

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Ways and Means

AN ACT to enact the "emergency municipal services act"; to amend the tax law, in relation to enacting the municipal service support and enhancement tax

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "emergency municipal services act".

3 S 2. The tax law is amended by adding a new article 16 to read as
4 follows:

5 ARTICLE 16

6 MUNICIPAL SERVICE SUPPORT AND ENHANCEMENT TAX

7 SECTION 350. DEFINITIONS.

8 351. PERSONS SUBJECT TO TAX; IMPOSITION OF TAX.

9 352. ALLOCATION TO THE LARGE CITY.

10 353. ACCOUNTING PERIODS AND METHODS.

11 354. WITHHOLDING OF TAX ON WAGES.

12 355. INFORMATION STATEMENT FOR EMPLOYEE.

13 356. CREDIT FOR TAX WITHHELD.

14 357. EMPLOYER'S RETURN AND PAYMENT OF WITHHELD TAXES.

15 358. EMPLOYER'S LIABILITY FOR WITHHELD TAXES.

16 359. EMPLOYER'S FAILURE TO WITHHOLD.

17 360. RETURNS AND PAYMENT OF TAX.

18 361. COMBINED RETURNS, EMPLOYER'S RETURNS, AND PAYMENTS.

19 362. EFFECT OF INVALIDITY IN PART; INCONSISTENCIES WITH OTHER
20 LAWS.

21 363. DEPOSIT AND DISPOSITION OF REVENUES.

22 S 350. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
23 MEAN AND INCLUDE:

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

LBD01767-01-9

1 (A) "ADMINISTRATOR" SHALL MEAN THE COMMISSIONER OF TAXATION AND
2 FINANCE.

3 (B) "LARGE CITY" SHALL MEAN ANY CITY HAVING A POPULATION OF ONE
4 MILLION OR MORE.

5 (C) "PAYROLL PERIOD" AND "EMPLOYER" SHALL MEAN THE SAME AS PAYROLL
6 PERIOD AND EMPLOYER AS DEFINED IN SUBSECTIONS (B) AND (D) OF SECTION
7 THIRTY-FOUR HUNDRED ONE OF THE INTERNAL REVENUE CODE, AND "EMPLOYEE"
8 SHALL ALSO INCLUDE ALL THOSE INCLUDED AS EMPLOYEES IN SUBSECTION (C) OF
9 SUCH SECTION OF SUCH CODE.

10 (D) "WAGES" SHALL MEAN WAGES AS DEFINED IN SUBSECTION (A) OF SECTION
11 THIRTY-FOUR HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT (1)
12 WAGES SHALL NOT INCLUDE PAYMENTS FOR ACTIVE SERVICE AS A MEMBER OF THE
13 ARMED FORCES OF THE UNITED STATES; AND (2) WAGES SHALL INCLUDE (A) THE
14 AMOUNT OF MEMBER OR EMPLOYEE CONTRIBUTIONS TO A RETIREMENT SYSTEM OR
15 PENSION FUND PICKED UP BY THE EMPLOYER PURSUANT TO SUBDIVISION F OF
16 SECTION FIVE HUNDRED SEVENTEEN OR SUBDIVISION D OF SECTION SIX HUNDRED
17 THIRTEEN OF THE RETIREMENT AND SOCIAL SECURITY LAW OR SECTION 13-225.1,
18 13-327.1, 13-125.1, 13-125.2 OR 13-521.1 OF THE ADMINISTRATIVE CODE OF
19 THE CITY OF NEW YORK OR SUBDIVISION NINETEEN OF SECTION TWENTY-FIVE
20 HUNDRED SEVENTY-FIVE OF THE EDUCATION LAW, (B) THE AMOUNT DEDUCTED OR
21 DEFERRED FROM AN EMPLOYEE'S SALARY UNDER A FLEXIBLE BENEFITS PROGRAM
22 ESTABLISHED PURSUANT TO SECTION TWENTY-THREE OF THE GENERAL MUNICIPAL
23 LAW OR SECTION TWELVE HUNDRED TEN-A OF THE PUBLIC AUTHORITIES LAW, (C)
24 THE AMOUNT BY WHICH AN EMPLOYEE'S SALARY IS REDUCED PURSUANT TO THE
25 PROVISIONS OF SUBDIVISION B OF SECTION 12-126.1 AND SUBDIVISION B OF
26 SECTION 12-126.2 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, AND
27 (D) THE AMOUNT OF MEMBER OR EMPLOYEE CONTRIBUTIONS TO A RETIREMENT
28 SYSTEM OR PENSION FUND PICKED UP OR PAID BY THE EMPLOYER FOR MEMBERS OF
29 THE MANHATTAN AND BRONX SURFACE TRANSPORTATION AUTHORITY PENSION PLAN
30 AND TREATED AS EMPLOYER CONTRIBUTIONS IN DETERMINING INCOME TAX TREAT-
31 MENT UNDER SECTION 414(H) OF THE INTERNAL REVENUE CODE.

