

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

8997--A

2009-2010 Regular Sessions

I N A S S E M B L Y

June 18, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the economic development law, in relation to the New York state innovation investment act; and to amend the tax law, in relation to certain credits for eligible high-tech enterprises

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state innovation investment act".
3 S 2. Statement of legislative findings and declaration. It is hereby
4 found and declared that the development of a high-tech industrial base
5 of businesses centered on the innovation, invention, and manufacture of
6 high-tech devices and components will contribute favorably to the
7 state's economic sustenance and development. It is the public policy of
8 the state to offer special incentives and assistance that will promote
9 the development of new high-tech businesses, the expansion of existing
10 high-tech businesses and to do so without encouraging the relocation of
11 business investment from other areas of the state.
12 S 3. The economic development law is amended by adding a new article
13 17 to read as follows:

14 ARTICLE 17

15 NEW YORK STATE INNOVATION INVESTMENT ACT

16 SECTION 350. DEFINITIONS.

17 351. INNOVATION TECHNOLOGY INVESTMENT PROGRAM.

18 352. RESPONSIBILITIES OF THE COMMISSIONER.

19 S 350. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND
20 TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT:
21

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

LBD14408-03-9

1 (A) "APPLICANT" SHALL MEAN THE HIGH-TECH ENTERPRISE SEEKING APPROVAL
2 AS AN ELIGIBLE HIGH-TECH ENTERPRISE TO RECEIVE THE BENEFITS PURSUANT TO
3 THIS ARTICLE.

4 (B) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOP-
5 MENT.

6 (C) "HIGH-TECH ENTERPRISE" SHALL MEAN AN ENTERPRISE WHICH IS ENGAGED
7 IN THE DEVELOPMENT OR MANUFACTURING OF COMPUTER CHIPS OR NANOELECTRONICS
8 OR PHOTOVOLTAICS.

9 (D) "ELIGIBLE HIGH-TECH ENTERPRISE" SHALL MEAN A HIGH-TECH ENTERPRISE
10 WHICH IS APPROVED BY THE COMMISSIONER PURSUANT TO THE PROVISIONS OF THIS
11 ARTICLE AND WHICH INVESTS IN TANGIBLE PERSONAL PROPERTY AND OTHER TANGI-
12 BLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS
13 AND CAPITAL EQUIPMENT, DESCRIBED IN SUBPARAGRAPHS (I), (II), (III), AND
14 CLAUSE (A) OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVISION
15 TWELVE-B OF SECTION TWO HUNDRED TEN OF THE TAX LAW, OR AS DESCRIBED IN
16 SUBPARAGRAPHS (A), (B), (C), AND CLAUSE (I) OR (III) OF SUBPARAGRAPH (E)
17 OF PARAGRAPH TWO OF SUBSECTION (J) OF SECTION SIX HUNDRED SIX OF THE TAX
18 LAW, THE BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES WILL EQUAL OR
19 EXCEED TEN MILLION DOLLARS.

20 (E) "EFFECTIVE DATE" SHALL MEAN THE DATE WHICH IS THE LATER OF THE
21 DATE OF THE APPLICATION TO THE COMMISSIONER BY THE HIGH-TECH ENTERPRISE,
22 OR THE DATE BY WHICH THE HIGH-TECH ENTERPRISE HAS PLACED IN SERVICE
23 TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY AS SET FORTH IN
24 SUBDIVISION (D) OF THIS SECTION, THE BASIS OF WHICH FOR FEDERAL INCOME
25 TAX PURPOSES WILL EQUAL OR EXCEED TEN MILLION DOLLARS.

26 S 351. INNOVATION TECHNOLOGY INVESTMENT PROGRAM. (A) THERE IS HEREBY
27 CREATED IN THE DEPARTMENT AN INNOVATION TECHNOLOGY INVESTMENT PROGRAM TO
28 CREATE ECONOMIC INCENTIVES FOR THE DEVELOPMENT OF HIGH-TECH ENTERPRISES
29 INCLUDING THOSE ENTERPRISES WHICH ARE ENGAGED IN THE DEVELOPMENT OR
30 MANUFACTURING OF COMPUTER CHIPS, NANOELECTRONICS OR PHOTOVOLTAICS. A
31 BUSINESS WHICH IS DESIGNATED BY THE COMMISSIONER AS A HIGH-TECH ENTER-
32 PRISE PURSUANT TO THIS ARTICLE AND WHICH PLACES IN SERVICE TANGIBLE
33 PERSONAL PROPERTY INCLUDING BUILDINGS AND CAPITAL EQUIPMENT WITH BASIS
34 IN AN AMOUNT EQUAL TO OR EXCEEDING TEN MILLION DOLLARS SHALL BE ELIGIBLE
35 FOR SPECIFIED TAX BENEFITS RELATING TO REAL PROPERTY TAXES, TAX
36 REDUCTION CREDITS, INVESTMENT CREDITS, EMPLOYMENT INCENTIVE CREDITS AND
37 WAGE TAX CREDITS AS SET FORTH IN THE TAX LAW.

38 (B) DEFINITIONS. (1) THE TERM "BUSINESS TAX BENEFIT PERIOD" SHALL MEAN
39 THE TEN TAXABLE YEARS STARTING WITH THE TAXABLE YEAR IN WHICH THE BUSI-
40 NESS ENTERPRISE'S BENEFIT PERIOD COMMENCEMENT DATE OCCURS, BUT ONLY WITH
41 RESPECT TO EACH OF SUCH BUSINESS TAX BENEFIT PERIOD YEARS FOR WHICH THE
42 EMPLOYMENT TEST IS MET.

43 (2) THE TERM "BENEFIT PERIOD COMMENCEMENT DATE" SHALL MEAN THE DATE
44 WHEN PROPERTY CONSTITUTING THE PROJECT IS FIRST PLACED IN SERVICE.

45 (3) THE TERM "LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMIS-
46 SIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTER-
47 PRISE" SHALL MEAN THE LOCATION OR LOCATIONS THAT THE HIGH-TECH ENTER-
48 PRISE IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS
49 AN ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF
50 THIS ARTICLE.

