OF MONIES AVAILABLE AND THAT NO LIABILITY  
21 SHALL BE INCURRED BY THE STATE BEYOND THE MONIES AVAILABLE FOR SUCH  
22 PURPOSE, SUBJECT TO ANNUAL APPROPRIATION BY THE LEGISLATURE. ANY SUCH  
23 CONTRACT OR ANY PAYMENTS MADE OR TO BE MADE THEREUNDER MAY BE ASSIGNED  
24 AND PLEDGED BY THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPO-  
25 RATION AS SECURITY FOR ITS BONDS AND NOTES, AS AUTHORIZED BY THIS  
26 SECTION.

27 S 27. Subdivision 1 of section 16 of part D of chapter 389 of the laws  
28 of 1997, relating to the financing of the correctional facilities  
29 improvement fund and the youth facility improvement fund, as amended by  
30 section 29 of part I of chapter 55 of the laws of 2014, is amended to  
31 read as follows:

32 1. Subject to the provisions of chapter 59 of the laws of 2000, but  
33 notwithstanding the provisions of section 18 of section 1 of chapter 174  
34 of the laws of 1968, the New York state urban development corporation is  
35 hereby authorized to issue bonds, notes and other obligations in an  
36 aggregate principal amount not to exceed seven billion one hundred  
37 [forty-eight] SIXTY-THREE million THREE HUNDRED sixty-nine thousand  
38 dollars [\$7,148,069,000] \$7,163,369,000, and shall include all bonds,  
39 notes and other obligations issued pursuant to chapter 56 of the laws of  
40 1983, as amended or supplemented. The proceeds of such bonds, notes or  
41 other obligations shall be paid to the state, for deposit in the correc-  
42 tional facilities capital improvement fund to pay for all or any portion  
43 of the amount or amounts paid by the state from appropriations or reap-  
44 propriations made to the department of corrections and community super-  
45 vision from the correctional facilities capital improvement fund for  
46 capital projects. The aggregate amount of bonds, notes or other obli-  
47 gations authorized to be issued pursuant to this section shall exclude  
48 bonds, notes or other obligations issued to refund or otherwise repay  
49 bonds, notes or other obligations theretofore issued, the proceeds of  
50 which were paid to the state for all or a portion of the amounts  
51 expended by the state from appropriations or reappropriations made to  
52 the department of corrections and community supervision; provided,  
53 however, that upon any such refunding or repayment the total aggregate  
54 principal amount of outstanding bonds, notes or other obligations may be  
55 greater than seven billion one hundred [forty-eight] SIXTY-THREE million  
56 THREE HUNDRED sixty-nine thousand dollars [\$7,148,069,000]

1 \$7,163,369,000, only if the present value of the aggregate debt service  
2 of the refunding or repayment bonds, notes or other obligations to be  
3 issued shall not exceed the present value of the aggregate debt service  
4 of the bonds, notes or other obligations so to be refunded or repaid.  
5 For the purposes hereof, the present value of the aggregate debt service  
6 of the refunding or repayment bonds, notes or other obligations and of  
7 the aggregate debt service of the bonds, notes or other obligations so  
8 refunded or repaid, shall be calculated by utilizing the effective  
9 interest rate of the refunding or repayment bonds, notes or other obli-  
10 gations, which shall be that rate arrived at by doubling the semi-annual  
11 interest rate (compounded semi-annually) necessary to discount the debt  
12 service payments on the refunding or repayment bonds, notes or other  
13 obligations from the payment dates thereof to the date of issue of the  
14 refunding or repayment bonds, notes or other obligations and to the  
15 price bid including estimated accrued interest or proceeds received by  
16 the corporation including estimated accrued interest from the sale ther-  
17 eof.

18 S 28. Paragraph (a) of subdivision 2 of section 47-e of the private  
19 housing finance law, as amended by section 30 of part I of chapter 55 of  
20 the laws of 2014, is amended to read as follows:

21 (a) Subject to the provisions of chapter fifty-nine of the laws of two  
22 thousand, in order to enhance and encourage the promotion of housing  
23 programs and thereby achieve the stated purposes and objectives of such  
24 housing programs, the agency shall have the power and is hereby author-  
25 ized from time to time to issue negotiable housing program bonds and  
26 notes in such principal amount as shall be necessary to provide suffi-  
27 cient funds for the repayment of amounts disbursed (and not previously  
28 reimbursed) pursuant to law or any prior year making capital appropri-  
29 ations or reappropriations for the purposes of the housing program;  
30 provided, however, that the agency may issue such bonds and notes in an  
31 aggregate principal amount not exceeding [two] THREE billion [nine] ONE  
32 hundred [ninety-nine] FIFTY-THREE million SEVEN HUNDRED ninety-nine  
33 thousand dollars, plus a principal amount of bonds issued to fund the  
34 debt service reserve fund in accordance with the debt service reserve  
35 fund requirement established by the agency and to fund any other  
36 reserves that the agency reasonably deems necessary for the security or  
37 marketability of such bonds and to provide for the payment of fees and  
38 other charges and expenses, including underwriters' discount, trustee  
39 and rating agency fees, bond insurance, credit enhancement and liquidity  
40 enhancement related to the issuance of such bonds and notes. No reserve  
41 fund securing the housing program bonds shall be entitled or eligible to  
42 receive state funds apportioned or appropriated to maintain or restore  
43 such reserve fund at or to a particular level, except to the extent of  
44 any deficiency resulting directly or indirectly from a failure of the  
45 state to appropriate or pay the agreed amount under any of the contracts  
46 provided for in subdivision four of this section.

47 S 29. Subdivision (b) of section 11 of chapter 329 of the laws of  
48 1991, amending the state finance law and other laws relating to the  
49 establishment of the dedicated highway and bridge trust fund, as amended  
50 by section 31 of part I of chapter 55 of the laws of 2014, is amended to  
51 read as follows:

52 (b) Any service contract or contracts for projects authorized pursuant  
53 to sections 10-c, 10-f, 10-g and 80-b of the highway law and section  
54 14-k of the transportation law, and entered into pursuant to subdivision  
55 (a) of this section, shall provide for state commitments to provide  
56 annually to the thruway authority a sum or sums, upon such terms and

1 conditions as shall be deemed appropriate by the director of the budget,  
2 to fund, or fund the debt service requirements of any bonds or any obli-  
3 gations of the thruway authority issued to fund or to reimburse the  
4 state for funding such projects having a cost not in excess of  
5 [\$8,120,728,000] \$8,658,881,000 cumulatively by the end of fiscal year  
6 [2014-15] 2015-16.

7 S 30. Subdivision 1 of section 1689-i of the public authorities law,  
8 as amended by section 32 of part I of chapter 55 of the laws of 2014, is  
9 amended to read as follows:

10 1. The dormitory authority is authorized to issue bonds, at the  
11 request of the commissioner of education, to finance eligible library  
12 construction projects pursuant to section two hundred seventy-three-a of  
13 the education law, in amounts certified by such commissioner not to  
14 exceed a total principal amount of [one hundred twenty-six] ONE HUNDRED  
15 FORTY million dollars.

16 S 31. Subdivision (a) of section 27 of part Y of chapter 61 of the  
17 laws of 2005, providing for the administration of certain funds and  
18 accounts related to the 2005-2006 budget, as amended by section 33 of  
19 part I of chapter 55 of the laws of 2014, is amended to read as follows:

20 (a) Subject to the provisions of chapter 59 of the laws of 2000, but  
21 notwithstanding any provisions of law to the contrary, the urban devel-  
22 opment corporation is hereby authorized to issue bonds or notes in one  
23 or more series in an aggregate principal amount not to exceed  
24 [\$149,600,000] \$155,600,000, excluding bonds issued to finance one or  
25 more debt service reserve funds, to pay costs of issuance of such bonds,  
26 and bonds or notes issued to refund or otherwise repay such bonds or  
27 notes previously issued, for the purpose of financing capital projects  
28 including IT initiatives for the division of state police, debt service  
29 and leases; and to reimburse the state general fund for disbursements  
30 made therefor. Such bonds and notes of such authorized issuer shall not  
31 be a debt of the state, and the state shall not be liable thereon, nor  
32 shall they be payable out of any funds other than those appropriated by  
33 the state to such authorized issuer for debt service and related  
34 expenses pursuant to any service contract executed pursuant to subdivi-  
35 sion (b) of this section and such bonds and notes shall contain on the  
36 face thereof a statement to such effect. Except for purposes of comply-  
37 ing with the internal revenue code, any interest income earned on bond  
38 proceeds shall only be used to pay debt service on such bonds.

39 S 32. Section 44 of section 1 of chapter 174 of the laws of 1968,  
40 constituting the New York state urban development corporation act, as  
41 amended by section 34 of part I of chapter 55 of the laws of 2014, is  
42 amended to read as follows:

43 S 44. Issuance of certain bonds or notes. 1. Notwithstanding the  
44 provisions of any other law to the contrary, the dormitory authority and  
45 the corporation are hereby authorized to issue bonds or notes in one or  
46 more series for the purpose of funding project costs for the regional  
47 economic development council initiative, the economic transformation  
48 program, state university of New York college for nanoscale and science  
49 engineering, projects within the city of Buffalo or surrounding envi-  
50 rons, the New York works economic development fund, projects for the  
51 retention of professional football in western New York, the empire state  
52 economic development fund, the clarkson-trudeau partnership, the New  
53 York genome center, the cornell university college of veterinary medi-  
54 cine, the olympic regional development authority, a project at nano  
55 Utica, onondaga county revitalization projects, BINGHAMTON UNIVERSITY  
56 SCHOOL OF PHARMACY, NEW YORK POWER ELECTRONICS MANUFACTURING CONSORTIUM,

1 REGIONAL INFRASTRUCTURE PROJECTS, and other state costs associated with  
2 such projects. The aggregate principal amount of bonds authorized to be  
3 issued pursuant to this section shall not exceed two billion [two] EIGHT  
4 hundred [three] EIGHTY-EIGHT million two hundred fifty-seven thousand  
5 dollars, excluding bonds issued to fund one or more debt service reserve  
6 funds, to pay costs of issuance of such bonds, and bonds or notes issued  
7 to refund or otherwise repay such bonds or notes previously issued. Such  
8 bonds and notes of the dormitory authority and the corporation shall not  
9 be a debt of the state, and the state shall not be liable thereon, nor  
10 shall they be payable out of any funds other than those appropriated by  
11 the state to the dormitory authority and the corporation for principal,  
12 interest, and related expenses pursuant to a service contract and such  
13 bonds and notes shall contain on the face thereof a statement to such  
14 effect. Except for purposes of complying with the internal revenue code,  
15 any interest income earned on bond proceeds shall only be used to pay  
16 debt service on such bonds.