32 (E) "NET EARNINGS FROM SELF-EMPLOYMENT" SHALL MEAN THE SAME AS NET
33 EARNINGS FROM SELF-EMPLOYMENT AS DEFINED IN SUBSECTION (A) OF SECTION
34 FOURTEEN HUNDRED TWO OF THE INTERNAL REVENUE CODE, EXCEPT THAT THE
35 DEDUCTION FOR WAGES AND SALARIES PAID OR INCURRED FOR THE TAXABLE YEAR
36 WHICH IS NOT ALLOWED PURSUANT TO SECTION TWO HUNDRED EIGHTY-C OF SUCH
37 CODE SHALL BE ALLOWED, AND EXCEPT THAT AN ESTATE OR TRUST SHALL BE
38 DEEMED TO HAVE NET EARNINGS FROM SELF-EMPLOYMENT DETERMINED IN THE SAME
39 MANNER AS IF IT WERE AN INDIVIDUAL SUBJECT TO THE TAX ON SELF-EMPLOYMENT
40 INCOME IMPOSED BY SECTION FOURTEEN HUNDRED ONE OF THE INTERNAL REVENUE
41 CODE DIMINISHED BY (1) THE AMOUNT OF ANY DEDUCTION ALLOWED BY SUBSECTION
42 (C) OF SECTION SIX HUNDRED FORTY-TWO OF THE INTERNAL REVENUE CODE AND
43 (2) THE DEDUCTIONS ALLOWED BY SECTIONS SIX HUNDRED FIFTY-ONE AND SIX
44 HUNDRED SIXTY-ONE OF SUCH CODE TO THE EXTENT THAT THEY REPRESENT
45 DISTRIBUTIONS OR PAYMENTS TO A RESIDENT OF THE LARGE CITY. HOWEVER,
46 "TRADE OR BUSINESS" AS USED IN SUBSECTION (A) OF SECTION FOURTEEN
47 HUNDRED TWO OF SUCH CODE SHALL MEAN THE SAME AS TRADE OR BUSINESS AS
48 DEFINED IN SUBSECTION (C) OF SECTION FOURTEEN HUNDRED TWO OF SUCH CODE,
49 EXCEPT THAT PARAGRAPHS (4), (5) AND (6) OF SUCH SUBSECTION SHALL NOT
50 APPLY IN DETERMINING NET EARNINGS FROM SELF-EMPLOYMENT TAXABLE UNDER
51 THIS ARTICLE.

52 (F) "TAXABLE YEAR" SHALL MEAN THE TAXPAYER'S TAXABLE YEAR FOR FEDERAL
53 INCOME TAX PURPOSES.

54 (G) "RESIDENT INDIVIDUAL". A RESIDENT INDIVIDUAL SHALL MEAN AN INDI-
55 VIDUAL:

1 (1) WHO IS DOMICILED IN THE LARGE CITY, UNLESS (A) HE OR SHE MAINTAINS
2 NO PERMANENT PLACE OF ABODE IN THE LARGE CITY, MAINTAINS A PERMANENT
3 PLACE OF ABODE ELSEWHERE, AND SPENDS IN THE AGGREGATE NOT MORE THAN
4 THIRTY DAYS OF THE TAXABLE YEAR IN THE LARGE CITY, OR (B) (I) WITHIN ANY
5 PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS HE OR SHE IS PRESENT
6 IN A FOREIGN COUNTRY OR COUNTRIES FOR AT LEAST FOUR HUNDRED FIFTY DAYS,
7 AND (II) DURING SUCH PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS
8 HE OR SHE IS NOT PRESENT IN THE LARGE CITY FOR MORE THAN NINETY DAYS AND
9 DOES NOT MAINTAIN A PERMANENT PLACE OF ABODE IN THE LARGE CITY AT WHICH
10 HIS OR HER SPOUSE (UNLESS SUCH SPOUSE IS LEGALLY SEPARATED) OR MINOR
11 CHILDREN ARE PRESENT FOR MORE THAN NINETY DAYS, AND (III) DURING ANY
12 PERIOD OF LESS THAN TWELVE MONTHS, WHICH WOULD BE TREATED AS A SEPARATE
13 TAXABLE PERIOD BASED ON A CHANGE OF RESIDENT STATUS, AND WHICH PERIOD IS
14 CONTAINED WITHIN SUCH PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE
15 DAYS, HE OR SHE IS PRESENT IN THE LARGE CITY FOR A NUMBER OF DAYS WHICH
16 DOES NOT EXCEED AN AMOUNT WHICH BEARS THE SAME RATIO TO NINETY AS THE
17 NUMBER OF DAYS CONTAINED IN SUCH PERIOD OF LESS THAN TWELVE MONTHS BEARS
18 TO FIVE HUNDRED FORTY-EIGHT, OR

19 (2) WHO IS NOT DOMICILED IN THE LARGE CITY BUT MAINTAINS A PERMANENT
20 PLACE OF ABODE IN THE LARGE CITY AND SPENDS IN THE AGGREGATE MORE THAN
21 ONE HUNDRED EIGHTY-THREE DAYS OF THE TAXABLE YEAR IN THE LARGE CITY,
22 UNLESS SUCH INDIVIDUAL IS IN ACTIVE SERVICE IN THE ARMED FORCES OF THE
23 UNITED STATES.

24 (H) "NONRESIDENT INDIVIDUAL". A NONRESIDENT INDIVIDUAL SHALL MEAN AN
25 INDIVIDUAL WHO IS NOT A RESIDENT.

