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

8867

2009-2010 Regular Sessions

I N A S S E M B L Y

June 11, 2009

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

AN ACT to amend the administrative code of the city of New York, the business corporation law and the not-for-profit corporation law, in relation to bringing certain city tax laws into closer conformity with certain state tax laws; and to repeal certain provisions of the administrative code of the city of New York relating thereto

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

Section 1. Clause (A) of subparagraph 8 of paragraph (a) of subdivision 3 of section 11-604 of the administrative code of the city of New York, as added by chapter 625 of the laws of 1996, is amended to read as follows:

(A) For taxable years beginning on or after July first, nineteen hundred ninety-six AND BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN, a manufacturing corporation may elect to determine its business allocation percentage by adding together the percentages determined under subparagraphs one, two and three of this paragraph and an additional percentage equal to the percentage determined under subparagraph two of this paragraph, and dividing the result by the number of percentages so added together.

S 2. Paragraph (a) of subdivision 3 of section 11-604 of the administrative code of the city of New York is amended by adding a new subparagraph 10 to read as follows:

(10) NOTWITHSTANDING SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, BUT SUBJECT TO SUBPARAGRAPH EIGHT OF THIS PARAGRAPH, THE BUSINESS ALLOCATION PERCENTAGE, TO THE EXTENT THAT IT IS COMPUTED BY REFERENCE TO THE PERCENTAGES DETERMINED UNDER SUBPARAGRAPHS ONE, TWO AND THREE OF THIS PARAGRAPH, SHALL BE COMPUTED IN THE MANNER SET FORTH IN THIS SUBPARAGRAPH.

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

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(A) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF THIRTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF FORTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF THIRTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(B) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TWENTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF FORTY-SIX PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF TWENTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(C) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND ELEVEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TWENTY-THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF FIFTY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF TWENTY-THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(D) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWELVE, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF SIXTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(E) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND THIRTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF SIXTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF SIXTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF SIXTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(F) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FOURTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF THIRTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF SEVENTY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF THIRTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(G) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

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

(H) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF EIGHTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

(III) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(I) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH,

(II) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, AND

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

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

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

S 3. Paragraph 1 of subdivision (g) of section 11-508 of the administrative code of the city of New York, as added by chapter 625 of the laws of 1996, is amended to read as follows:

(1) For taxable years beginning on or after July first, nineteen hundred ninety-six AND BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN, a manufacturing business may elect to determine its business allocation percentage by adding together the percentages determined under paragraphs one, two and three of subdivision (c) of this section and an additional percentage equal to the percentage determined under paragraph three of subdivision (c) of this section, and dividing the result by the number of percentages so added together.

S 4. Section 11-508 of the administrative code of the city of New York is amended by adding a new subdivision (i) to read as follows:

(I) NOTWITHSTANDING SUBDIVISION (C) OF THIS SECTION, BUT SUBJECT TO SUBDIVISION (G) OF THIS SECTION, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE COMPUTED IN THE MANNER SET FORTH IN THIS SUBDIVISION.

(1) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF THIRTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF THIRTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF FORTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(2) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF TWENTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF TWENTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF FORTY-SIX PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(3) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND ELEVEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF TWENTY-THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF TWENTY-THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF FIFTY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(4) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWELVE, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF SIXTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(5) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND THIRTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF SIXTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF SIXTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF SIXTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(6) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FOURTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF THIRTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF THIRTEEN AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF SEVENTY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(7) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(8) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF EIGHTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(9) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (C) OF THIS SECTION,

(B) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (C) OF THIS SECTION, AND

(C) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(10) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND SEVENTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION.

(11) THE COMMISSIONER SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION UNDER SUCH CIRCUMSTANCES WHERE ANY OF THE PERCENTAGES TO BE DETERMINED UNDER PARAGRAPH ONE, TWO OR THREE OF SUBDIVISION (C) OF THIS SECTION CANNOT BE DETERMINED BECAUSE THE TAXPAYER HAS NO PROPERTY, PAYROLL OR GROSS RECEIPTS FROM SALES OR SERVICES WITHIN OR WITHOUT THE CITY.

S 5. Subdivision (b) of section 11-642 of the administrative code of the city of New York is amended by adding a new paragraph 1-a to read as follows:

(1-A) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS SUBDIVISION, EACH BANKING CORPORATION DESCRIBED IN PARAGRAPH NINE OF SUBDIVISION (A) OF SECTION 11-640 OF THIS PART SUBJECT TO THE TAX IMPOSED BY THIS PART THAT SUBSTANTIALLY PROVIDES MANAGEMENT, ADMINISTRATIVE OR DISTRIBUTION SERVICES TO AN INVESTMENT COMPANY, AS SUCH TERMS ARE DEFINED IN SUBPARAGRAPH (G) OF PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, SHALL DETERMINE THE PORTION OF ITS ENTIRE NET INCOME DERIVED FROM BUSINESS CARRIED ON WITHIN THE CITY BY MULTIPLYING SUCH INCOME BY AN INCOME ALLOCATION PERCENTAGE OBTAINED AS FOLLOWS:

(A) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND NINE, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF EIGHTEEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF FORTY-SIX PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF THIRTY-SIX PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(B) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF SIXTEEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF FIFTY-TWO PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF THIRTY-TWO PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(C) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND ELEVEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF FOURTEEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF FIFTY-EIGHT PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF TWENTY-EIGHT PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(D) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND TWELVE, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TWELVE PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF SIXTY-FOUR PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF TWENTY-FOUR PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(E) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND THIRTEEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF SEVENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF TWENTY PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(F) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FOURTEEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF EIGHT PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF SEVENTY-SIX PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF SIXTEEN PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(G) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF SIX PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF EIGHTY-TWO PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF TWELVE PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(H) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF FOUR PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF EIGHTY-EIGHT PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF EIGHT PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(I) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(I) THE PRODUCT OF TWO PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH ONE OF SUBDIVISION (A) OF THIS SECTION,

(II) THE PRODUCT OF NINETY-FOUR PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, AND

(III) THE PRODUCT OF FOUR PERCENT AND THE PERCENTAGE DETERMINED UNDER PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION.

(J) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND SEVENTEEN, THE INCOME ALLOCATION PERCENTAGE SHALL BE THE PERCENTAGE DETERMINED UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION.

(K) THE COMMISSIONER SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS PARAGRAPH UNDER SUCH CIRCUMSTANCES WHERE ANY OF THE PERCENTAGES TO BE DETERMINED UNDER PARAGRAPH ONE, TWO OR THREE OF SUBDIVISION (A) OF THIS SECTION CANNOT BE DETERMINED BECAUSE THE TAXPAYER HAS NO COMPENSATION, RECEIPTS OR DEPOSITS WITHIN OR WITHOUT THE CITY.

S 6. Subdivision 9 of section 11-601 of the administrative code of the city of New York, as renumbered by chapter 808 of the laws of 1992, is renumbered subdivision 14 and four new subdivisions 10, 11, 12 and 13 are added to read as follows:

10. "REIT" MEANS A REAL ESTATE INVESTMENT TRUST AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE.

11. "RIC" MEANS A REGULATED INVESTMENT COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE.

12. "CAPTIVE REIT" MEANS A REIT (A) THAT IS NOT REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET, AND (B) MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF WHICH IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE CORPORATION THAT IS NOT EXEMPT FROM FEDERAL INCOME TAX AND IS NOT A REIT. ANY VOTING STOCK IN A REIT THAT IS HELD IN A SEGREGATED ASSET ACCOUNT OF A LIFE INSURANCE CORPORATION (AS DESCRIBED IN SECTION EIGHT HUNDRED SEVENTEEN OF THE INTERNAL REVENUE CODE) SHALL NOT BE TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER A REIT IS A CAPTIVE REIT.

13. "CAPTIVE RIC" MEANS A RIC (A) THAT IS NOT REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET, AND (B) MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF WHICH IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE CORPORATION THAT IS NOT EXEMPT FROM FEDERAL INCOME TAX AND IS NOT A RIC. ANY VOTING STOCK IN A RIC THAT IS HELD IN A SEGREGATED ASSET ACCOUNT OF A LIFE INSURANCE CORPORATION (AS DESCRIBED IN SECTION EIGHT HUNDRED SEVENTEEN OF THE INTERNAL REVENUE CODE) SHALL NOT BE TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER A RIC IS A CAPTIVE RIC.

S 7. Paragraph (a) of subdivision 4 of section 11-603 of the administrative code of the city of New York, as amended by section 3 of part C of chapter 93 of the laws of 2002, is amended to read as follows:

(a) Corporations subject to tax under subchapter three of this chapter or under chapter eleven of this title, any trust company organized under a law of this state all of the stock of which is owned by not less than twenty savings banks organized under a law of this state, bank holding companies filing a combined return in accordance with subdivision (f) of section 11-646 of this chapter, A CAPTIVE REIT OR A CAPTIVE RIC FILING A COMBINED RETURN UNDER SUBDIVISION (F) OF SECTION 11-646 OF THIS CHAPTER,

housing companies organized and operating pursuant to the provisions of article two of the private housing finance law, housing development fund companies organized pursuant to the provisions of article eleven of the private housing finance law, corporations described in section three of the tax law, a corporation principally engaged in the operation of marine vessels whose activities in the city are limited exclusively to the use of property in interstate or foreign commerce, provided, however, such a corporation will not be subject to tax under this subchapter solely because it maintains an office in the city, or employs capital in the city, in connection with such use of property, a corporation principally engaged in the conduct of a ferry business and operating between any of the boroughs of the city under a lease granted by the city and a corporation principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more of such businesses, all of the capital stock of which is owned by a municipal corporation of this state, shall not be subject to tax under this subchapter; provided, however, that any corporation, other than (1) a utility corporation subject to the supervision of the state department of public service, and (2) for taxable years beginning on or after August first, two thousand two, a utility as defined in subdivision six of section 11-1101 of this title, which is subject to tax under chapter eleven of this title as a vendor of utility services shall be subject to tax under this subchapter, but in computing the tax imposed by this section pursuant to the provisions of clause one of subparagraph (a) of paragraph A of subdivision one of section 11-604, business income allocated to the city pursuant to paragraph (a) of subdivision three of such section shall be reduced by the percentage which such corporation's gross operating income subject to tax under chapter eleven of this title is of its gross operating income.

S 8. Subdivisions 7 and 8 of section 11-603 of the administrative code of the city of New York, as amended by chapter 525 of the laws of 1988, are amended to read as follows:

7. For any taxable year of a real estate investment trust as defined in section eight hundred fifty-six of the internal revenue code in which such trust is subject to federal income taxation under section eight hundred fifty-seven of such code, such trust shall be subject to a tax computed under either clause one of SUBPARAGRAPH (A) OF paragraph [(a)] A of subdivision one of section 11-604 of this subchapter with respect to its entire net income, or clause four, whichever is greater, and shall not be subject to any tax under subchapter three of this chapter, EXCEPT FOR A CAPTIVE REIT REQUIRED TO FILE A COMBINED RETURN UNDER SUBDIVISION (F) OF SECTION 11-646 OF THIS CHAPTER. In the case of such a [trust] REAL ESTATE INVESTMENT TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS CHAPTER, the term "entire net income" means "real estate investment trust taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-seven (as modified by section eight hundred fifty-eight) of the internal revenue code plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-seven of such code, subject to the modification required by subdivision eight of section 11-602 of this subchapter (other than the modification required by clause two of paragraph (a) and by paragraph (f) thereof) including the modifications required by paragraphs (d) and (e) of subdivision three of section 11-604 of this subchapter.

8. For any taxable year beginning on or after January first, nineteen hundred eighty-one of a regulated investment company, as defined in

section eight hundred fifty-one of the internal revenue code, in which such company is subject to federal income taxation under section eight hundred fifty-two of such code, such company shall be subject to a tax computed under clause one or four of subparagraph (a) of paragraph E of subdivision one of section 11-604 of this subchapter, whichever is greater, and such company shall not be subject to any tax under subchapter three of this chapter, EXCEPT FOR A CAPTIVE RIC REQUIRED TO FILE A COMBINED RETURN UNDER SUBDIVISION (F) OF SECTION 11-646 OF THIS CHAPTER. [The] IN THE CASE OF SUCH A REGULATED INVESTMENT COMPANY, INCLUDING A CAPTIVE RIC AS DEFINED IN SECTION 11-601 OF THIS CHAPTER, THE term "entire net income" used in subdivision one of this section means "investment company taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-two, as modified by section eight hundred fifty-five, of the internal revenue code plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-two of such code subject to the modifications required by subdivision eight of section 11-602 of this subchapter, other than the modification required by clause two of paragraph (a) and by paragraph (f) thereof, including the modification required by paragraphs (d) and (e) of subdivision three of section 11-604 of this subchapter.

S 9. Subdivision 4 of section 11-605 of the administrative code of the city of New York, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

4. [In the discretion of the commissioner of finance, any] (A) ANY taxpayer which owns or controls either directly or indirectly substantially all the capital stock of one or more other corporations, or substantially all the capital stock of which is owned or controlled either directly or indirectly by one or more other corporations or by interests which own or control either directly or indirectly substantially all the capital stock of one or more other corporations, [may be required or permitted to make a report on a combined basis covering any such other corporations and setting] (HEREINAFTER REFERRED TO IN THIS PARAGRAPH AS "RELATED CORPORATIONS"), SHALL MAKE A COMBINED REPORT COVERING ANY RELATED CORPORATIONS IF THERE ARE SUBSTANTIAL INTERCORPORATE TRANSACTIONS AMONG THE RELATED CORPORATIONS, REGARDLESS OF THE TRANSFER PRICE FOR SUCH INTERCORPORATE TRANSACTIONS. IT IS NOT NECESSARY THAT THERE BE SUBSTANTIAL INTERCORPORATE TRANSACTIONS BETWEEN ANY ONE CORPORATION AND EVERY OTHER RELATED CORPORATION. IT IS NECESSARY, HOWEVER, THAT THERE BE SUBSTANTIAL INTERCORPORATE TRANSACTIONS BETWEEN THE TAXPAYER AND A RELATED CORPORATION OR, COLLECTIVELY, A GROUP OF SUCH RELATED CORPORATIONS. THE REPORT SHALL SET forth such information as the commissioner of finance may require[; provided, however, that no].

IN DETERMINING WHETHER THERE ARE SUBSTANTIAL INTERCORPORATE TRANSACTIONS, THE COMMISSIONER SHALL CONSIDER AND EVALUATE ALL ACTIVITIES AND TRANSACTIONS OF THE TAXPAYER AND ITS RELATED CORPORATIONS. ACTIVITIES AND TRANSACTIONS THAT WILL BE CONSIDERED INCLUDE, BUT ARE NOT LIMITED TO: MANUFACTURING, ACQUIRING GOODS OR PROPERTY, OR PERFORMING SERVICES, FOR RELATED CORPORATIONS; SELLING GOODS ACQUIRED FROM RELATED CORPORATIONS; FINANCING SALES OF RELATED CORPORATIONS; PERFORMING RELATED CUSTOMER SERVICES USING COMMON FACILITIES AND EMPLOYEES FOR RELATED CORPORATIONS; INCURRING EXPENSES THAT BENEFIT, DIRECTLY OR INDIRECTLY, ONE OR MORE RELATED CORPORATIONS; AND TRANSFERRING ASSETS, INCLUDING SUCH ASSETS AS ACCOUNTS RECEIVABLE, PATENTS OR TRADEMARKS FROM ONE OR MORE RELATED CORPORATIONS.

(1) NO taxpayer may be permitted to make a report on a combined basis covering any such other corporations where [(a)] such taxpayer or any

such other corporation allocates in accordance with clause (A) of subparagraph six of paragraph (a) of subdivision three of section 11-604 of this subchapter and such taxpayer or any such other corporation does not so allocate[, or (b)].

(2) NO TAXPAYER MAY BE PERMITTED TO MAKE A REPORT ON A COMBINED BASIS COVERING ANY SUCH OTHER CORPORATIONS WHERE such taxpayer or any such other corporation allocates in accordance with subparagraph seven of paragraph (a) of subdivision three of section 11-604 of this subchapter and such taxpayer or any such other corporation does not so allocate[; provided, further that].

(3) EXCEPT AS PROVIDED IN THE FIRST UNDESIGNATED PARAGRAPH OF THIS SUBDIVISION, no combined report covering any corporation not a taxpayer shall be required unless the commissioner of finance deems such a report necessary, because of inter-company transactions or some agreement, understanding, arrangement or transaction referred to in subdivision five of this section, in order properly to reflect the tax liability under this subchapter [and provided, further, that a].

(4) A corporation [which elects the application of section nine hundred thirty-six of the internal revenue code with respect to a particular federal taxable year] ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES shall not[, in the case of a taxpayer,] be required or permitted to make a report on a combined basis [with respect to a taxable year under this subchapter which is the same as such federal taxable year (or a portion thereof), and, in the case of a corporation which is not a taxpayer, no combined report covering such corporation with respect to such taxable year under this subchapter shall be required or permitted].

(5)(I) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "CLOSEST CONTROLLING STOCKHOLDER" MEANS THE CORPORATION THAT INDIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF A CAPTIVE REIT OR CAPTIVE RIC, IS SUBJECT TO TAX UNDER THIS SUBCHAPTER OR OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS SUBCHAPTER, AND IS THE FEWEST TIERS OF CORPORATIONS AWAY IN THE OWNERSHIP STRUCTURE FROM THE CAPTIVE REIT OR CAPTIVE RIC. THE COMMISSIONER IS AUTHORIZED TO PRESCRIBE BY REGULATION OR PUBLISHED GUIDANCE THE CRITERIA FOR DETERMINING THE CLOSEST CONTROLLING STOCKHOLDER.

(II) A CAPTIVE REIT OR A CAPTIVE RIC MUST BE INCLUDED IN A COMBINED REPORT WITH THE CORPORATION THAT DIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC IF THAT CORPORATION IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS SUBCHAPTER.

(III) IF OVER FIFTY PERCENT OF THE VOTING STOCK OF A CAPTIVE REIT OR CAPTIVE RIC IS NOT DIRECTLY OWNED OR CONTROLLED BY A CORPORATION THAT IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS SUBCHAPTER, THEN THE CAPTIVE REIT OR CAPTIVE RIC MUST BE INCLUDED IN A COMBINED REPORT WITH THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC. IF THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC IS SUBJECT TO TAX OR OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER THIS SUBCHAPTER, THEN THE CAPTIVE REIT OR CAPTIVE RIC MUST BE INCLUDED IN A COMBINED REPORT UNDER THIS SUBCHAPTER.

(IV) IF THE CORPORATION THAT DIRECTLY OWNS OR CONTROLS THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC IS DESCRIBED IN SUBPARAGRAPH ONE, TWO OR FOUR OF THIS PARAGRAPH AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED REPORT, THEN THE PROVISIONS IN CLAUSE (III) OF THIS SUBPARAGRAPH MUST BE APPLIED TO DETERMINE THE CORPORATION IN WHOSE

COMBINED REPORT THE CAPTIVE REIT OR CAPTIVE RIC SHOULD BE INCLUDED. IF, UNDER CLAUSE (III) OF THIS SUBPARAGRAPH, THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC IS DESCRIBED IN SUBPARAGRAPH ONE, TWO OR FOUR OF THIS PARAGRAPH AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED REPORT, THEN THAT CORPORATION IS DEEMED TO NOT BE IN THE OWNERSHIP STRUCTURE OF THE CAPTIVE REIT OR CAPTIVE RIC, AND THE CLOSEST CONTROLLING STOCKHOLDER WILL BE DETERMINED WITHOUT REGARD TO THAT CORPORATION.

(V) IF A CAPTIVE REIT OWNS THE STOCK OF A QUALIFIED REIT SUBSIDIARY (AS DEFINED IN PARAGRAPH TWO OF SUBSECTION (I) OF SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE), THEN THE QUALIFIED REIT SUBSIDIARY MUST BE INCLUDED IN A COMBINED REPORT WITH THE CAPTIVE REIT.