17 2. Notwithstanding any other provision of law to the contrary, in  
18 order to assist the dormitory authority and the corporation in undertak-  
19 ing the financing for project costs for the regional economic develop-  
20 ment council initiative, the economic transformation program, state  
21 university of New York college for nanoscale and science engineering,  
22 projects within the city of Buffalo or surrounding environs, the New  
23 York works economic development fund, projects for the retention of  
24 professional football in western New York, the empire state economic  
25 development fund, the clarkson-trudeau partnership, the New York genome  
26 center, the cornell university college of veterinary medicine, the olym-  
27 pic regional development authority, a project at nano Utica, onondaga  
28 county revitalization projects, BINGHAMTON UNIVERSITY SCHOOL OF PHARMA-  
29 CY, NEW YORK POWER ELECTRONICS MANUFACTURING CONSORTIUM, REGIONAL  
30 INFRASTRUCTURE PROJECTS and other state costs associated with such  
31 projects, the director of the budget is hereby authorized to enter into  
32 one or more service contracts with the dormitory authority and the  
33 corporation, none of which shall exceed thirty years in duration, upon  
34 such terms and conditions as the director of the budget and the dormito-  
35 ry authority and the corporation agree, so as to annually provide to the  
36 dormitory authority and the corporation, in the aggregate, a sum not to  
37 exceed the principal, interest, and related expenses required for such  
38 bonds and notes. Any service contract entered into pursuant to this  
39 section shall provide that the obligation of the state to pay the amount  
40 therein provided shall not constitute a debt of the state within the  
41 meaning of any constitutional or statutory provision and shall be deemed  
42 executory only to the extent of monies available and that no liability  
43 shall be incurred by the state beyond the monies available for such  
44 purpose, subject to annual appropriation by the legislature. Any such  
45 contract or any payments made or to be made thereunder may be assigned  
46 and pledged by the dormitory authority and the corporation as security  
47 for its bonds and notes, as authorized by this section.

48 S 33. Subdivisions 1 and 3 of section 1285-p of the public authorities  
49 law, subdivision 1 as amended by section 55 of part HH of chapter 57 of  
50 the laws of 2013 and subdivision 3 as amended by section 35 of part I of  
51 chapter 55 of the laws of 2014, are amended to read as follows:

52 1. Subject to chapter fifty-nine of the laws of two thousand, but  
53 notwithstanding any other provisions of law to the contrary, in order to  
54 assist the corporation in undertaking the administration and the financ-  
55 ing of the design, acquisition, construction, improvement, installation,  
56 and related work for all or any portion of any of the following environ-

1 mental infrastructure projects and for the provision of funds to the  
2 state for any amounts disbursed therefor: (a) projects authorized under  
3 the environmental protection fund, or for which appropriations are made  
4 to the environmental protection fund including, but not limited to  
5 municipal parks and historic preservation, stewardship, farmland  
6 protection, non-point source, pollution control, Hudson River Park, land  
7 acquisition, and waterfront revitalization; (b) department of environ-  
8 mental conservation capital appropriations for Onondaga Lake for certain  
9 water quality improvement projects in the same manner as set forth in  
10 paragraph (d) of subdivision one of section 56-0303 of the environmental  
11 conservation law; (c) for the purpose of the administration, management,  
12 maintenance, and use of the real property at the western New York nucle-  
13 ar service center; [and] (d) department of environmental conservation  
14 capital appropriations for the administration, design, acquisition,  
15 construction, improvement, installation, and related work on department  
16 of environmental conservation environmental infrastructure projects;  
17 [and] (e) office of parks, recreation and historic preservation appro-  
18 priations or reappropriations from the state parks infrastructure fund;  
19 [and] (f) capital grants for the cleaner, greener communities program  
20 AND (G) CAPITAL COSTS OF WATER QUALITY INFRASTRUCTURE PROJECTS the  
21 director of the division of budget and the corporation are each author-  
22 ized to enter into one or more service contracts, none of which shall  
23 exceed twenty years in duration, upon such terms and conditions as the  
24 director and the corporation may agree, so as to annually provide to the  
25 corporation in the aggregate, a sum not to exceed the annual debt  
26 service payments and related expenses required for any bonds and notes  
27 authorized pursuant to section twelve hundred ninety of this title. Any  
28 service contract entered into pursuant to this section shall provide  
29 that the obligation of the state to fund or to pay the amounts therein  
30 provided for shall not constitute a debt of the state within the meaning  
31 of any constitutional or statutory provision and shall be deemed execu-  
32 tory only to the extent of moneys available for such purposes, subject  
33 to annual appropriation by the legislature. Any such service contract or  
34 any payments made or to be made thereunder may be assigned and pledged  
35 by the corporation as security for its bonds and notes, as authorized  
36 pursuant to section twelve hundred ninety of this title.

37 3. The maximum amount of bonds that may be issued for the purpose of  
38 financing environmental infrastructure projects authorized by this  
39 section shall be one billion [three] SEVEN hundred [ninety-eight] SEVEN-  
40 TY-FIVE million [two] SEVEN hundred sixty thousand dollars, exclusive of  
41 bonds issued to fund any debt service reserve funds, pay costs of issu-  
42 ance of such bonds, and bonds or notes issued to refund or otherwise  
43 repay bonds or notes previously issued. Such bonds and notes of the  
44 corporation shall not be a debt of the state, and the state shall not be  
45 liable thereon, nor shall they be payable out of any funds other than  
46 those appropriated by the state to the corporation for debt service and  
47 related expenses pursuant to any service contracts executed pursuant to  
48 subdivision one of this section, and such bonds and notes shall contain  
49 on the face thereof a statement to such effect.

50 S 34. Subdivision 1 of section 45 of section 1 of chapter 174 of the  
51 laws of 1968, constituting the New York state urban development corpo-  
52 ration act, as amended by section 37 of part I of chapter 55 of the laws  
53 of 2014, is amended to read as follows:

54 1. Notwithstanding the provisions of any other law to the contrary,  
55 the urban development corporation of the state of New York is hereby  
56 authorized to issue bonds or notes in one or more series for the purpose



1 of funding project costs for the implementation of a NY-SUNY and NY-CUNY  
2 2020 challenge grant program subject to the approval of a NY-SUNY and  
3 NY-CUNY 2020 plan or plans by the governor and either the chancellor of  
4 the state university of New York or the chancellor of the city universi-  
5 ty of New York, as applicable. The aggregate principal amount of bonds  
6 authorized to be issued pursuant to this section shall not exceed  
7 [\$330,000,000] \$440,000,000, excluding bonds issued to fund one or more  
8 debt service reserve funds, to pay costs of issuance of such bonds, and  
9 bonds or notes issued to refund or otherwise repay such bonds or notes  
10 previously issued. Such bonds and notes of the corporation shall not be  
11 a debt of the state, and the state shall not be liable thereon, nor  
12 shall they be payable out of any funds other than those appropriated by  
13 the state to the corporation for principal, interest, and related  
14 expenses pursuant to a service contract and such bonds and notes shall  
15 contain on the face thereof a statement to such effect. Except for  
16 purposes of complying with the internal revenue code, any interest  
17 income earned on bond proceeds shall only be used to pay debt service on  
18 such bonds.

19 S 35. Subdivision (a) of section 48 of part K of chapter 81 of the  
20 laws of 2002, providing for the administration of certain funds and  
21 accounts related to the 2002-2003 budget, as amended by section 38 of  
22 part I of chapter 55 of the laws of 2014, is amended to read as follows:

23 (a) Subject to the provisions of chapter 59 of the laws of 2000 but  
24 notwithstanding the provisions of section 18 of the urban development  
25 corporation act, the corporation is hereby authorized to issue bonds or  
26 notes in one or more series in an aggregate principal amount not to  
27 exceed \$197,000,000 excluding bonds issued to fund one or more debt  
28 service reserve funds, to pay costs of issuance of such bonds, and bonds  
29 or notes issued to refund or otherwise repay such bonds or notes previ-  
30 ously issued, for the purpose of financing capital costs related to  
31 homeland security and training facilities for the division of state  
32 police, the division of military and naval affairs, and any other state  
33 agency, including the reimbursement of any disbursements made from the  
34 state capital projects fund, and is hereby authorized to issue bonds or  
35 notes in one or more series in an aggregate principal amount not to  
36 exceed [\$317,800,000] \$469,800,000, excluding bonds issued to fund one  
37 or more debt service reserve funds, to pay costs of issuance of such  
38 bonds, and bonds or notes issued to refund or otherwise repay such bonds  
39 or notes previously issued, for the purpose of financing improvements to  
40 State office buildings and other facilities located statewide, including  
41 the reimbursement of any disbursements made from the state capital  
42 projects fund. Such bonds and notes of the corporation shall not be a  
43 debt of the state, and the state shall not be liable thereon, nor shall  
44 they be payable out of any funds other than those appropriated by the  
45 state to the corporation for debt service and related expenses pursuant  
46 to any service contracts executed pursuant to subdivision (b) of this  
47 section, and such bonds and notes shall contain on the face thereof a  
48 statement to such effect.