51 (C) FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR CERTAIN BENEFITS
52 UNDER THIS ARTICLE AND THE CORRESPONDING TAX LAW PROVISIONS, THE FOLLOW-
53 ING PROVISIONS AND DEFINITIONS SHALL APPLY AND SHALL BE UTILIZED BY THE
54 COMMISSIONER OF TAXATION AND FINANCE TO DETERMINE SUCH ELIGIBILITY:

55 (1) THE EMPLOYMENT TEST SHALL BE MET WITH RESPECT TO A TAXABLE YEAR IF
56 THE BUSINESS ENTERPRISE'S EMPLOYMENT NUMBER AT LOCATIONS OF ITS OPER-

ATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE FOR SUCH TAXABLE YEAR EQUALS OR EXCEEDS ITS EMPLOYMENT NUMBER IN SUCH LOCATIONS FOR THE BASE PERIOD.

(2) THE TERM "BASE PERIOD" MEANS THE FIVE TAXABLE YEARS IMMEDIATELY PRECEDING THE TEST YEAR. IF THE HIGH-TECH ENTERPRISE HAS FEWER THAN FIVE SUCH YEARS, THEN THE TERM "BASE PERIOD" MEANS SUCH SMALLER SET OF YEARS.

(3) THE TERM "TEST YEAR" MEANS THE LAST TAXABLE YEAR OF THE HIGH-TECH ENTERPRISE ENDING BEFORE THE TEST DATE. IF A HIGH-TECH ENTERPRISE DOES NOT HAVE A TAXABLE YEAR THAT ENDS ON OR BEFORE THE TEST DATE, SUCH ENTERPRISE SHALL BE DEEMED TO HAVE A TEST YEAR WHICH SHALL BE EITHER THE LAST CALENDAR YEAR ENDING ON OR BEFORE ITS TEST DATE, OR IF SUCH ENTERPRISE HAS AS ITS TAXABLE YEAR A FISCAL YEAR, THE LAST SUCH FISCAL YEAR ENDING ON OR BEFORE ITS TEST DATE, WHETHER OR NOT SUCH ENTERPRISE IN FACT HAD A TAXABLE YEAR DURING THAT PERIOD.

(4) THE TERM "TEST DATE" MEANS THE DATE ON WHICH THE HIGH-TECH ENTERPRISE FILED ITS SUBMISSION AS AN ELIGIBLE HIGH-TECH ENTERPRISE TO THE COMMISSIONER.

(5) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF THE HIGH-TECH ENTERPRISE UNDER SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE, OR UNDER ARTICLE NINE-A OR TWENTY-TWO OF THE TAX LAW.

(6) THE TERM "NET NEW EMPLOYEES" SHALL MEAN THE EXCESS OF THE EMPLOYMENT NUMBER OF THE ELIGIBLE HIGH-TECH ENTERPRISE FOR THE TAXABLE YEAR AT THE LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, OVER THE EMPLOYMENT NUMBER OF THE ELIGIBLE HIGH-TECH ENTERPRISE AT SUCH LOCATIONS FOR THE BASE PERIOD.

(7) THE TERM "EMPLOYMENT NUMBER" SHALL MEAN THE AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS (IN THE CASE OF A CORPORATION) EMPLOYED FULL-TIME BY THE ENTERPRISE FOR AT LEAST ONE-HALF OF THE TAXABLE YEAR. SUCH NUMBER SHALL BE COMPUTED BY DETERMINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER DURING THE APPLICABLE TAXABLE YEAR, ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS DETERMINED TO BE SO EMPLOYED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH APPLICABLE TAXABLE YEAR. SUCH NUMBER SHALL NOT INCLUDE INDIVIDUALS EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON TO THE ELIGIBLE HIGH-TECH ENTERPRISE, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE FEDERAL INTERNAL REVENUE CODE. FOR THIS PURPOSE, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD HAVE QUALIFIED AS A "RELATED PERSON" TO THE ELIGIBLE HIGH-TECH ENTERPRISE IF IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR OTHERWISE CEASED TO EXIST OR OPERATE.

(D) CESSATION OF STATUS. A HIGH-TECH ENTERPRISE SHALL CEASE TO BE AN ELIGIBLE HIGH-TECH ENTERPRISE ONLY IF IT CEASES TO MEET THE REQUIREMENTS FOR SUCH TREATMENT UNDER SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE. SUCH CESSATION OF STATUS SHALL BE EFFECTIVE AS OF THE DATE ON WHICH THE ELIGIBLE HIGH-TECH ENTERPRISE FAILS TO MEET SUCH REQUIREMENTS.

§ 352. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL PROMULGATE REGULATIONS:

(A) REGARDING THE PROCESS FOR HIGH-TECH ENTERPRISES TO BE DESIGNATED AS ELIGIBLE HIGH-TECH ENTERPRISES FOR PURPOSES OF THIS ARTICLE. SUCH REGULATIONS SHALL NOT IMPOSE ANY ADDITIONAL CONSIDERATIONS FOR TREATMENT AS AN ELIGIBLE HIGH-TECH ENTERPRISE OTHER THAN REQUIRING THE APPLICANT TO SUBMIT DOCUMENTATION THAT IT WILL SATISFY THE CONDITIONS SET FORTH IN SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE AND SHALL REQUIRE THE APPLICANT TO IDENTIFY THE LOCATION OR LOCATIONS THAT WILL BE THE SITUS OF THE INVESTMENT UNDER SUCH SUBDIVISION;

(B) IN CONSULTATION WITH THE COMMISSIONER OF THE STATE DEPARTMENT OF TAXATION AND FINANCE, GOVERNING THE PROCEDURE AND NECESSARY FORMS FOR TAXPAYERS ENTITLED TO THE TAX CREDITS AS ELIGIBLE HIGH-TECH ENTERPRISES TO RECEIVE SUCH CREDITS; AND

(C) IN CONSULTATION WITH THE COMMISSIONER OF LABOR, FOR PROGRAM EVALUATION AND COORDINATE IMPLEMENTATION OF AN EVALUATION SYSTEM, WHICH IS CAPABLE OF COMPILING AND ANALYZING ACCURATE AND CONSISTENT INFORMATION NECESSARY FOR AN ASSESSMENT OF WHETHER STATUTORY OBJECTIVES AND CRITERIA ARE BEING MET; AND

THE FAILURE OF THE COMMISSIONER TO PROMULGATE THE REGULATIONS REQUIRED IN THIS SECTION SHALL NOT PREVENT A TAXPAYER QUALIFIED AS AN ELIGIBLE HIGH-TECH ENTERPRISE FROM CLAIMING AND RECEIVING THE TAX CREDITS WHICH IT IS ENTITLED TO UNDER THE RELEVANT PROVISIONS OF THE TAX LAW.