26 (I) "RESIDENT ESTATE OR TRUST". A RESIDENT ESTATE OR TRUST SHALL MEAN:

27 (1) THE ESTATE OF A DECEDENT WHO AT HIS DEATH WAS DOMICILED IN THE
28 LARGE CITY,

29 (2) A TRUST, OR A PORTION OF TRUST, CONSISTING OF PROPERTY TRANSFERRED
30 BY WILL OF A DECEDENT WHO AT HIS DEATH WAS DOMICILED IN THE LARGE CITY,
31 OR

32 (3) A TRUST, OR PORTION OF A TRUST, CONSISTING OF THE PROPERTY OF: (A)
33 A PERSON DOMICILED IN THE LARGE CITY AT THE TIME SUCH PROPERTY WAS
34 TRANSFERRED TO THE TRUST, IF SUCH TRUST OR PORTION OF A TRUST WAS THEN
35 IRREVOCABLE, OR IF IT WAS THEN REVOCABLE AND HAS NOT SUBSEQUENTLY BECOME
36 IRREVOCABLE; OR

37 (B) A PERSON DOMICILED IN THE LARGE CITY AT THE TIME SUCH TRUST, OR
38 PORTION OF A TRUST, BECAME IRREVOCABLE, IF IT WAS REVOCABLE WHEN SUCH
39 PROPERTY WAS TRANSFERRED TO THE TRUST BUT HAS SUBSEQUENTLY BECOME IRREV-
40 OCABLE. FOR THE PURPOSES OF THE FOREGOING, A TRUST OR PORTION OF A TRUST
41 IS REVOCABLE IF IT IS SUBJECT TO A POWER, EXERCISABLE IMMEDIATELY OR AT
42 ANY FUTURE TIME, TO REVEST TITLE IN THE PERSON WHOSE PROPERTY CONSTI-
43 TUTES SUCH TRUST OR PORTION OF A TRUST, AND A TRUST OR PORTION OF A
44 TRUST BECOMES IRREVOCABLE WHEN THE POSSIBILITY THAT SUCH POWER MAY BE
45 EXERCISED HAS BEEN TERMINATED.

46 (J) "NONRESIDENT ESTATE OR TRUST". A NONRESIDENT ESTATE OR TRUST SHALL
47 MEAN AN ESTATE OR TRUST WHICH IS NOT A RESIDENT.

48 (K) UNLESS A DIFFERENT MEANING IS CLEARLY REQUIRED, ANY TERM USED IN
49 THIS ARTICLE SHALL HAVE THE SAME MEANING AS WHEN USED IN A COMPARABLE
50 CONTEXT IN THE LAWS OF THE UNITED STATES RELATING TO FEDERAL TAXES BUT
51 SUCH MEANING SHALL BE SUBJECT TO THE EXCEPTIONS OR MODIFICATIONS
52 PRESCRIBED IN OR PURSUANT TO FORMER ARTICLE TWO-E OF THE GENERAL CITY
53 LAW AS SUCH ARTICLE PROVIDED IMMEDIATELY PRIOR TO ITS REPEAL OR BY THE
54 LAWS OF THIS STATE. ANY REFERENCE IN THIS ARTICLE TO THE INTERNAL REVEN-
55 UE CODE, THE INTERNAL REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX OR TO
56 THE LAWS OF THE UNITED STATES SHALL MEAN THE PROVISIONS OF THE INTERNAL

1 REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX (UNLESS A REFERENCE TO THE
2 INTERNAL REVENUE CODE OF NINETEEN HUNDRED FIFTY-FOUR IS CLEARLY
3 INTENDED), AND AMENDMENTS THERETO, AND OTHER PROVISIONS OF THE LAWS OF
4 THE UNITED STATES RELATING TO FEDERAL TAXES, AS THE SAME ARE INCLUDED IN
5 THIS ARTICLE AS AN APPENDIX AND SUPPLEMENT TO THE APPENDIX OR AS
6 INCLUDED BY REFERENCE TO AN APPENDIX AND SUPPLEMENT TO THE APPENDIX OF A
7 TITLE ENACTED BY THE SAME ARTICLE AS ENACTS THIS ARTICLE. (THE QUOTATION
8 OF THE AFORESAID LAWS OF THE UNITED STATES IS INTENDED TO MAKE THEM A
9 PART OF THIS ARTICLE AND TO AVOID CONSTITUTIONAL UNCERTAINTIES WHICH
10 MIGHT RESULT IF SUCH LAWS WERE MERELY INCORPORATED BY REFERENCE. THE
11 QUOTATION OF A PROVISION OF THE FEDERAL INTERNAL REVENUE CODE OR OF ANY
12 OTHER LAW OF THE UNITED STATES SHALL NOT NECESSARILY MEAN THAT IT IS
13 APPLICABLE TO OR HAS RELEVANCE TO THIS ARTICLE.)

14 (1) THE TERM "PARTNERSHIP" SHALL INCLUDE, UNLESS A DIFFERENT MEANING
15 IS CLEARLY REQUIRED, A SUBCHAPTER K LIMITED LIABILITY COMPANY. THE TERM
16 "SUBCHAPTER K LIMITED LIABILITY COMPANY" SHALL MEAN A LIMITED LIABILITY
17 COMPANY CLASSIFIED AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES. THE
18 TERM "LIMITED LIABILITY COMPANY" SHALL MEAN A DOMESTIC LIMITED LIABILITY
19 COMPANY OR A FOREIGN LIMITED LIABILITY COMPANY, AS DEFINED IN SECTION
20 ONE HUNDRED TWO OF THE LIMITED LIABILITY COMPANY LAW, A LIMITED LIABIL-
21 ITY INVESTMENT COMPANY FORMED PURSUANT TO SECTION FIVE HUNDRED SEVEN OF
22 THE BANKING LAW, OR A LIMITED LIABILITY TRUST COMPANY FORMED PURSUANT TO
23 SECTION ONE HUNDRED TWO-A OF THE BANKING LAW.

24 (M) THE TERM "LARGE CITY INCOME" SHALL MEAN THE SUM OF WAGES EARNED
25 WITHIN A LARGE CITY PLUS NET EARNINGS FROM SELF-EMPLOYMENT WITHIN THE
26 LARGE CITY.