49 S 36. Subdivision 1 of section 386-b of the public authorities law, as  
50 amended by section 39 of part I of chapter 55 of the laws of 2014, is  
51 amended to read as follows:

52 1. Notwithstanding any other provision of law to the contrary, the  
53 authority, the dormitory authority and the urban development corporation  
54 are hereby authorized to issue bonds or notes in one or more series for  
55 the purpose of financing peace bridge projects and capital costs of  
56 state and local highways, parkways, bridges, the New York state thruway,

1 Indian reservation roads, and facilities, and transportation infrastruc-  
2 ture projects including aviation projects, non-MTA mass transit  
3 projects, and rail service preservation projects, including work appur-  
4 tenant and ancillary thereto. The aggregate principal amount of bonds  
5 authorized to be issued pursuant to this section shall not exceed [four]  
6 ONE BILLION SIX hundred [sixty-five] NINETY million dollars  
7 [(\$465,000,000)] \$1,690,000,000, excluding bonds issued to fund one or  
8 more debt service reserve funds, to pay costs of issuance of such bonds,  
9 and to refund or otherwise repay such bonds or notes previously issued.  
10 Such bonds and notes of the authority, the dormitory authority and the  
11 urban development corporation shall not be a debt of the state, and the  
12 state shall not be liable thereon, nor shall they be payable out of any  
13 funds other than those appropriated by the state to the authority, the  
14 dormitory authority and the urban development corporation for principal,  
15 interest, and related expenses pursuant to a service contract and such  
16 bonds and notes shall contain on the face thereof a statement to such  
17 effect. Except for purposes of complying with the internal revenue code,  
18 any interest income earned on bond proceeds shall only be used to pay  
19 debt service on such bonds.

20 S 37. Paragraph (c) of subdivision 19 of section 1680 of the public  
21 authorities law, as amended by section 40 of part I of chapter 55 of the  
22 laws of 2014, is amended to read as follows:

23 (c) Subject to the provisions of chapter fifty-nine of the laws of two  
24 thousand, the dormitory authority shall not issue any bonds for state  
25 university educational facilities purposes if the principal amount of  
26 bonds to be issued when added to the aggregate principal amount of bonds  
27 issued by the dormitory authority on and after July first, nineteen  
28 hundred eighty-eight for state university educational facilities will  
29 exceed [ten] ELEVEN billion [nine] TWO hundred [eighty-four]  
30 TWENTY-EIGHT million dollars; provided, however, that bonds issued or to  
31 be issued shall be excluded from such limitation if: (1) such bonds are  
32 issued to refund state university construction bonds and state universi-  
33 ty construction notes previously issued by the housing finance agency;  
34 or (2) such bonds are issued to refund bonds of the authority or other  
35 obligations issued for state university educational facilities purposes  
36 and the present value of the aggregate debt service on the refunding  
37 bonds does not exceed the present value of the aggregate debt service on  
38 the bonds refunded thereby; provided, further that upon certification by  
39 the director of the budget that the issuance of refunding bonds or other  
40 obligations issued between April first, nineteen hundred ninety-two and  
41 March thirty-first, nineteen hundred ninety-three will generate long  
42 term economic benefits to the state, as assessed on a present value  
43 basis, such issuance will be deemed to have met the present value test  
44 noted above. For purposes of this subdivision, the present value of the  
45 aggregate debt service of the refunding bonds and the aggregate debt  
46 service of the bonds refunded, shall be calculated by utilizing the true  
47 interest cost of the refunding bonds, which shall be that rate arrived  
48 at by doubling the semi-annual interest rate (compounded semi-annually)  
49 necessary to discount the debt service payments on the refunding bonds  
50 from the payment dates thereof to the date of issue of the refunding  
51 bonds to the purchase price of the refunding bonds, including interest  
52 accrued thereon prior to the issuance thereof. The maturity of such  
53 bonds, other than bonds issued to refund outstanding bonds, shall not  
54 exceed the weighted average economic life, as certified by the state  
55 university construction fund, of the facilities in connection with which  
56 the bonds are issued, and in any case not later than the earlier of

1 thirty years or the expiration of the term of any lease, sublease or  
2 other agreement relating thereto; provided that no note, including  
3 renewals thereof, shall mature later than five years after the date of  
4 issuance of such note. The legislature reserves the right to amend or  
5 repeal such limit, and the state of New York, the dormitory authority,  
6 the state university of New York, and the state university construction  
7 fund are prohibited from covenanting or making any other agreements with  
8 or for the benefit of bondholders which might in any way affect such  
9 right.

10 S 38. Paragraph (c) of subdivision 14 of section 1680 of the public  
11 authorities law, as amended by section 41 of part I of chapter 55 of the  
12 laws of 2014, is amended to read as follows:

13 (c) Subject to the provisions of chapter fifty-nine of the laws of two  
14 thousand, (i) the dormitory authority shall not deliver a series of  
15 bonds for city university community college facilities, except to refund  
16 or to be substituted for or in lieu of other bonds in relation to city  
17 university community college facilities pursuant to a resolution of the  
18 dormitory authority adopted before July first, nineteen hundred eighty-  
19 five or any resolution supplemental thereto, if the principal amount of  
20 bonds so to be issued when added to all principal amounts of bonds  
21 previously issued by the dormitory authority for city university commu-  
22 nity college facilities, except to refund or to be substituted in lieu  
23 of other bonds in relation to city university community college facili-  
24 ties will exceed the sum of four hundred twenty-five million dollars and  
25 (ii) the dormitory authority shall not deliver a series of bonds issued  
26 for city university facilities, including community college facilities,  
27 pursuant to a resolution of the dormitory authority adopted on or after  
28 July first, nineteen hundred eighty-five, except to refund or to be  
29 substituted for or in lieu of other bonds in relation to city university  
30 facilities and except for bonds issued pursuant to a resolution supple-  
31 mental to a resolution of the dormitory authority adopted prior to July  
32 first, nineteen hundred eighty-five, if the principal amount of bonds so  
33 to be issued when added to the principal amount of bonds previously  
34 issued pursuant to any such resolution, except bonds issued to refund or  
35 to be substituted for or in lieu of other bonds in relation to city  
36 university facilities, will exceed seven billion [two] THREE hundred  
37 [seventy-three] NINETY-TWO million [three] SEVEN hundred [thirty-one]  
38 FIFTY-THREE thousand dollars. The legislature reserves the right to  
39 amend or repeal such limit, and the state of New York, the dormitory  
40 authority, the city university, and the fund are prohibited from coven-  
41 anting or making any other agreements with or for the benefit of bond-  
42 holders which might in any way affect such right.

43 S 39. Subdivision 10-a of section 1680 of the public authorities law,  
44 as amended by section 42 of part I of chapter 55 of the laws of 2014, is  
45 amended to read as follows:

46 10-a. Subject to the provisions of chapter fifty-nine of the laws of  
47 two thousand, but notwithstanding any other provision of the law to the  
48 contrary, the maximum amount of bonds and notes to be issued after March  
49 thirty-first, two thousand two, on behalf of the state, in relation to  
50 any locally sponsored community college, shall be [seven] EIGHT hundred  
51 [seventy-six] THIRTY-EIGHT million [three] FOUR hundred [five]  
52 FIFTY-EIGHT thousand dollars. Such amount shall be exclusive of bonds  
53 and notes issued to fund any reserve fund or funds, costs of issuance  
54 and to refund any outstanding bonds and notes, issued on behalf of the  
55 state, relating to a locally sponsored community college.

1 S 40. Section 1680-r of the public authorities law, as added by  
2 section 43 of part I of chapter 55 of the laws of 2014, is amended to  
3 read as follows:

4 S 1680-r. Authorization for the issuance of bonds for the capital  
5 restructuring financing program AND THE HEALTH CARE FACILITY TRANSFORMA-  
6 TION PROGRAM. 1. Notwithstanding the provisions of any other law to the  
7 contrary, the dormitory authority and the urban development corporation  
8 are hereby authorized to issue bonds or notes in one or more series for  
9 the purpose of funding project costs for the capital restructuring  
10 financing program for health care and related facilities licensed pursu-  
11 ant to the public health law or the mental hygiene law and other state  
12 costs associated with such capital projects AND THE HEALTH CARE FACILITY  
13 TRANSFORMATION PROGRAM. The aggregate principal amount of bonds author-  
14 ized to be issued pursuant to this section shall not exceed [one] TWO  
15 billion two hundred million dollars, excluding bonds issued to fund one  
16 or more debt service reserve funds, to pay costs of issuance of such  
17 bonds, and bonds or notes issued to refund or otherwise repay such bonds  
18 or notes previously issued. Such bonds and notes of the dormitory  
19 authority and the urban development corporation shall not be a debt of  
20 the state, and the state shall not be liable thereon, nor shall they be  
21 payable out of any funds other than those appropriated by the state to  
22 the dormitory authority and the urban development corporation for prin-  
23 cipal, interest, and related expenses pursuant to a service contract and  
24 such bonds and notes shall contain on the face thereof a statement to  
25 such effect. Except for purposes of complying with the internal revenue  
26 code, any interest income earned on bond proceeds shall only be used to  
27 pay debt service on such bonds.

28 2. Notwithstanding any other provision of law to the contrary, in  
29 order to assist the dormitory authority and the urban development corpo-  
30 ration in undertaking the financing for project costs for the capital  
31 restructuring financing program for health care and related facilities  
32 licensed pursuant to the public health law or the mental hygiene law and  
33 other state costs associated with such capital projects AND THE HEALTH  
34 CARE FACILITY TRANSFORMATION PROGRAM, the director of the budget is  
35 hereby authorized to enter into one or more service contracts with the  
36 dormitory authority and the urban development corporation, none of which  
37 shall exceed thirty years in duration, upon such terms and conditions as  
38 the director of the budget and the dormitory authority and the urban  
39 development corporation agree, so as to annually provide to the dormito-  
40 ry authority and the urban development corporation, in the aggregate, a  
41 sum not to exceed the principal, interest, and related expenses required  
42 for such bonds and notes. Any service contract entered into pursuant to  
43 this section shall provide that the obligation of the state to pay the  
44 amount therein provided shall not constitute a debt of the state within  
45 the meaning of any constitutional or statutory provision and shall be  
46 deemed executory only to the extent of monies available and that no  
47 liability shall be incurred by the state beyond the monies available for  
48 such purpose, subject to annual appropriation by the legislature. Any  
49 such contract or any payments made or to be made thereunder may be  
50 assigned and pledged by the dormitory authority and the urban develop-  
51 ment corporation as security for its bonds and notes, as authorized by  
52 this section.