S 4. The tax law is amended by adding four new sections 33, 34, 35 and 36 to read as follows:

S 33. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, AS DEFINED IN SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (F) OF THIS SECTION, FOR ELIGIBLE REAL PROPERTY TAXES FOR ITS BUSINESS TAX BENEFIT PERIOD.

(B) AMOUNT OF CREDIT. AN ELIGIBLE HIGH-TECH ENTERPRISE SHALL BE ENTITLED TO RECEIVE A CREDIT EQUAL TO THE GREATER OF: (1) THE PRODUCT (OR PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TWENTY-FIVE PERCENT OF THE TOTAL WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS PAID TO OR ON BEHALF OF NET NEW EMPLOYEES DURING THE TAXABLE YEAR, PROVIDED HOWEVER, THAT THE TOTAL AMOUNT OF THE CREDIT SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR EACH SUCH EMPLOYEE, OR

(2) THE PRODUCT OF (A) TEN PERCENT OF THE GREATER OF (I) THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF REAL PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, OWNED BY THE ELIGIBLE HIGH-TECH ENTERPRISE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS DETERMINED ON THE EFFECTIVE DATE, AS DEFINED IN SUBDIVISION (E) OF SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR (II) THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE LAST DAY OF THE TAXABLE YEAR, AND (B) THE GREATER OF (I) THE PERCENTAGE OF SUCH REAL PROPERTY DESCRIBED IN CLAUSE (I) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH WHICH IS PHYSICALLY OCCUPIED AND USED BY THE ELIGIBLE HIGH-TECH ENTERPRISE, OR (II) THE PERCENTAGE OF SUCH COST OR OTHER BASIS WHICH IS ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION OF SUCH PROPERTY, RATHER THAN THE ACQUISITION OF SUCH REAL PROPERTY, BY THE ELIGIBLE HIGH-TECH ENTERPRISE.

1 PROVIDED, HOWEVER, IF THE PERCENTAGE OF SUCH COST OR OTHER BASIS,
2 WHICH IS ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION
3 OF SUCH REAL PROPERTY EQUALS OR EXCEEDS FIFTY PERCENT, THEN THE PERCENT-
4 AGE DESCRIBED IN CLAUSE (II) OF SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL
5 BE DEEMED TO BE ONE HUNDRED PERCENT. FOR PURPOSES OF COMPUTING TOTAL
6 WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS, WAGES, HEALTH BENEFITS
7 AND RETIREMENT BENEFITS FOR EACH EMPLOYEE IN EXCESS OF FORTY THOUSAND
8 DOLLARS SHALL BE EXCLUDED FROM SUCH COMPUTATION. PROVIDED FURTHER, THE
9 AMOUNT OF THE CREDIT MAY NOT EXCEED THE CREDIT AMOUNT SET FORTH IN
10 SUBDIVISION (C) OF THIS SECTION.

11 (C) ELIGIBLE REAL PROPERTY TAXES. THE TERM "ELIGIBLE REAL PROPERTY
12 TAXES" MEANS TAXES IMPOSED ON REAL PROPERTY WHICH IS OWNED BY THE ELIGI-
13 BLE HIGH-TECH ENTERPRISE AT THE LOCATION OF ITS OPERATIONS IDENTIFIED TO
14 THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE
15 HIGH-TECH ENTERPRISE, PROVIDED SUCH TAXES ARE PAID BY THE ELIGIBLE
16 HIGH-TECH ENTERPRISE WHICH IS THE OWNER OF THE REAL PROPERTY AND SUCH
17 TAXES BECOME A LIEN ON THE REAL PROPERTY DURING THE TAXABLE YEAR. IN
18 ADDITION, "ELIGIBLE REAL PROPERTY TAXES" SHALL INCLUDE TAXES PAID BY AN
19 ELIGIBLE HIGH-TECH ENTERPRISE WHICH IS A LESSEE OF REAL PROPERTY IF THE
20 FOLLOWING CONDITIONS ARE SATISFIED:

21 (1) THE TAXES MUST BE PAID BY THE LESSEE PURSUANT TO EXPLICIT REQUIRE-
22 MENTS IN A WRITTEN LEASE,

23 (2) SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY DURING THE TAXABLE
24 YEAR AND

25 (3) THE LESSEE HAS MADE DIRECT PAYMENT OF SUCH TAXES TO THE TAXING
26 AUTHORITY AND HAS RECEIVED A RECEIPT FOR SUCH PAYMENT OF TAXES FROM THE
27 TAXING AUTHORITY. IN ADDITION, THE TERM "ELIGIBLE REAL PROPERTY TAXES"
28 INCLUDES PAYMENTS IN LIEU OF TAXES MADE BY THE ELIGIBLE HIGH-TECH ENTER-
29 PRISE TO THE STATE, A MUNICIPAL CORPORATION OR A PUBLIC BENEFIT CORPO-
30 RATION PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO BETWEEN THE ELIGIBLE
31 HIGH-TECH ENTERPRISE AND THE STATE, MUNICIPAL CORPORATION, OR PUBLIC
32 BENEFIT CORPORATION.

33 (4) PROVIDED, HOWEVER, A PAYMENT IN LIEU OF TAXES MADE BY THE ELIGIBLE
34 HIGH-TECH ENTERPRISE PURSUANT TO A WRITTEN AGREEMENT SHALL NOT CONSTI-
35 TUTE ELIGIBLE REAL PROPERTY TAXES IN ANY TAXABLE YEAR TO THE EXTENT THAT
36 SUCH PAYMENT EXCEEDS THE PRODUCT OF (A) THE ASSESSED VALUE OF THE PROP-
37 erty, AND (B) THE CURRENT TAX RATE WITHIN THE TAXING JURISDICTION IN
38 WHICH SUCH PROPERTY IS LOCATED, AS MOST RECENTLY REPORTED TO THE COMMIS-
39 SIONER BY THE SECRETARY OF THE STATE BOARD OF REAL PROPERTY SERVICES, OR
40 HIS OR HER DESIGNEE.

41 (D) CREDIT RECAPTURE. WHERE AN ELIGIBLE HIGH-TECH ENTERPRISE'S ELIGI-
42 BLE REAL PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE
43 CREDIT PROVIDED FOR UNDER THIS SECTION ARE SUBSEQUENTLY REDUCED AS A
44 RESULT OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE
45 REAL PROPERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD
46 BACK, IN THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE
47 EXCESS OF (1) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR
48 OVER (2) THE AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED ELIGIBLE
49 REAL PROPERTY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR
50 MORE THAN ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH
51 REDUCTION IS ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND
52 CALCULATE THE AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO
53 BE RECAPTURED FOR EACH YEAR BASED ON SUCH REDUCTION.