27 S 351. PERSONS SUBJECT TO TAX; IMPOSITION OF TAX. A TAX IS HEREBY
28 IMPOSED ON THE LARGE CITY INCOME OF EVERY RESIDENT AND NONRESIDENT INDI-
29 VIDUAL, ESTATE, AND TRUST DURING THE PERIOD OF JANUARY FIRST, TWO THOU-
30 SAND NINE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE. SUCH TAX
31 SHALL BE IMPOSED AT THE RATE OF ONE AND ONE-FOURTH PERCENT OF LARGE CITY
32 INCOME IN EXCESS OF FIFTY THOUSAND DOLLARS.

33 S 352. ALLOCATION TO THE LARGE CITY. (A) GENERAL. IF NET EARNINGS FROM
34 SELF-EMPLOYMENT ARE DERIVED FROM SERVICES PERFORMED, OR FROM SOURCES,
35 WITHIN AND WITHOUT THE LARGE CITY, THERE SHALL BE ALLOCATED TO THE LARGE
36 CITY A FAIR AND EQUITABLE PORTION OF SUCH EARNINGS.

37 (B) ALLOCATION OF NET EARNINGS FROM SELF-EMPLOYMENT. (1) PLACE OF
38 BUSINESS. IF A TAXPAYER HAS NO REGULAR PLACE OF BUSINESS OUTSIDE THE
39 LARGE CITY, ALL OF HIS OR HER NET EARNINGS FROM SELF-EMPLOYMENT SHALL BE
40 ALLOCATED TO THE LARGE CITY.

41 (2) ALLOCATION BY TAXPAYER'S BOOKS. THE PORTION OF NET EARNINGS FROM
42 SELF-EMPLOYMENT ALLOCABLE TO THE LARGE CITY MAY BE DETERMINED FROM THE
43 BOOKS AND RECORDS OF A TAXPAYER'S TRADE OR BUSINESS, IF THE METHODS USED
44 IN KEEPING SUCH BOOKS AND THE ACCURACY THEREOF ARE APPROVED BY THE
45 ADMINISTRATOR AS FAIRLY AND EQUITABLY REFLECTING NET EARNINGS FROM
46 SELF-EMPLOYMENT WITHIN THE LARGE CITY.

47 (3) ALLOCATION BY FORMULA. IF PARAGRAPH TWO OF THIS SUBDIVISION DOES
48 NOT APPLY TO THE TAXPAYER, THE PORTION OF NET EARNINGS FROM SELF-EMPLOY-
49 MENT ALLOCABLE TO THE LARGE CITY SHALL BE DETERMINED BY MULTIPLYING (A)
50 NET EARNINGS FROM SELF-EMPLOYMENT WITHIN AND WITHOUT THE LARGE CITY, BY
51 (B) THE AVERAGE OF THE FOLLOWING THREE PERCENTAGES:

52 (I) PROPERTY PERCENTAGE. THE PERCENTAGE COMPUTED BY DIVIDING (A) THE
53 AVERAGE OF THE VALUE, AT THE BEGINNING AND END OF THE TAXABLE YEAR, OF
54 REAL AND TANGIBLE PERSONAL PROPERTY CONNECTED WITH THE NET EARNINGS FROM
55 SELF-EMPLOYMENT AND LOCATED WITHIN THE LARGE CITY, BY (B) THE AVERAGE OF
56 THE VALUE, AT THE BEGINNING AND END OF THE TAXABLE YEAR, OF ALL REAL AND

1 TANGIBLE PERSONAL PROPERTY CONNECTED WITH THE NET EARNINGS FROM SELF-EM-
2 PLOYMENT AND LOCATED BOTH WITHIN AND WITHOUT THE LARGE CITY. FOR THIS
3 PURPOSE, REAL PROPERTY SHALL INCLUDE REAL PROPERTY, WHETHER OWNED OR
4 RENTED.

5 (II) PAYROLL PERCENTAGE. THE PERCENTAGE COMPUTED BY DIVIDING (A) THE
6 TOTAL WAGES, SALARIES, AND OTHER PERSONAL SERVICE COMPENSATION PAID OR
7 INCURRED DURING THE TAXABLE YEAR TO EMPLOYEES IN CONNECTION WITH THE NET
8 EARNINGS FROM SELF-EMPLOYMENT DERIVED FROM A TRADE OR BUSINESS CARRIED
9 ON WITHIN THE LARGE CITY, BY (B) THE TOTAL OF ALL WAGES, SALARIES, AND
10 OTHER PERSONAL SERVICE COMPENSATION PAID OR INCURRED DURING THE TAXABLE
11 YEAR TO EMPLOYEES IN CONNECTION WITH THE NET EARNINGS FROM SELF-EMPLOY-
12 MENT DERIVED FROM A TRADE OR BUSINESS CARRIED ON BOTH WITHIN AND WITHOUT
13 THE LARGE CITY.