53 S 41. Subdivision 1 of section 17 of part D of chapter 389 of the laws  
54 of 1997, relating to the financing of the correctional facilities  
55 improvement fund and the youth facility improvement fund, as amended by

1 section 44 of part I of chapter 55 of the laws of 2014, is amended to  
2 read as follows:

3 1. Subject to the provisions of chapter 59 of the laws of 2000, but  
4 notwithstanding the provisions of section 18 of section 1 of chapter 174  
5 of the laws of 1968, the New York state urban development corporation is  
6 hereby authorized to issue bonds, notes and other obligations in an  
7 aggregate principal amount not to exceed [four] SIX hundred [sixty-five]  
8 ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN thousand dollars  
9 [(\$465,365,000)] (\$611,215,000), which authorization increases the  
10 aggregate principal amount of bonds, notes and other obligations author-  
11 ized by section 40 of chapter 309 of the laws of 1996, and shall include  
12 all bonds, notes and other obligations issued pursuant to chapter 211 of  
13 the laws of 1990, as amended or supplemented. The proceeds of such  
14 bonds, notes or other obligations shall be paid to the state, for depos-  
15 it in the youth facilities improvement fund, to pay for all or any  
16 portion of the amount or amounts paid by the state from appropriations  
17 or reappropriations made to the office of children and family services  
18 from the youth facilities improvement fund for capital projects. The  
19 aggregate amount of bonds, notes and other obligations authorized to be  
20 issued pursuant to this section shall exclude bonds, notes or other  
21 obligations issued to refund or otherwise repay bonds, notes or other  
22 obligations theretofore issued, the proceeds of which were paid to the  
23 state for all or a portion of the amounts expended by the state from  
24 appropriations or reappropriations made to the office of children and  
25 family services; provided, however, that upon any such refunding or  
26 repayment the total aggregate principal amount of outstanding bonds,  
27 notes or other obligations may be greater than [four] SIX hundred  
28 [sixty-five] ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN  
29 thousand dollars [(\$465,365,000)] (\$611,215,000), only if the present  
30 value of the aggregate debt service of the refunding or repayment bonds,  
31 notes or other obligations to be issued shall not exceed the present  
32 value of the aggregate debt service of the bonds, notes or other obli-  
33 gations so to be refunded or repaid. For the purposes hereof, the pres-  
34 ent value of the aggregate debt service of the refunding or repayment  
35 bonds, notes or other obligations and of the aggregate debt service of  
36 the bonds, notes or other obligations so refunded or repaid, shall be  
37 calculated by utilizing the effective interest rate of the refunding or  
38 repayment bonds, notes or other obligations, which shall be that rate  
39 arrived at by doubling the semi-annual interest rate (compounded semi-  
40 annually) necessary to discount the debt service payments on the refund-  
41 ing or repayment bonds, notes or other obligations from the payment  
42 dates thereof to the date of issue of the refunding or repayment bonds,  
43 notes or other obligations and to the price bid including estimated  
44 accrued interest or proceeds received by the corporation including esti-  
45 mated accrued interest from the sale thereof.

46 S 42. Paragraph b of subdivision 2 of section 9-a of section 1 of  
47 chapter 392 of the laws of 1973, constituting the New York state medical  
48 care facilities finance agency act, as amended by section 46 of part I  
49 of chapter 55 of the laws of 2014, is amended to read as follows:

50 b. The agency shall have power and is hereby authorized from time to  
51 time to issue negotiable bonds and notes in conformity with applicable  
52 provisions of the uniform commercial code in such principal amount as,  
53 in the opinion of the agency, shall be necessary, after taking into  
54 account other moneys which may be available for the purpose, to provide  
55 sufficient funds to the facilities development corporation, or any  
56 successor agency, for the financing or refinancing of or for the design,

1 construction, acquisition, reconstruction, rehabilitation or improvement  
2 of mental health services facilities pursuant to paragraph a of this  
3 subdivision, the payment of interest on mental health services improve-  
4 ment bonds and mental health services improvement notes issued for such  
5 purposes, the establishment of reserves to secure such bonds and notes,  
6 the cost or premium of bond insurance or the costs of any financial  
7 mechanisms which may be used to reduce the debt service that would be  
8 payable by the agency on its mental health services facilities improve-  
9 ment bonds and notes and all other expenditures of the agency incident  
10 to and necessary or convenient to providing the facilities development  
11 corporation, or any successor agency, with funds for the financing or  
12 refinancing of or for any such design, construction, acquisition, recon-  
13 struction, rehabilitation or improvement and for the refunding of mental  
14 hygiene improvement bonds issued pursuant to section 47-b of the private  
15 housing finance law; provided, however, that the agency shall not issue  
16 mental health services facilities improvement bonds and mental health  
17 services facilities improvement notes in an aggregate principal amount  
18 exceeding seven billion [four] SEVEN hundred [thirty-five] TWENTY-TWO  
19 million eight hundred fifteen thousand dollars, excluding mental health  
20 services facilities improvement bonds and mental health services facili-  
21 ties improvement notes issued to refund outstanding mental health  
22 services facilities improvement bonds and mental health services facili-  
23 ties improvement notes; provided, however, that upon any such refunding  
24 or repayment of mental health services facilities improvement bonds  
25 and/or mental health services facilities improvement notes the total  
26 aggregate principal amount of outstanding mental health services facili-  
27 ties improvement bonds and mental health facilities improvement notes  
28 may be greater than seven billion [four] SEVEN hundred [thirty-five]  
29 TWENTY-TWO million eight hundred fifteen thousand dollars only if,  
30 except as hereinafter provided with respect to mental health services  
31 facilities bonds and mental health services facilities notes issued to  
32 refund mental hygiene improvement bonds authorized to be issued pursuant  
33 to the provisions of section 47-b of the private housing finance law,  
34 the present value of the aggregate debt service of the refunding or  
35 repayment bonds to be issued shall not exceed the present value of the  
36 aggregate debt service of the bonds to be refunded or repaid. For  
37 purposes hereof, the present values of the aggregate debt service of the  
38 refunding or repayment bonds, notes or other obligations and of the  
39 aggregate debt service of the bonds, notes or other obligations so  
40 refunded or repaid, shall be calculated by utilizing the effective  
41 interest rate of the refunding or repayment bonds, notes or other obli-  
42 gations, which shall be that rate arrived at by doubling the semi-annual  
43 interest rate (compounded semi-annually) necessary to discount the debt  
44 service payments on the refunding or repayment bonds, notes or other  
45 obligations from the payment dates thereof to the date of issue of the  
46 refunding or repayment bonds, notes or other obligations and to the  
47 price bid including estimated accrued interest or proceeds received by  
48 the authority including estimated accrued interest from the sale there-  
49 of. Such bonds, other than bonds issued to refund outstanding bonds,  
50 shall be scheduled to mature over a term not to exceed the average  
51 useful life, as certified by the facilities development corporation, of  
52 the projects for which the bonds are issued, and in any case shall not  
53 exceed thirty years and the maximum maturity of notes or any renewals  
54 thereof shall not exceed five years from the date of the original issue  
55 of such notes. Notwithstanding the provisions of this section, the agen-  
56 cy shall have the power and is hereby authorized to issue mental health

1 services facilities improvement bonds and/or mental health services  
2 facilities improvement notes to refund outstanding mental hygiene  
3 improvement bonds authorized to be issued pursuant to the provisions of  
4 section 47-b of the private housing finance law and the amount of bonds  
5 issued or outstanding for such purposes shall not be included for  
6 purposes of determining the amount of bonds issued pursuant to this  
7 section. The director of the budget shall allocate the aggregate princi-  
8 pal authorized to be issued by the agency among the office of mental  
9 health, office for people with developmental disabilities, and the  
10 office of alcoholism and substance abuse services, in consultation with  
11 their respective commissioners to finance bondable appropriations previ-  
12 ously approved by the legislature.

13 S 43. Paragraph (b) of subdivision 3 of section 1 and clause (B) of  
14 subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of  
15 part D of chapter 63 of the laws of 2005 relating to the composition and  
16 responsibilities of the New York state higher education capital matching  
17 grant board, as amended by section 46-c of part I of chapter 55 of the  
18 laws of 2014, is amended to read as follows:

19 (b) Within amounts appropriated therefor, the board is hereby author-  
20 ized and directed to award matching capital grants totaling [180] 210  
21 million dollars. Each college shall be eligible for a grant award amount  
22 as determined by the calculations pursuant to subdivision five of this  
23 section. In addition, such colleges shall be eligible to compete for  
24 additional funds pursuant to paragraph (h) of subdivision four of this  
25 section.

26 (B) The dormitory authority shall not issue any bonds or notes in an  
27 amount in excess of [180] 210 million dollars for the purposes of this  
28 section; excluding bonds or notes issued to fund one or more debt  
29 service reserve funds, to pay costs of issuance of such bonds, and bonds  
30 or notes issued to refund or otherwise repay such bonds or notes previ-  
31 ously issued. Except for purposes of complying with the internal revenue  
32 code, any interest on bond proceeds shall only be used to pay debt  
33 service on such bonds.

34 S 44. Subdivision 1 of section 49 of section 1 of chapter 174 of the  
35 laws of 1968, constituting the New York state urban development corpo-  
36 ration act, as amended by section 46-a of part I of chapter 55 of the  
37 laws of 2014, is amended to read as follows:

38 1. Notwithstanding the provisions of any other law to the contrary,  
39 the dormitory authority and the corporation are hereby authorized to  
40 issue bonds or notes in one or more series for the purpose of funding  
41 project costs for the state and municipal facilities program and other  
42 state costs associated with such capital projects. The aggregate princi-  
43 pal amount of bonds authorized to be issued pursuant to this section  
44 shall not exceed [seven hundred seventy] ONE BILLION ONE HUNDRED FIFTY-  
45 FIVE million dollars, excluding bonds issued to fund one or more debt  
46 service reserve funds, to pay costs of issuance of such bonds, and bonds  
47 or notes issued to refund or otherwise repay such bonds or notes previ-  
48 ously issued. Such bonds and notes of the dormitory authority and the  
49 corporation shall not be a debt of the state, and the state shall not be  
50 liable thereon, nor shall they be payable out of any funds other than  
51 those appropriated by the state to the dormitory authority and the  
52 corporation for principal, interest, and related expenses pursuant to a  
53 service contract and such bonds and notes shall contain on the face  
54 thereof a statement to such effect. Except for purposes of complying  
55 with the internal revenue code, any interest income earned on bond  
56 proceeds shall only be used to pay debt service on such bonds.