54 (E) REFUND. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
55 FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
56 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR

1 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHT-
2 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
3 THEREON.

4 (F) DEFINITIONS AND CROSS-REFERENCES. FOR DEFINITIONS OF TERMS USED IN
5 THIS SECTION SEE SECTION TWO OF THIS ARTICLE. FOR APPLICATION OF THE
6 CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF
7 THIS CHAPTER:

8 (1) ARTICLE 9-A: SECTION 210: SUBDIVISION 27-A.

9 (2) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (BB-1).

10 S 34. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF
11 CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, OR WHICH
12 IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF
13 A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, AND WHICH IS
14 SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL
15 BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFER-
16 ENCED IN SUBDIVISION (G) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER
17 PROVIDED FOR ITS BUSINESS TAX BENEFIT PERIOD.

18 (B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT OF
19 (1) THE BENEFIT PERIOD FACTOR, (2) THE EMPLOYMENT INCREASE FACTOR, (3)
20 THE LOCATION ALLOCATION FACTOR AND (4) THE TAX FACTOR.

21 (C) BENEFIT PERIOD FACTOR. THE BENEFIT PERIOD FACTOR SHALL EQUAL 1.0
22 FOR EACH TAXABLE YEAR OF THE BUSINESS TAX BENEFIT PERIOD.

23 (D) EMPLOYMENT INCREASE FACTOR. (1) THE EMPLOYMENT INCREASE FACTOR IS
24 THE AMOUNT, NOT TO EXCEED 1.0, WHICH IS THE GREATER OF:

25 (I) THE EXCESS OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYMENT
26 NUMBER AT THE LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER
27 IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE,
28 OVER THE ELIGIBLE HIGH-TECH ENTERPRISE'S TEST YEAR EMPLOYMENT NUMBER AT
29 SUCH LOCATION, DIVIDED BY SUCH TEST YEAR EMPLOYMENT NUMBER AT SUCH
30 LOCATION; OR

31 (II) THE EXCESS OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYMENT
32 NUMBER IN SUCH LOCATIONS FOR THE TAXABLE YEAR OVER THE ELIGIBLE
33 HIGH-TECH ENTERPRISE'S TEST YEAR EMPLOYMENT NUMBER IN SUCH LOCATIONS,
34 DIVIDED BY 100.

35 (2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBDIVISION, WHERE THERE IS
36 AN EXCESS AS DESCRIBED IN SUCH PARAGRAPH, AND WHERE THE TEST YEAR
37 EMPLOYMENT NUMBER AS SUCH TERMS ARE DEFINED IN SECTION THREE HUNDRED
38 FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW IS ZERO, THEN THE EMPLOYMENT
39 INCREASE FACTOR SHALL BE 1.0.

40 (E) LOCATION ALLOCATION FACTOR. THE LOCATION ALLOCATION FACTOR SHALL
41 BE THE PERCENTAGE REPRESENTING THE ELIGIBLE HIGH-TECH ENTERPRISE'S
42 ECONOMIC PRESENCE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE
43 COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS
44 AN ELIGIBLE HIGH-TECH ENTERPRISE. THIS PERCENTAGE SHALL BE COMPUTED BY:

45 (1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE ELIGI-
46 BLE HIGH-TECH ENTERPRISE'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER
47 OWNED OR RENTED TO IT, AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE
48 COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS
49 AN ELIGIBLE HIGH-TECH ENTERPRISE DURING THE PERIOD COVERED BY THE
50 TAXPAYER'S REPORT OR RETURN BEARS TO THE AVERAGE VALUE OF THE ELIGIBLE
51 HIGH-TECH ENTERPRISE'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER
52 OWNED OR RENTED TO IT, WITHIN THE STATE DURING SUCH PERIOD; AND

53 (2) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER
54 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF
55 EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, OF THE ELIGIBLE HIGH-TECH
56 ENTERPRISE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER

1 OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE
2 HIGH-TECH ENTERPRISE, TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL
3 SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD, OF ALL THE
4 ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYEES WITHIN THE STATE, EXCEPT
5 GENERAL EXECUTIVE OFFICERS; AND

6 (3) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE
7 RESULT BY THE NUMBER OF PERCENTAGES. FOR PURPOSES OF ARTICLE TWENTY-TWO
8 OF THIS CHAPTER, REFERENCES IN THIS SUBDIVISION TO PROPERTY, WAGES,
9 SALARIES AND OTHER PERSONAL SERVICE COMPENSATION SHALL BE DEEMED TO BE
10 REFERENCES TO SUCH ITEMS CONNECTED WITH THE CONDUCT OF A BUSINESS.

11 (F) TAX FACTOR. (1) GENERAL. THE TAX FACTOR SHALL BE, IN THE CASE OF
12 ARTICLE NINE-A OF THIS CHAPTER, THE LARGER OF THE AMOUNTS OF TAX DETER-
13 MINED FOR THE TAXABLE YEAR UNDER PARAGRAPHS (A) AND (C) OF SUBDIVISION
14 ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. THE TAX FACTOR SHALL BE,
15 IN THE CASE OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TAX DETERMINED
16 FOR THE TAXABLE YEAR UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION SIX
17 HUNDRED ONE OF THIS CHAPTER.

18 (2) SOLE PROPRIETORS, PARTNERS AND S CORPORATION SHAREHOLDERS. (A)
19 WHERE THE TAXPAYER IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTER-
20 PRISE, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT
21 DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO
22 THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. SUCH ATTRIBUTION SHALL
23 BE MADE IN ACCORDANCE WITH THE RATIO OF THE TAXPAYER'S INCOME FROM THE
24 ELIGIBLE HIGH-TECH ENTERPRISE ALLOCATED WITHIN THE STATE, ENTERING INTO
25 NEW YORK ADJUSTED GROSS INCOME, TO THE TAXPAYER'S NEW YORK ADJUSTED
26 GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMIS-
27 SIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY
28 REFLECTS THE PORTION OF THE TAXPAYER'S TAX ATTRIBUTABLE TO THE INCOME OF
29 THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE RATIO SO DETER-
30 MINED EXCEED 1.0.