(VI) IF A CAPTIVE REIT OR A CAPTIVE RIC IS REQUIRED UNDER THIS SUBPARAGRAPH TO BE INCLUDED IN A COMBINED REPORT WITH ANOTHER CORPORATION, AND THAT OTHER CORPORATION IS ALSO REQUIRED TO BE INCLUDED IN A COMBINED REPORT WITH ANOTHER RELATED CORPORATION OR CORPORATIONS UNDER THIS PARAGRAPH, THEN THE CAPTIVE REIT OR THE CAPTIVE RIC MUST BE INCLUDED IN THAT COMBINED REPORT WITH THOSE CORPORATIONS.

(VII) IF A CAPTIVE REIT OR A CAPTIVE RIC IS NOT REQUIRED TO BE INCLUDED IN A COMBINED REPORT WITH ANOTHER CORPORATION UNDER CLAUSE (II) OR (III) OF THIS SUBPARAGRAPH, OR IN A COMBINED RETURN UNDER THE PROVISIONS OF SUBPARAGRAPH (V) OF PARAGRAPH TWO OF SUBDIVISION (F) OF SECTION 11-646 OF THIS CHAPTER, THEN THE CAPTIVE REIT OR CAPTIVE RIC IS SUBJECT TO THE OPENING PROVISIONS OF THIS PARAGRAPH AND THE PROVISIONS OF SUBPARAGRAPH THREE OF THIS PARAGRAPH. THE CAPTIVE REIT OR CAPTIVE RIC MUST BE INCLUDED IN A COMBINED REPORT UNDER THIS SUBCHAPTER WITH ANOTHER CORPORATION IF EITHER THE SUBSTANTIAL INTERCORPORATE TRANSACTIONS REQUIREMENT IN THE OPENING PROVISIONS OF THIS PARAGRAPH OR THE INTER-COMPANY TRANSACTIONS OR AGREEMENT, UNDERSTANDING, ARRANGEMENT OR TRANSACTION REQUIREMENT OF SUBPARAGRAPH THREE OF THIS PARAGRAPH IS SATISFIED AND MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR THE CAPTIVE RIC AND SUBSTANTIALLY ALL OF THE CAPITAL STOCK OF THAT OTHER CORPORATION ARE OWNED AND CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME CORPORATION.

(B)(1)(I) In the case of a combined report the tax shall be measured by the combined entire net income or combined capital[,] of all the corporations included in the report, INCLUDING ANY CAPTIVE REIT OR CAPTIVE RIC; provided, however, in no event shall the tax measured by combined capital exceed the limitation provided for in paragraph F of subdivision one of section 11-604 of this subchapter.

(II) IN THE CASE OF A CAPTIVE REIT OR CAPTIVE RIC REQUIRED UNDER THIS SUBDIVISION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME MUST BE COMPUTED AS REQUIRED UNDER SUBDIVISION SEVEN (IN THE CASE OF A CAPTIVE REIT) OR SUBDIVISION EIGHT (IN THE CASE OF A CAPTIVE RIC) OF SECTION 11-603 OF THIS CHAPTER. HOWEVER, THE DEDUCTION UNDER THE INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR CAPTIVE RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE CORPORATION THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL NOT BE ALLOWED FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE. THE TERM "AFFILIATED GROUP" MEANS "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR IN SUBSECTION (B) OF THAT SECTION.

(2) In computing combined entire net income intercorporate dividends shall be eliminated, in computing combined business and investment capital intercorporate stock holdings and intercorporate bills, notes and

accounts receivable and payable and other intercorporate indebtedness shall be eliminated and in computing combined subsidiary capital intercorporate stockholdings shall be eliminated.

S 10. Subdivision (d) of section 11-640 of the administrative code of the city of New York, as amended by chapter 298 of the laws of 1985, is amended to read as follows:

(d) Corporations taxable under subchapter two. Notwithstanding the provisions of this part, all corporations of classes now or heretofore taxable under subchapter two of this chapter shall continue to be taxable under subchapter two, except: (1) corporations organized under article five-a of the banking law; (2) corporations subject to article three-A of the banking law, or registered under the federal bank holding company act of nineteen hundred fifty-six, as amended, or registered as a savings and loan holding company (but excluding a diversified savings and loan holding company) under the federal national housing act, as amended, which make a combined return under the provisions of subdivision (f) of section 11-646; [and] (3) banking corporations described in paragraph nine of subdivision (a) of section 11-640; AND (4) ANY CAPTIVE REIT OR CAPTIVE RIC THAT IS REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THE PROVISIONS OF SECTION 11-646 OF THIS SUBCHAPTER. Provided, however, that a corporation described in paragraph three of this subdivision which was subject to the tax imposed by subchapter two of this chapter for its taxable year ending during nineteen hundred eighty-four may, on or before the due date for filing its return (determined with regard to extensions) for its taxable year ending during nineteen hundred eighty-five, make a one time election to continue to be taxable under such subchapter two. Such election shall continue to be in effect until revoked by the taxpayer. In no event shall such election or revocation be for a part of a taxable year.

S 11. Subdivision (g) of section 11-640 of the administrative code of the city of New York is amended by adding a new paragraph 4 to read as follows:

(4) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO A CAPTIVE REIT OR A CAPTIVE RIC.

S 12. Subparagraph (ii) of paragraph 11 of subdivision (e) of section 11-641 of the administrative code of the city of New York, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(ii) sixty percent of dividend income from subsidiary capital, EXCEPT AS PROVIDED IN PARAGRAPH 16 OF THIS SUBDIVISION, and

S 13. Subdivision (e) of section 11-641 of the administrative code of the city of New York is amended by adding a new paragraph 16 to read as follows:

(16) ONE HUNDRED PERCENT OF DIVIDEND INCOME FROM SUBSIDIARY CAPITAL RECEIVED DURING THE TAXABLE YEAR IF THAT DIVIDEND INCOME IS DIRECTLY ATTRIBUTABLE TO A DIVIDEND FROM A CAPTIVE REIT OR CAPTIVE RIC FOR WHICH THE CAPTIVE REIT OR CAPTIVE RIC CLAIMED A FEDERAL DIVIDENDS PAID DEDUCTION AND THAT CAPTIVE REIT OR CAPTIVE RIC IS INCLUDED IN A COMBINED REPORT OR RETURN UNDER SUBCHAPTER TWO OR PART FOUR OF SUBCHAPTER THREE OF THIS CHAPTER.

S 14. Paragraph 2 of subdivision (f) of section 11-646 of the administrative code of the city of New York is amended by adding a new subparagraph (iv) to read as follows:

(IV)(A) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "CLOSEST CONTROLLING STOCKHOLDER" MEANS THE CORPORATION THAT INDIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF A CAPTIVE REIT OR CAPTIVE RIC, IS SUBJECT TO TAX UNDER THIS SUBCHAPTER OR OTHERWISE REQUIRED TO BE

INCLUDED IN A COMBINED RETURN UNDER THIS CHAPTER AND IS THE FEWEST TIERS OF CORPORATIONS AWAY IN THE OWNERSHIP STRUCTURE FROM THE CAPTIVE REIT OR CAPTIVE RIC. THE COMMISSIONER IS AUTHORIZED TO PRESCRIBE BY REGULATION OR PUBLISHED GUIDANCE THE CRITERIA FOR DETERMINING THE CLOSEST CONTROLLING STOCKHOLDER.

(B) A CAPTIVE REIT OR A CAPTIVE RIC MUST BE INCLUDED IN A COMBINED RETURN WITH THE BANKING CORPORATION OR BANK HOLDING COMPANY THAT DIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC IF THAT BANKING CORPORATION OR BANK HOLDING COMPANY IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS SUBCHAPTER.

(C) IF OVER FIFTY PERCENT OF THE VOTING STOCK OF A CAPTIVE REIT OR CAPTIVE RIC IS NOT DIRECTLY OWNED OR CONTROLLED BY A BANKING CORPORATION OR BANK HOLDING COMPANY THAT IS SUBJECT TO TAX OR REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS SUBCHAPTER, THEN THE CAPTIVE REIT OR CAPTIVE RIC MUST BE INCLUDED IN A COMBINED RETURN WITH THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC. IF THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC IS A BANKING CORPORATION OR BANK HOLDING COMPANY THAT IS SUBJECT TO TAX OR OTHERWISE REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER THIS SUBCHAPTER, THEN THE CAPTIVE REIT OR CAPTIVE RIC MUST BE INCLUDED IN A COMBINED RETURN UNDER THIS SUBCHAPTER.

(D) IF THE CORPORATION WHICH DIRECTLY OWNS OR CONTROLS THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC IS DESCRIBED IN SUBPARAGRAPH (II) OF PARAGRAPH FOUR OF THIS SUBDIVISION AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED RETURN, THEN THE PROVISIONS IN CLAUSE (C) OF THIS SUBPARAGRAPH MUST BE APPLIED TO DETERMINE THE CORPORATION IN WHOSE COMBINED RETURN THE CAPTIVE REIT OR CAPTIVE RIC SHOULD BE INCLUDED. IF, UNDER CLAUSE (C) OF THIS SUBPARAGRAPH, THE CORPORATION THAT IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC IS DESCRIBED IN SUBPARAGRAPH (II) OR (IV) OF PARAGRAPH FOUR OF THIS SUBDIVISION AS A CORPORATION NOT PERMITTED TO MAKE A COMBINED RETURN, THEN THAT CORPORATION IS DEEMED TO NOT BE IN THE OWNERSHIP STRUCTURE OF THE CAPTIVE REIT OR CAPTIVE RIC, AND THE CLOSEST CONTROLLING STOCKHOLDER WILL BE DETERMINED WITHOUT REGARD TO THAT CORPORATION.

(E) IF A CAPTIVE REIT OWNS THE STOCK OF A QUALIFIED REIT SUBSIDIARY (AS DEFINED IN PARAGRAPH TWO OF SUBSECTION (I) OF SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE), THEN THE QUALIFIED REIT SUBSIDIARY MUST BE INCLUDED IN ANY COMBINED RETURN REQUIRED TO BE MADE BY THE CAPTIVE REIT THAT OWNS ITS STOCK.

(F) IF A CAPTIVE REIT OR A CAPTIVE RIC IS REQUIRED UNDER THIS SUBPARAGRAPH TO BE INCLUDED IN A COMBINED RETURN WITH ANOTHER CORPORATION, AND THAT OTHER CORPORATION IS REQUIRED TO BE INCLUDED IN A COMBINED RETURN WITH ANOTHER CORPORATION UNDER OTHER PROVISIONS OF THIS SUBDIVISION, THE CAPTIVE REIT OR CAPTIVE RIC MUST BE INCLUDED IN THAT COMBINED RETURN WITH THOSE CORPORATIONS.

(G) IF THE BANKING CORPORATION OR BANK HOLDING COMPANY THAT DIRECTLY OR INDIRECTLY OWNS OR CONTROLS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC AND IS THE CLOSEST CONTROLLING STOCKHOLDER OF THE CAPTIVE REIT OR CAPTIVE RIC IS A MEMBER OF AN AFFILIATED GROUP (1) THAT DOES NOT INCLUDE ANY CORPORATION THAT IS ENGAGED IN A BUSINESS THAT A SUBSIDIARY OF A BANK HOLDING COMPANY WOULD NOT BE PERMITTED TO ENGAGE IN, UNLESS SUCH BUSINESS IS DE MINIMIS, AND (2) WHOSE MEMBERS OWN ASSETS THE COMBINED AVERAGE VALUE OF WHICH DOES NOT EXCEED EIGHT BILLION DOLLARS, THEN THE CAPTIVE REIT OR CAPTIVE RIC MUST NOT BE INCLUDED IN A COMBINED RETURN UNDER THIS SUBCHAPTER. IN THAT

INSTANCE, THE CAPTIVE REIT OR CAPTIVE RIC IS SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OR EIGHT OF SECTION 11-603 OF THIS CHAPTER. THE TERM "AFFILIATED GROUP" MEANS "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR IN SUBSECTION (B) OF THAT SECTION.

S 15. Paragraph 3 of subdivision (f) of section 11-646 of the administrative code of the city of New York, as added by chapter 298 of the laws of 1985, is amended to read as follows:

(3) (I) In the case of a combined return, the tax shall be measured by the combined entire net income, combined alternative entire net income or combined assets of all the corporations included in the return, INCLUDING ANY CAPTIVE REIT OR CAPTIVE RIC. The allocation percentage shall be computed based on the combined factors with respect to all the corporations included in the combined return. In computing combined entire net income and alternative entire net income, intercorporate dividends and all other intercorporate transactions shall be eliminated, and in computing combined assets, intercorporate stockholdings and intercorporate bills, notes and accounts receivable and payable and other intercorporate indebtedness shall be eliminated.

(II) IN THE CASE OF A CAPTIVE REIT REQUIRED UNDER THIS SUBDIVISION TO BE INCLUDED IN A COMBINED RETURN, "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE, PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN OF THAT CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SECTION 11-641 OF THIS CHAPTER. IN THE CASE OF A CAPTIVE RIC REQUIRED UNDER THIS SUBDIVISION TO BE INCLUDED IN A COMBINED RETURN, "ENTIRE NET INCOME" MEANS "INVESTMENT COMPANY TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO (AS MODIFIED BY SECTION EIGHT HUNDRED FIFTY-FIVE) OF THE INTERNAL REVENUE CODE, PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO OF THAT CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SECTION 11-641 OF THIS CHAPTER. HOWEVER, THE DEDUCTION UNDER THE INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR CAPTIVE RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE CORPORATION THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL BE LIMITED TO TWENTY-FIVE PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE AND BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN AND SHALL NOT BE ALLOWED FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN. THE TERM "AFFILIATED GROUP" MEANS "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR IN SUBSECTION (B) OF THAT SECTION.

S 16. Paragraph F of subdivision 1 of section 11-604 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

S 16. Paragraph F of subdivision 1 of section 11-604 of the administrative code of the city of New York, as added by chapter 525 of the laws of 1988, is amended to read as follows:

F. Notwithstanding any other provision of this subdivision to the contrary, for taxable years beginning after nineteen hundred eighty-seven AND BEFORE TWO THOUSAND NINE the amount of tax computed on the basis of the taxpayer's total business and investment capital, or the portion thereof allocated within the city, shall in no event exceed three

hundred fifty thousand dollars AND FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT THE AMOUNT OF TAX COMPUTED ON THE BASIS OF THE TAXPAYER'S TOTAL BUSINESS AND INVESTMENT CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE CITY, SHALL IN NO EVENT EXCEED ONE MILLION DOLLARS.

S 17. Clause 4 of subparagraph (a) of paragraph E of subdivision 1 of section 11-604 of the administrative code of the city of New York, as amended by chapter 525 of the laws of 2008, is amended to read as follows:

(4) for taxable years ending on or before June thirtieth, nineteen hundred eighty-nine, one hundred twenty-five dollars [and], for taxable years ending after June thirtieth, nineteen hundred eighty-nine AND BEGINNING BEFORE TWO THOUSAND NINE, three hundred dollars, AND FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT:

IF NEW YORK CITY RECEIPTS ARE:	FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$25
MORE THAN $100,000 BUT NOT OVER $250,000	$75
MORE THAN $250,000 BUT NOT OVER $500,000	$175
MORE THAN $500,000 BUT NOT OVER $1,000,000	$500
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,500
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$3,500
OVER $25,000,000	$5,000

FOR PURPOSES OF THIS CLAUSE, NEW YORK CITY RECEIPTS ARE THE RECEIPTS COMPUTED IN ACCORDANCE WITH SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION FOR THE TAXABLE YEAR. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT, IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT PRESCRIBED BY THIS CLAUSE SHALL BE REDUCED BY TWENTY-FIVE PERCENT IF THE PERIOD FOR WHICH THE TAXPAYER IS SUBJECT TO TAX IS MORE THAN SIX MONTHS BUT NOT MORE THAN NINE MONTHS AND BY FIFTY PERCENT IF THE PERIOD FOR WHICH THE TAXPAYER IS SUBJECT TO TAX IS NOT MORE THAN SIX MONTHS. IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW YORK CITY RECEIPTS FOR PURPOSES OF THIS CLAUSE IS DETERMINED BY DIVIDING THE AMOUNT OF THE RECEIPTS FOR THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN THE TAXABLE YEAR AND MULTIPLYING THE RESULT BY TWELVE, plus;

S 18. Subdivision (b) of section 11-643.5 of the administrative code of the city of New York, as added by local law number 37 of the city of New York for the year 1986, subparagraph (ii) of paragraph 1 and paragraph 2 as amended by chapter 525 of the laws of 1988, is amended to read as follows:

(b) Alternative minimum tax. If the tax under subdivision (a) of this section is less than any of the following amounts, the tax shall be the larger of the following amounts:

(1) [(i) Except] FOR TAXABLE YEARS BEGINNING BEFORE TWO THOUSAND ELEVEN, EXCEPT in the case of a corporation organized under the laws of a country other than the United States, one-tenth of a mill upon each dollar of taxable assets, or the portion thereof allocated to the city. FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND TEN, EXCEPT IN THE CASE OF A TAXPAYER DESCRIBED IN CLAUSE (I), (II), OR (III) BELOW, ONE-TENTH OF A MILL UPON EACH DOLLAR OF TAXABLE ASSETS, OR THE PORTION THEREOF ALLOCATED TO THE CITY.

(I) IN THE CASE OF A TAXPAYER WHOSE NET WORTH RATIO IS LESS THAN FIVE PERCENT BUT GREATER THAN OR EQUAL TO FOUR PERCENT AND WHOSE TOTAL ASSETS ARE COMPRISED OF THIRTY-THREE PERCENT OR MORE OF MORTGAGES, ONE-TWENTY-FIFTH OF A MILL UPON EACH DOLLAR OF TAXABLE ASSETS, OR THE PORTION THEREOF ALLOCATED TO THE CITY.

(II) IN THE CASE OF A TAXPAYER WHOSE NET WORTH RATIO IS LESS THAN FOUR PERCENT AND WHOSE TOTAL ASSETS ARE COMPRISED OF THIRTY-THREE PERCENT OR MORE OF MORTGAGES, ONE-FIFTIETH OF A MILL UPON EACH DOLLAR OF TAXABLE ASSETS, OR THE PORTION THEREOF ALLOCATED TO THE CITY.

(III) A TAXPAYER (WHETHER OR NOT A QUALIFIED INSTITUTION AS DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH FIVE OF SUBSECTION (F) OF SECTION FOUR HUNDRED SIX OF THE FEDERAL NATIONAL HOUSING ACT, AS AMENDED, OR AS DEFINED IN PARAGRAPH TWO OF SUBSECTION (I) OF SECTION THIRTEEN OF THE FEDERAL DEPOSIT INSURANCE ACT, AS AMENDED) SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH FOR THAT PORTION OF THE TAXABLE YEAR IN WHICH IT HAD OUTSTANDING NET WORTH CERTIFICATES ISSUED IN ACCORDANCE WITH PARAGRAPH FIVE OF SUBSECTION (F) OF SECTION FOUR HUNDRED SIX OF THE FEDERAL NATIONAL HOUSING ACT, AS AMENDED, OR ISSUED IN ACCORDANCE WITH SUBSECTION (I) OF SECTION THIRTEEN OF THE FEDERAL DEPOSIT INSURANCE ACT, AS AMENDED.

[(ii)] (IV) For the purposes of this part[,]: (A) the term "taxable assets" shall mean the average value of total assets reduced by any amount of money or other property received from or attributable to amounts received from the federal deposit insurance corporation pursuant to subsection (c) of section thirteen of the federal deposit insurance act, as amended, or the federal savings and loan insurance corporation pursuant to paragraph one, two, three or four of subsection (f) of section four hundred six of the federal national housing act, as amended. Total assets are those assets which are properly reflected on a balance sheet the income or expenses of which are properly reflected (or would have been properly reflected if not fully depreciated or expensed or depreciated or expensed to a nominal amount) in the computation of alternative entire net income for the taxable year or in the computation of the eligible net income of the taxpayer's international banking facility for the taxable year.