1 S 45. Intentionally omitted.

2 S 46. Subdivision 1 of section 386-a of the public authorities law, as  
3 added by section 46 of part U of chapter 59 of the laws of 2012, is  
4 amended to read as follows:

5 1. Notwithstanding any other provision of law to the contrary, the  
6 authority, the dormitory authority and the urban development corporation  
7 are hereby authorized to issue bonds or notes in one or more series for  
8 the purpose of assisting the metropolitan transportation authority in  
9 the financing of transportation facilities as defined in subdivision  
10 seventeen of section twelve hundred sixty-one of this chapter. The  
11 aggregate principal amount of bonds authorized to be issued pursuant to  
12 this section shall not exceed ONE BILLION [seven] FIVE hundred [seventy]  
13 TWENTY million dollars [(\$770,000,000)] (\$1,520,000,000), excluding  
14 bonds issued to fund one or more debt service reserve funds, to pay  
15 costs of issuance of such bonds, and to refund or otherwise repay such  
16 bonds or notes previously issued. Such bonds and notes of the authority,  
17 the dormitory authority and the urban development corporation shall not  
18 be a debt of the state, and the state shall not be liable thereon, nor  
19 shall they be payable out of any funds other than those appropriated by  
20 the state to the authority, the dormitory authority and the urban devel-  
21 opment corporation for principal, interest, and related expenses pursu-  
22 ant to a service contract and such bonds and notes shall contain on the  
23 face thereof a statement to such effect. Except for purposes of comply-  
24 ing with the internal revenue code, any interest income earned on bond  
25 proceeds shall only be used to pay debt service on such bonds.

26 S 47. This act shall take effect immediately and shall be deemed to  
27 have been in full force and effect on and after April 1, 2015; provided,  
28 however, that the provisions of sections one through eight and sections  
29 thirteen through twenty of this act shall expire March 31, 2016, when  
30 upon such date the provisions of such sections shall be deemed repealed.

31 PART J

32 Section 1. The public health law is amended by adding a new section  
33 2825-a to read as follows:

34 S 2825-A. HEALTH CARE FACILITY TRANSFORMATION PROGRAM: KINGS COUNTY  
35 PROJECT. 1. A KINGS COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM  
36 IS HEREBY ESTABLISHED UNDER THE JOINT ADMINISTRATION OF THE COMMISSIONER  
37 AND THE PRESIDENT OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
38 FOR THE PURPOSE OF STRENGTHENING AND PROTECTING CONTINUED ACCESS TO  
39 HEALTH CARE SERVICES IN COMMUNITIES. THE PROGRAM SHALL PROVIDE CAPITAL  
40 FUNDING IN SUPPORT OF PROJECTS THAT REPLACE INEFFICIENT AND OUTDATED  
41 FACILITIES AS PART OF A MERGER, CONSOLIDATION, ACQUISITION OR OTHER  
42 SIGNIFICANT CORPORATE RESTRUCTURING ACTIVITY INTENDED TO CREATE A FINAN-  
43 CIALLY SUSTAINABLE SYSTEM OF CARE. THE ISSUANCE OF ANY BONDS OR NOTES  
44 HEREUNDER SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DIVI-  
45 SION OF THE BUDGET, AND ANY PROJECTS FUNDED THROUGH THE ISSUANCE OF  
46 BONDS OR NOTES HEREUNDER SHALL BE APPROVED BY THE NEW YORK STATE PUBLIC  
47 AUTHORITIES CONTROL BOARD, AS REQUIRED UNDER SECTION FIFTY-ONE OF THE  
48 PUBLIC AUTHORITIES LAW.

49 2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER  
50 INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET,  
51 AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORI-  
52 TIES LAW, FOR THE PURPOSES OF AWARDING, DISTRIBUTING, AND ADMINISTERING  
53 THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE  
54 DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR



1 CAPITAL GRANTS TO GENERAL HOSPITALS, RESIDENTIAL HEALTH CARE FACILITIES,  
2 DIAGNOSTIC AND TREATMENT CENTERS, PRIMARY CARE PROVIDERS, AND HOME CARE  
3 PROVIDERS, CERTIFIED OR LICENSED PURSUANT TO ARTICLE THIRTY-SIX OF THIS  
4 CHAPTER, FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE  
5 PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY  
6 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE  
7 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE  
8 DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO  
9 THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS  
10 PROGRAM. PROJECTS AWARDED UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE  
11 OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAIL-  
12 ABLE UNDER THIS SECTION.

13 3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE  
14 FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO  
15 SEVEN HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM  
16 SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-  
17 ESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLICANTS")  
18 LOCATED IN THE COUNTY OF KINGS.

19 (A) ELIGIBLE APPLICANTS SHALL SERVE COMMUNITIES WHOSE RESIDENTS ARE  
20 EXPERIENCING SIGNIFICANT LEVELS OF HEALTH CARE DISPARITIES AND HEALTH  
21 CARE NEEDS COMPARED TO OTHER COMMUNITIES WITHIN THE COUNTY OF KINGS AS  
22 EVIDENCED BY:

23 (I) A HIGH NUMBER OF MEDICAID ENROLLEES AND UNINSURED INDIVIDUALS;

24 (II) ELEVATED BLOOD LEAD LEVEL RATES AMONG CHILDREN, HIGH RATES OF  
25 DIABETES, HIGH BLOOD PRESSURE, ASTHMA, OBESITY, INFANT DEATH OR PREMA-  
26 TURE BIRTH, HEART FAILURE, BEHAVIORAL HEALTH CONDITIONS, SUBSTANCE  
27 ABUSE;

28 (III) LOW LEVELS OF INCOME, HIGH RATES OF UNEMPLOYMENT, DISTRESSED  
29 HOUSING CONDITIONS, AND POOR NUTRITIONAL STATUS;

30 (IV) OTHER RISK FACTORS AS DETERMINED BY THE COMMISSIONER AND THE  
31 PRESIDENT OF THE AUTHORITY; AND

32 (B) SUCH ELIGIBLE APPLICANT SHALL:

33 (I) (A) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE  
34 PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

35 (B) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH  
36 OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATE-  
37 MENTS; AND

38 (C) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSEC-  
39 UTIVE PRECEDING YEARS; OR

40 (II) BE DEEMED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY TO  
41 BE A PROVIDER THAT FULFILLS OR WILL FULFILL AN UNMET HEALTH CARE NEED  
42 FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR RESIDENTIAL HEALTH CARE  
43 SERVICES IN A COMMUNITY.

44 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,  
45 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER  
46 CRITERIA INCLUDING, BUT NOT LIMITED TO:

47 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE  
48 TO THE LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF  
49 ESSENTIAL HEALTH SERVICES IN THE COMMUNITY OR COMMUNITIES SERVED BY THE  
50 APPLICANT;

51 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED  
52 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS  
53 AND OBJECTIVES;

54 (C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-  
55 FIED COMMUNITY NEED;

1 (D) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOP-  
2 MENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

3 (E) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID  
4 ENROLLEES AND UNINSURED INDIVIDUALS;

5 (F) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY  
6 AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMU-  
7 NITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

8 (G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTEN-  
9 TIAL RISK TO PATIENT SAFETY AND WELFARE.

10 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE  
11 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND  
12 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER  
13 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL CONFORM TO THE  
14 REPORTING REQUIREMENTS OF SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT  
15 HUNDRED SEVEN OF THIS ARTICLE, AS APPLICABLE.

16 S 2. The public health law is amended by adding a new section 2825-b  
17 to read as follows:

18 S 2825-B. ONEIDA COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM:  
19 ONEIDA COUNTY PROJECT. 1. AN ONEIDA COUNTY HEALTH CARE FACILITY TRANS-  
20 FORMATION PROGRAM IS HEREBY ESTABLISHED UNDER THE JOINT ADMINISTRATION  
21 OF THE COMMISSIONER AND THE PRESIDENT OF THE DORMITORY AUTHORITY OF THE  
22 STATE OF NEW YORK FOR THE PURPOSE OF STRENGTHENING AND PROTECTING  
23 CONTINUED ACCESS TO HEALTH CARE SERVICES IN COMMUNITIES. THE PROGRAM  
24 SHALL PROVIDE CAPITAL FUNDING IN SUPPORT OF PROJECTS LOCATED IN THE  
25 LARGEST POPULATION CENTER IN ONEIDA COUNTY THAT CONSOLIDATE MULTIPLE  
26 LICENSED HEALTH CARE FACILITIES INTO AN INTEGRATED SYSTEM OF CARE. THE  
27 ISSUANCE OF ANY BONDS OR NOTES HEREUNDER SHALL BE SUBJECT TO THE  
28 APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND ANY PROJECTS  
29 FUNDED THROUGH THE ISSUANCE OF BONDS OR NOTES HEREUNDER SHALL BE  
30 APPROVED BY THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, AS  
31 REQUIRED UNDER SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW.

32 2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER  
33 INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET,  
34 AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORI-  
35 TIES LAW, FOR THE PURPOSES OF AWARDING, DISTRIBUTING, AND ADMINISTERING  
36 THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE  
37 DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR  
38 CAPITAL GRANTS TO GENERAL HOSPITALS FOR THE PURPOSES OF CONSOLIDATING  
39 MULTIPLE LICENSED HEALTH CARE FACILITIES INTO AN INTEGRATED SYSTEM OF  
40 CARE FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE  
41 PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY  
42 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE  
43 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE  
44 DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO  
45 THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS  
46 PROGRAM. PROJECTS AWARDED UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE  
47 OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAIL-  
48 ABLE UNDER THIS SECTION.