14 (III) GROSS INCOME PERCENTAGE. THE PERCENTAGE COMPUTED BY DIVIDING (A)
15 THE GROSS SALES OR CHARGES FOR SERVICES PERFORMED BY OR THROUGH AN AGEN-
16 CY LOCATED WITHIN THE LARGE CITY, BY (B) THE TOTAL OF ALL GROSS SALES OR
17 CHARGES FOR SERVICES PERFORMED WITHIN AND WITHOUT THE LARGE CITY. THE
18 SALES OR CHARGES TO BE ALLOCATED TO THE LARGE CITY SHALL INCLUDE ALL
19 SALES NEGOTIATED OR CONSUMMATED, AND CHARGES FOR SERVICES PERFORMED, BY
20 AN EMPLOYEE, AGENT, AGENCY, OR INDEPENDENT CONTRACTOR CHIEFLY SITUATED
21 AT, CONNECTED BY CONTRACT OR OTHERWISE WITH, OR SENT OUT FROM, OFFICES
22 OR OTHER AGENCIES OF THE TRADE OR BUSINESS FROM WHICH A TAXPAYER IS
23 DERIVING NET EARNINGS FROM SELF-EMPLOYMENT, SITUATED WITHIN THE LARGE
24 CITY.

25 (C) OTHER ALLOCATION METHODS. THE PORTION OF NET EARNINGS FROM
26 SELF-EMPLOYMENT ALLOCABLE TO THE LARGE CITY SHALL BE DETERMINED IN
27 ACCORDANCE WITH RULES AND REGULATIONS OF THE ADMINISTRATOR IF IT SHALL
28 APPEAR TO THE ADMINISTRATOR THAT THE NET EARNINGS FROM SELF-EMPLOYMENT
29 ARE NOT FAIRLY AND EQUITABLY REFLECTED UNDER THE PROVISIONS OF SUBDIVI-
30 SION (B) OF THIS SECTION.

31 (D) SPECIAL RULES FOR REAL ESTATE. INCOME AND DEDUCTIONS FROM THE
32 RENTAL OF REAL PROPERTY AND GAIN AND LOSS FROM THE SALE, EXCHANGE, OR
33 OTHER DISPOSITION OF REAL PROPERTY SHALL NOT BE SUBJECT TO ALLOCATION
34 UNDER SUBDIVISION (B) OR (C) OF THIS SECTION, BUT SHALL BE CONSIDERED AS
35 ENTIRELY DERIVED FROM OR CONNECTED WITH THE PLACE IN WHICH SUCH PROPERTY
36 IS LOCATED.

37 S 353. ACCOUNTING PERIODS AND METHODS. (A) ACCOUNTING PERIODS. A
38 TAXPAYER'S TAXABLE YEAR UNDER THIS ARTICLE SHALL BE THE SAME AS HIS OR
39 HER TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES.

40 (B) CHANGE OF ACCOUNTING PERIODS. IF A TAXPAYER'S TAXABLE YEAR IS
41 CHANGED FOR FEDERAL INCOME TAX PURPOSES, HIS OR HER TAXABLE YEAR FOR
42 PURPOSES OF THIS ARTICLE SHALL BE SIMILARLY CHANGED. IF A TAXABLE PERIOD
43 OF LESS THAN TWELVE MONTHS RESULTS FROM A CHANGE OF TAXABLE YEAR, THE
44 EXCLUSION ALLOWABLE UNDER SECTION TWO OR TWO-A OF FORMER SECTION TWEN-
45 TY-FIVE-M OF THE GENERAL CITY LAW SHALL BE PRORATED UNDER REGULATIONS OF
46 THE ADMINISTRATOR.

47 (C) ACCOUNTING METHODS. A TAXPAYER'S METHOD OF ACCOUNTING UNDER THIS
48 ARTICLE SHALL BE THE SAME AS HIS OR HER METHOD OF ACCOUNTING FOR FEDERAL
49 INCOME TAX PURPOSES. IN THE ABSENCE OF ANY METHOD OF ACCOUNTING FOR
50 FEDERAL INCOME TAX PURPOSES, NET EARNINGS FROM SELF-EMPLOYMENT WITHIN
51 THE LARGE CITY SHALL BE COMPUTED UNDER SUCH METHOD AS IN THE OPINION OF
52 THE ADMINISTRATOR CLEARLY REFLECTS NET EARNINGS FROM SELF-EMPLOYMENT
53 WITHIN THE LARGE CITY.

54 (D) CHANGE OF ACCOUNTING METHODS. (1) IF A TAXPAYER'S METHOD OF
55 ACCOUNTING IS CHANGED FOR FEDERAL INCOME TAX PURPOSES, HIS OR HER METHOD
56 OF ACCOUNTING FOR PURPOSES OF THIS ARTICLE SHALL BE SIMILARLY CHANGED.

1 (2) IF A TAXPAYER'S METHOD OF ACCOUNTING IS CHANGED, OTHER THAN FROM
2 AN ACCRUAL TO AN INSTALLMENT METHOD, ANY ADDITIONAL TAX WHICH RESULTS
3 FROM ADJUSTMENTS DETERMINED TO BE NECESSARY SOLELY BY REASON OF THE
4 CHANGE SHALL NOT BE GREATER THAN IF SUCH ADJUSTMENTS WERE RATABLY ALLO-
5 CATED AND INCLUDED FOR THE TAXABLE YEAR OF THE CHANGE AND THE PRECEDING
6 TAXABLE YEARS, BEGINNING AFTER JULY FIRST, NINETEEN HUNDRED SIXTY-SIX,
7 NOT IN EXCESS OF TWO, DURING WHICH THE TAXPAYER USED THE METHOD OF
8 ACCOUNTING FROM WHICH THE CHANGE IS MADE.