[(iii) A taxpayer shall not be subject to the provisions of this paragraph for that portion of the taxable year (A) in which it was a "qualified institution" as defined in subparagraph (B) of paragraph five of subsection (f) of section four hundred six of the federal national housing act, as amended, or as defined in paragraph two of subsection (i) of section thirteen of the federal deposit insurance act, as amended, and (B) in which it had outstanding net worth certificates issued in accordance with such paragraph five or issued in accordance with such subsection (i) provided it would have been exempt from any tax determined on the basis of the deposits held by it or the interest paid on such deposits pursuant to subparagraph (I) of such paragraph five or paragraph nine of such subsection (i).]

(B) THE TERM "NET WORTH RATIO" SHALL MEAN THE PERCENTAGE OF NET WORTH TO ASSETS ON THE LAST DAY OF THE TAXABLE YEAR. THE TERM "NET WORTH" MEANS THE SUM OF PREFERRED STOCK, COMMON STOCK, SURPLUS, CAPITAL RESERVES, UNDIVIDED PROFITS, MUTUAL CAPITAL CERTIFICATES, RESERVE FOR CONTINGENCIES, RESERVE FOR LOAN LOSSES AND RESERVE FOR SECURITY LOSSES MINUS ASSETS CLASSIFIED LOSS. THE TERM "ASSETS" MEANS THE SUM OF MORTGAGE LOANS, NONMORTGAGE LOANS, REPOSSESSED ASSETS, REAL ESTATE HELD FOR DEVELOPMENT OR INVESTMENT OR RESALE, CASH, DEPOSITS, INVESTMENT SECURITIES, FIXED ASSETS AND OTHER ASSETS (SUCH AS FINANCIAL FUTURES, GOODWILL AND OTHER INTANGIBLE ASSETS) MINUS ASSETS CLASSIFIED LOSS. IN NO EVENT SHALL ASSETS BE REDUCED BY RESERVES FOR LOSSES.

(C) THE TERM "MORTGAGES" SHALL MEAN LOANS SECURED BY REAL PROPERTY WITHIN OR WITHOUT THE STATE, PARTICIPATIONS IN AND SECURITIES COLLATERALIZED BY POOLS OF RESIDENTIAL MORTGAGES, WHETHER OR NOT ISSUED OR GUAR-

ANTEED BY A UNITED STATES GOVERNMENT AGENCY, AND LOANS SECURED BY STOCK IN A COOPERATIVE HOUSING CORPORATION. THE PERCENTAGE OF TOTAL ASSETS COMPRISED OF MORTGAGES SHALL BE AN AMOUNT EQUAL TO THE RATIO OF THE AVERAGE OF THE FOUR QUARTERLY BALANCES OF SUCH MORTGAGES ENDING WITHIN THE TAXABLE YEAR, TO THE AVERAGE OF THE FOUR QUARTERLY BALANCES OF ALL ASSETS ENDING WITHIN THE TAXABLE YEAR. SUCH QUARTERLY BALANCES SHALL BE COMPUTED IN THE SAME MANNER AS THE REPORT OF CONDITION REQUIRED FOR FEDERAL DEPOSIT INSURANCE CORPORATION OR FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION PURPOSES, WHETHER OR NOT SUCH REPORT IS REQUIRED. FOR TAXABLE PERIODS OF LESS THAN ONE YEAR, THE TAXPAYER SHALL COMPUTE SUCH RATIO USING THE NUMBER OF SUCH QUARTERLY BALANCES ENDING WITHIN SUCH TAXABLE PERIOD.

(2) FOR TAXABLE YEARS BEGINNING BEFORE TWO THOUSAND ELEVEN, [In] IN the case of a corporation organized under the laws of a country other than the United States, (i) two and six-tenths mills upon each dollar of such part of the taxpayer's issued capital stock on the last day of the taxable year, at its face value, but if such taxpayer has stock without par value, such stock shall be taken at its actual or market value, and not less than five dollars per share, as may be determined by the commissioner of finance, or (ii) if the taxpayer does not have issued capital stock, two and six-tenths mills upon each dollar of such part of the amount by which its average total assets exceeds its average total liabilities, as the gross income of such taxpayer derived from business carried on within the city during such taxable year bears to its gross income derived from all business, both within and without the city during said year; except that if the period covered by the return is other than twelve months, the tax shall be prorated on the basis of the number of months or major portions thereof included in the return. For purposes of this paragraph, the term "gross income" shall have the same meaning as it has in the laws of the United States relating to federal income taxes.

(3) Three percent of the taxpayer's alternative entire net income, or portion thereof allocated to the city, for the taxable year, or part thereof.

(4) One hundred twenty-five dollars.

S 19. Paragraph 3 of subdivision (b) of section 11-641 of the administrative code of the city of New York is REPEALED.

S 20. Section 11-641 of the administrative code of the city of New York is amended by adding a new subdivision (k-1) to read as follows:

(K-1) A NET OPERATING LOSS DEDUCTION SHALL BE ALLOWED WHICH SHALL BE PRESUMABLY THE SAME AS THE NET OPERATING LOSS DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE, EXCEPT THAT IN EVERY INSTANCE WHERE SUCH DEDUCTION IS ALLOWED UNDER THIS SUBCHAPTER:

(1) ANY NET OPERATING LOSS INCLUDED IN DETERMINING SUCH DEDUCTION SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS FROM ENTIRE NET INCOME REQUIRED BY THE OTHER PROVISIONS OF THIS SECTION;

(2) SUCH DEDUCTION SHALL NOT INCLUDE ANY NET OPERATING LOSS SUSTAINED DURING ANY TAXABLE YEAR BEGINNING PRIOR TO JANUARY FIRST, TWO THOUSAND NINE, OR DURING ANY TAXABLE YEAR IN WHICH THE TAXPAYER WAS NOT SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER;

(3) SUCH DEDUCTION SHALL NOT EXCEED THE DEDUCTION FOR THE TAXABLE YEAR ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE AUGMENTED BY THE EXCESS OF THE AMOUNT ALLOWED AS A DEDUCTION PURSUANT TO SUBDIVISION (H) OR (I) OF THIS SECTION, WHICHEVER IS APPLICABLE, OVER THE AMOUNT ALLOWED AS A DEDUCTION PURSUANT TO SECTION ONE HUNDRED

SIXTY-SIX OR FIVE HUNDRED EIGHTY-FIVE OF THE INTERNAL REVENUE CODE, FOR EACH TAXABLE YEAR IN WHICH THE TAXPAYER HAD A NET OPERATING LOSS WHICH IS CARRIED TO THE TAXABLE YEAR OF THE DEDUCTION UNDER THIS PROVISION, IN THE AGGREGATE, (EXCEPT TO THE EXTENT SUCH EXCESS WAS PREVIOUSLY DEDUCTED IN COMPUTING ENTIRE NET INCOME); AND

(4) THE NET OPERATING LOSS DEDUCTION ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE SHALL FOR PURPOSES OF THIS SUBDIVISION BE DETERMINED AS IF THE TAXPAYER HAD ELECTED UNDER SUCH SECTION TO RELINQUISH THE ENTIRE CARRYBACK PERIOD WITH RESPECT TO NET OPERATING LOSSES.

S 21. Section 11-639 of the administrative code of the city of New York is amended by adding a new subdivision (c) to read as follows:

(C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, (1) A BANKING CORPORATION IS DOING BUSINESS IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY IF (I) IT HAS ISSUED CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING ADDRESS WITHIN THE CITY AS OF THE LAST DAY OF ITS TAXABLE YEAR, OR (II) IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE LOCATIONS IN THE CITY TO WHOM THE BANKING CORPORATION REMITTED PAYMENTS FOR CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (III) IT HAS RECEIPTS OF ONE MILLION DOLLARS OR MORE IN THE TAXABLE YEAR FROM ITS CUSTOMERS WHO HAVE BEEN ISSUED CREDIT CARDS BY THE BANKING CORPORATION AND HAVE A MAILING ADDRESS WITHIN THE CITY, OR (IV) IT HAS RECEIPTS OF ONE MILLION DOLLARS OR MORE ARISING FROM MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS RELATING TO LOCATIONS IN THE CITY, OR (V) THE SUM OF THE NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH PLUS THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE, OR THE AMOUNT OF ITS RECEIPTS DESCRIBED IN SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH EQUALS ONE MILLION DOLLARS OR MORE. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE BANKING CORPORATION.

(2) AS USED IN THIS SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARDS.

S 22. Subparagraph (D) of paragraph 2 of subdivision (a) of section 11-642 of the administrative code of the city of New York, as added by chapter 298 of the laws of 1985, is amended to read as follows:

(D) (i) Interest, and fees and penalties in the nature of interest, from bank, CREDIT, travel and entertainment card receivables are earned within the city if the MAILING ADDRESS OF THE card [holder's domicile] HOLDER IN THE RECORDS OF THE TAXPAYER is in the city[,]; and

(ii) Service charges and fees from such cards are earned within the city if the card is serviced in the city; and

(iii) Receipts from merchant discounts are earned within the city if the merchant is located within the city.

S 23. Paragraph 2 of subdivision (f) of section 11-646 of the administrative code of the city of New York is amended by adding a new subparagraph (v) to read as follows:

(V) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST TWO THOUSAND ELEVEN, A BANKING CORPORATION DOING BUSINESS IN THE CITY SOLELY BECAUSE IT MEETS ONE OR MORE OF THE TESTS IN SUBPARAGRAPHS (I) THROUGH (V) OF PARAGRAPH ONE OF SUBDIVISION (C) OF SECTION 11-639 OF THIS CHAPTER (REFERRED TO IN THIS SUBPARAGRAPH AS THE "CREDIT CARD BANK") WILL NOT BE INCLUDED IN A COMBINED RETURN PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH WITH ANOTHER BANKING CORPORATION OR BANK HOLDING COMPANY WHICH IS

DOING BUSINESS IN THE CITY UNLESS THE CREDIT CARD BANK OR THE COMMISSIONER SHOWS THAT THE INCLUSION OF THE CREDIT CARD BANK IN THE COMBINED RETURN IS NECESSARY TO PROPERLY REFLECT THE TAX LIABILITY OF THE CREDIT CARD BANK, THE BANKING CORPORATION OR BANK HOLDING COMPANY UNDER THIS SUBCHAPTER. HOWEVER, ANY BANKING CORPORATION THAT MEETS ONE OR MORE OF THE TESTS IN SUBPARAGRAPHS (I) THROUGH (V) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION 11-639 OF THIS CHAPTER AND WAS INCLUDED IN A COMBINED RETURN FOR ITS LAST TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN MAY CONTINUE TO BE INCLUDED IN A COMBINED RETURN FOR FUTURE TAXABLE YEARS, PROVIDED THAT ONCE THAT BANKING CORPORATION HAS BEEN INCLUDED IN A COMBINED RETURN FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, IT MUST CONTINUE TO BE INCLUDED IN A COMBINED RETURN UNTIL IT OBTAINS THE CONSENT OF THE COMMISSIONER TO CEASE BEING INCLUDED IN A COMBINED RETURN BECAUSE THE COMBINED RETURN NO LONGER PROPERLY REFLECTS THE TAX LIABILITY UNDER THIS SUBCHAPTER OF ANY OF THE CORPORATIONS INCLUDED IN THE COMBINED RETURN. FURTHER, THE CREDIT CARD BANK WILL BE INCLUDED IN A COMBINED RETURN WITH (A) ANY BANKING CORPORATION NOT SUBJECT TO TAX UNDER THIS SUBCHAPTER SIXTY-FIVE PERCENT OR MORE OF WHOSE VOTING STOCK IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE CREDIT CARD BANK, OR (B) ANY BANKING CORPORATION OR BANK HOLDING COMPANY NOT SUBJECT TO TAX UNDER THIS SUBCHAPTER WHICH OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, SIXTY-FIVE PERCENT OR MORE OF THE VOTING STOCK OF THE CREDIT CARD BANK, OR (C) ANY BANKING CORPORATION NOT SUBJECT TO TAX UNDER THIS SUBCHAPTER SIXTY-FIVE PERCENT OR MORE OF THE VOTING STOCK OF WHICH IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME CORPORATION OR CORPORATIONS THAT OWN OR CONTROL, DIRECTLY OR INDIRECTLY, SIXTY-FIVE PERCENT OR MORE OF THE VOTING STOCK OF THE CREDIT CARD BANK, IF THE CORPORATION OR CORPORATIONS DESCRIBED IN CLAUSES (A), (B) AND (C) OF THIS SUBPARAGRAPH PROVIDE SERVICES FOR OR SUPPORT TO THE CREDIT CARD BANK'S OPERATIONS, UNLESS THE CREDIT CARD BANK OR THE COMMISSIONER SHOWS THAT THE INCLUSION OF ANY OF THOSE CORPORATIONS IN THE COMBINED RETURN FAILS TO PROPERLY REFLECT THE TAX LIABILITY OF THE CREDIT CARD BANK. FOR PURPOSES OF THIS SUBPARAGRAPH, SERVICES FOR OR SUPPORT TO THE CREDIT CARD BANK'S OPERATIONS INCLUDE SUCH ACTIVITIES AS BILLING, CREDIT INVESTIGATION AND REPORTING, MARKETING, RESEARCH, ADVERTISING, MAILING, CUSTOMER SERVICE, INFORMATION TECHNOLOGY, LENDING AND FINANCING SERVICES, AND COMMUNICATIONS SERVICES, BUT WILL NOT INCLUDE ACCOUNTING, LEGAL OR PERSONNEL SERVICES.

S 24. Paragraph 9 of subdivision (a) of section 11-640 of the administrative code of the city of New York, as amended by chapter 298 of the laws of 1985, is amended to read as follows:

(9) any corporation sixty-five percent or more of whose voting stock is owned or controlled, directly or indirectly, by a corporation or corporations subject to article three-a of the banking law, or registered under the federal bank holding company act of nineteen hundred fifty-six, as amended, or registered as a savings and loan holding company (but excluding a diversified savings and loan holding company) under the federal national housing act, as amended, or by a corporation or corporations described in any of the foregoing paragraphs of this subdivision, provided the corporation whose voting stock is so owned or controlled is principally engaged in a business, regardless of where conducted, which (i) might be lawfully conducted by a corporation subject to article three of the banking law or by a national banking association or (ii) is so closely related to banking or managing or controlling banks as to be a proper incident thereto, as set forth in

paragraph eight of subsection (c) OR SUBPARAGRAPH (F) OF PARAGRAPH FOUR OF SUBSECTION (K) of section four of the federal bank holding company act of nineteen hundred fifty-six, as amended, OR (III) HOLDS AND MANAGES INVESTMENT ASSETS, INCLUDING BUT NOT LIMITED TO BONDS, NOTES, DEBENTURES AND OTHER OBLIGATIONS FOR THE PAYMENT OF MONEY, STOCKS, PARTNERSHIP INTERESTS OR OTHER EQUITY INTERESTS, AND OTHER INVESTMENT SECURITIES, AND WHICH IS NOT A BUSINESS DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH.

S 25. Paragraph 1 of subdivision (g) of section 11-640 of the administrative code of the city of New York, as amended by section 7 of part P of chapter 383 of the laws of 2001, is amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation that was in existence before January first, two thousand and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand, shall continue to be taxable under subchapter two for all taxable years beginning on or after January first, two thousand and before January first, two thousand one. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a banking corporation that was in existence before January first, two thousand and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand and before January first, two thousand one. Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with such subdivision (d).

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this chapter for such taxable year. A corporation that was in existence before January first, two thousand but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand and before January first, two thousand one, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand and before January first, two thousand one, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

S 26. Paragraph 2 of subdivision (g) of section 11-640 of the administrative code of the city of New York, as added by section 5 of part HH of chapter 63 of the laws of 2000, is amended to read as follows:

(2) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation formed on or after January first, two thousand and before January first, two thousand one may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand and before January first, two thousand one in which either (i) sixty-five percent or more of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section 368 of the internal revenue code of 1986, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made by the taxpayer by filing the return required pursuant to subdivision one of section 11-605 of this chapter and the election to be taxed under this subchapter shall be made by the taxpayer by filing the return required pursuant to subdivision (a) of section 11-646 of this chapter. Any election made pursuant to this paragraph two shall be irrevocable and shall apply to each subsequent taxable year beginning on or after January first, two thousand and before January first, two thousand one, provided that the stock ownership requirements described in subparagraph (i) of this paragraph are met or such corporation described in subparagraph (ii) of this paragraph continues as a financial subsidiary.

S 27. Paragraphs 1 and 2 of subdivision (h) of section 11-640 of the administrative code of the city of New York, as added by section 8 of part P of chapter 383 of the laws of 2001, are amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation that was in existence before January first, two thousand one and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand one, shall continue to be taxable under subchapter two for all taxable years beginning on or after January first, two thousand one and before January first, two thousand three. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a banking corporation that was in existence before January first, two thousand one and was subject to tax under this

subchapter for its last taxable year beginning before January first, two thousand one, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand one and before January first, two thousand three. Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section.

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this chapter for such taxable year. A corporation that was in existence before January first, two thousand one but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand one and before January first, two thousand three, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand one if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand one but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand one and before January first, two thousand three, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand one if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

(2) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation formed on or after January first, two thousand one and before January first, two thousand three may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand one and before January first, two thousand three in which either (i) sixty-five percent or more of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section 368 of the internal revenue code of 1986, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made by the taxpayer by filing the return required pursuant to subdivision one of section 11-605 of this chapter and the election to be taxed under this subchapter shall be made by the taxpayer by filing the return required pursuant to subdivision (a) of section 11-646 of this chapter. Any election made pursuant to this paragraph shall be irrevocable and shall apply to each subsequent taxable year beginning on or after January first, two thousand one and before January first, two thousand three, provided that the stock ownership requirements described in subparagraph (i) of this paragraph are met or such corporation described in subparagraph (ii) of this paragraph continues as a financial subsidiary.

S 28. Paragraphs 1 and 2 of subdivision (i) of section 11-640 of the administrative code of the city of New York, as added by section 6 of part G3 of chapter 62 of the laws of 2003, are amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation that was in existence before January first, two thousand three and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand three, shall continue to be taxable under subchapter two for all taxable years beginning on or after January first, two thousand three and before January first, two thousand four. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a banking corporation that was in existence before January first, two thousand three and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand three, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand three and before January first, two thousand four. Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section.

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this chapter for such taxable year. A corporation that was in existence before January first, two thousand three but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand three and before January first, two thousand four, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand three if such corporation would have been subject to tax under such subchapter for such taxable year if it

had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand three but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand three and before January first, two thousand four, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand three if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

(2) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation formed on or after January first, two thousand three and before January first, two thousand four may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand three and before January first, two thousand four in which either (i) sixty-five percent or more of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section 368 of the internal revenue code of 1986, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made by the taxpayer by filing the return required pursuant to subdivision one of section 11-605 of this chapter and the election to be taxed under this subchapter shall be made by the taxpayer by filing the return required pursuant to subdivision (a) of section 11-646 of this chapter. Any election made pursuant to this paragraph shall be irrevocable and shall apply to each subsequent taxable year beginning on or after January first, two thousand three and before January first, two thousand four, provided that the stock ownership requirements described in subparagraph (i) of this paragraph are met or such corporation described in subparagraph (ii) of this paragraph continues as a financial subsidiary.

S 29. Paragraphs 1 and 2 of subdivision (j) of section 11-640 of the administrative code of the city of New York, as added by section 6 of part G of chapter 60 of the laws of 2004, are amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation that was in existence before January first, two thousand four and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand four, shall continue to be taxable

under subchapter two for all taxable years beginning on or after January first, two thousand four and before January first, two thousand six. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a banking corporation that was in existence before January first, two thousand four and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand four, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand four and before January first, two thousand six. Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section.

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this chapter for such taxable year. A corporation that was in existence before January first, two thousand four but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand four and before January first, two thousand six, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand four if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand four but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand four and before January first, two thousand six, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand four if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

(2) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation formed on or after January first, two thousand four and before January first, two thousand six may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand four and before January first, two thousand six in which either (i) sixty-five percent or more of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of

subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section three hundred sixty-eight of the internal revenue code of nineteen hundred eighty-six, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made by the taxpayer by filing the return required pursuant to subdivision one of section 11-605 of this chapter and the election to be taxed under this subchapter shall be made by the taxpayer by filing the return required pursuant to subdivision (a) of section 11-646 of this chapter. Any election made pursuant to this paragraph shall be irrevocable and shall apply to each subsequent taxable year beginning on or after January first, two thousand four and before January first, two thousand six, provided that the stock ownership requirements described in subparagraph (i) of this paragraph are met or such corporation described in subparagraph (ii) of this paragraph continues as a financial subsidiary.