49 3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE  
50 FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO  
51 THREE HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM  
52 SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-  
53 ESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLICANTS")  
54 LOCATED IN THE COUNTY OF ONEIDA.

1 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,  
2 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER  
3 CRITERIA INCLUDING, BUT NOT LIMITED TO:

4 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE  
5 TO THE INTEGRATION OF HEALTH CARE SERVICES AND LONG TERM SUSTAINABILITY  
6 OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH SERVICES IN THE  
7 COMMUNITY OR COMMUNITIES SERVED BY THE APPLICANT;

8 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED  
9 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS  
10 AND OBJECTIVES;

11 (C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-  
12 FIED COMMUNITY NEED;

13 (D) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOP-  
14 MENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

15 (E) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID  
16 ENROLLEES AND UNINSURED INDIVIDUALS;

17 (F) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY  
18 AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMU-  
19 NITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

20 (G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTEN-  
21 TIAL RISK TO PATIENT SAFETY AND WELFARE.

22 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE  
23 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND  
24 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER  
25 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL CONFORM TO THE  
26 REPORTING REQUIREMENTS OF SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT  
27 HUNDRED SEVEN OF THIS ARTICLE, AS APPLICABLE.

28 S 3. The public health law is amended by adding a new section 2825-c  
29 to read as follows:

30 S 2825-C. ESSENTIAL HEALTH CARE PROVIDER SUPPORT PROGRAM. 1. NOTWITH-  
31 STANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR  
32 ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, WITHIN AMOUNTS APPRO-  
33 PRIATED, FUNDS MAY BE ALLOCATED AND DISTRIBUTED BY THE COMMISSIONER  
34 WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, FOR GRANTS TO  
35 ESSENTIAL HEALTH CARE PROVIDERS TO SUPPORT DEBT RETIREMENT, CAPITAL  
36 PROJECTS OR NON-CAPITAL PROJECTS THAT FACILITATE HEALTH CARE TRANSFORMA-  
37 TION, INCLUDING MERGERS, CONSOLIDATION, AND RESTRUCTURING ACTIVITIES  
38 INTENDED TO CREATE A FINANCIALLY SUSTAINABLE SYSTEM OF CARE. GRANTS  
39 SHALL NOT BE AVAILABLE TO SUPPORT GENERAL OPERATING EXPENSES. FOR  
40 PURPOSES OF THIS SECTION, AN ESSENTIAL HEALTH CARE PROVIDER IS A HOSPI-  
41 TAL OR HOSPITAL SYSTEM THAT, IN THE DISCRETION OF THE COMMISSIONER,  
42 OFFERS HEALTH CARE SERVICES WITHIN A DEFINED GEOGRAPHIC REGION WHERE  
43 SUCH SERVICES WOULD OTHERWISE BE UNAVAILABLE TO THE POPULATION OF SUCH  
44 REGION.

45 2. THE COMMISSIONER SHALL AWARD GRANTS FOR PROJECTS CONSISTENT WITH  
46 THE PURPOSES OF THIS SECTION. ELIGIBLE APPLICANTS SHALL MEET THE FOLLOW-  
47 ING CRITERIA:

48 (A) (I) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE  
49 PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

50 (II) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH  
51 OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATE-  
52 MENTS; AND

53 (III) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSEC-  
54 UTIVE PRECEDING YEARS; OR

55 (B) BE DEEMED BY THE COMMISSIONER TO BE A PROVIDER THAT FULFILLS OR  
56 WILL FULFILL AN UNMET NEED FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR

1 RESIDENTIAL HEALTH CARE SERVICES IN A DEFINED GEOGRAPHIC REGION WHERE  
2 SUCH SERVICES WOULD BE OTHERWISE UNAVAILABLE TO THE POPULATION OF SUCH  
3 REGION.

4 3. SUCH AWARDS SHALL BE DISTRIBUTED PURSUANT TO CRITERIA, INCLUDING  
5 BUT NOT LIMITED TO:

6 (A) THE EXTENT TO WHICH THE PROPOSED PROJECT WILL CONTRIBUTE TO THE  
7 LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF ESSENTIAL  
8 HEALTH CARE SERVICES IN A COMMUNITY;

9 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED  
10 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS  
11 AND OBJECTIVES;

12 (C) CONSIDERATION OF GEOGRAPHIC DISTRIBUTION OF FUNDS;

13 (D) THE RELATIONSHIP BETWEEN THE PROPOSED PROJECT AND AN IDENTIFIED  
14 COMMUNITY NEED;

15 (E) THE EXTENT TO WHICH THE APPLICANT HAS ACCESS TO ALTERNATIVE  
16 FINANCING;

17 (F) THE EXTENT TO WHICH THE PROPOSED PROJECT FURTHERS THE DEVELOPMENT  
18 OF PRIMARY CARE;

19 (G) THE EXTENT TO WHICH THE PROPOSED PROJECT BENEFITS MEDICAID ENROL-  
20 LEES AND UNINSURED INDIVIDUALS;

21 (H) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY  
22 AFFECTED BY THE PROPOSED PROJECT AND THE MANNER IN WHICH THE COMMUNITY  
23 ENGAGEMENT HAS SHAPED SUCH PROJECT; AND

24 (I) THE EXTENT TO WHICH THE PROPOSED PROJECT ADDRESSES POTENTIAL RISK  
25 TO PATIENT SAFETY AND WELFARE.

26 4. DISBURSEMENT OF AWARDS MADE PURSUANT TO THIS SECTION SHALL BE  
27 CONDITIONED ON THE AWARDEE ACHIEVING CERTAIN PROCESS AND PERFORMANCE  
28 METRICS AND MILESTONES AS DETERMINED IN THE SOLE DISCRETION OF THE  
29 COMMISSIONER. SUCH METRICS AND MILESTONES SHALL BE STRUCTURED TO ENSURE  
30 THAT THE HEALTH CARE TRANSFORMATION AND PROVIDER SUSTAINABILITY GOALS OF  
31 THE PROJECT ARE ACHIEVED, AND SUCH METRICS AND MILESTONES SHALL BE  
32 INCLUDED IN GRANT DISBURSEMENT AGREEMENTS OR OTHER CONTRACTUAL DOCUMENTS  
33 AS REQUIRED BY THE COMMISSIONER.

34 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE  
35 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND  
36 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER  
37 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE, FOR  
38 EACH AWARD, THE NAME OF THE APPLICANT, A DESCRIPTION OF THE PROJECT OR  
39 PURPOSE, THE AMOUNT OF THE AWARD, DISBURSEMENT DATE, AND STATUS OF  
40 ACHIEVEMENT OF PROCESS AND PERFORMANCE METRICS AND MILESTONES PURSUANT  
41 TO SUBDIVISION FOUR OF THIS SECTION.

42 S 4. The opening paragraph of subdivision 3 of section 2825 of the  
43 public health law, as added by section 8 of part A of chapter 60 of the  
44 laws of 2014, is amended to read as follows:

45 The commissioner and the president of the authority shall enter into  
46 an agreement, subject to approval by the director of the budget and  
47 subject to section sixteen hundred eighty-r of the public authorities  
48 law, as added by a chapter of the laws of two thousand fourteen, for the  
49 purposes of awarding, distributing, and administering the funds made  
50 available pursuant to this section. TO THE EXTENT PRACTICABLE, FUNDS  
51 SHALL BE AWARDED REGIONALLY IN PROPORTION TO THE APPLICATIONS RECEIVED  
52 FROM THE REQUEST FOR APPLICATION ISSUED BY OR BEFORE MAY FIRST, TWO  
53 THOUSAND FIFTEEN. PROJECTS AWARDED UNDER SECTIONS TWENTY-EIGHT HUNDRED  
54 TWENTY-FIVE-A AND TWENTY-EIGHT HUNDRED TWENTY-FIVE-B OF THIS ARTICLE  
55 SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAILABLE UNDER THIS  
56 SECTION.

1 S 5. The public health law is amended by adding a new section 2815-a  
2 to read as follows:

3 S 2815-A. COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND. 1. DEFI-  
4 NITIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL  
5 HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING IS PLAINLY  
6 REQUIRED BY THE CONTEXT:

7 A. "ADMINISTRATOR" SHALL MEAN A NOT FOR PROFIT COMMUNITY DEVELOPMENT  
8 FINANCIAL INSTITUTION CDFI THAT IS CERTIFIED BY THE U.S. TREASURY COMMU-  
9 NITY DEVELOPMENT FINANCIAL FUND, HAS EXPERIENCE FINANCING PROJECTS IN  
10 THE NEW YORK STATE HEALTHCARE SECTOR AND OTHERWISE MEETS THE REQUIRE-  
11 MENTS OF THIS SECTION.

12 B. "DORMITORY AUTHORITY" OR "AUTHORITY" SHALL MEAN THE DORMITORY  
13 AUTHORITY OF THE STATE OF NEW YORK CREATED BY TITLE FOUR OF ARTICLE  
14 EIGHT OF THE PUBLIC AUTHORITIES LAW WHICH HAS SUCCEEDED TO THE POWERS,  
15 FUNCTIONS AND DUTIES OF THE MEDICAL CARE FACILITIES FINANCE AGENCY  
16 PURSUANT TO CHAPTER EIGHTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINE-  
17 TY-FIVE.

18 C. "PARTICIPATING BORROWER" SHALL MEAN A COMMUNITY-BASED HEALTH CARE  
19 PROVIDER, WHICH FOR THE PURPOSES OF THIS SECTION, SHALL BE DEFINED AS  
20 DIAGNOSTIC AND TREATMENT CENTER LICENSED OR GRANTED AN OPERATING CERTIF-  
21 ICATE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, A MENTAL HEALTH CLINIC  
22 LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-ONE OF  
23 THE MENTAL HEALTH LAW; OR AN ALCOHOL AND SUBSTANCE ABUSE TREATMENT CLIN-  
24 IC LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-TWO  
25 OF THE MENTAL HYGIENE LAW, EACH ORGANIZED UNDER THE LAWS OF THIS STATE.