31 (B)(I) WHERE THE TAXPAYER IS A MEMBER OF A PARTNERSHIP WHICH IS AN
32 ELIGIBLE HIGH-TECH ENTERPRISE, THE TAXPAYER'S TAX FACTOR SHALL BE THAT
33 PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION
34 WHICH IS ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. SUCH ATTRIBUTION
35 SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE PARTNER'S INCOME FROM
36 THE PARTNERSHIP ALLOCATED WITHIN THE STATE TO THE PARTNER'S ENTIRE
37 INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY
38 PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE
39 PORTION OF THE PARTNER'S TAX ATTRIBUTABLE TO THE INCOME OF THE PARTNER-
40 SHIP. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

41 (II) FOR PURPOSES OF ARTICLE NINE-A OF THIS CHAPTER, THE TERM "PART-
42 NER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME,
43 GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING
44 INTO ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET
45 INCOME OR ENTIRE NET INCOME PLUS COMPENSATION AND THE TERM "PARTNER'S
46 ENTIRE INCOME" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNA-
47 TIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION, ALLOCATED
48 WITHIN THE STATE. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER,
49 THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS
50 OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO,
51 ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM "PARTNER'S
52 ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

53 (C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION
54 WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, THE SHAREHOLDER'S TAX FACTOR
55 SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS
56 SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE S CORPORATION.

1 SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE
2 SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE STATE,
3 ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLDER'S NEW
4 YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS
5 THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH
6 REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUTABLE TO
7 THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE
8 RATIO SO DETERMINED EXCEED 1.0.

9 (3) COMBINED RETURNS OR REPORTS. (A) WHERE THE TAXPAYER IS AN ELIGIBLE
10 HIGH-TECH ENTERPRISE AND IS REQUIRED OR PERMITTED TO MAKE A RETURN OR
11 REPORT ON A COMBINED BASIS UNDER ARTICLE NINE-A OF THIS CHAPTER, THE
12 TAXPAYER'S TAX FACTOR SHALL BE THE AMOUNT DETERMINED IN PARAGRAPH ONE OF
13 THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE
14 HIGH-TECH ENTERPRISE. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH
15 THE RATIO OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S INCOME ALLOCATED WITHIN
16 THE STATE TO THE COMBINED GROUP'S INCOME, OR IN ACCORDANCE WITH SUCH
17 OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPOR-
18 TIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE COMBINED GROUP'S
19 TAX ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN
20 NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

21 (B) THE TERM "INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE" MEANS
22 ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME
23 OR ENTIRE NET INCOME PLUS COMPENSATION CALCULATED AS IF THE TAXPAYER WAS
24 FILING SEPARATELY AND THE TERM "COMBINED GROUP'S INCOME" MEANS ENTIRE
25 NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR
26 ENTIRE NET INCOME PLUS COMPENSATION AS SHOWN ON THE COMBINED RETURN OR
27 REPORT, ALLOCATED WITHIN THE STATE.

28 (4) DENIAL OF ALLOWANCE. IF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF
29 THIS SUBDIVISION IS LESS THAN ZERO, A TAXPAYER SHALL NOT BE ALLOWED A
30 CREDIT UNDER THIS SECTION.

31 (G) DEFINITIONS AND CROSS-REFERENCES. FOR DEFINITIONS OF TERMS USED IN
32 THIS SECTION SEE SECTION TWO OF THIS ARTICLE. FOR APPLICATION OF THE
33 CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF
34 THIS CHAPTER:

35 (1) ARTICLE 9-A: SECTION 210: SUBDIVISION 28-A.

36 (2) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (CC-1).

37 S 35. INNOVATION TECHNOLOGY INVESTMENT TAX CREDIT. (A) (1) AN ELIGI-
38 BLE HIGH-TECH ENTERPRISE SUBJECT TO TAX UNDER ARTICLE NINE-A OF THE THIS
39 CHAPTER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
40 PROVIDED, AGAINST THE TAX IMPOSED UNDER SUCH ARTICLE NINE-A. THE AMOUNT
41 OF SUCH CREDIT SHALL BE TEN PERCENT OF THE COST OR OTHER BASIS FOR
42 FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER
43 TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF
44 BUILDINGS, DESCRIBED IN SUBDIVISION (B) OF THIS SECTION, WHICH IS PLACED
45 IN SERVICE BY AN ELIGIBLE HIGH-TECH ENTERPRISE, BUT ONLY IF THE ACQUI-
46 SITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION OF SUCH PROPERTY OR CAPI-
47 TAL EQUIPMENT OCCURRED OR WAS COMMENCED ON OR AFTER THE TEST DATE, AS
48 DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT
49 LAW. PROVIDED, HOWEVER, THAT IN THE CASE OF AN ACQUISITION,
50 CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS COMMENCED DURING SUCH
51 PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY, THE CREDIT SHALL BE TEN
52 PERCENT OF THE PORTION OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX
53 PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH PORTION SHALL BE ASCERTAINED
54 BY MULTIPLYING SUCH COST OR BASIS BY A FRACTION THE NUMERATOR OF WHICH
55 SHALL BE THE EXPENDITURES PAID OR INCURRED DURING SUCH PERIOD FOR SUCH
56 PURPOSES AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL OF ALL EXPENDI-

1 TURES PAID OR INCURRED FOR SUCH ACQUISITION, CONSTRUCTION, RECON-
2 STRUCTION OR ERECTION.

3 (2) AN ELIGIBLE HIGH-TECH ENTERPRISE SUBJECT TO TAX UNDER ARTICLE
4 TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS
5 HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED UNDER SUCH ARTICLE TWEN-
6 TY-TWO. THE AMOUNT OF SUCH CREDIT SHALL BE EIGHT PERCENT OF THE COST OR
7 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPER-
8 TY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL
9 COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, DESCRIBED IN SUBDIVISION
10 (B) OF THIS SECTION, WHICH IS PLACED IN SERVICE BY AN ELIGIBLE HIGH-TECH
11 ENTERPRISE, BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR
12 ERECTION OF SUCH PROPERTY OR EQUIPMENT OCCURRED OR WAS COMMENCED ON OR
13 AFTER THE TEST DATE, AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF
14 THE ECONOMIC DEVELOPMENT LAW. PROVIDED, HOWEVER, THAT IN THE CASE OF AN
15 ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS
16 COMMENCED DURING SUCH PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY,
17 THE CREDIT SHALL BE EIGHT PERCENT OF THE PORTION OF THE COST OR OTHER
18 BASIS FOR FEDERAL INCOME TAX PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH
19 PORTION SHALL BE ASCERTAINED BY MULTIPLYING SUCH COST OR BASIS BY A
20 FRACTION THE NUMERATOR OF WHICH SHALL BE THE EXPENDITURES PAID OR
21 INCURRED DURING SUCH PERIOD FOR SUCH PURPOSES AND THE DENOMINATOR OF
22 WHICH SHALL BE THE TOTAL OF ALL EXPENDITURES PAID OR INCURRED FOR SUCH
23 ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION.