S 30. Paragraphs 1 and 2 of subdivision (k) of section 11-640 of the administrative code of the city of New York, as added by section 6 of part I of chapter 62 of the laws of 2006, are amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation that was in existence before January first, two thousand six and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand six, shall continue to be taxable under subchapter two of this chapter for all taxable years beginning on or after January first, two thousand six and before January first, two thousand eight. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a banking corporation that was in existence before January first, two thousand six and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand six, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand six and before January first, two thousand eight. Provided, however, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section.

For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this part for such taxable year. A corporation that was in

existence before January first, two thousand six but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand six and before January first, two thousand eight, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand six if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand six but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand six and before January first, two thousand eight, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand six if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

(2) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation formed on or after January first, two thousand six and before January first, two thousand eight may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand six and before January first, two thousand eight in which either (i) sixty-five percent or more of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section 368 of the internal revenue code of 1986, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made by the taxpayer by filing the return required pursuant to subdivision one of section 11-605 of this chapter and the election to be taxed under this subchapter shall be made by the taxpayer by filing the return required pursuant to subdivision (a) of section 11-646 of this part. Any election made pursuant to this paragraph shall be irrevocable and shall apply to each subsequent taxable year beginning on or after January first, two thousand six and before January first, two thousand eight, provided that the stock ownership requirements described in subparagraph (i) of this paragraph are met or such corporation described in subparagraph (ii) of this paragraph continues as a financial subsidiary.

S 31. Paragraphs 1 and 2 of subdivision (l) of section 11-640 of the administrative code of the city of New York, paragraph 1 as amended by

chapter 636 of the laws of 2008 and paragraph 2 as amended by chapter 96 of the laws of 2007, are amended to read as follows:

(1) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation that was in existence before January first, two thousand eight and was subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand eight, shall continue to be taxable under such subchapter for all taxable years beginning on or after January first, two thousand eight and before January first, two thousand ten. The preceding sentence shall not apply to any taxable year during which such corporation is a banking corporation described in paragraphs one through eight of subdivision (a) of this section. Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a banking corporation or corporation that was in existence before January first, two thousand eight and was subject to tax under this subchapter for its last taxable year beginning before January first, two thousand eight, shall continue to be taxable under this subchapter for all taxable years beginning on or after January first, two thousand eight and before January first, two thousand ten or in which the corporation satisfies the requirements for a corporation to elect to be taxable under this subchapter. Provided further, that nothing in this subdivision shall prohibit a corporation that elected pursuant to subdivision (d) of this section to be taxable under subchapter two of this chapter from revoking that election in accordance with subdivision (d) of this section. For purposes of this paragraph, a corporation shall be considered to be subject to tax under subchapter two of this chapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision four of section 11-605 of this chapter for such taxable year and a corporation shall be considered to be subject to tax under this subchapter for a taxable year if such corporation was not a taxpayer but was properly included in a combined report filed pursuant to subdivision (f) or (g) of section 11-646 of this part for such taxable year. A corporation that was in existence before January first, two thousand eight but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand eight and before January first, two thousand ten, shall be considered for purposes of this paragraph to have been subject to tax under subchapter two of this chapter for its last taxable year beginning before January first, two thousand eight if such corporation would have been subject to tax under such subchapter for such taxable year if it had been a taxpayer during such taxable year. A corporation that was in existence before January first, two thousand eight but first becomes a taxpayer in a taxable year beginning on or after January first, two thousand eight and before January first, two thousand ten, shall be considered for purposes of this paragraph to have been subject to tax under this subchapter for its last taxable year beginning before January first, two thousand eight if such corporation would have been subject to tax under this subchapter for such taxable year if it had been a taxpayer during such taxable year.

(2) Notwithstanding anything to the contrary contained in this section OTHER THAN SUBDIVISION (M) OF THIS SECTION, a corporation formed on or after January first, two thousand eight and before January first, two thousand ten may elect to be subject to tax under this subchapter or under subchapter two of this chapter for its first taxable year beginning on or after January first, two thousand eight and before January first, two thousand ten in which either (i) sixty-five percent or more

of its voting stock is owned or controlled, directly or indirectly by a financial holding company, provided the corporation whose voting stock is so owned or controlled is principally engaged in activities that are described in section 4(k)(4) or 4(k)(5) of the federal bank holding company act of nineteen hundred fifty-six, as amended and the regulations promulgated pursuant to the authority of such section or (ii) it is a financial subsidiary. An election under this paragraph may not be made by a corporation described in paragraphs one through eight of subdivision (a) of this section or in subdivision (e) of this section. In addition, an election under this paragraph may not be made by a corporation that is a party to a reorganization, as defined in subsection (a) of section 368 of the internal revenue code of 1986, as amended, of a corporation described in paragraph one of this subdivision if both corporations were sixty-five percent or more owned or controlled, directly or indirectly by the same interests at the time of the reorganization.

An election under this paragraph must be made by the taxpayer on or before the due date for filing its return (determined with regard to extensions of time for filing) for the applicable taxable year. The election to be taxed under subchapter two of this chapter shall be made by the taxpayer by filing the return required pursuant to subdivision one of section 11-605 of this chapter and the election to be taxed under this subchapter shall be made by the taxpayer by filing the return required pursuant to subdivision (a) of section 11-646 of this part. Any election made pursuant to this paragraph shall be irrevocable and shall apply to each subsequent taxable year beginning on or after January first, two thousand eight and before January first, two thousand ten, provided that the stock ownership and activities requirements described in subparagraph (i) of this paragraph are met or such corporation described in subparagraph (ii) of this paragraph continues as a financial subsidiary.

S 32. Section 11-640 of the administrative code of the city of New York is amended by adding a new subdivision (m) to read as follows:

(M) (1) NOTWITHSTANDING ANYTHING IN THIS PART TO THE CONTRARY, IF ANY OF THE CONDITIONS DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION APPLY TO A CORPORATION THAT HAS MADE EITHER THE ELECTION TO BE TAXABLE UNDER SUBCHAPTER TWO OF CHAPTER SIX OF THIS TITLE PURSUANT TO THE GRAMM-LEACH-BLILEY TRANSITIONAL PROVISIONS IN THIS SECTION, OR THE ELECTION PURSUANT TO SUBDIVISION (D) OF THIS SECTION TO CONTINUE TO BE TAXABLE UNDER SUBCHAPTER TWO OF CHAPTER SIX OF THIS TITLE (HEREINAFTER THE "ELECTING CORPORATION"), THEN SUCH CORPORATION SHALL BE DEEMED TO HAVE REVOKED THE ELECTION AS OF THE FIRST DAY OF THE TAXABLE YEAR IN WHICH SUCH CONDITION APPLIED.

(2) NOTWITHSTANDING ANYTHING IN THIS PART TO THE CONTRARY, IF ANY OF THE CONDITIONS DESCRIBED IN PARAGRAPH THREE OF THIS SUBDIVISION APPLY TO A CORPORATION REQUIRED TO BE TAXABLE UNDER SUBCHAPTER TWO OF CHAPTER SIX OF THIS TITLE PURSUANT TO THE GRAMM-LEACH-BLILEY TRANSITIONAL PROVISIONS IN THIS SECTION (HEREINAFTER THE "GRANDFATHERED CORPORATION"), SUCH CORPORATION, IF IT IS OTHERWISE DESCRIBED IN SUBDIVISION (A) OF THIS SECTION, SHALL BE TAXABLE UNDER THIS PART AS OF THE FIRST DAY OF THE TAXABLE YEAR IN WHICH SUCH CONDITION APPLIED.

(3) THE PROVISIONS OF PARAGRAPH ONE AND PARAGRAPH TWO OF THIS SUBDIVISION SHALL APPLY IF ANY OF THE FOLLOWING CONDITIONS EXIST OR OCCUR WITH RESPECT TO THE ELECTING CORPORATION OR THE GRANDFATHERED CORPORATION IN A TAXABLE YEAR (INCLUDING ANY SHORT TAXABLE YEAR) BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE:

(A) THE CORPORATION CEASES TO BE A TAXPAYER UNDER SUBCHAPTER TWO OF CHAPTER SIX OF THIS TITLE;

(B) THE CORPORATION BECOMES SUBJECT TO THE FIXED DOLLAR MINIMUM TAX UNDER CLAUSE FOUR OF SUBPARAGRAPH A OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-604 OF THIS CHAPTER;

(C) THE CORPORATION HAS NO WAGES OR RECEIPTS ALLOCABLE TO NEW YORK CITY PURSUANT TO SUBDIVISION THREE OF SECTION 11-604 OF THIS CHAPTER, OR IS OTHERWISE INACTIVE; PROVIDED THAT THIS SUBPARAGRAPH SHALL NOT APPLY TO A CORPORATION WHICH IS ENGAGED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS, OR SUBSTANTIALLY ALL OF THE ASSETS OF WHICH ARE STOCK AND SECURITIES OF CORPORATIONS WHICH ARE DIRECTLY OR INDIRECTLY CONTROLLED BY IT AND ARE ENGAGED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS;

(D) SIXTY-FIVE PERCENT OR MORE OF THE VOTING STOCK OF THE CORPORATION BECOMES OWNED OR CONTROLLED DIRECTLY BY A CORPORATION THAT ACQUIRED THE STOCK IN A TRANSACTION (OR SERIES OF RELATED TRANSACTIONS) THAT QUALIFIES AS A PURCHASE WITHIN THE MEANING OF PARAGRAPH THREE OF SUBSECTION (H) OF SECTION THREE HUNDRED THIRTY-EIGHT OF THE INTERNAL REVENUE CODE UNLESS THE CORPORATION WHOSE STOCK WAS ACQUIRED AND THE CORPORATION ACQUIRING THE STOCK WERE, IMMEDIATELY PRIOR TO SUCH PURCHASE, MEMBERS OF THE SAME AFFILIATED GROUP (AS SUCH TERM IS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF SUCH SECTION); OR

(E) THE CORPORATION, IN A TRANSACTION OR SERIES OF RELATED TRANSACTIONS, ACQUIRES ASSETS, WHETHER BY CONTRIBUTION, PURCHASE, OR OTHERWISE, HAVING AN AVERAGE VALUE (DETERMINED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION 11-604 OF THIS CHAPTER, OR, IF GREATER, A TOTAL TAX BASIS, IN EXCESS OF FORTY PERCENT OF THE AVERAGE VALUE, OR, IF GREATER, THE TOTAL TAX BASIS, OF ALL THE ASSETS OF THE CORPORATION IMMEDIATELY PRIOR TO SUCH ACQUISITION AND AS A RESULT OF SUCH ACQUISITION THE CORPORATION IS PRINCIPALLY ENGAGED IN A BUSINESS THAT IS DIFFERENT FROM THE BUSINESS IMMEDIATELY PRIOR TO SUCH ACQUISITION, PROVIDED THAT SUCH DIFFERENT BUSINESS IS DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH NINE OF SUBDIVISION (A) OF THIS SECTION.

S 33. Clause (B) of subparagraph 2 of paragraph (a) of subdivision 3 of section 11-604 of the administrative code of the city of New York, as amended by chapter 513 of the laws of 2002, is amended to read as follows:

(B) services performed within the city, provided, however, that (i) in the case of a taxpayer engaged in the business of publishing newspapers or periodicals, receipts arising from sales of advertising contained in such newspapers and periodicals shall be deemed to arise from services performed within the city to the extent that such newspapers and periodicals are delivered to points within the city, (ii) receipts received from an investment company arising from the sale of management, administration or distribution services to such investment company shall be deemed to arise from services performed within the city to the extent set forth in subparagraph five of this paragraph, (iii) in the case of taxpayers principally engaged in the activity of air freight forwarding acting as principal and like indirect air carriage, receipts arising from such activity shall be deemed to arise from services performed within the city as follows: one hundred percent of such receipts if both the pickup and delivery associated with such receipts are made in the city and fifty percent of such receipts if either the pickup or delivery associated with such receipts is made in the city, [and] (iv) for taxable years beginning on or after January first, two thousand two, in the case of a taxpayer engaged in the business of publishing newspapers or

periodicals, or broadcasting radio or television programs, whether through the public airwaves or by cable, direct or indirect satellite transmission, or any other means of transmission, receipts arising from sales of subscriptions, advertising or broadcasting shall be deemed to arise from services performed within the city to the extent provided in subparagraph nine of this paragraph, AND (V) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT, IN THE CASE OF A TAXPAYER WHICH IS A REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER, THE RECEIPTS SPECIFIED IN SUBPARAGRAPH TEN OF THIS PARAGRAPH SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN SUCH SUBPARAGRAPH TEN,

S 34. Paragraph (a) of subdivision 3 of section 11-604 of the administrative code of the city of New York is amended by adding a new subparagraph 10 to read as follows:

(10) (A) IN THE CASE OF A TAXPAYER WHICH IS A REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER, THE RECEIPTS SPECIFIED IN ITEMS (I) THROUGH (VII) OF THIS CLAUSE SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF SUCH ITEMS.

(I) RECEIPTS CONSTITUTING BROKERAGE COMMISSIONS DERIVED FROM THE EXECUTION OF SECURITIES OR COMMODITIES PURCHASE OR SALES ORDERS FOR THE ACCOUNTS OF CUSTOMERS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH COMMISSIONS.

(II) RECEIPTS CONSTITUTING MARGIN INTEREST EARNED ON BEHALF OF BROKERAGE ACCOUNTS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH MARGIN INTEREST.

(III) GROSS INCOME, INCLUDING ANY ACCRUED INTEREST OR DIVIDENDS, FROM PRINCIPAL TRANSACTIONS FOR THE PURCHASE OR SALE OF STOCKS, BONDS, FOREIGN EXCHANGE AND OTHER SECURITIES OR COMMODITIES (INCLUDING FUTURES AND FORWARD CONTRACTS, OPTIONS AND OTHER TYPES OF SECURITIES OR COMMODITIES DERIVATIVES CONTRACTS) SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY EITHER (I) TO THE EXTENT THAT PRODUCTION CREDITS ARE AWARDED TO BRANCHES, OFFICES OR EMPLOYEES OF THE TAXPAYER WITHIN THE CITY AS A RESULT OF SUCH PRINCIPAL TRANSACTIONS OR (II) IF THE TAXPAYER SO ELECTS, TO THE EXTENT THAT THE GROSS PROCEEDS FROM SUCH PRINCIPAL TRANSACTIONS (DETERMINED WITHOUT DEDUCTION FOR ANY COST INCURRED BY THE TAXPAYER TO ACQUIRE THE SECURITIES OR COMMODITIES) ARE GENERATED FROM SALES OF SECURITIES OR COMMODITIES TO CUSTOMERS WITHIN THE CITY BASED UPON THE MAILING ADDRESSES OF SUCH CUSTOMERS IN THE RECORDS OF THE TAXPAYER. FOR PURPOSES OF SUBITEM (II) OF THE PRECEDING SENTENCE, THE TAXPAYER SHALL SEPARATELY CALCULATE SUCH GROSS INCOME FROM PRINCIPAL TRANSACTIONS BY TYPE OF SECURITY OR COMMODITY. FOR PURPOSES OF THIS ITEM, GROSS INCOME FROM PRINCIPAL TRANSACTIONS SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED BY THE TAXPAYER TO ACQUIRE THE SECURITIES OR COMMODITIES. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "PRODUCTION CREDITS" MEANS CREDITS GRANTED PURSUANT TO THE INTERNAL ACCOUNTING SYSTEM USED BY THE TAXPAYER TO MEASURE THE AMOUNT OF REVENUE THAT SHOULD BE AWARDED TO A PARTICULAR BRANCH OR OFFICE OR EMPLOYEE OF THE TAXPAYER WHICH IS BASED, AT LEAST IN PART, ON THE BRANCH'S, THE OFFICE'S OR THE EMPLOYEE'S PARTICULAR ACTIVITIES. UPON REQUEST, THE TAXPAYER SHALL BE REQUIRED TO FURNISH A DETAILED EXPLANATION OF SUCH INTERNAL ACCOUNTING SYSTEM TO THE DEPARTMENT.

(IV) (I) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY WHICH IS

CONTEMPLATING ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR MANAGING AN UNDERWRITING SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES.

(II) RECEIPTS CONSTITUTING THE PRIMARY SPREAD OR SELLING CONCESSION FROM UNDERWRITTEN SECURITIES SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT THAT PRODUCTION CREDITS ARE AWARDED TO BRANCHES, OFFICES OR EMPLOYEES OF THE TAXPAYER WITHIN THE CITY AS A RESULT OF THE SALE OF THE UNDERWRITTEN SECURITIES.

(III) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETED AND THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURITIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPARATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE TAXPAYER IS NOT THE LEAD UNDERWRITER.

(V) RECEIPTS CONSTITUTING INTEREST EARNED BY THE TAXPAYER ON LOANS AND ADVANCES MADE BY THE TAXPAYER TO A CORPORATION AFFILIATED WITH THE TAXPAYER BUT WITH WHICH THE TAXPAYER IS NOT PERMITTED OR REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SUBDIVISION FOUR OF SECTION 11-605 OF THIS SUBCHAPTER SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE PRINCIPAL PLACE OF BUSINESS OF SUCH AFFILIATED CORPORATION.

(VI) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH ACCOUNT MAINTENANCE FEES.

(VII) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES, INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISITION ACTIVITIES BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN ITEM (II) OF CLAUSE (B) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH, SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES.

(B) FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "SECURITIES" SHALL HAVE THE SAME MEANING AS IN SECTION 475(C)(2) OF THE INTERNAL REVENUE CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN SECTION 475(E)(2) OF THE INTERNAL REVENUE CODE. THE TERM "REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER" MEANS A BROKER OR DEALER REGISTERED AS SUCH BY THE SECURITIES AND EXCHANGE COMMISSION OR THE COMMODITIES FUTURES TRADING COMMISSION, AND SHALL INCLUDE AN OVER-THE-COUNTER DERIVATIVES DEALER AS DEFINED UNDER REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE OF FEDERAL REGULATIONS (17 CFR 240.3B-12).

(C) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN CLAUSE (A) OF THIS SUBPARAGRAPH AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF THE ITEMS OF CLAUSE (A) OF THIS SUBPARAGRAPH. THE AMOUNT OF SUCH RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER

RECEIVES ANY OF THE RECEIPTS ENUMERATED IN CLAUSE (A) OF THIS SUBPARAGRAPH AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF THE ITEMS OF CLAUSE (A) OF THIS SUBPARAGRAPH.

(D) IF, FOR PURPOSES OF ITEM (I) OR (II), SUBITEM (I) OF ITEM (IV), OR ITEM (VI), OR (VII) OF CLAUSE (A) OF THIS SUBPARAGRAPH, THE TAXPAYER IS UNABLE FROM ITS RECORDS TO DETERMINE THE MAILING ADDRESS OF THE CUSTOMER, THE RECEIPTS ENUMERATED IN ANY OF SUCH ITEMS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE BRANCH OR OFFICE OF THE TAXPAYER THAT GENERATES THE TRANSACTION FOR THE CUSTOMER THAT GENERATED SUCH RECEIPTS.

S 35. Subdivision (a) of section 11-1108 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

a. In the manner provided in this section the commissioner of finance shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid, if application for such refund shall be made to the commissioner of finance within [one year from the payment thereof] THREE YEARS FROM THE TIME THE RETURN WAS FILED OR TWO YEARS FROM THE TIME THE TAX WAS PAID, WHICHEVER OF SUCH PERIODS EXPIRES LATER, OR IF NO RETURN WAS FILED, WITHIN TWO YEARS FROM THE TIME THE TAX WAS PAID. IF THE CLAIM IS FILED WITHIN THE THREE-YEAR PERIOD, THE AMOUNT OF THE CREDIT OR REFUND SHALL NOT EXCEED THE PORTION OF THE TAX PAID WITHIN THE THREE YEARS IMMEDIATELY PRECEDING THE FILING OF THE CLAIM PLUS THE PERIOD OF ANY EXTENSION OF TIME FOR FILING THE RETURN. IF THE CLAIM IS NOT FILED WITHIN THE THREE-YEAR PERIOD, BUT IS FILED WITHIN THE TWO-YEAR PERIOD, THE AMOUNT OF THE CREDIT OR REFUND SHALL NOT EXCEED THE PORTION OF THE TAX PAID DURING THE TWO YEARS IMMEDIATELY PRECEDING THE FILING OF THE CLAIM. Whenever a refund or credit is made or denied by the commissioner of finance, he or she shall state his or her reason therefor and give notice thereof to the taxpayer in writing. The commissioner of finance may, in lieu of any refund required to be made, allow credit therefor on payments due from the applicant.