26 D. "REVOLVING CAPITAL FUND" SHALL MEAN COMMUNITY HEALTH CARE REVOLVING  
27 CAPITAL FUND AUTHORIZED TO BE ESTABLISHED BY THE DORMITORY AUTHORITY AND  
28 ADMINISTERED PURSUANT TO THIS SECTION.

29 2. REVOLVING CAPITAL FUND. THE DORMITORY AUTHORITY SHALL, WITHIN  
30 AMOUNTS APPROPRIATED, ESTABLISH THE COMMUNITY HEALTH CARE REVOLVING  
31 CAPITAL FUND. MONIES IN THE REVOLVING CAPITAL FUND SHALL BE UTILIZED  
32 FOR THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS TO  
33 IMPROVE ACCESS TO AFFORDABLE CAPITAL FINANCING TO EXPAND AND IMPROVE  
34 CAPACITY TO PROVIDE HEALTH CARE IN THE STATE. FUNDS SHALL BE TRANSFERRED  
35 BY THE COMMISSIONER TO THE DORMITORY AUTHORITY FOR DEPOSIT IN THE  
36 REVOLVING CAPITAL FUND IN AN AMOUNT AS AUTHORIZED BY APPROPRIATION.  
37 MONIES IN THE FUND SHALL BE: (A) HELD BY THE AUTHORITY PURSUANT TO THIS  
38 SECTION AS CUSTODIAN PURSUANT TO AN AGREEMENT WITH THE COMMISSIONER  
39 UNTIL TRANSFERRED TO THE ADMINISTRATOR PURSUANT TO THIS SECTION, AND (B)  
40 INVESTED BY THE AUTHORITY IN ACCORDANCE WITH THE INVESTMENT GUIDELINES  
41 OF THE AUTHORITY DURING SAID CUSTODIAL PERIOD. ALL INVESTMENT INCOME  
42 SHALL BE CREDITED TO, AND SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL  
43 FUND.

44 3. ADMINISTRATION AGREEMENT. THE COMMISSIONER AND THE AUTHORITY SHALL  
45 ENTER INTO AN AGREEMENT, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE  
46 BUDGET, FOR THE PURPOSE OF ADMINISTERING THE FUNDS IN THE REVOLVING  
47 CAPITAL FUND THROUGH AN ADMINISTRATOR. A COPY OF SUCH AGREEMENT, AND ANY  
48 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE  
49 COMMITTEE, THE DIRECTOR OF THE DIVISION OF BUDGET, AND THE CHAIR OF THE  
50 ASSEMBLY WAYS AND MEANS COMMITTEE. THE AGREEMENT SHALL SPECIFY THAT THE  
51 ADMINISTRATOR SHALL ADMINISTER THE COMMUNITY HEALTH CARE REVOLVING CAPI-  
52 TAL FUND IN A MANNER THAT WILL BENEFIT THE PUBLIC HEALTH BY ENCOURAGING  
53 IMPROVEMENTS IN THE COMMUNITY HEALTH CARE DELIVERY SYSTEM IN THE STATE,  
54 IN COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER  
55 REQUIREMENTS.

1 4. AGREEMENT WITH THE ADMINISTRATOR. THE DORMITORY AUTHORITY SHALL, IN  
2 CONSULTATION WITH THE COMMISSIONER, ENTER INTO AN AGREEMENT WITH THE  
3 ADMINISTRATOR. SUCH AGREEMENT SHALL PROVIDE FOR THE ADMINISTRATION OF  
4 THE REVOLVING CAPITAL FUND ADMINISTRATOR, IN ACCORDANCE WITH THE  
5 REQUIREMENTS OF THIS SECTION, THE COMMISSIONER AND DORMITORY AUTHORITY  
6 AND ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER REQUIREMENTS. UPON  
7 THE EFFECTIVE DATE OF THE AGREEMENT, CUSTODY OF, AND RESPONSIBILITY FOR,  
8 THE REVOLVING CAPITAL FUND SHALL BE TRANSFERRED FROM THE DORMITORY  
9 AUTHORITY TO THE ADMINISTRATOR, SUBJECT TO THE REQUIREMENTS OF THE  
10 AGREEMENT. SUCH AGREEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE  
11 FOLLOWING PROVISIONS:

12 A. THAT THE ADMINISTRATOR SHALL BE RESPONSIBLE FOR THE RECEIPT,  
13 MANAGEMENT AND EXPENDITURE OF MONIES HELD IN THE REVOLVING CAPITAL FUND;

14 B. THAT THE ADMINISTRATOR SHALL MAINTAIN BOOKS AND RECORDS PERTAINING  
15 TO ALL MONIES RECEIVED AND DISBURSED PURSUANT TO THIS SECTION AND THE  
16 AGREEMENT;

17 C. THAT MONIES IN SUCH REVOLVING CAPITAL FUND SHALL BE UTILIZED FOR  
18 THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS, TO  
19 PROVIDE PARTICIPATING BORROWERS WITH IMPROVED ACCESS TO AFFORDABLE CAPI-  
20 TAL TO EXPAND AND IMPROVE PREVENTIVE OR PRIMARY CARE CAPACITY;

21 D. THAT PARTICIPATING BORROWERS SHALL BE CHOSEN BY THE ADMINISTRATOR  
22 THROUGH AN APPLICATION PROCESS APPROVED BY THE AUTHORITY AND THE COMMIS-  
23 SIONER;

24 E. THAT ELIGIBLE USES OF FUNDS SO LOANED TO PARTICIPATING BORROWERS  
25 SHALL INCLUDE BUT NOT BE LIMITED TO: (I) ELIGIBLE COSTS AS DESCRIBED IN  
26 PARAGRAPH (F) OF THIS SUBDIVISION, ATTRIBUTABLE TO THE PROPOSED  
27 CONSTRUCTION, RECONSTRUCTION, RENOVATION, REHABILITATION, REFURBISHING,  
28 EXPANSION, UPGRADING AND EQUIPPING OF A PARTICIPATING BORROWER'S COMMU-  
29 NITY-BASED HEALTH CARE FACILITY; (II) RESERVES FOR CREDIT ENHANCEMENT  
30 INCLUDING LOAN GUARANTEES; (III) LOAN LOSS AND DEBT SERVICE RESERVES AND  
31 SUBORDINATED LOANS; AND (IV) FACILITY FINANCING, INCLUDING LOANS FOR  
32 PREDEVELOPMENT, ACQUISITION AND CONSTRUCTION, PERMANENT FINANCING AND  
33 BRIDGE LOANS;

34 F. THAT ELIGIBLE COSTS UNDER THIS SECTION SHALL INCLUDE, BUT NOT BE  
35 LIMITED TO, ALL HARD CONSTRUCTION COSTS AND ASSOCIATED PROFESSIONAL AND  
36 OTHER COSTS, FURNITURE, FIXTURES AND EQUIPMENT, INCLUDING HEALTH INFOR-  
37 MATION TECHNOLOGY, ACQUISITION, PREDEVELOPMENT DUE DILIGENCE, INITIAL  
38 OPERATING EXPENSES AND WORKING CAPITAL;

39 G. THAT THE ADMINISTRATOR ADMINISTERING THE REVOLVING CAPITAL FUND  
40 SHALL REPORT QUARTERLY ON THE TRANSACTIONS IN THE REVOLVING CAPITAL FUND  
41 IN A FORM AND MANNER SPECIFIED BY THE AUTHORITY IN CONSULTATION WITH THE  
42 COMMISSIONER, INCLUDING BUT NOT LIMITED TO: RECEIPTS OR DEPOSITS TO THE  
43 FUND, DISBURSEMENTS, LOANS OR CREDIT ENHANCEMENT MADE FROM THE FUND,  
44 INVESTMENT INCOME, AND THE BALANCE ON HAND AS OF THE END OF THE MONTH  
45 FOR EACH SUCH QUARTER;

46 H. THAT THE ADMINISTRATOR SHALL BE REQUIRED TO INVEST MONIES ON DEPOS-  
47 IT IN THE FUND IN ACCORDANCE WITH INVESTMENT GUIDELINES MEETING THE  
48 REQUIREMENTS OF THE DEPARTMENT AND DORMITORY AUTHORITY, AND ALL INVEST-  
49 MENT INCOME SHALL BE CREDITED TO, AND ANY REPAYMENT OF LOANS AS HEREIN-  
50 AFTER PROVIDED SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL FUND, AND  
51 SPENT THEREFROM ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION;

52 I. THAT ONLY THE REASONABLE EXPENSES OF THE ADMINISTRATOR, AS DETER-  
53 MINED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY, INCURRED IN  
54 THE ESTABLISHMENT AND ADMINISTRATION OF THE REVOLVING CAPITAL LOAN  
55 PROGRAM (INCLUDING THE RETENTION OF PROFESSIONALS AND CONSULTANTS, IF  
56 ANY) MAY BE PAID OR REIMBURSED FROM THE REVOLVING CAPITAL FUND;

1 J. THAT REVOLVING CAPITAL FUND MONIES SHALL BE HELD IN TRUST AND USED  
2 FOR THE BENEFIT OF ELIGIBLE COMMUNITY-BASED HEALTH CARE FACILITY CAPITAL  
3 PROJECTS; AND

4 K. ANY OTHER TERM OR CONDITION AS DETERMINED BY THE AUTHORITY, IN  
5 CONSULTATION WITH THE COMMISSIONER.

6 5. LOAN DOCUMENTATION. LOANS FROM THE REVOLVING CAPITAL FUND SHALL BE  
7 MADE PURSUANT TO A WRITTEN LOAN AGREEMENT BETWEEN THE ADMINISTRATOR AND  
8 THE PARTICIPATING BORROWER, SPECIFYING THE TERMS THEREOF INCLUDING  
9 REPAYMENT TERMS. THE LOAN AGREEMENT SHALL BE IN SUCH FORM AND CONTENT AS  
10 SHALL BE ACCEPTABLE TO THE COMMISSIONER AND DORMITORY AUTHORITY, AND MAY  
11 INCLUDE SUCH OTHER ANY FURTHER WRITTEN DOCUMENTATION AND/OR AGREEMENTS  
12 AS SHALL BE REQUIRED IN THE JUDGMENT OF THE COMMISSIONER AND DORMITORY  
13 AUTHORITY, INCLUDING BUT NOT LIMITED TO ALL REQUIRED FILINGS UNDER THE  
14 UNIFORM COMMERCIAL CODE.