9 (3) IF A TAXPAYER'S METHOD OF ACCOUNTING IS CHANGED FROM AN ACCRUAL TO
10 AN INSTALLMENT METHOD, ANY ADDITIONAL TAX FOR THE YEAR OF SUCH CHANGE OF
11 METHOD AND FOR ANY SUBSEQUENT YEAR WHICH IS ATTRIBUTABLE TO THE RECEIPT
12 OF INSTALLMENT PAYMENTS PROPERLY ACCRUED IN A PRIOR YEAR, SHALL BE
13 REDUCED BY THE PORTION OF TAX FOR ANY PRIOR TAXABLE YEAR ATTRIBUTABLE TO
14 THE ACCRUAL OF SUCH INSTALLMENT PAYMENTS, IN ACCORDANCE WITH REGULATIONS
15 OF THE ADMINISTRATOR.

16 S 354. WITHHOLDING OF TAX ON WAGES. ON OR AFTER THE FIRST PAYROLL
17 PERIOD BEGINNING FORTY-FIVE DAYS AFTER THE DATE THIS ARTICLE BECOMES
18 EFFECTIVE, EVERY EMPLOYER MAINTAINING AN OFFICE OR TRANSACTING BUSINESS
19 WITHIN THIS STATE AND MAKING PAYMENT OF ANY WAGES TAXABLE UNDER THIS
20 ARTICLE SHALL DEDUCT AND WITHHOLD FROM SUCH WAGES FOR EACH PAYROLL PERI-
21 OD A TAX COMPUTED IN SUCH MANNER AS TO RESULT, SO FAR AS PRACTICABLE, IN
22 WITHHOLDING FROM THE EMPLOYEE'S WAGES DURING EACH CALENDAR YEAR AN
23 AMOUNT SUBSTANTIALLY EQUIVALENT TO THE TAX REASONABLY ESTIMATED TO BE
24 DUE FROM THE EMPLOYEE UNDER THIS ARTICLE. THE METHOD OF DETERMINING THE
25 AMOUNT TO BE WITHHELD SHALL BE PRESCRIBED BY REGULATIONS OF THE ADMINIS-
26 TRATOR.

27 S 355. INFORMATION STATEMENT FOR EMPLOYEE. EVERY EMPLOYER REQUIRED TO
28 DEDUCT AND WITHHOLD TAX UNDER THIS ARTICLE FROM THE WAGES OF AN EMPLOY-
29 EE, SHALL FURNISH TO EACH SUCH EMPLOYEE IN RESPECT OF THE WAGES PAID BY
30 SUCH EMPLOYER TO SUCH EMPLOYEE DURING THE CALENDAR YEAR ON OR BEFORE
31 FEBRUARY FIFTEENTH OF THE SUCCEEDING YEAR, OR, IF HIS OR HER EMPLOYMENT
32 IS TERMINATED BEFORE THE CLOSE OF SUCH CALENDAR YEAR, WITHIN THIRTY DAYS
33 FROM THE DATE ON WHICH THE LAST PAYMENT OF THE WAGES IS MADE, A WRITTEN
34 STATEMENT AS PRESCRIBED BY THE ADMINISTRATOR SHOWING THE TOTAL AMOUNT OF
35 WAGES PAID BY THE EMPLOYER TO THE EMPLOYEE, THE AMOUNT OF WAGES PAID FOR
36 SERVICES PERFORMED WITHIN THE LARGE CITY, THE AMOUNT DEDUCTED AND WITH-
37 HELD AS TAX, AND SUCH OTHER INFORMATION AS THE ADMINISTRATOR MAY
38 PRESCRIBE.

39 S 356. CREDIT FOR TAX WITHHELD. WAGES UPON WHICH TAX IS REQUIRED TO BE
40 WITHHELD SHALL BE TAXABLE UNDER THIS ARTICLE AS IF NO WITHHOLDING WERE
41 REQUIRED, BUT ANY AMOUNT OF TAX ACTUALLY DEDUCTED AND WITHHELD UNDER
42 THIS ARTICLE IN ANY CALENDAR YEAR SHALL BE DEEMED TO HAVE BEEN PAID ON
43 BEHALF OF THE EMPLOYEE FROM WHOM WITHHELD, AND SUCH EMPLOYEE SHALL BE
44 CREDITED WITH HAVING PAID THAT AMOUNT OF TAX IN SUCH CALENDAR YEAR. FOR
45 A TAXABLE YEAR OF LESS THAN TWELVE MONTHS, THE CREDIT SHALL BE MADE
46 UNDER REGULATIONS OF THE ADMINISTRATOR.

47 S 357. EMPLOYER'S RETURN AND PAYMENT OF WITHHELD TAXES. (A) GENERAL.
48 ON OR AFTER THE FIRST PAYROLL PERIOD BEGINNING FORTY-FIVE DAYS AFTER THE
49 EFFECTIVE DATE OF THIS ARTICLE, EVERY EMPLOYER REQUIRED TO DEDUCT AND
50 WITHHOLD TAX UNDER THIS ARTICLE SHALL, FOR EACH CALENDAR MONTH, ON OR
51 BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE CLOSE OF SUCH CALEN-
52 DAR MONTH, FILE A WITHHOLDING RETURN AS PRESCRIBED BY THE ADMINISTRATOR
53 AND PAY OVER TO THE ADMINISTRATOR, OR TO THE DEPOSITORY DESIGNATED BY
54 THE ADMINISTRATOR, THE TAXES SO REQUIRED TO BE DEDUCTED AND WITHHELD,
55 EXCEPT THAT FOR THE MONTH OF DECEMBER IN ANY YEAR THE RETURNS SHALL BE
56 FILED AND THE TAXES PAID ON OR BEFORE JANUARY THIRTY-FIRST OF THE