S 36. The administrative code of the city of New York is amended by adding a new section 11-130 to read as follows:

S 11-130 FINANCIAL INSTITUTION DATA MATCH SYSTEM FOR TAX COLLECTION PURPOSES. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "DEBT" MEANS ALL LIABILITIES, INCLUDING UNPAID TAX, INTEREST, AND PENALTY, THAT THE COMMISSIONER OF FINANCE IS REQUIRED BY LAW TO COLLECT AND THAT HAVE BEEN REDUCED TO JUDGMENT BY THE DOCKETING OF A CITY TAX WARRANT IN THE OFFICE OF THE COUNTY CLERK OF THE APPROPRIATE COUNTY.

(B) "TAX DEBTOR" MEANS A NATURAL PERSON OR ANY ENTITY OTHER THAN A NATURAL PERSON NAMED ON A CITY TAX WARRANT AND IDENTIFIED THEREON AS A JUDGMENT DEBTOR.

(C) "FINANCIAL INSTITUTION" MEANS ANY FINANCIAL INSTITUTION AUTHORIZED OR REQUIRED TO PARTICIPATE IN A FINANCIAL INSTITUTION DATA MATCH SYSTEM OR PROGRAM FOR CHILD SUPPORT ENFORCEMENT PURPOSES UNDER FEDERAL OR STATE LAW.

2. FINANCIAL INSTITUTION DATA MATCH SYSTEM FOR TAX COLLECTION PURPOSES. (A) TO ASSIST THE COMMISSIONER OF FINANCE IN THE COLLECTION OF DEBTS, THE DEPARTMENT OF FINANCE SHALL DEVELOP AND OPERATE A FINANCIAL INSTITUTION DATA MATCH SYSTEM FOR THE PURPOSE OF IDENTIFYING AND SEIZING

THE NON-EXEMPT ASSETS OF TAX DEBTORS AS IDENTIFIED BY THE COMMISSIONER OF FINANCE. THE COMMISSIONER IS AUTHORIZED TO DESIGNATE A THIRD PARTY TO DEVELOP AND OPERATE THIS SYSTEM. ANY THIRD PARTY DESIGNATED BY THE COMMISSIONER TO DEVELOP AND OPERATE A FINANCIAL DATA MATCH SYSTEM SHALL KEEP ALL INFORMATION IT OBTAINS FROM BOTH THE DEPARTMENT AND THE FINANCIAL INSTITUTION CONFIDENTIAL, AND ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF THAT THIRD PARTY IS PROHIBITED FROM DISCLOSING THAT INFORMATION TO ANYONE OTHER THAN THE DEPARTMENT OR THE FINANCIAL INSTITUTION.

(B) EACH FINANCIAL INSTITUTION DOING BUSINESS IN THE CITY SHALL, IN CONJUNCTION WITH THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED DESIGNEE, DEVELOP AND OPERATE A DATA MATCH SYSTEM TO FACILITATE THE IDENTIFICATION AND SEIZURE OF NON-EXEMPT FINANCIAL ASSETS OF TAX DEBTORS IDENTIFIED BY THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED DESIGNEE. IF A FINANCIAL INSTITUTION HAS A DATA MATCH SYSTEM DEVELOPED OR USED TO ADMINISTER THE CHILD SUPPORT ENFORCEMENT PROGRAMS OF THIS STATE, AND IF THAT SYSTEM IS APPROVED BY THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED DESIGNEE, THE FINANCIAL INSTITUTION MAY USE THAT SYSTEM TO COMPLY WITH THE PROVISIONS OF THIS SECTION.

3. EACH FINANCIAL INSTITUTION SHALL PROVIDE IDENTIFYING INFORMATION EACH CALENDAR QUARTER TO THE DEPARTMENT OF FINANCE FOR EACH TAX DEBTOR IDENTIFIED BY THE DEPARTMENT WHO OR THAT MAINTAINS AN ACCOUNT AT THE INSTITUTION.

THE IDENTIFYING INFORMATION SHALL INCLUDE THE TAX DEBTOR'S NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OR OTHER TAXPAYER IDENTIFICATION NUMBER, AND ALL ACCOUNT NUMBERS AND BALANCES IN EACH ACCOUNT.

4. A FINANCIAL INSTITUTION THAT COMPLIES WITH THIS SECTION WILL NOT BE LIABLE UNDER STATE OR CITY LAW TO ANY PERSON FOR THE DISCLOSURE OF INFORMATION TO THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED DESIGNEE, OR ANY OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THIS SECTION.

5. BOTH THE FINANCIAL INSTITUTION FURNISHING A REPORT TO THE COMMISSIONER UNDER THIS SECTION AND THE COMMISSIONER'S AUTHORIZED DESIGNEE ARE PROHIBITED FROM DISCLOSING TO THE TAX DEBTOR THAT THE NAME OF THE TAX DEBTOR HAS BEEN RECEIVED FROM OR FURNISHED TO THE COMMISSIONER, UNLESS AUTHORIZED IN WRITING BY THE COMMISSIONER TO DO SO. A VIOLATION OF THIS SUBDIVISION WILL RESULT IN THE IMPOSITION OF A CIVIL PENALTY EQUAL TO THE GREATER OF ONE THOUSAND DOLLARS OR THE AMOUNT IN THE ACCOUNT OF THE PERSON TO WHOM THE DISCLOSURE WAS MADE FOR EACH INSTANCE OF UNAUTHORIZED DISCLOSURE BY THE FINANCIAL INSTITUTION. THAT CIVIL PENALTY CAN BE ASSESSED AND COLLECTED UNDER THIS CODE AS IF THAT PENALTY WERE TAX.

6. A FINANCIAL INSTITUTION MAY DISCLOSE TO ITS DEPOSITORS OR ACCOUNT HOLDERS THAT THE DEPARTMENT OF FINANCE HAS THE AUTHORITY TO REQUEST CERTAIN IDENTIFYING INFORMATION ON CERTAIN DEPOSITORS OR ACCOUNT HOLDERS UNDER THE FINANCIAL INSTITUTION DATA MATCH SYSTEM FOR CITY TAX COLLECTION PURPOSES.

S 37. The administrative code of the city of New York is amended by adding a new section 11-131 to read as follows:

S 11-131 VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM. A. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, THERE IS HEREBY ESTABLISHED A VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM, AS DESCRIBED IN THIS SECTION, TO BE ADMINISTERED BY THE COMMISSIONER, FOR ALL ELIGIBLE TAXPAYERS AS DESCRIBED IN THIS SECTION, OWING ANY TAX IMPOSED OR PREVIOUSLY IMPOSED UNDER THIS TITLE.

B. FOR PURPOSES OF THE VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM ESTABLISHED UNDER THIS SECTION, AN ELIGIBLE TAXPAYER IS AN INDIVIDUAL, PARTNERSHIP, ESTATE, TRUST, CORPORATION, LIMITED LIABILITY COMPANY,

JOINT STOCK COMPANY, OR ANY OTHER COMPANY, TRUSTEE, RECEIVER, ASSIGNEE, REFEREE, SOCIETY, ASSOCIATION, BUSINESS OR ANY OTHER PERSON SUBJECT TO A TAX IMPOSED BY THIS TITLE AND WHO MEETS THE FOLLOWING CRITERIA: (1) THE TAXPAYER IS NOT CURRENTLY UNDER AUDIT BY THE DEPARTMENT; (2) THE TAXPAYER IS ONE WHO IS VOLUNTARILY DISCLOSING A NEW YORK CITY TAX LIABILITY THAT THE DEPARTMENT HAS NOT DETERMINED, CALCULATED, RESEARCHED OR IDENTIFIED AT THE TIME OF THE DISCLOSURE; (3) THE TAXPAYER IS NOT CURRENTLY A PARTY TO ANY CRIMINAL INVESTIGATION BEING CONDUCTED BY AN AGENCY OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF; AND (4) THE TAXPAYER IS NOT SEEKING TO DISCLOSE PARTICIPATION IN A TAX AVOIDANCE TRANSACTION THAT IS A FEDERAL OR NEW YORK STATE REPORTABLE OR LISTED TRANSACTION.

C. UNDER THE VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM, UPON EXECUTION OF A VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT BY THE ELIGIBLE TAXPAYER AND THE COMMISSIONER, THE COMMISSIONER SHALL WAIVE ANY APPLICABLE PENALTIES FOR THE FOLLOWING: (1) FAILURE TO PAY ANY SUCH TAX LIABILITY; (2) FAILURE TO FILE A RETURN OR REPORT WITH RESPECT TO ANY SUCH TAX LIABILITY; AND (3) FAILURE TO PAY ESTIMATED TAX. IN ADDITION, NO CRIMINAL ACTION OR PROCEEDING SHALL BE BROUGHT AGAINST AN ELIGIBLE TAXPAYER RELATING TO THE TAX LIABILITY COVERED BY THE AGREEMENT. THIS AGREEMENT SHALL NOT PRECLUDE THE AUDITING OF THE RETURNS FILED TO DETERMINE IF THOSE RETURNS WERE COMPLETED IN ACCORDANCE WITH EXISTING LAW AND REGULATION. INTENTIONAL FAILURE TO PAY ALL THE TAXES, PLUS RELATED INTEREST, PURSUANT TO THE VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT ENTERED INTO BETWEEN THE TAXPAYER AND THE COMMISSIONER, SHALL INVALIDATE ANY WAIVER OF PENALTY, INVALIDATE THE FORBEARANCE OF ANY ADMINISTRATIVE OR CRIMINAL ACTION OR PROCEEDING.

D. TO PARTICIPATE IN THE VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM, AN ELIGIBLE TAXPAYER MUST APPLY BY SUBMITTING A DISCLOSURE STATEMENT IN THE FORM AND MANNER PRESCRIBED BY THE COMMISSIONER. THE DISCLOSURE STATEMENT SHALL CONTAIN ALL THE INFORMATION THE COMMISSIONER REASONABLY DEEMS NECESSARY TO EFFECTIVELY ADMINISTER THE PROGRAM. AS LONG AS ALL THE REQUIREMENTS OF THE VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM ARE MET, NO APPLICATION SHALL BE DENIED SOLELY BECAUSE THE TAXPAYER HAS ADMITTED THAT THE DELINQUENCY WAS THE RESULT OF WILLFUL OR FRAUDULENT CONDUCT. EXCEPT IN INSTANCES WHERE THE TAXPAYER HAS FAILED TO COMPLY WITH THE TERMS OF A VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT, THE COMMISSIONER SHALL NOT USE THE TAXPAYER'S DISCLOSURE AS EVIDENCE IN ANY PROCEEDING BROUGHT AGAINST THE TAXPAYER OR REVEAL THE CONTENTS OF THE DISCLOSURE TO ANY LAW ENFORCEMENT OR OTHER AGENCY. HOWEVER, THE DISCLOSURE OF ANY RETURNS OR REPORTS FILED UNDER THIS PROGRAM WITH THE SECRETARY OF THE TREASURY OF THE UNITED STATES, HIS OR HER DELEGATES, OR THE PROPER TAX OFFICER OF ANY STATE OR CITY IS PERMITTED AS OTHERWISE PROVIDED FOR IN THIS TITLE.

E. (1) IF THE TAXPAYER AND THE TAX LIABILITY ARE ELIGIBLE UNDER THE VOLUNTARY DISCLOSURE AND COMPLIANCE PROGRAM, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT WITH THE TAXPAYER. A VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT WILL BE IN A FORM TO BE ESTABLISHED BY THE COMMISSIONER AND INCLUDE SUCH TERMS AS THE COMMISSIONER MAY REASONABLY REQUIRE TO SATISFY THE TAXPAYER'S DISCLOSED TAX OBLIGATIONS AND ENABLE AND REQUIRE THE TAXPAYER TO COMPLY WITH THE APPLICABLE PROVISIONS OF THIS TITLE IN THE FUTURE. THE TAXPAYER MUST PAY THE TAX AND THE RELATED INTEREST THAT ARE THE SUBJECT OF THE VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT WHEN THE AGREEMENT IS EXECUTED OR WITHIN THE TIME STATED ON A BILL ISSUED TO THE TAXPAYER BY THE COMMISSIONER. IN THE EVENT THE COMMISSIONER IS SATISFIED THAT THE TAXPAYER CANNOT MAKE IMMEDIATE FULL PAYMENT OF THE DISCLOSED TAX LIABIL-

ITY, THE COMMISSIONER MAY ENTER INTO AN INSTALLMENT PAYMENT PROGRAM WITH THE TAXPAYER FOR THE PAYMENT OF THE TAX AND INTEREST DUE. THE COMMISSIONER MAY REQUIRE A FINANCIAL DISCLOSURE STATEMENT SETTING FORTH INFORMATION CONCERNING THE TAXPAYER'S CURRENT ASSETS, LIABILITIES, EARNINGS, AND OTHER FINANCIAL INFORMATION BEFORE ENTERING INTO AN INSTALLMENT PAYMENT PLAN WITH THE TAXPAYER. IN ADDITION TO ANY OTHER INFORMATION AND TERMS THAT THE COMMISSIONER DETERMINES ARE APPROPRIATE, THE VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT SHALL PROVIDE THAT, IF THE TAXPAYER COMPLIES WITH THE TERMS OF THE COMPLIANCE AGREEMENT, THE TAXPAYER WILL NOT BE SUBJECT TO ANY CRIMINAL TAX PROSECUTION IN NEW YORK CITY FOR THE CONDUCT DISCLOSED BY THE TAXPAYER.

(2) IF THE TAXPAYER INTENTIONALLY PROVIDES FALSE MATERIAL INFORMATION OR OMITS MATERIAL INFORMATION IN HIS OR HER SUBMISSIONS TO THE COMMISSIONER, OR ATTEMPTS TO INTENTIONALLY DEFEAT OR EVADE A TAX DUE PURSUANT TO THE AGREEMENT EXECUTED UNDER THIS SECTION, OR INTENTIONALLY FAILS TO COMPLY WITH THE TERMS OF THE COMPLIANCE AGREEMENT, SUCH AGREEMENT SHALL BE DEEMED RESCINDED.

F. UNLESS THE COMMISSIONER ON HIS OR HER OWN MOTION REDETERMINES THE AMOUNT OF TAX DUE, INCLUDING APPLICABLE INTEREST, NO REFUND SHALL BE GRANTED OR CREDIT ALLOWED WITH RESPECT TO ANY TAXES, INCLUDING APPLICABLE INTEREST, PAID UNDER THIS PROGRAM. THE COMMISSIONER MAY PROMULGATE REGULATIONS, ISSUE FORMS AND INSTRUCTIONS, AND TAKE ANY AND ALL OTHER ACTIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THE PROGRAM ESTABLISHED UNDER THIS SECTION.

G. THE COMMISSIONER SHALL PUBLICIZE THE PROGRAM PROVIDED FOR IN THIS SECTION SO AS TO MAXIMIZE PUBLIC AWARENESS OF AND PARTICIPATION IN SUCH PROGRAM.

H. FOR PURPOSES OF THIS SECTION, THE TERM "TAXPAYER" INCLUDES ANY PERSON REQUIRED TO COLLECT ANY OF THE TAXES SPECIFIED IN SUBDIVISION A OF THIS SECTION.

I. THE VOLUNTARY DISCLOSURE AND COMPLIANCE APPLICATION, THE DISCLOSURE STATEMENT, THE VOLUNTARY DISCLOSURE AND COMPLIANCE AGREEMENT, AND OTHER DOCUMENTS FILED BY AN ELIGIBLE TAXPAYER PURSUANT TO THE PROGRAM ESTABLISHED BY THIS SECTION ARE DEEMED TO BE REPORTS AND RETURNS: (A) SUBJECT TO THE SECRECY PROVISIONS OF THIS TITLE IN THE SAME MANNER AND TO THE SAME EXTENT AS IF SUCH DOCUMENTS WERE REFERRED TO IN ANY OF THE SECRECY PROVISIONS OF THIS TITLE; AND (B) FOR PURPOSES OF THE CRIMINAL PROVISIONS OF CHAPTER FORTY OF THIS TITLE.

S 38. The administrative code of the city of New York is amended by adding a new section 11-132 to read as follows:

S 11-132 MANDATORY ELECTRONIC FILING AND PAYMENT. A. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS HAVE THE SPECIFIED MEANINGS:

(1) "AUTHORIZED TAX DOCUMENT" MEANS A TAX DOCUMENT WHICH THE COMMISSIONER OF FINANCE HAS AUTHORIZED TO BE FILED ELECTRONICALLY.

(2) "ELECTRONIC" MEANS COMPUTER TECHNOLOGY.

(3) "ORIGINAL TAX DOCUMENT" MEANS A TAX DOCUMENT THAT IS FILED DURING THE CALENDAR YEAR FOR WHICH THAT TAX DOCUMENT IS REQUIRED OR PERMITTED TO BE FILED.

(4) "TAX" MEANS ANY TAX OR OTHER MATTER ADMINISTERED BY THE COMMISSIONER OF FINANCE PURSUANT TO THE ADMINISTRATIVE CODE OR ANY OTHER PROVISION OF LAW.

(5) "TAX DOCUMENT" MEANS A RETURN, REPORT OR ANY OTHER DOCUMENT RELATING TO A TAX OR OTHER MATTER ADMINISTERED BY THE COMMISSIONER OF FINANCE.

(6) "TAX RETURN PREPARER" MEANS ANY PERSON WHO PREPARES FOR COMPENSATION, OR WHO EMPLOYS OR ENGAGES ONE OR MORE PERSONS TO PREPARE FOR

COMPENSATION, ANY AUTHORIZED TAX DOCUMENT. FOR PURPOSES OF THIS SECTION, THE TERM "TAX RETURN PREPARER" ALSO INCLUDES A PAYROLL SERVICE.

(7) "TAX SOFTWARE" MEANS ANY COMPUTER SOFTWARE PROGRAM INTENDED FOR TAX RETURN PREPARATION PURPOSES. FOR PURPOSES OF THIS SECTION, THE TERM "TAX SOFTWARE" INCLUDES, BUT IS NOT LIMITED TO, AN OFF-THE-SHELF SOFTWARE PROGRAM LOADED ONTO A TAX RETURN PREPARER'S OR TAXPAYER'S COMPUTER, AN ONLINE TAX PREPARATION APPLICATION, OR A TAX PREPARATION APPLICATION HOSTED BY THE DEPARTMENT.

B. THE COMMISSIONER MAY, BY RULE, REQUIRE THAT IF A TAX RETURN PREPARER PREPARED MORE THAN ONE HUNDRED ORIGINAL TAX DOCUMENTS DURING ANY CALENDAR YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE, AND IF, IN ANY SUCCEEDING CALENDAR YEAR THAT TAX RETURN PREPARER PREPARES ONE OR MORE AUTHORIZED TAX DOCUMENTS USING TAX SOFTWARE, THEN, FOR THAT SUCCEEDING CALENDAR YEAR AND FOR EACH SUBSEQUENT CALENDAR YEAR THEREAFTER, ALL AUTHORIZED TAX DOCUMENTS PREPARED BY THAT TAX RETURN PREPARER MUST BE FILED ELECTRONICALLY, IN ACCORDANCE WITH INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER.

C. THE COMMISSIONER MAY, BY RULE, REQUIRE THAT IF A TAXPAYER DOES NOT UTILIZE A TAX RETURN PREPARER TO PREPARE AN AUTHORIZED TAX DOCUMENT DURING ANY CALENDAR YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, BUT INSTEAD PREPARES THAT DOCUMENT ITSELF USING TAX SOFTWARE, THEN, FOR THAT CALENDAR YEAR AND FOR EACH SUBSEQUENT CALENDAR YEAR THEREAFTER, ALL AUTHORIZED TAX DOCUMENTS PREPARED BY THE TAXPAYER USING TAX SOFTWARE MUST BE FILED ELECTRONICALLY, IN ACCORDANCE WITH INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER.