24 (B) A CREDIT SHALL BE ALLOWED UNDER THIS SECTION WITH RESPECT TO
25 TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILD-
26 INGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT WHICH:
27 (1) ARE DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE
28 INTERNAL REVENUE CODE, (2) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, (3)
29 ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE
30 (D) OF THE INTERNAL REVENUE CODE, (4) HAVE A SITUS IN A LOCATION OF THE
31 ELIGIBLE HIGH-TECH ENTERPRISE'S OPERATIONS IDENTIFIED TO THE COMMISSION-
32 ER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGI-
33 BLE HIGH-TECH ENTERPRISE, AND (5) ARE (A) PRINCIPALLY USED BY THE
34 TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEM-
35 BLING, (B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION
36 CONTROL FACILITIES USED IN THE TAXPAYER'S TRADE OR BUSINESS, OR (C)
37 RESEARCH AND DEVELOPMENT PROPERTY. FOR PURPOSES OF THIS SUBDIVISION, THE
38 TERM "GOODS" SHALL NOT INCLUDE ELECTRICITY. FOR PURPOSES OF THIS PARA-
39 GRAPH, MANUFACTURING SHALL MEAN THE PROCESS OF WORKING RAW MATERIALS
40 INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR
41 NEW COMBINATION TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL
42 PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR
43 EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE
44 MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY
45 USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER
46 TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL
47 INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STOR-
48 AGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE
49 PRODUCED. FOR PURPOSES OF THIS PARAGRAPH, THE TERMS "RESEARCH AND DEVEL-
50 OPMENT PROPERTY", "INDUSTRIAL WASTE TREATMENT FACILITIES", AND "AIR
51 POLLUTION CONTROL FACILITIES" SHALL HAVE THE MEANINGS ASCRIBED THERETO
52 BY PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF
53 THIS CHAPTER AND THE PROVISIONS OF PARAGRAPH (C) OF SUCH SUBDIVISION
54 TWELVE SHALL APPLY.

55 (C) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION
56 WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROP-

ERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION.

(D) A TAXPAYER MAY CLAIM THE CREDIT ALLOWED UNDER THIS SECTION FOR TEN YEARS, COMMENCING WITH THE PERIOD THE TAXPAYER PLACES THE PROPERTY THAT COMPRISES THE PROJECT IN SERVICE. IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(E) AT THE OPTION OF THE TAXPAYER, AIR OR WATER POLLUTION CONTROL FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATIONS UNDER SUBSECTION (H) OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER, OR RESEARCH AND DEVELOPMENT FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATION UNDER PARAGRAPHS THREE AND FOUR OF SUBSECTION (G) OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER, OR PROPERTY WHICH QUALIFIES FOR THE CREDIT PROVIDED UNDER SUBDIVISION (A) OF THIS SECTION MAY BE TREATED AS PROPERTY PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, OR ASSEMBLING, PROVIDED THE PROPERTY OTHERWISE QUALIFIES UNDER PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, IN WHICH EVENT A DEDUCTION SHALL NOT BE ALLOWED UNDER SUCH SUBSECTION (H) OR SUCH PARAGRAPHS THREE AND FOUR OF SUBSECTION (G) AND A CREDIT SHALL NOT BE ALLOWED UNDER SUCH SUBSECTION (G) OR (H).

(F) (1) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SECTION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF THE PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. FOR PURPOSES OF THIS SUBDIVISION, USEFUL LIFE OF PROPERTY SHALL BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUTING HIS FEDERAL INCOME TAX LIABILITY.

(2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR

CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

(3) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE.

(4) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY AS DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, OTHER THAN AS PART OF OR COMPRISING AN AIR POLLUTION CONTROL FACILITY.

S 36. INNOVATION TECHNOLOGY EMPLOYMENT INCENTIVE CREDIT. (A) WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SECTION THIRTY-FIVE OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SECTION THIRTY-FIVE IS ALLOWED, WITH RESPECT TO SUCH PROPERTY, WHETHER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS OF THIRTY PERCENT OF THE CREDIT ALLOWABLE UNDER SUCH SECTION THIRTY-FIVE; PROVIDED, HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL ONLY BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, IN WHICH SUCH PROPERTY IS LOCATED DURING SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN SUCH LOCATION DURING THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SECTION THIRTY-FIVE IS ALLOWED.

(B) THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN A LOCATION OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE IN A TAXABLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH EMPLOYEES

1 WITHIN SUCH LOCATION EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF
2 MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE
3 THIRTY-FIRST DAY OF DECEMBER IN THE TAXABLE YEAR, BY ADDING TOGETHER THE
4 NUMBER OF EMPLOYEES ASCERTAINED IN EACH OF SUCH DATES AND DIVIDING THE
5 SUM SO OBTAINED BY THE NUMBER OF SUCH ABOVEMENTIONED DATES OCCURRING
6 WITHIN THE TAXABLE YEAR.

7 (C) IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE
8 YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE
9 CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE
10 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF CARRYING OVER ANY SUCH
11 EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH
12 EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE
13 DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION
14 SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO
15 INTEREST SHALL BE PAID THEREON.

16 S 5. Section 210 of the tax law is amended by adding a new subdivision
17 19-a to read as follows:

18 19-A. INNOVATION TECHNOLOGY WAGE TAX CREDIT. (A) A TAXPAYER SHALL BE
19 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
20 TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN
21 ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE
22 ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS
23 PRESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION. SUCH CREDIT SHALL BE
24 AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH
25 THE TAXPAYER HAS NET NEW EMPLOYEES AS DEFINED IN SECTION THREE HUNDRED
26 FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW FOR MORE THAN HALF THE TAXPAY-
27 ER'S FISCAL YEAR.