15 S 6. Section 2826 of the public health law is amended by adding a new  
16 subdivision (g) to read as follows:

17 (G) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, AND WITHIN  
18 AMOUNTS APPROPRIATED FOR SUCH PURPOSES AS DESCRIBED HEREIN, FOR THE  
19 PERIOD OF APRIL FIRST, TWO THOUSAND FIFTEEN THROUGH MARCH THIRTY-FIRST,  
20 TWO THOUSAND SIXTEEN, THE COMMISSIONER MAY AWARD A TEMPORARY ADJUSTMENT  
21 TO THE NON-CAPITAL COMPONENTS OF RATES, OR MAKE TEMPORARY LUMP-SUM MEDI-  
22 CAID PAYMENTS TO ELIGIBLE GENERAL HOSPITALS IN SEVERE FINANCIAL DISTRESS  
23 TO ENABLE SUCH FACILITIES TO MAINTAIN OPERATIONS AND VITAL SERVICES  
24 WHILE SUCH FACILITIES ESTABLISH LONG TERM SOLUTIONS TO ACHIEVE SUSTAINA-  
25 BLE HEALTH SERVICES.

26 (I) ELIGIBLE GENERAL HOSPITALS SHALL INCLUDE:

27 (A) A PUBLIC HOSPITAL, WHICH FOR PURPOSES OF THIS SUBDIVISION, SHALL  
28 MEAN A GENERAL HOSPITAL OPERATED BY A COUNTY OR MUNICIPALITY, BUT SHALL  
29 EXCLUDE ANY SUCH HOSPITAL OPERATED BY A PUBLIC BENEFIT CORPORATION;

30 (B) A FEDERALLY DESIGNATED CRITICAL ACCESS HOSPITAL;

31 (C) A FEDERALLY DESIGNATED SOLE COMMUNITY HOSPITAL; OR

32 (D) A GENERAL HOSPITAL THAT IS A SAFETY NET HOSPITAL, WHICH FOR  
33 PURPOSES OF THIS SUBDIVISION SHALL MEAN:

34 (1) SUCH HOSPITAL HAS AT LEAST THIRTY PERCENT OF ITS INPATIENT  
35 DISCHARGES MADE UP OF MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVID-  
36 UALS OR MEDICAID DUALY ELIGIBLE INDIVIDUALS AND WITH AT LEAST  
37 THIRTY-FIVE PERCENT OF ITS OUTPATIENT VISITS MADE UP OF MEDICAID ELIGI-  
38 BLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALY-ELIGIBLE INDI-  
39 VIDUALS; OR

40 (2) SUCH HOSPITAL SERVES AT LEAST THIRTY PERCENT OF THE RESIDENTS OF A  
41 COUNTY OR A MULTI-COUNTY AREA WHO ARE MEDICAID ELIGIBLE INDIVIDUALS,  
42 UNINSURED INDIVIDUALS OR MEDICAID DUALY-ELIGIBLE INDIVIDUALS.

43 (II) ELIGIBLE APPLICANTS MUST DEMONSTRATE THAT WITHOUT SUCH AWARD,  
44 THEY WILL BE IN SEVERE FINANCIAL DISTRESS THROUGH MARCH THIRTY-FIRST,  
45 TWO THOUSAND SIXTEEN, AS EVIDENCED BY:

46 (A) CERTIFICATION THAT SUCH APPLICANT HAS LESS THAN FIFTEEN DAYS CASH  
47 AND EQUIVALENTS;

48 (B) SUCH APPLICANT HAS NO ASSETS THAT CAN BE MONETIZED OTHER THAN  
49 THOSE VITAL TO OPERATIONS; AND

50 (C) SUCH APPLICANT HAS EXHAUSTED ALL EFFORTS TO OBTAIN RESOURCES FROM  
51 CORPORATE PARENTS AND AFFILIATED ENTITIES TO SUSTAIN OPERATIONS.

52 (III) AWARDS UNDER THIS SUBDIVISION SHALL BE MADE UPON APPLICATION TO  
53 THE DEPARTMENT.

54 (A) APPLICATIONS UNDER THIS SUBDIVISION SHALL INCLUDE A MULTI-YEAR  
55 TRANSFORMATION PLAN THAT IS ALIGNED WITH THE DELIVERY SYSTEM REFORM  
56 INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES. SUCH PLAN

1 SHALL BE APPROVED BY THE DEPARTMENT AND SHALL DEMONSTRATE A PATH TOWARDS  
2 LONG TERM SUSTAINABILITY AND IMPROVED PATIENT CARE.

3 (B) THE DEPARTMENT MAY AUTHORIZE INITIAL AWARD PAYMENTS TO ELIGIBLE  
4 APPLICANTS BASED SOLELY ON THE CRITERIA PURSUANT TO PARAGRAPHS (I) AND  
5 (II) OF THIS SUBDIVISION.

6 (C) NOTWITHSTANDING SUBPARAGRAPH (B) OF THIS PARAGRAPH, THE DEPARTMENT  
7 MAY SUSPEND OR REPEAL AN AWARD IF AN ELIGIBLE APPLICANT FAILS TO SUBMIT  
8 A MULTI-YEAR TRANSFORMATION PLAN PURSUANT TO SUBPARAGRAPH (A) OF THIS  
9 PARAGRAPH THAT IS ACCEPTABLE TO THE DEPARTMENT BY NO LATER THAN THE  
10 THIRTIETH DAY OF SEPTEMBER TWO THOUSAND FIFTEEN.

11 (D) APPLICANTS UNDER THIS SUBDIVISION SHALL DETAIL THE EXTENT TO WHICH  
12 THE AFFECTED COMMUNITY HAS BEEN ENGAGED AND CONSULTED ON POTENTIAL  
13 PROJECTS OF SUCH APPLICATION, AS WELL AS ANY OUTREACH TO STAKEHOLDERS  
14 AND HEALTH PLANS.

15 (E) THE DEPARTMENT SHALL REVIEW ALL APPLICATIONS UNDER THIS SUBDIVI-  
16 SION, AND A DETERMINE:

17 (1) APPLICANT ELIGIBILITY;

18 (2) EACH APPLICANT'S PROJECTED FINANCIAL STATUS;

19 (3) EACH APPLICANT'S PROPOSED USE OF FUNDS TO MAINTAIN CRITICAL  
20 SERVICES NEEDED BY ITS COMMUNITY; AND

21 (4) THE ANTICIPATED IMPACT OF THE LOSS OF SUCH SERVICES.

22 (F) AFTER REVIEW OF ALL APPLICATIONS UNDER THIS SUBDIVISION, AND A  
23 DETERMINATION OF THE AGGREGATE AMOUNT OF REQUESTED FUNDS, THE DEPARTMENT  
24 SHALL MAKE AWARDS TO ELIGIBLE APPLICANTS; PROVIDED, HOWEVER, THAT SUCH  
25 AWARDS MAY BE IN AN AMOUNT LOWER THAN SUCH REQUESTED FUNDING, ON A PER  
26 APPLICANT OR AGGREGATE BASIS.

27 (IV) AWARDS UNDER THIS SUBDIVISION MAY NOT BE USED FOR:

28 (A) CAPITAL EXPENDITURES, INCLUDING, BUT NOT LIMITED TO: CONSTRUCTION,  
29 RENOVATION AND ACQUISITION OF CAPITAL EQUIPMENT, INCLUDING MAJOR MEDICAL  
30 EQUIPMENT;

31 (B) CONSULTANT FEES;

32 (C) RETIREMENT OF LONG TERM DEBT; OR

33 (D) BANKRUPTCY-RELATED COSTS.

34 (V) PAYMENTS MADE TO AWARDEES PURSUANT TO THIS SUBDIVISION SHALL BE  
35 MADE ON A MONTHLY BASIS. SUCH PAYMENTS WILL BE BASED ON THE APPLICANT'S  
36 ACTUAL MONTHLY FINANCIAL PERFORMANCE DURING SUCH PERIOD AND THE REASON-  
37 ABLE CASH AMOUNT NECESSARY TO SUSTAIN OPERATIONS FOR THE FOLLOWING  
38 MONTH. THE APPLICANT'S MONTHLY FINANCIAL PERFORMANCE SHALL BE MEASURED  
39 BY SUCH APPLICANT'S MONTHLY FINANCIAL AND ACTIVITY REPORTS, WHICH SHALL  
40 INCLUDE, BUT NOT BE LIMITED TO, ACTUAL REVENUE AND EXPENSES FOR THE  
41 PRIOR MONTH, PROJECTED CASH NEED FOR THE CURRENT MONTH, AND PROJECTED  
42 CASH NEED FOR THE FOLLOWING MONTH.

43 (VI) THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE  
44 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND  
45 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER  
46 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE FOR  
47 EACH AWARD, THE NAME OF THE APPLICANT, THE AMOUNT OF THE AWARD, PAYMENTS  
48 TO DATE, AND A DESCRIPTION OF THE STATUS OF THE MULTI-YEAR TRANSFORMA-  
49 TION PLAN PURSUANT TO PARAGRAPH (III) OF THIS SUBDIVISION.

50 S 7. This act shall take effect immediately.

51 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
52 sion, section or part of this act shall be adjudged by any court of  
53 competent jurisdiction to be invalid, such judgment shall not affect,  
54 impair, or invalidate the remainder thereof, but shall be confined in  
55 its operation to the clause, sentence, paragraph, subdivision, section  
56 or part thereof directly involved in the controversy in which such judg-



1 ment shall have been rendered. It is hereby declared to be the intent of  
2 the legislature that this act would have been enacted even if such  
3 invalid provisions had not been included herein.

4 S 3. This act shall take effect immediately provided, however, that  
5 the applicable effective date of Parts A through J of this act shall be  
6 as specifically set forth in the last section of such Parts.