D. THE COMMISSIONER MAY, BY RULE, REQUIRE THAT ANY TAX LIABILITY OR OTHER AMOUNT DUE SHOWN ON, OR REQUIRED TO BE PAID WITH, AN AUTHORIZED TAX DOCUMENT REQUIRED TO BE FILED ELECTRONICALLY PURSUANT TO SUBDIVISION B OR C OF THIS SECTION MUST BE PAID BY THE TAXPAYER ELECTRONICALLY, IN ACCORDANCE WITH INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER.

E. FAILURE TO ELECTRONICALLY FILE OR ELECTRONICALLY PAY. THE COMMISSIONER MAY, BY RULE, IMPOSE PENALTIES FOR FAILING TO ELECTRONICALLY FILE OR ELECTRONICALLY PAY AS FOLLOWS: (1) IF A TAX RETURN PREPARER IS REQUIRED TO FILE AUTHORIZED TAX DOCUMENTS ELECTRONICALLY PURSUANT TO SUBDIVISION B OF THIS SECTION, AND THAT PREPARER FAILS TO FILE ONE OR MORE OF THOSE DOCUMENTS ELECTRONICALLY, THEN THAT PREPARER WILL BE SUBJECT TO A PENALTY OF FIFTY DOLLARS FOR EACH FAILURE TO ELECTRONICALLY FILE AN AUTHORIZED TAX DOCUMENT, UNLESS IT IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLECT. FOR PURPOSES OF THIS PARAGRAPH, REASONABLE CAUSE SHALL INCLUDE, BUT NOT BE LIMITED TO, A TAXPAYER'S ELECTION NOT TO ELECTRONICALLY FILE THE AUTHORIZED TAX DOCUMENT.

(2) IF A TAXPAYER IS REQUIRED TO ELECTRONICALLY PAY ANY TAX LIABILITY OR OTHER AMOUNT DUE SHOWN ON, OR REQUIRED TO BE PAID WITH, AN AUTHORIZED TAX DOCUMENT REQUIRED TO BE FILED ELECTRONICALLY PURSUANT TO SUBDIVISION B OR C OF THIS SECTION, AND THAT TAXPAYER FAILS TO ELECTRONICALLY PAY ONE OR MORE OF THOSE LIABILITIES OR OTHER AMOUNTS DUE, THEN THAT TAXPAYER WILL BE SUBJECT TO A PENALTY OF FIFTY DOLLARS FOR EACH FAILURE TO ELECTRONICALLY PAY.

(3) THE PENALTIES PROVIDED FOR BY THIS SUBDIVISION MUST BE PAID UPON NOTICE AND DEMAND, AND WILL BE ASSESSED, COLLECTED AND PAID IN THE SAME MANNER AS THE TAX TO WHICH THE ELECTRONIC TRANSACTION RELATES. HOWEVER, IF THE ELECTRONIC TRANSACTION RELATES TO ANOTHER MATTER ADMINISTERED BY THE COMMISSIONER OF FINANCE, THEN THE PENALTY WILL BE ASSESSED, COLLECTED AND PAID IN THE SAME MANNER AS PRESCRIBED BY THE CHAPTER OF THE CODE THAT RELATES TO COLLECTION OF THE GENERAL CORPORATION TAX.

F. ANY PROVISION OF THE NEW YORK CITY CHARTER OR THIS CODE REQUIRING ELECTRONIC PAYMENT OR ELECTRONIC FILING OF A TAX RETURN IS NOT AFFECTED BY THIS SECTION AND WILL REMAIN IN FULL FORCE AND EFFECT.

G. THE COMMISSIONER OF FINANCE IS AUTHORIZED TO PROMULGATE ANY RULES NECESSARY TO IMPLEMENT THIS SECTION.

S 39. Subdivision (a) of section 11-524 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

(a) General. If any amount of tax is not paid on or before the last date prescribed in this chapter for payment, interest on such amount at the underpayment rate set by the commissioner of finance pursuant to section 11-537 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 40. Subdivision (j) of section 11-524 of the administrative code of the city of New York, as amended by section 1 and as relettered by section 26 of chapter 241 of the laws of 1989, is amended to read as follows:

(j) Interest on erroneous refund. Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the commissioner of finance, shall bear interest at the underpayment rate set by the commissioner of finance pursuant to section 11-537 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

S 41. Subdivision (c) of section 11-525 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

(c) Failure to file declaration or underpayment of estimated tax. If any taxpayer fails to file a declaration of estimated tax or fails to pay all or any part of an installment of estimated tax, the taxpayer shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner of finance pursuant to section 11-537 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the fourth month following the close of the taxable year. The amount of the underpayment shall be the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety percent of the tax shown on the return for the taxable year (or if no return was filed, ninety percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. No underpayment shall be deemed to exist with respect to a declaration or installment otherwise due on or after the taxpayer's death. In any case in which there would be no underpayment if this subdivision were applied by substituting "eighty percent" for "ninety percent" where it appears in the second preceding sentence, the addition to tax under this subdivision shall be equal to seventy-five percent of the amount otherwise determined under this subdivision.

S 42. Paragraphs 1 and 2 of subdivision (f) of section 11-537 of the administrative code of the city of New York, paragraph 1 as amended by section 1 of part U of chapter 60 of the laws of 2004 and paragraph 2 as

amended by chapter 241 of the laws of 1989 and subparagraph (B) of paragraph 2 as amended by section 1 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the overpayment and underpayment rates of interest to be paid pursuant to sections 11-524, 11-525 and 11-528 of this chapter, but if no such rate or rates of interest are set, such OVERPAYMENT rate [or rates] shall be deemed to be set at six percent per annum AND SUCH UNDERPAYMENT RATE SHALL BE DEEMED TO BE SET AT SEVEN AND ONE-HALF PERCENT PER ANNUM. Such overpayment and underpayment rates shall be the rates prescribed in paragraph two of this subdivision, but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

(2) General rule. (A) Overpayment rate. The overpayment rate set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) two percentage points.

(B) Underpayment rate. The underpayment rate set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 43. Subdivision 1 of section 11-606 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

1. To the extent the tax imposed by section 11-603 of this subchapter shall not have been previously paid pursuant to section 11-608 of this subchapter,

(a) such tax, or the balance thereof, shall be payable to the commissioner of finance in full at the time the report is required to be filed, and

(b) such tax, or the balance thereof, imposed on any taxpayer which ceases to do business in the city or to be subject to the tax imposed by this subchapter shall be payable to the commissioner of finance at the time the report is required to be filed; all other taxes of any such taxpayer, which pursuant to the foregoing provisions of this section would otherwise be payable subsequent to the time such report is required to be filed, shall nevertheless be payable at such time.

If the taxpayer, within the time prescribed by section 11-605 of this subchapter, shall have applied for an automatic extension of time to file its annual report and shall have paid to the commissioner of finance on or before the date such application is filed an amount properly estimated as provided by said section, the only amount payable in addition to the tax shall be interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum upon the amount by which the tax, or the portion thereof payable on or before the date the report was required to be filed, exceeds the amount so paid. For purposes of the preceding sentence:

(1) an amount so paid shall be deemed properly estimated if it is either: (A) not less than ninety percent of the tax as finally determined (computed without regard to any credit allowable under subdivision eleven of section 11-604 of this subchapter), or (B) not less than the

tax shown (computed without regard to any credit allowable under subdivision eleven of section 11-604 of this subchapter) on the taxpayer's report for the preceding taxable year, if such preceding year was a taxable year of twelve months; and

(2) the time when a report is required to be filed shall be determined without regard to any extension of time for filing such report.

S 44. Subdivision 9 of section 11-608 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

9. The commissioner of finance may grant a reasonable extension of time, not to exceed six months, for payment of any installment of estimated tax required pursuant to this section, on such terms and conditions as the commissioner may require including the furnishing of a bond or other security by the taxpayer in an amount not exceeding twice the amount for which any extension of time for payment is granted, provided however that interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum for the period of the extension shall be charged and collected on the amount for which any extension of time for payment is granted under this subdivision.

S 45. Subdivision (i) of section 11-645 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

(i) Extension of time. The commissioner of finance may grant a reasonable extension of time, not to exceed six months, for payment of any installment of estimated tax required pursuant to this section, on such terms and conditions as the commissioner may require, including the furnishing of a bond or other security by the taxpayer in an amount not exceeding twice the amount for which any extension of time for payment is granted, provided, however that interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum for the period of the extension shall be charged and collected on the amount for which any extension of time for payment is granted under this subdivision.

S 46. The opening paragraph of subdivision (b) of section 11-647 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

If the taxpayer, within the time prescribed by subdivision (c) of section 11-646 of this part, shall have applied for an automatic extension of time to file its annual return and shall have paid to the commissioner of finance on or before the date of such application is filed an amount properly estimated as provided by said subdivision the only amount payable in addition to the tax shall be interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this chapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum upon the amount by which the tax, or portion thereof payable on or before the date the return was required to be filed, exceeds the amount so paid. For the purposes of the preceding sentence:

S 47. Subdivisions 1 and 10 of section 11-675 of the administrative code of the city of New York, as amended by section 9 and subdivision 10 as renumbered by section 27 of chapter 241 of the laws of 1989, are amended to read as follows:

1. General. If any amount of tax is not paid on or before the last date prescribed in whichever of the named subchapters is applicable for payment, interest on such amount at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this subchapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum shall be paid for the period from such last date to the date paid, whether or not any extension of time for payment was granted. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

10. Interest on erroneous refund. Any portion of tax or other amount which has been erroneously refunded, and which is recoverable by the commissioner of finance, shall bear interest at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this subchapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum from the date of the payment of the refund, but only if it appears that any part of the refund was induced by fraud or a misrepresentation of a material fact.

S 48. Subdivision 3 of section 11-676 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

3. Failure to file declaration or underpayment of estimated tax. If any taxpayer fails to file a declaration of estimated tax under subchapter two or three of this chapter, or fails to pay all or any part of an amount which is applied as an installment against such estimated tax, it shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the underpayment rate set by the commissioner of finance pursuant to section 11-687 of this subchapter, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the third month following the close of the taxable year. The amount of the underpayment shall be, with respect to any installment of estimated tax computed on the basis of the preceding year's tax, the excess of the amount required to be paid over the amount, if any, paid on or before the last day prescribed for such payment or, with respect to any other installment of estimated tax, the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety percent of the tax shown on the return for the taxable year (or if no return was filed, ninety percent of the tax for such year) over the amount, if any, of the installment paid on or before the last day prescribed for such payment. In any case in which there would be no underpayment if "eighty percent" were substituted for "ninety percent" each place it appears in this subdivision, the addition to the tax shall be equal to seventy-five percent of the amount otherwise determined. No underpayment shall be deemed to exist with respect to a declaration or installment otherwise due on or after the termination of existence of the taxpayer.

S 49. Paragraphs (a) and (b) of subdivision 5 of section 11-687 of the administrative code of the city of New York, paragraph (a) as amended by local law number 39 of the city of New York for the year 2003, paragraph (b) as amended by chapter 241 of the laws of 1989, subparagraph (B) of paragraph (b) as amended by local law number 38 of the city of New York for the year 2003, are amended to read as follows:

(a) Authority to set interest rates. The commissioner of finance shall set the overpayment and underpayment rates of interest to be paid pursuant to sections 11-606, 11-608, 11-645, 11-647, 11-675, 11-676, and

11-679 of this chapter, but if no such rate or rates of interest are set, such OVERPAYMENT rate [or rates] shall be deemed to be set at six percent per annum AND SUCH UNDERPAYMENT RATE SHALL BE DEEMED TO BE SET AT SEVEN AND ONE-HALF PERCENT PER ANNUM. Such overpayment and underpayment rates shall be the rates prescribed in paragraph (b) of this subdivision but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

(b) General rule. (A) Overpayment rate. The overpayment rate set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph (c) of this subdivision, plus (ii) two percentage points.

(B) Underpayment rate. The underpayment rate set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph (c) of this subdivision, plus (ii) [five] SEVEN percentage points.

S 50. Subdivisions (a) and (b) of section 11-715 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, are amended to read as follows:

(a) Interest on underpayment; quarterly return. If any amount of tax required to be paid together with a return, other than the final return for a tax year, is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (h) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date until twenty days after the end of the tax year during which such payments were due or until such prior time as the tax paid for the tax year equals seventy-five percent of the full tax required to be paid for the tax year. Such interest shall be paid with the final return for the tax year to which it relates. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

(b) Interest on underpayment; final return. If any amount of tax required to be paid together with the final return for a tax year is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (h) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 51. Paragraphs 1 and 2 of subdivision (h) of section 11-715 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 2 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivisions (a) and (b)

of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the same for each subdivision and shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 52. Subdivision (a) of section 11-817 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 53. Paragraphs 1 and 2 of subdivision (g) section 11-817 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 3 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 54. Subdivision (a) of section 11-905 of the administrative code of the city of New York, as amended by chapter 241 of the laws of 1989, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the underpayment rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from

such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 55. Paragraphs 1 and 2 of subdivision (g) of section 11-905 of the administrative code of the city of New York, paragraph 1 as amended by section 2 of part U of chapter 60 of the laws of 2004, paragraph 2 as amended by chapter 241 of the laws of 1989 and subparagraph (B) of paragraph 2 as amended by section 4 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the overpayment and underpayment rates of interest to be paid pursuant to subdivision (a) of this section and subdivision (a) of section 11-906 of this chapter, but if no such OVERPAYMENT rate [or rates] of interest are set, such rate or rates shall be deemed to be set at six percent per annum AND SUCH UNDERPAYMENT RATE SHALL BE DEEMED TO BE SET AT SEVEN AND ONE-HALF PERCENT PER ANNUM. Such rates shall be the overpayment and underpayment rates prescribed in paragraph two of this subdivision but the underpayment rate shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rates set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rates are in effect.

(2) General rule. (A) Overpayment rate. The overpayment rate set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) two percentage points.

(B) Underpayment rate. The underpayment rate set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 56. Subdivision (a) of section 11-1114 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 57. Paragraphs 1 and 2 of subdivision (g) of section 11-1114 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 5 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision

but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 58. Subdivision (a) of section 11-1213 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid over or paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 59. Paragraphs 1 and 2 of subdivision (g) of section 11-1213 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 6 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 60. Paragraphs 1 and 2 of subdivision d of section 11-1317 of the administrative code of the city of New York, paragraph 1 as amended by chapter 765 of the laws of 1985, paragraph 2 as amended by chapter 241 of the laws of 1989 and subparagraph (B) of paragraph 2 as amended by section 7 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to paragraph two of this subdivision, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be

compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar. The interest imposed by this subdivision shall be paid and disposed of in the same manner as other revenues from this chapter. Unpaid interest may be enforced in the same manner as the tax imposed by this chapter.

(2) (A) The commissioner of finance shall set the rate of interest to be paid pursuant to paragraph one of this subdivision, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in subparagraph (B) of this paragraph but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(B) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 61. Subdivision (a) of section 11-1413 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 62. Paragraphs 1 and 2 of subdivision (g) of section 11-1413 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 8 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 63. Subdivision (a) of section 11-1515 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 64. Paragraphs 1 and 2 of subdivision (g) of section 11-1515 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 9 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 65. Subdivision (a) of section 11-2114 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 66. Paragraphs 1 and 2 of subdivision (g) of section 11-2114 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 10 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date

on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 67. Subdivision (a) of section 11-2414 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 68. Paragraphs 1 and 2 of subdivision (g) of section 11-2414 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 11 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 69. Subdivision (a) of section 11-2515 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any amount of tax is not paid or paid over on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 70. Paragraphs 1 and 2 of subdivision (g) of section 11-2515 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 12

of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 71. Subdivision (a) of section 11-2714 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) Interest on underpayments. If any annual vault charge is not paid on or before the last date prescribed for payment (without regard to any extension of time granted for payment), interest on such amount at the rate set by the commissioner of finance pursuant to subdivision (g) of this section, or, if no rate is set, at the rate of [six] SEVEN AND ONE-HALF percent per annum, shall be paid for the period from such last date to the date of payment. In computing the amount of interest to be paid, such interest shall be compounded daily. Interest under this subdivision shall not be paid if the amount thereof is less than one dollar.

S 72. Paragraphs 1 and 2 of subdivision (g) of section 11-2714 of the administrative code of the city of New York, paragraph 1 as amended by chapter 241 of the laws of 1989 and paragraph 2 as amended by section 13 of part E of chapter 63 of the laws of 2003, are amended to read as follows:

(1) Authority to set interest rates. The commissioner of finance, shall set the rate of interest to be paid pursuant to subdivision (a) of this section, but if no such rate of interest is set, such rate shall be deemed to be set at [six] SEVEN AND ONE-HALF percent per annum. Such rate shall be the rate prescribed in paragraph two of this subdivision but shall not be less than [six] SEVEN AND ONE-HALF percent per annum. Any such rate set by the commissioner of finance shall apply to vault charges, or any portion thereof, which remain or become due on or after the date on which such rate becomes effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period in which such rate is in effect.

(2) General rule. The rate of interest set under this subdivision shall be the sum of (i) the federal short-term rate as provided under paragraph three of this subdivision, plus (ii) [five] SEVEN percentage points.

S 73. Section 1004 of the business corporation law, as renumbered by chapter 834 of the laws of 1962, is amended to read as follows:

S 1004. Certificate of dissolution; filing.

(A) The department shall not file such certificate unless the consent of the state [tax commission] DEPARTMENT OF TAXATION AND FINANCE to the

dissolution is attached thereto. Upon such filing, the corporation is dissolved.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SECTION, WITH RESPECT TO ANY CORPORATION THAT HAS DONE BUSINESS IN THE CITY OF NEW YORK AND INCURRED LIABILITY FOR ANY TAX OR CHARGE UNDER CHAPTER SIX, SEVEN, EIGHT, TEN, ELEVEN, TWELVE, THIRTEEN, FOURTEEN, FIFTEEN, TWENTY-ONE, TWENTY-FOUR, TWENTY-FIVE OR TWENTY-SEVEN OF TITLE ELEVEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE DEPARTMENT SHALL NOT FILE SUCH CERTIFICATE UNLESS THE CONSENT OF THE COMMISSIONER OF FINANCE OF THE CITY OF NEW YORK TO THE DISSOLUTION IS ALSO ATTACHED THERETO.

S 74. Paragraph (c) of section 1007 of the business corporation law, as amended by chapter 834 of the laws of 1962, is amended to read as follows:

(c) Notwithstanding this section and section 1008, tax claims and other claims of this state [and], of the United States AND OF THE DEPARTMENT OF FINANCE OF THE CITY OF NEW YORK shall not be required to be filed under those sections, and such claims shall not be barred because not so filed, and distribution of the assets of the corporation, or any part thereof, may be deferred until determination of any such claims.

S 75. Section 1004 of the not-for-profit corporation law is amended to read as follows:

S 1004. Certificate of dissolution; filing; effect.

(A) The department of state shall not file a certificate of dissolution unless the consent of the state [tax commission] DEPARTMENT OF TAXATION AND FINANCE to the dissolution is attached thereto. Upon filing the certificate, the corporation is dissolved.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SECTION, WITH RESPECT TO ANY CORPORATION THAT HAS DONE BUSINESS IN THE CITY OF NEW YORK AND INCURRED LIABILITY FOR ANY TAX OR CHARGE UNDER CHAPTER SIX, SEVEN, EIGHT, TEN, ELEVEN, TWELVE, THIRTEEN, FOURTEEN, FIFTEEN, TWENTY-ONE, TWENTY-FOUR, TWENTY-FIVE OR TWENTY-SEVEN OF TITLE ELEVEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE DEPARTMENT OF STATE SHALL NOT FILE A CERTIFICATE OF DISSOLUTION UNLESS THE CONSENT OF THE COMMISSIONER OF FINANCE OF THE CITY OF NEW YORK TO THE DISSOLUTION IS ALSO ATTACHED THERETO.