28 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING TERMS SHALL
29 HAVE THE FOLLOWING MEANINGS:

30 (1) "ELIGIBLE WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT
31 DURING THE TAXABLE YEAR, AT LOCATIONS OF AN ELIGIBLE HIGH-TECH ENTER-
32 PRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOP-
33 MENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTER-
34 PRISE.

35 (2) "TARGETED EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES ELIGI-
36 BLE WAGES AND WHO IS (I) AN ELIGIBLE INDIVIDUAL UNDER THE PROVISIONS OF
37 THE TARGETED JOBS TAX CREDIT (SECTION FIFTY-ONE OF THE INTERNAL REVENUE
38 CODE), (II) ELIGIBLE FOR BENEFITS UNDER THE PROVISIONS OF THE WORKFORCE
39 INVESTMENT ACT AS A DISLOCATED WORKER OR LOW-INCOME INDIVIDUAL (P.L.
40 105-220, AS AMENDED), (III) A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS,
41 (IV) AN INDIVIDUAL WHOSE INCOME IS BELOW THE MOST RECENTLY ESTABLISHED
42 POVERTY RATE PROMULGATED BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR
43 A MEMBER OF A FAMILY WHOSE FAMILY INCOME IS BELOW THE MOST RECENTLY
44 ESTABLISHED POVERTY RATE PROMULGATED BY THE APPROPRIATE FEDERAL AGENCY
45 OR (V) AN HONORABLY DISCHARGED MEMBER OF ANY BRANCH OF THE ARMED FORCES
46 OF THE UNITED STATES. AN INDIVIDUAL WHO SATISFIES THE CRITERIA SET FORTH
47 IN CLAUSE (I), (II), (IV) OR (V) OF THIS SUBPARAGRAPH AT THE TIME OF
48 INITIAL EMPLOYMENT IN THE JOB WITH RESPECT TO WHICH THE CREDIT IS
49 CLAIMED, OR WHO SATISFIES THE CRITERION SET FORTH IN CLAUSE (III) OF
50 THIS SUBPARAGRAPH AT SUCH TIME OR AT ANY TIME WITHIN THE PREVIOUS TWO
51 YEARS, SHALL BE A TARGETED EMPLOYEE SO LONG AS SUCH INDIVIDUAL CONTINUES
52 TO RECEIVE ELIGIBLE WAGES.

53 (3) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE
54 COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE
55 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,
56 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER

1 DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER
2 THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND
3 DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITH-
4 IN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

5 (C) THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF: (1) THE PRODUCT
6 OF THREE THOUSAND DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED
7 FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF
8 SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVISION, WHO (I)
9 RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR, (II)
10 RECEIVED WITH RESPECT TO MORE THAN HALF OF THE PERIOD OF EMPLOYMENT BY
11 THE TAXPAYER DURING THE TAXABLE YEAR, AN HOURLY WAGE WHICH WAS AT LEAST
12 ONE HUNDRED THIRTY-FIVE PERCENT OF THE MINIMUM WAGE SPECIFIED IN SECTION
13 SIX HUNDRED FIFTY-TWO OF THE LABOR LAW, (III) ARE TARGETED EMPLOYEES,
14 AND (IV) ARE HIRED AFTER THE TEST DATE; AND (2) THE PRODUCT OF FIFTEEN
15 HUNDRED DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS (EXCLUDING INDIV-
16 IDUALS DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH) EMPLOYED FULL-
17 TIME BY THE TAXPAYER AND HIRED AFTER THE TEST DATE, COMPUTED PURSUANT TO
18 THE PROVISIONS OF SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVI-
19 SION, WHO RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE
20 YEAR. PROVIDED, FURTHER, HOWEVER, THAT THE CREDIT PROVIDED FOR IN THIS
21 SUBDIVISION WITH RESPECT TO THE TAXABLE YEAR, AND CARRYOVERS OF SUCH
22 CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY
23 NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER
24 SECTION SIX HUNDRED ONE OF THIS CHAPTER COMPUTED WITHOUT REGARD TO ANY
25 CREDIT PROVIDED FOR UNDER THIS ARTICLE.

26 (D) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT, INDIVIDUALS
27 EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS
28 BY A RELATED PERSON, AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF
29 PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF
30 THE INTERNAL REVENUE CODE, SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER
31 OF INDIVIDUALS DESCRIBED IN SUBPARAGRAPH ONE OR SUBPARAGRAPH TWO OF
32 PARAGRAPH (C) OF THIS SUBDIVISION, UNLESS SUCH RELATED PERSON WAS NEVER
33 ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH EMPLOYEES.
34 FOR PURPOSES OF THIS SUBPARAGRAPH, A "RELATED PERSON" SHALL INCLUDE AN
35 ENTITY WHICH WOULD HAVE QUALIFIED AS A "RELATED PERSON" TO THE TAXPAYER
36 IF IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR
37 OTHERWISE CEASED TO EXIST OR OPERATE.

38 (E) THE DOLLAR AMOUNTS SPECIFIED UNDER SUBPARAGRAPH ONE OR TWO OF
39 PARAGRAPH (C) OF THIS SUBDIVISION SHALL BE INCREASED BY FIVE HUNDRED
40 DOLLARS FOR EACH QUALIFYING INDIVIDUAL UNDER SUCH SUBPARAGRAPH WHO
41 RECEIVED, DURING THE TAXABLE YEAR, WAGES IN EXCESS OF FORTY THOUSAND
42 DOLLARS.

43 (F) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED
44 UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX
45 FOR SUCH YEAR, THE EXCESS, AS WELL AS ANY PART OF THE CREDIT OR CARRY-
46 OVERS OF SUCH CREDIT, OR BOTH, WHICH MAY NOT BE DEDUCTED FROM THE TAX
47 OTHERWISE DUE BY REASON OF THE FINAL SENTENCE IN PARAGRAPH (D) OF THIS
48 SUBDIVISION, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
49 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF
50 CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE
51 FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO
52 THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX
53 AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED,
54 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

55 S 6. Section 606 of the tax law is amended by adding a new subsection
56 (k-1) to read as follows:

1 (K-1) INNOVATION TECHNOLOGY WAGE TAX CREDIT. (1) A TAXPAYER SHALL BE
2 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
3 TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN
4 ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE
5 ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS
6 PRESCRIBED IN PARAGRAPH TWO OF THIS SUBSECTION. SUCH CREDIT SHALL BE
7 AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH
8 THE TAXPAYER HAS EMPLOYEES FOR MORE THAN HALF THE TAXPAYER'S FISCAL
9 YEAR.