1 SUCCEEDING YEAR. WHERE THE AMOUNT REQUIRED TO BE DEDUCTED AND WITHHELD
2 BY ANY EMPLOYER UNDER THIS ARTICLE IS LESS THAN TWENTY-FIVE DOLLARS IN A
3 CALENDAR MONTH AND THE AGGREGATE OF SUCH TAXES FOR THE SEMI-ANNUAL PERI-
4 OD ENDING ON JUNE THIRTIETH AND DECEMBER THIRTY-FIRST CAN REASONABLY BE
5 EXPECTED TO BE LESS THAN ONE HUNDRED FIFTY DOLLARS, THE ADMINISTRATOR
6 MAY, BY REGULATION, PERMIT AN EMPLOYER TO FILE A RETURN ON OR BEFORE
7 JULY THIRTY-FIRST FOR THE SEMI-ANNUAL PERIOD ENDING ON JUNE THIRTIETH
8 AND ON OR BEFORE JANUARY THIRTY-FIRST FOR THE SEMI-ANNUAL PERIOD ENDING
9 ON DECEMBER THIRTY-FIRST. THE ADMINISTRATOR MAY, IF HE OR SHE BELIEVES
10 SUCH ACTION NECESSARY FOR THE PROTECTION OF THE REVENUES, REQUIRE ANY
11 EMPLOYER TO MAKE A RETURN AND PAY THE TAX DEDUCTED AND WITHHELD AT ANY
12 TIME, OR FROM TIME TO TIME. WHERE THE AMOUNT OF WAGES PAID BY AN EMPLOY-
13 ER IS NOT SUFFICIENT UNDER THIS ARTICLE AND UNDER ANY ARTICLE IMPOSING A
14 TAX ON PERSONAL INCOME OF RESIDENTS OF THE CITY ADOPTED BY THE CITY
15 PURSUANT TO AUTHORITY GRANTED BY THE GENERAL CITY LAW TO REQUIRE THE
16 WITHHOLDING OF TAX FROM THE WAGES OF ANY OF HIS OR HER EMPLOYEES, THE
17 ADMINISTRATOR MAY, BY REGULATION, PERMIT SUCH EMPLOYER TO FILE AN ANNUAL
18 RETURN ON OR BEFORE FEBRUARY TWENTY-EIGHTH OF THE FOLLOWING CALENDAR
19 YEAR.

20 (B) COMBINED RETURNS. THE ADMINISTRATOR MAY BY REGULATION PROVIDE FOR
21 THE FILING OF ONE RETURN WHICH SHALL INCLUDE THE RETURN REQUIRED TO BE
22 FILED UNDER THIS SECTION, TOGETHER WITH THE EMPLOYER'S RETURN REQUIRED
23 TO BE FILED UNDER ANY ARTICLE IMPOSING A TAX ON PERSONAL INCOME OF RESI-
24 DENTS OF THE CITY ADOPTED BY THE CITY PURSUANT TO AUTHORITY GRANTED BY
25 THE GENERAL CITY LAW.

26 S 358. EMPLOYER'S LIABILITY FOR WITHHELD TAXES. EVERY EMPLOYER
27 REQUIRED TO DEDUCT AND WITHHOLD THE TAX UNDER THIS ARTICLE IS HEREBY
28 MADE LIABLE FOR SUCH TAX. FOR PURPOSES OF ASSESSMENT AND COLLECTION, ANY
29 AMOUNT REQUIRED TO BE WITHHELD AND PAID OVER TO THE ADMINISTRATOR, AND
30 ANY ADDITIONS TO TAX, PENALTIES, AND INTEREST WITH RESPECT THERETO SHALL
31 BE CONSIDERED THE TAX OF THE EMPLOYER. NO EMPLOYEE SHALL HAVE ANY RIGHT
32 OF ACTION AGAINST HIS OR HER EMPLOYER IN RESPECT TO ANY MONIES DEDUCTED
33 AND WITHHELD FROM HIS OR HER WAGES AND PAID OVER TO THE ADMINISTRATOR IN
34 COMPLIANCE OR IN INTENDED COMPLIANCE WITH THIS LAW.

35 S 359. EMPLOYER'S FAILURE TO WITHHOLD. IF AN EMPLOYER FAILS TO DEDUCT
36 AND WITHHOLD THE TAX AS REQUIRED, AND THEREAFTER THE TAX AGAINST WHICH
37 SUCH TAX MAY BE CREDITED IS PAID, THE TAX SO REQUIRED TO BE DEDUCTED AND
38 WITHHELD SHALL NOT BE COLLECTED FROM THE EMPLOYER, BUT THE EMPLOYER
39 SHALL NOT BE RELIEVED FROM LIABILITY FOR ANY PENALTIES, INTEREST, OR
40 ADDITIONS TO THE TAX OTHERWISE APPLICABLE IN RESPECT OF SUCH FAILURE TO
41 DEDUCT AND WITHHOLD.