S 76. Paragraph (c) of section 1007 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, is amended to read as follows:

(c) Notwithstanding this section and section 1008 (Jurisdiction of supreme court to supervise dissolution and liquidation), tax claims and other claims of this state [and], of the United States AND OF THE DEPARTMENT OF FINANCE OF THE CITY OF NEW YORK shall not be required to be filed under those sections, and such claims shall not be barred because not so filed, and distribution of the assets of the corporation, or any part thereof, may be deferred until determination of any such claims.

S 77. The administrative code of the city of New York is amended by adding a new section 11-133 to read as follows:

S 11-133 CONSENT TO DISSOLUTION OF A CORPORATION. WHERE A CORPORATION FILES AN APPLICATION FOR CONSENT TO DISSOLUTION WITH THE COMMISSIONER OF FINANCE FOR PURPOSES OF OBTAINING NON-JUDICIAL DISSOLUTION UNDER ARTICLE TEN OF THE BUSINESS CORPORATION LAW OR ARTICLE TEN OF THE NOT-FOR-PROFIT CORPORATION LAW, SUCH CONSENT SHALL BE ISSUED BY THE COMMISSIONER ONLY IF THE COMMISSIONER HAS DETERMINED THAT ALL FEES, TAXES, PENALTIES AND INTEREST IMPOSED ON SUCH CORPORATION UNDER CHAPTERS SIX, SEVEN, EIGHT,

TEN, ELEVEN, TWELVE, THIRTEEN, FOURTEEN, FIFTEEN, TWENTY-ONE, TWENTY-FOUR, TWENTY-FIVE AND TWENTY-SEVEN OF THIS TITLE HAVE BEEN (A) PAID IN FULL, OR (B) PAID PURSUANT TO AN OFFER IN COMPROMISE PURSUANT TO PARAGRAPH C OR D OF SUBDIVISION TWO OF SECTION FIFTEEN HUNDRED FOUR OF THE NEW YORK CITY CHARTER. NOTWITHSTANDING THE PRECEDING SENTENCE, THE COMMISSIONER OF FINANCE IS AUTHORIZED IN HIS OR HER DISCRETION AND IN SUCH MANNER AND ON SUCH TERMS AS HE OR SHE MAY DETERMINE TO ISSUE A CONSENT TO DISSOLUTION IF A WRITTEN AGREEMENT FOR PAYMENT OF SUCH FEES, TAXES, PENALTIES AND INTEREST IS EXECUTED WITH THE COMMISSIONER. SUCH APPLICATIONS SHALL BE FILED IN THE FORM AND MANNER DETERMINED BY THE COMMISSIONER.

S 78. Paragraph 1 of subdivision (f) of section 11-525 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(1) If any part of a deficiency is due to fraud, there shall be added to the tax an amount equal to [fifty percent of] TWO TIMES the deficiency.

S 79. Paragraph 2 of subdivision (f) of section 11-525 of the administrative code of the city of New York is REPEALED.

S 80. Section 11-525 of the administrative code of the city of New York is amended by adding a new subdivision (l) to read as follows:

(L) FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT SHALL BE SUBJECT TO A PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED DOLLARS PER TAX RETURN SUBMITTED. SUCH PENALTY SHALL BE IN ADDITION TO ANY OTHER PENALTY OR ADDITION PROVIDED BY LAW.

S 81. Paragraph (a) of subdivision 6 of section 11-676 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(a) If any part of a deficiency is due to fraud, there shall be added to the tax an amount equal to [fifty percent of] TWO TIMES the deficiency.

S 82. Paragraph (b) of subdivision 6 of section 11-676 of the administrative code of the city of New York is REPEALED.

S 83. Section 11-676 of the administrative code of the city of New York is amended by adding a new subdivision 15 to read as follows:

15. FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT SHALL BE SUBJECT TO A PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED DOLLARS PER TAX RETURN SUBMITTED. SUCH PENALTY SHALL BE IN ADDITION TO ANY OTHER PENALTY OR ADDITION PROVIDED BY LAW.

S 84. Paragraph 1 of subdivision (d) of section 11-1114 of the administrative code of the city of New York, as amended by chpater 765 of the laws of 1985, is amended to read as follows:

(1) If any part of an underpayment of tax is due to fraud, there shall be added to the tax a penalty equal to [fifty percent of] TWO TIMES the underpayment.

S 85. Paragraph 2 of subdivision (d) of section 11-1114 of the administrative code of the city of New York is REPEALED.

S 86. Section 11-1114 of the administrative code of the city of New York is amended by adding a new subdivision (l) to read as follows:

(L) FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT SHALL BE SUBJECT TO A PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED DOLLARS PER TAX RETURN SUBMITTED. SUCH PENALTY SHALL BE IN ADDITION TO ANY OTHER PENALTY OR ADDITION PROVIDED BY LAW.

S 87. Section 11-2503 of the administrative code of the city of New York is amended to read as follows:

S 11-2503 Records to be kept. A. Every operator shall keep records of every occupancy and of all rent paid, charged or due thereon and of the tax payable thereon, in such form as the commissioner of finance may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the commissioner of finance or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the commissioner of finance may consent to their destruction within that period or may require that they be kept longer.

B. NOTWITHSTANDING THE PROVISIONS OF SECTION THREE HUNDRED FIVE AND THREE HUNDRED NINE OF THE STATE TECHNOLOGY LAW OR ANY OTHER LAW, THE COMMISSIONER MAY REQUIRE ANY PERSON WHO HAS ELECTED TO MAINTAIN IN AN ELECTRONIC FORMAT ANY PORTION OF THE RECORDS REQUIRED TO BE MAINTAINED BY THAT PERSON UNDER THIS CHAPTER, TO MAKE THE ELECTRONIC RECORDS AVAILABLE AND ACCESSIBLE TO THE COMMISSIONER, NOTWITHSTANDING THAT THE RECORDS ARE ALSO MAINTAINED IN A HARD COPY FORMAT.

S 88. Paragraph 1 of subdivision (d) of section 11-2515 of the administrative code of the city of New York, as amended by chapter 765 of the laws of 1985, is amended to read as follows:

(1) If any part of an underpayment of tax is due to fraud, there shall be added to the tax a penalty equal to [fifty percent of] TWO TIMES the underpayment.

S 89. Paragraph 2 of subdivision (d) of section 11-2515 of the administrative code of the city of New York is REPEALED.

S 90. Section 11-2515 of the administrative code of the city of New York is amended by adding a new subdivision (i) to read as follows:

(I) ANY PERSON REQUIRED TO MAKE OR MAINTAIN RECORDS UNDER THIS CHAPTER WHO FAILS TO MAKE OR MAINTAIN OR MAKE AVAILABLE TO THE COMMISSIONER THESE RECORDS IS SUBJECT TO A PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR THE FIRST QUARTERLY PERIOD OR PART THEREOF FOR WHICH THE FAILURE OCCURS AND NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH ADDITIONAL QUARTERLY PERIOD OR PART THEREOF FOR WHICH THE FAILURE OCCURS. THIS PENALTY IS IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS CHAPTER BUT MAY NOT BE IMPOSED AND COLLECTED MORE THAN ONCE FOR FAILURES FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. IF THE COMMISSIONER DETERMINES THAT A FAILURE TO MAKE OR MAINTAIN OR MAKE AVAILABLE RECORDS IN ANY QUARTERLY PERIOD WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED FOR THAT QUARTERLY PERIOD. THESE PENALTIES WILL BE PAID AND DISPOSED OF IN THE SAME MANNER AS OTHER REVENUES FROM THIS CHAPTER. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID AND ENFORCED IN THE SAME MANNER AS THE TAX IMPOSED BY THIS CHAPTER, AND ALL THE PROVISIONS OF THIS CHAPTER RELATING TO TAX WILL BE DEEMED ALSO TO APPLY TO THE PENALTIES IMPOSED BY THIS SUBDIVISION. FOR PURPOSES OF THE PENALTY IMPOSED BY THIS SUBDIVISION, A PERSON WILL BE CONSIDERED TO HAVE FAILED TO MAKE OR MAINTAIN THE REQUIRED RECORDS WHEN THE COMMISSIONER OF FINANCE DETERMINES THAT THE RECORDS MADE OR MAINTAINED BY THAT PERSON FOR A QUARTERLY PERIOD DO NOT ENABLE THE COMMISSIONER TO VERIFY OCCUPANCY OR THE AMOUNTS RECEIVED FOR SUCH OCCUPANCY OR THE TAXABILITY OF THAT OCCUPANCY AND TO CONDUCT A COMPLETE AUDIT.

S 91. Section 11-2515 of the administrative code of the city of New York is amended by adding a new subdivision (j) to read as follows:

(J) ANY PERSON REQUIRED TO MAKE OR MAINTAIN RECORDS UNDER THIS CHAPTER WHO FAILS TO PRESENT AND MAKE AVAILABLE THESE RECORDS IN AN AUDITABLE

FORM IS SUBJECT TO A PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS FOR EACH QUARTERLY PERIOD OR PART THEREOF FOR WHICH RECORDS MAINTAINED BY THAT PERSON ARE NOT PRESENTED AND MADE AVAILABLE BY THAT PERSON IN AUDITABLE FORM, EVEN IF THESE RECORDS ARE ADEQUATE TO VERIFY CREDITS, RECEIPTS, AND THE TAXABILITY THEREOF AND TO PERFORM A COMPLETE AUDIT. THIS PENALTY IS IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS CHAPTER, BUT WILL NOT BE IMPOSED AND COLLECTED MORE THAN ONCE FOR THESE FAILURES FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. IF THE COMMISSIONER DETERMINES THAT ANY FAILURE DESCRIBED IN THIS SUBDIVISION FOR A QUARTERLY PERIOD WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED FOR THAT QUARTER. THE PENALTIES IMPOSED BY THIS SUBDIVISION WILL BE PAID AND DISPOSED OF IN THE SAME MANNER AS OTHER REVENUES FROM THIS CHAPTER. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID AND ENFORCED IN THE SAME MANNER AS THE TAX IMPOSED BY THIS CHAPTER, AND ALL THE PROVISIONS OF THIS CHAPTER RELATING TO TAX WILL BE DEEMED ALSO TO APPLY TO THE PENALTIES IMPOSED BY THIS SUBDIVISION. FOR PURPOSES OF THE PENALTY IMPOSED BY THIS SUBDIVISION, A PERSON WILL BE CONSIDERED TO HAVE FAILED TO PRESENT AND MAKE RECORDS AVAILABLE IN AUDITABLE FORM WHEN THE RECORDS PRESENTED BY THAT PERSON FOR THAT QUARTER LACK SUFFICIENT ORGANIZATION, SUCH AS BY DATE, INVOICE NUMBER, SALES RECEIPTS, OR SEQUENTIAL NUMBERING, OR ARE OTHERWISE INADEQUATE (WITHOUT REORGANIZING, REORDERING OR OTHERWISE REARRANGING THE RECORDS INTO AN AUDITABLE FORM) TO PERMIT DIRECT RECONCILIATION OF THE RECEIPTS, INVOICES OR OTHER SOURCE DOCUMENTS WITH THE ENTRIES FOR THE QUARTERLY PERIOD IN THE BOOKS AND RECORDS AND ON THE RETURNS OF THAT PERSON.

S 92. Section 11-2515 of the administrative code of the city of New York is amended by adding a new subdivision (k) to read as follows:

(K) ANY PERSON WHO, HAVING ELECTED TO MAINTAIN IN AN ELECTRONIC FORMAT ANY PORTION OR ALL OF THE RECORDS HE OR SHE IS REQUIRED TO MAKE AND MAINTAIN BY THIS CHAPTER, FAILS TO PRESENT AND MAKE THESE RECORDS AVAILABLE AND ACCESSIBLE TO THE COMMISSIONER IN ELECTRONIC FORMAT, IS SUBJECT TO A PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH QUARTERLY PERIOD OR PART THEREOF FOR WHICH THESE ELECTRONIC RECORDS ARE NOT PRESENTED AND MADE AVAILABLE AND ACCESSIBLE UPON REQUEST, NOTWITHSTANDING THAT THE RECORDS MAY ALSO BE MAINTAINED AND AVAILABLE IN HARD COPY FORMAT. THIS PENALTY IS IN ADDITION TO ANY OTHER PENALTY PROVIDED FOR IN THIS CHAPTER, BUT MAY NOT BE IMPOSED AND COLLECTED MORE THAN ONCE FOR A FAILURE FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. PROVIDED, HOWEVER, NOTHING IN THIS SUBDIVISION WILL PREVENT THE SEPARATE IMPOSITION, IF APPLICABLE, OF ANY PENALTY IMPOSED BY SUBDIVISION (I) OR (J) OF THIS SECTION FOR THE SAME QUARTERLY PERIOD OR PART THEREOF. IF THE COMMISSIONER DETERMINES THAT THE FAILURE TO PRESENT AND MAKE ELECTRONICALLY MAINTAINED RECORDS AVAILABLE AND ACCESSIBLE FOR A QUARTERLY PERIOD WAS ENTIRELY DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THE COMMISSIONER MUST REMIT THE PENALTY IMPOSED FOR THAT QUARTER. THESE PENALTIES WILL BE PAID AND DISPOSED OF IN THE SAME MANNER AS OTHER REVENUES FROM THIS CHAPTER. THESE PENALTIES WILL BE DETERMINED, ASSESSED, COLLECTED, PAID AND ENFORCED IN THE SAME MANNER AS THE TAX IMPOSED BY THIS CHAPTER, AND ALL THE PROVISIONS OF THIS CHAPTER RELATING TO TAX WILL BE DEEMED ALSO TO APPLY TO THE PENALTY IMPOSED BY THIS SUBDIVISION. FOR PURPOSES OF THE PENALTY IMPOSED BY THIS SUBDIVISION, A FAILURE TO PRESENT AND MAKE AVAILABLE AND ACCESSIBLE A RECORD MAINTAINED IN ELECTRONIC FORMAT INCLUDES NOT ONLY THE DENIAL OF ACCESS TO THE REQUESTED RECORDS THAT WERE MAINTAINED ELECTRONICALLY, BUT ALSO THE FAILURE TO MAKE AVAILABLE TO THE COMMISSIONER THE INFORMATION, KNOWLEDGE, OR MEANS NECESSARY TO

ACCESS AND OTHERWISE USE THE ELECTRONICALLY MAINTAINED RECORDS IN THE INSPECTION AND EXAMINATION OF THESE RECORDS.

S 93. Section 11-2515 of the administrative code of the city of New York is amended by adding two new subdivisions (l) and (m) to read as follows:

(L) AIDING OR ASSISTING IN THE GIVING OF FRAUDULENT RETURNS, REPORTS, STATEMENTS OR OTHER DOCUMENTS. ANY PERSON WHO, WITH THE INTENT THAT TAX BE EVADED, FOR A FEE OR OTHER COMPENSATION OR AS AN INCIDENT TO THE PERFORMANCE OF OTHER SERVICES FOR WHICH THAT PERSON RECEIVES COMPENSATION, AIDS OR ASSISTS IN, OR PROCURES, COUNSELS, OR ADVISES THE PREPARATION OR PRESENTATION UNDER THIS CHAPTER, OR IN CONNECTION WITH ANY MATTER ARISING UNDER THIS CHAPTER, OF ANY RETURN, REPORT, DECLARATION, STATEMENT OR OTHER DOCUMENT THAT IS FRAUDULENT OR FALSE AS TO ANY MATERIAL MATTER, OR SUPPLIES ANY FALSE OR FRAUDULENT INFORMATION, WHETHER OR NOT SUCH FALSITY OR FRAUD IS WITH THE KNOWLEDGE OR CONSENT OF THE PERSON AUTHORIZED OR REQUIRED TO PRESENT THAT RETURN, REPORT, DECLARATION, STATEMENT OR OTHER DOCUMENT, WILL PAY A PENALTY NOT EXCEEDING FIVE THOUSAND DOLLARS. THE DEFINITIONS IN SUBSECTION (L) OF SECTION ONE THOUSAND EIGHTY-FIVE OF THE TAX LAW APPLY FOR THE PURPOSES OF THIS PENALTY.

(M) FALSE OR FRAUDULENT DOCUMENT PENALTY. ANY TAXPAYER THAT SUBMITS A FALSE OR FRAUDULENT DOCUMENT TO THE DEPARTMENT WILL BE SUBJECT TO A PENALTY OF ONE HUNDRED DOLLARS PER DOCUMENT SUBMITTED, OR FIVE HUNDRED DOLLARS PER TAX RETURN SUBMITTED. THIS PENALTY WILL BE IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW.

S 94. Subdivision (c) of section 11-4001 of the administrative code of the city of New York, as added by chapter 765 of the laws of 1985, is amended to read as follows:

(c) As used in this chapter, the term "felony" and the term "misdemeanor" shall have the same meaning as they have in the penal law, and the disposition of such offenses and the sentences imposed therefor shall be as provided in such law, except: (1) notwithstanding the provisions of paragraph a of subdivision one of section 80.00 and paragraph (a) of subdivision one of section 80.10 of the penal law relating to the fine for a felony, the court may impose a fine not to exceed THE GREATER OF DOUBLE THE AMOUNT OF THE UNDERPAID TAX LIABILITY RESULTING FROM THE COMMISSION OF THE CRIME OR fifty thousand dollars, [except that] OR, in the case of a corporation the fine may not exceed THE GREATER OF DOUBLE THE AMOUNT OF THE UNDERPAID TAX LIABILITY RESULTING FROM THE COMMISSION OF THE CRIME OR two hundred fifty thousand dollars, and (2) notwithstanding the provisions of subdivision one of section 80.05 and paragraph (b) of subdivision one of section 80.10 of the penal law relating to the fine for a class A misdemeanor, the court may impose a fine not to exceed ten thousand dollars, except that in the case of a corporation the fine may not exceed twenty thousand dollars.

S 95. Section 11-4001 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(D) AS USED IN THIS CHAPTER:

(1) "CITY" SHALL MEAN THE CITY OF NEW YORK; AND

(2) "STATE" SHALL MEAN THE STATE OF NEW YORK.

S 96. Section 11-4002 of the administrative code of the city of New York is REPEALED and a new section 11-4002 is added to read as follows:

S 11-4002 TAX FRAUD ACTS. (A) AS USED IN THIS CHAPTER, "TAX FRAUD ACT" MEANS WILLFULLY ENGAGING IN AN ACT OR ACTS OR WILLFULLY CAUSING ANOTHER TO ENGAGE IN AN ACT OR ACTS PURSUANT TO WHICH A PERSON:

(1) FAILS TO MAKE, RENDER, SIGN, CERTIFY, OR FILE ANY RETURN OR REPORT REQUIRED UNDER THE PROVISIONS OF ANY DESIGNATED CHAPTER OF THIS TITLE OR

ANY RULE OR REGULATION PROMULGATED THEREUNDER WITHIN THE TIME REQUIRED BY OR UNDER THE PROVISIONS OF ANY DESIGNATED CHAPTER OF THIS TITLE OR SUCH RULE OR REGULATION;

(2) KNOWING THAT A RETURN, REPORT, STATEMENT OR OTHER DOCUMENT UNDER ANY DESIGNATED CHAPTER OF THIS TITLE CONTAINS ANY MATERIALLY FALSE OR FRAUDULENT INFORMATION, OR OMITS ANY MATERIAL INFORMATION, FILES OR SUBMITS THAT RETURN, REPORT, STATEMENT OR DOCUMENT WITH THE CITY OR THE STATE, OR WITH ANY PUBLIC OFFICE OR PUBLIC OFFICER OF THE CITY OR THE STATE;

(3) KNOWINGLY SUPPLIES OR SUBMITS MATERIALLY FALSE OR FRAUDULENT INFORMATION IN CONNECTION WITH ANY RETURN, AUDIT, INVESTIGATION, OR PROCEEDING OR FAILS TO SUPPLY INFORMATION WITHIN THE TIME REQUIRED BY OR UNDER THE PROVISIONS OF ANY DESIGNATED CHAPTER OF THIS TITLE OR ANY RULE OR REGULATION PROMULGATED UNDER ANY DESIGNATED CHAPTER OF THIS TITLE;

(4) ENGAGES IN ANY SCHEME TO DEFRAUD THE CITY OR THE STATE OR A GOVERNMENT INSTRUMENTALITY OF THE CITY OR OF THE STATE BY FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS OR PROMISES AS TO ANY MATERIAL MATTER, IN CONNECTION WITH ANY TAX IMPOSED UNDER ANY DESIGNATED CHAPTER OF THIS TITLE OR ANY MATTER UNDER ANY DESIGNATED CHAPTER OF THIS TITLE;

(5) FAILS TO REMIT ANY TAX COLLECTED IN THE NAME OF THE CITY OR THE STATE OR ON BEHALF OF THE CITY OR THE STATE WHEN SUCH COLLECTION IS REQUIRED UNDER ANY DESIGNATED CHAPTER OF THIS TITLE;

(6) FAILS TO COLLECT ANY TAX REQUIRED TO BE COLLECTED UNDER CHAPTER TWELVE, THIRTEEN, TWENTY-THREE-A, TWENTY-THREE-B OR TWENTY-FIVE OF THIS TITLE;

(7) WITH INTENT TO EVADE ANY TAX IMPOSED UNDER ANY DESIGNATED CHAPTER OF THIS TITLE, FAILS TO PAY THAT TAX; OR

(8) ISSUES AN EXEMPTION CERTIFICATE, INTERDISTRIBUTOR SALES CERTIFICATE, RESALE CERTIFICATE, OR ANY OTHER DOCUMENT CAPABLE OF EVIDENCING A CLAIM THAT TAXES IMPOSED UNDER A DESIGNATED CHAPTER OF THIS TITLE DO NOT APPLY TO A TRANSACTION, WHICH HE OR SHE DOES NOT BELIEVE TO BE TRUE AND CORRECT AS TO ANY MATERIAL MATTER, WHICH OMITS ANY MATERIAL INFORMATION, OR WHICH IS FALSE, FRAUDULENT, OR COUNTERFEIT.