42 S 360. RETURNS AND PAYMENT OF TAX. ON OR BEFORE THE FIFTEENTH DAY OF
43 THE FOURTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR, EVERY PERSON
44 SUBJECT TO THE TAX SHALL MAKE AND FILE A RETURN, AND ANY BALANCE OF THE
45 TAX SHOWN DUE ON THE FACE OF SUCH RETURN SHALL BE PAID THEREWITH. THE
46 ADMINISTRATOR MAY, BY REGULATION, PROVIDE FOR THE FILING OF RETURNS AND
47 PAYMENT OF THE TAX AT SUCH OTHER TIMES AS HE OR SHE DEEMS NECESSARY FOR
48 THE PROPER ENFORCEMENT OF THIS ARTICLE. THE ADMINISTRATOR MAY ALSO
49 PROVIDE BY REGULATION THAT ANY RETURN OTHERWISE REQUIRED TO BE MADE AND
50 FILED UNDER THIS ARTICLE BY ANY INDIVIDUAL NEED NOT BE MADE AND FILED IF
51 SUCH INDIVIDUAL HAD, DURING THE TAXABLE YEAR TO WHICH THE RETURN WOULD
52 RELATE, NO NET EARNINGS FROM SELF-EMPLOYMENT WITHIN THE CITY. ANY REGU-
53 LATION ALLOWING SUCH WAIVER OF RETURN MAY PROVIDE FOR ADDITIONAL LIMITA-
54 TIONS ON AND CONDITIONS AND PREREQUISITES TO THE PRIVILEGE OF NOT FILING
55 A RETURN.

1 S 361. COMBINED RETURNS, EMPLOYER'S RETURNS, AND PAYMENTS. THE ADMIN-
2 ISTRATOR MAY REQUIRE:

3 (A) THE FILING OF ANY OR ALL OF THE FOLLOWING:

4 (1) A COMBINED RETURN WHICH IN ADDITION TO THE RETURN PROVIDED FOR IN
5 THIS ARTICLE MAY ALSO INCLUDE RETURNS REQUIRED TO BE FILED UNDER AN
6 ARTICLE AUTHORIZED BY ARTICLE THIRTY OF THIS CHAPTER AND UNDER ARTICLE
7 TWENTY-TWO OF THIS CHAPTER.

8 (2) A COMBINED EMPLOYER'S RETURN WHICH IN ADDITION TO THE EMPLOYER'S
9 RETURN PROVIDED FOR IN AN ARTICLE AUTHORIZED BY THIS ARTICLE MAY ALSO
10 INCLUDE EMPLOYER'S RETURNS REQUIRED TO BE FILED UNDER AN ARTICLE AUTHOR-
11 IZED BY ARTICLE THIRTY OF THIS CHAPTER AND UNDER ARTICLE TWENTY-TWO OF
12 THIS CHAPTER.

13 (B) WHERE A COMBINED RETURN OR EMPLOYER'S RETURN IS REQUIRED, AND WITH
14 RESPECT TO THE PAYMENT OF ESTIMATED TAX, THE ADMINISTRATOR MAY ALSO
15 REQUIRE PAYMENT OF A SINGLE AMOUNT WHICH SHALL BE THE TOTAL OF THE
16 AMOUNTS (TOTAL TAXES LESS ANY CREDITS OR REFUNDS) REQUIRED TO BE PAID
17 WITH THE RETURNS OR EMPLOYER'S RETURNS OR IN PAYMENT OF ESTIMATED TAX
18 PURSUANT TO THE PROVISIONS OF THIS ARTICLE, ARTICLE THIRTY OF THIS CHAP-
19 TER, AND PURSUANT TO THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAP-
20 TER.

21 S 362. EFFECT OF INVALIDITY IN PART; INCONSISTENCIES WITH OTHER LAWS.

22 (A) IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION, PROVISION,
23 OR OTHER PORTION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY
24 PERSON OR CIRCUMSTANCES SHALL BE HELD TO BE INVALID, SUCH HOLDING SHALL
25 NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER OF THIS ARTICLE OR THE
26 APPLICATION OF SUCH PORTION HELD INVALID, TO ANY OTHER PERSON OR CIRCUM-
27 STANCES, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE,
28 PARAGRAPH, SUBDIVISION, SECTION, PROVISION, OR OTHER PORTION THEREOF
29 DIRECTLY INVOLVED IN SUCH HOLDING OR TO THE PERSON AND CIRCUMSTANCES
30 THEREIN INVOLVED.

31 (B) IF ANY PROVISION OF THIS ARTICLE IS INCONSISTENT WITH, IN CONFLICT
32 WITH, OR CONTRARY TO ANY OTHER PROVISION OF LAW, SUCH PROVISION OF THIS
33 ARTICLE SHALL PREVAIL OVER SUCH OTHER PROVISION AND SUCH OTHER PROVISION
34 SHALL BE DEEMED TO HAVE BEEN AMENDED, SUPERSEDED, OR REPEALED TO THE
35 EXTENT OF SUCH INCONSISTENCY, CONFLICT, OR CONTRARIETY.

36 S 363. DEPOSIT AND DISPOSITION OF REVENUES. REVENUES RESULTING FROM
37 THE IMPOSITION OF THE TAX AUTHORIZED BY THIS ARTICLE SHALL BE PAID INTO
38 THE TREASURY OF THE LARGE CITY AND SHALL BE CREDITED TO AND DEPOSITED IN
39 THE GENERAL FUND OF SUCH CITY AND SHALL BE AVAILABLE SPECIFICALLY FOR
40 LAW ENFORCEMENT, PUBLIC PROTECTION, PUBLIC SAFETY, AND TRANSPORTATION
41 EXPENDITURES BY SUCH LARGE CITY; PROVIDED THAT THE FIRST ONE BILLION
42 DOLLARS OF REVENUE RECEIVED FOR ANY TAXABLE YEAR SHALL BE PAID TO THE
43 METROPOLITAN TRANSPORTATION AUTHORITY, CREATED BY SECTION TWELVE HUNDRED
44 SIXTY-THREE OF THE PUBLIC AUTHORITIES LAW, FOR ITS LAWFUL PURPOSES.

45 S 3. This act shall take effect immediately and shall be deemed to
46 have been in full force and effect on and after the first of January in
47 the year in which this act shall have become a law.