(B) FOR PURPOSES OF THIS SECTION, THE TERM "WILLFULLY" SHALL MEAN ACTING WITH EITHER INTENT TO DEFRAUD, INTENT TO EVADE THE PAYMENT OF TAXES OR INTENT TO AVOID A REQUIREMENT OF THIS TITLE, A LAWFUL REQUIREMENT OF THE COMMISSIONER OR A KNOWN LEGAL DUTY.

(C) FOR PURPOSES OF THIS CHAPTER, THE TERM "DESIGNATED CHAPTER" SHALL MEAN CHAPTER FIVE, SIX, SEVEN, EIGHT, NINE, ELEVEN, TWELVE, THIRTEEN, FOURTEEN, FIFTEEN, TWENTY-ONE, TWENTY-TWO, TWENTY-THREE-A, TWENTY-FOUR, TWENTY-FIVE OR TWENTY-SEVEN OF THIS TITLE.

S 97. Section 11-4003 of the administrative code of the city of New York is REPEALED and a new section 11-4003 is added to read as follows:

S 11-4003 CITY CRIMINAL TAX FRAUD IN THE FIFTH DEGREE. A PERSON COMMITS CITY CRIMINAL TAX FRAUD IN THE FIFTH DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT. CITY CRIMINAL TAX FRAUD IN THE FIFTH DEGREE IS A CLASS A MISDEMEANOR.

S 98. Section 11-4004 of the administrative code of the city of New York is REPEALED and a new section 11-4004 is added to read as follows:

S 11-4004 CITY CRIMINAL TAX FRAUD IN THE FOURTH DEGREE. A PERSON COMMITS CITY CRIMINAL TAX FRAUD IN THE FOURTH DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER ANY DESIGNATED CHAPTER OF THIS TITLE, OR TO DEFRAUD THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR THE STATE, THE PERSON PAYS THE CITY OR THE STATE OR ANY PUBLIC OFFICE OR PUBLIC OFFICER OF THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR STATE (WHETHER

BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF THREE THOUSAND DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CITY CRIMINAL TAX FRAUD IN THE FOURTH DEGREE IS A CLASS E FELONY.

S 99. Section 11-4005 of the administrative code of the city of New York is REPEALED and a new section 11-4005 is added to read as follows:

S 11-4005 CITY CRIMINAL TAX FRAUD IN THE THIRD DEGREE. A PERSON COMMITS CITY CRIMINAL TAX FRAUD IN THE THIRD DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER ANY DESIGNATED CHAPTER OF THIS TITLE, OR TO DEFRAUD THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR THE STATE, THE PERSON PAYS THE CITY OR THE STATE OR ANY PUBLIC OFFICE OR PUBLIC OFFICER OF THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR STATE (WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF TEN THOUSAND DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CITY CRIMINAL TAX FRAUD IN THE THIRD DEGREE IS A CLASS D FELONY.

S 100. Section 11-4006 of the administrative code of the city of New York is REPEALED and a new section 11-4006 is added to read as follows:

S 11-4006 CITY CRIMINAL TAX FRAUD IN THE SECOND DEGREE. A PERSON COMMITS CITY CRIMINAL TAX FRAUD IN THE SECOND DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER ANY DESIGNATED CHAPTER OF THIS TITLE, OR TO DEFRAUD THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR THE STATE, THE PERSON PAYS THE CITY OR THE STATE OR ANY PUBLIC OFFICE OR PUBLIC OFFICER OF THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR STATE (WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF FIFTY THOUSAND DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CITY CRIMINAL TAX FRAUD IN THE SECOND DEGREE IS A CLASS C FELONY.

S 101. Section 11-4010 of the administrative code of the city of New York is REPEALED and section 11-4007 of the administrative code of the city of New York is renumbered section 11-4010.

S 102. The administrative code of the city of New York is amended by adding a new section 11-4007 to read as follows:

S 11-4007 CITY CRIMINAL TAX FRAUD IN THE FIRST DEGREE. A PERSON COMMITS CITY CRIMINAL TAX FRAUD IN THE FIRST DEGREE WHEN HE OR SHE COMMITS A TAX FRAUD ACT OR ACTS AND, WITH THE INTENT TO EVADE ANY TAX DUE UNDER ANY DESIGNATED CHAPTER OF THIS TITLE, OR TO DEFRAUD THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR THE STATE, THE PERSON PAYS THE CITY OR THE STATE OR ANY PUBLIC OFFICE OR PUBLIC OFFICER OF THE CITY OR THE STATE OR ANY INSTRUMENTALITY OF THE CITY OR STATE (WHETHER BY MEANS OF UNDERPAYMENT OR RECEIPT OF REFUND OR BOTH), IN A PERIOD OF NOT MORE THAN ONE YEAR IN EXCESS OF ONE MILLION DOLLARS LESS THAN THE TAX LIABILITY THAT IS DUE. CITY CRIMINAL TAX FRAUD IN THE FIRST DEGREE IS A CLASS B FELONY.

S 103. Section 11-4008 of the administrative code of the city of New York is REPEALED and a new section 11-4008 is added to read as follows:

S 11-4008 AGGREGATION. FOR PURPOSES OF THIS CHAPTER, THE PAYMENTS DUE AND NOT PAID UNDER ANY DESIGNATED CHAPTER OF THIS TITLE PURSUANT TO A COMMON SCHEME OR PLAN OR DUE AND NOT PAID, WITHIN ONE YEAR, MAY BE CHARGED IN A SINGLE COUNT, AND THE AMOUNT OF UNDERPAID TAX LIABILITY INCURRED, WITHIN ONE YEAR, MAY BE AGGREGATED IN A SINGLE COUNT.

S 104. Section 11-4009 of the administrative code of the city of New York is REPEALED and a new section 11-4009 is added to read as follows:

S 11-4009 NON-PREEMPTION; PENAL LAW ANTICIPATORY OFFENSES AND ACCESSORIAL LIABILITY APPLY. (A) UNLESS EXPRESSLY STATED OTHERWISE, THE PENALTIES PROVIDED IN THIS CHAPTER OR UNDER ANY OTHER CHAPTER OF THIS TITLE SHALL NOT PRECLUDE PROSECUTION FOR ANY OFFENSE UNDER THE PENAL LAW OR ANY OTHER CRIMINAL STATUTE.

(B) THE OFFENSES SPECIFIED IN TITLE G OF THE PENAL LAW AND THE PROVISIONS OF ARTICLE TWENTY OF THE PENAL LAW ARE APPLICABLE TO ALL OFFENSES DEFINED IN THIS CHAPTER.

S 105. Subdivision (a) of section 11-4012 of the administrative code of the city of New York, as added by chapter 765 of the laws of 1985 and paragraph 2 as amended by chapter 508 of the laws of 2004, is amended to read as follows:

(a) Attempt to evade or defeat tax. [(1) Any person who willfully attempts in any manner to evade or defeat any tax imposed by chapter thirteen of this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a misdemeanor.

(2)] Any person who willfully attempts in any manner to evade or defeat any tax imposed by chapter thirteen of this title or payment thereof WHERE: (1) SUCH TAX IS UNPAID on ten thousand cigarettes or more or (2) SUCH PERSON has previously been convicted two or more times of a [violation of paragraph one of this subdivision] CRIME SET FORTH IN THIS CHAPTER RELATING TO CIGARETTE TAXES; shall be guilty of a class E felony.

S 106. Subdivision (f) of section 11-4012 of the administrative code of the city of New York, as amended by local law number 2 of the city of New York for the year 2000, is amended to read as follows:

(f) Any willful act or omission, other than those described in SECTION 11-4002 OF THIS CHAPTER OR subdivision (a), (b), (c), (d), (e) or (g) of this section, by any person which constitutes a violation of any provision of chapter thirteen of this title or subchapter one of chapter two of title twenty of the code shall constitute a misdemeanor.

S 107. Section 11-4016 of the administrative code of the city of New York, as added by chapter 765 of the laws of 1985, is amended to read as follows:

S 11-4016 Hotel room occupancy tax. (a) [Any person required under chapter twenty-five of this title to make any return or report, who willfully fails to make such return or report at the time or times so required, shall be guilty of a misdemeanor.

(b) The penalties provided for in this section shall not preclude prosecution pursuant to the penal law with respect to the willful failure of any person to pay over to the city any hotel room occupancy tax imposed by chapter twenty-five of this title, whenever such person has been required to collect and has collected any such tax. In any such prosecution under the penal law, a person who has been required to collect and has collected any such tax shall be deemed to have acted in a fiduciary character with respect to the city, and the tax collected shall be deemed to have been entrusted to such person by the city.

(c)] Any person who willfully fails to file a registration certificate as required pursuant to the provisions of chapter twenty-five of this title and such data in connection therewith as the commissioner of finance by regulation or otherwise may require, or willfully fails to display or surrender a certificate of authority as required by chapter twenty-five of this title, or willfully assigns or transfers such certificate of authority, shall be guilty of a misdemeanor, provided, however, that the provisions of this subdivision shall not apply to a

failure to surrender a certificate of authority which is required to be surrendered where business never commenced.

[(d)] (B) Any person who willfully fails to charge separately the tax imposed under chapter twenty-five or willfully fails to state such tax separately on any bill, statement, memorandum or receipt issued or employed by such person upon which the tax is required to be stated separately as provided in such chapter, or who shall refer or cause reference to be made to this tax in a form or manner other than required by such chapter, shall be guilty of a misdemeanor.

S 108. Section 11-508 of the administrative code of the city of New York is amended by adding a new subdivision (e-3) to read as follows:

(E-3) RULES FOR RECEIPTS FOR SERVICES PERFORMED BY REGISTERED SECURITIES OR COMMODITIES BROKERS OR DEALERS.

(1) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND EIGHT, IN THE CASE OF A TAXPAYER WHICH IS A REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER, FOR PURPOSES OF PARAGRAPH THREE OF SUBDIVISION (C) OF THIS SECTION, THE RECEIPTS SPECIFIED IN SUBPARAGRAPHS (A) THROUGH (G) OF THIS PARAGRAPH SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN SUCH SUBPARAGRAPHS.

(A) RECEIPTS CONSTITUTING BROKERAGE COMMISSIONS DERIVED FROM THE EXECUTION OF SECURITIES OR COMMODITIES PURCHASE OR SALES ORDERS FOR THE ACCOUNTS OF CUSTOMERS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH COMMISSIONS.

(B) RECEIPTS CONSTITUTING MARGIN INTEREST EARNED ON BEHALF OF BROKERAGE ACCOUNTS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH MARGIN INTEREST.

(C) GROSS INCOME, INCLUDING ANY ACCRUED INTEREST OR DIVIDENDS, FROM PRINCIPAL TRANSACTIONS FOR THE PURCHASE OR SALE OF STOCKS, BONDS, FOREIGN EXCHANGE AND OTHER SECURITIES OR COMMODITIES (INCLUDING FUTURES AND FORWARD CONTRACTS, OPTIONS AND OTHER TYPES OF SECURITIES OR COMMODITIES DERIVATIVES CONTRACTS) SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY EITHER (I) TO THE EXTENT THAT PRODUCTION CREDITS ARE AWARDED TO BRANCHES, OFFICES OR EMPLOYEES OF THE TAXPAYER WITHIN THE CITY AS A RESULT OF SUCH PRINCIPAL TRANSACTIONS OR (II) IF THE TAXPAYER SO ELECTS, TO THE EXTENT THAT THE GROSS PROCEEDS FROM SUCH PRINCIPAL TRANSACTIONS (DETERMINED WITHOUT DEDUCTION FOR ANY COST INCURRED BY THE TAXPAYER TO ACQUIRE THE SECURITIES OR COMMODITIES) ARE GENERATED FROM SALES OF SECURITIES OR COMMODITIES TO CUSTOMERS WITHIN THE CITY BASED UPON THE MAILING ADDRESSES OF SUCH CUSTOMERS IN THE RECORDS OF THE TAXPAYER. FOR PURPOSES OF CLAUSE (II) OF THIS SUBPARAGRAPH, THE TAXPAYER SHALL SEPARATELY CALCULATE SUCH GROSS INCOME FROM PRINCIPAL TRANSACTIONS BY TYPE OF SECURITY OR COMMODITY. FOR PURPOSES OF THIS SUBPARAGRAPH, GROSS INCOME FROM PRINCIPAL TRANSACTIONS SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED BY THE TAXPAYER TO ACQUIRE THE SECURITIES OR COMMODITIES. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "PRODUCTION CREDITS" MEANS CREDITS GRANTED PURSUANT TO THE INTERNAL ACCOUNTING SYSTEM USED BY THE TAXPAYER TO MEASURE THE AMOUNT OF REVENUE THAT SHOULD BE AWARDED TO A PARTICULAR BRANCH OR OFFICE OR EMPLOYEE OF THE TAXPAYER WHICH IS BASED, AT LEAST IN PART, ON THE BRANCH'S, THE OFFICE'S OR THE EMPLOYEE'S PARTICULAR ACTIVITIES. UPON REQUEST, THE TAXPAYER SHALL BE REQUIRED TO FURNISH A DETAILED EXPLANATION OF SUCH INTERNAL ACCOUNTING SYSTEM TO THE DEPARTMENT.

(D) (I) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES

FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY WHICH IS CONTEMPLATING ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR MANAGING AN UNDERWRITING SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES.

(II) RECEIPTS CONSTITUTING THE PRIMARY SPREAD OR SELLING CONCESSION FROM UNDERWRITTEN SECURITIES SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT THAT PRODUCTION CREDITS ARE AWARDED TO BRANCHES, OFFICES OR EMPLOYEES OF THE TAXPAYER WITHIN THE CITY AS A RESULT OF THE SALE OF THE UNDERWRITTEN SECURITIES.

(III) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETED AND THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURITIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPARATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE TAXPAYER IS NOT THE LEAD UNDERWRITER.

(E) RECEIPTS CONSTITUTING INTEREST EARNED BY THE TAXPAYER ON LOANS AND ADVANCES MADE BY THE TAXPAYER TO AN ENTITY AFFILIATED WITH THE TAXPAYER SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE PRINCIPAL PLACE OF BUSINESS OF SUCH AFFILIATED ENTITY. FOR PURPOSES OF THIS SUBPARAGRAPH, AN ENTITY SHALL BE CONSIDERED AFFILIATED WITH THE TAXPAYER IF SUCH ENTITY AND THE TAXPAYER HAVE EIGHTY PERCENT OR MORE COMMON DIRECT OR INDIRECT, ACTUAL OR BENEFICIAL OWNERSHIP.

(F) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH ACCOUNT MAINTENANCE FEES.

(G) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES, INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISITION ACTIVITIES, BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION (E-2) OF THIS SECTION, SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES.

(2) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SECURITIES" SHALL HAVE THE SAME MEANING AS IN SECTION 475(C)(2) OF THE INTERNAL REVENUE CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN SECTION 475(E)(2) OF SUCH CODE. THE TERM "REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER" MEANS A BROKER OR DEALER REGISTERED AS SUCH BY THE SECURITIES AND EXCHANGE COMMISSION OR THE COMMODITIES FUTURES TRADING COMMISSION, AND SHALL INCLUDE AN OTC DERIVATIVES DEALER AS DEFINED UNDER REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE OF FEDERAL REGULATIONS (17 CFR 240.3B-12).

(3) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN PARAGRAPH (1) OF THIS SUBDIVISION AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF THE SUBPARAGRAPHS IN PARAGRAPH (1) OF THIS SUBDIVISION. THE AMOUNT OF SUCH RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY

TO THE CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN PARAGRAPH (1) OF THIS SUBDIVISION AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED WITHIN THE CITY TO THE EXTENT SET FORTH IN EACH OF THE SUBPARAGRAPHS IN PARAGRAPH (1) OF THIS SUBDIVISION.

(4) IF, FOR PURPOSES OF SUBPARAGRAPH (A), (B), (F), OR (G) OF PARAGRAPH (1) OF THIS SUBDIVISION, AND CLAUSE (I) OF SUBPARAGRAPH (C) OF PARAGRAPH (1) OF THIS SUBDIVISION, THE TAXPAYER IS UNABLE FROM ITS RECORDS TO DETERMINE THE MAILING ADDRESS OF THE CUSTOMER, THE RECEIPTS DESCRIBED IN ANY OF SUCH SUBPARAGRAPHS AND SUCH CLAUSE SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE BRANCH OR OFFICE OF THE TAXPAYER THAT GENERATES THE TRANSACTION FOR THE CUSTOMER THAT GENERATED SUCH RECEIPTS.

S 109. This act shall take effect immediately, provided, however, that sections two, four through seventeen, nineteen, twenty, twenty-four through thirty-four, seventy-eight, seventy-nine, eighty-one, eighty-two and one hundred eight of this act shall apply to taxable years or taxable periods beginning on or after January 1, 2009; sections twenty-one through twenty-three of this act shall apply to taxable years beginning on or after January 1, 2011; section thirty-five of this act shall apply to taxable periods beginning on or after January 1, 2009; sections seventy-three through seventy-seven of this act shall take effect October 1, 2009; sections eighty-seven and ninety through ninety-three of this act shall apply to actions taken, omissions and failures occurring on and after the effective date of this act, except that subdivision (i) of section 11-2515 of the administrative code of the city of New York, as added by section ninety of this act, shall only apply to records required to be made and maintained for periods commencing on or after such date; sections eighty-four, eighty-five, eighty-eight and eighty-nine of this act shall apply to taxable periods beginning more than 30 days after the date on which this act shall have become a law; and sections ninety-four through one hundred seven of this act shall apply to offenses committed on and after the effective date of this act; provided further, however, that sections thirty-nine through seventy-two of this act shall apply to the interest chargeable or due on taxes or on any other amounts, or any portion thereof, which remain or become due on or after the effective date of this act; notwithstanding any other provision of law, for the calendar quarter in which this act becomes a law, the New York city department of finance may provide appropriate general notice of the new interest rates for the remainder of such calendar quarter within twenty days after the date on which this act shall have become a law, without needing to have notice of the rates published in advance in the City Record, and shall cause such a notice to be published in the City Record as soon as is practicable; provided, however, that if this act becomes a law less than thirty days before the end of such calendar quarter, such department may also provide appropriate general notice of such new interest rates for the subsequent calendar quarter at the same time it provides general notice for the remainder of such quarter, without needing to have notice of the rates published in advance in the City Record, and shall cause such a notice to be published in the City Record as soon as is practicable.