10 (2) FOR THE PURPOSES OF THIS SUBSECTION, THE FOLLOWING TERMS SHALL
11 HAVE THE FOLLOWING MEANINGS:

12 (A) "ELIGIBLE WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT
13 DURING THE TAXABLE YEAR, AT LOCATIONS OF AN ELIGIBLE HIGH-TECH ENTER-
14 PRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOP-
15 MENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTER-
16 PRISE.

17 (B) "TARGETED EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES ELIGI-
18 BLE WAGES AND WHO IS (I) AN ELIGIBLE INDIVIDUAL UNDER THE PROVISIONS OF
19 THE TARGETED JOBS TAX CREDIT (SECTION FIFTY-ONE OF THE INTERNAL REVENUE
20 CODE), (II) ELIGIBLE FOR BENEFITS UNDER THE PROVISIONS OF THE WORKFORCE
21 INVESTMENT ACT AS A DISLOCATED WORKER OR LOW-INCOME INDIVIDUAL (P.L.
22 105-220, AS AMENDED), (III) A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS,
23 (IV) AN INDIVIDUAL WHOSE INCOME IS BELOW THE MOST RECENTLY ESTABLISHED
24 POVERTY RATE PROMULGATED BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR
25 A MEMBER OF A FAMILY WHOSE FAMILY INCOME IS BELOW THE MOST RECENTLY
26 ESTABLISHED POVERTY RATE PROMULGATED BY THE APPROPRIATE FEDERAL AGENCY
27 OR (V) AN HONORABLY DISCHARGED MEMBER OF ANY BRANCH OF THE ARMED FORCES
28 OF THE UNITED STATES. AN INDIVIDUAL WHO SATISFIES THE CRITERIA SET FORTH
29 IN CLAUSE (I), (II), (IV) OR (V) OF THIS SUBPARAGRAPH AT THE TIME OF
30 INITIAL EMPLOYMENT IN THE JOB WITH RESPECT TO WHICH THE CREDIT IS
31 CLAIMED, OR WHO SATISFIES THE CRITERION SET FORTH IN CLAUSE (III) OF
32 THIS SUBPARAGRAPH AT SUCH TIME OR AT ANY TIME WITHIN THE PREVIOUS TWO
33 YEARS, SHALL BE A TARGETED EMPLOYEE SO LONG AS SUCH INDIVIDUAL CONTINUES
34 TO RECEIVE ELIGIBLE WAGES.

35 (C) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE
36 COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE
37 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,
38 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER
39 DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER
40 THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND
41 DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITH-
42 IN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

43 (3) THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF: (A) THE PRODUCT
44 OF THREE THOUSAND DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED
45 FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF
46 SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, WHO (I) RECEIVED
47 ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR, (II) RECEIVED
48 WITH RESPECT TO MORE THAN HALF OF THE PERIOD OF EMPLOYMENT BY THE
49 TAXPAYER DURING THE TAXABLE YEAR, AN HOURLY WAGE WHICH WAS AT LEAST ONE
50 HUNDRED THIRTY-FIVE PERCENT OF THE MINIMUM WAGE SPECIFIED IN SECTION SIX
51 HUNDRED FIFTY-TWO OF THE LABOR LAW, AND (III) ARE TARGETED EMPLOYEES;
52 AND (B) THE PRODUCT OF FIFTEEN HUNDRED DOLLARS AND THE AVERAGE NUMBER OF
53 INDIVIDUALS (EXCLUDING INDIVIDUALS DESCRIBED IN SUBPARAGRAPH (A) OF THIS
54 PARAGRAPH) EMPLOYED FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE
55 PROVISIONS OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, WHO
56 RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR.

1 PROVIDED, FURTHER, HOWEVER, THAT THE CREDIT PROVIDED FOR IN THIS
2 SUBSECTION WITH RESPECT TO THE TAXABLE YEAR, AND CARRYOVERS OF SUCH
3 CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY
4 NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER
5 SECTION SIX HUNDRED ONE OF THIS PART COMPUTED WITHOUT REGARD TO ANY
6 CREDIT PROVIDED FOR UNDER THIS ARTICLE.

7 (4) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT, INDIVIDUALS
8 EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS
9 BY A RELATED PERSON, AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF
10 PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF
11 THE INTERNAL REVENUE CODE, SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER
12 OF INDIVIDUALS DESCRIBED IN SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS
13 SUBSECTION, UNLESS SUCH RELATED PERSON WAS NEVER ALLOWED A CREDIT UNDER
14 THIS SUBSECTION WITH RESPECT TO SUCH EMPLOYEES. FOR PURPOSES OF THIS
15 SUBPARAGRAPH, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD
16 HAVE QUALIFIED AS A "RELATED PERSON" TO THE TAXPAYER IF IT HAD NOT BEEN
17 DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR OTHERWISE CEASED TO
18 EXIST OR OPERATE.

19 (5) THE DOLLAR AMOUNTS SPECIFIED UNDER SUBPARAGRAPH (A) OR (B) OF
20 PARAGRAPH THREE OF THIS SUBSECTION SHALL BE INCREASED BY FIVE HUNDRED
21 DOLLARS FOR EACH QUALIFYING INDIVIDUAL UNDER SUCH SUBPARAGRAPH WHO
22 RECEIVED, DURING THE TAXABLE YEAR, WAGES IN EXCESS OF FORTY THOUSAND
23 DOLLARS.

24 (6) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED
25 UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX
26 FOR SUCH YEAR, THE EXCESS, AS WELL AS ANY PART OF THE CREDIT OR CARRY-
27 OVERS OF SUCH CREDIT, OR BOTH, WHICH MAY NOT BE DEDUCTED FROM THE TAX
28 OTHERWISE DUE BY REASON OF THE FINAL SENTENCE IN PARAGRAPH THREE OF THIS
29 SUBSECTION, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
30 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF
31 CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE
32 FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO
33 THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX
34 AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED,
35 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

36 S 7. Section 606 of the tax law is amended by adding two new
37 subsections (bb-1) and (cc-1) to read as follows:

38 (BB-1) INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (1)
39 ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTER-
40 PRISE AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOP-
41 MENT LAW, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTER-
42 PRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH
43 ENTERPRISE, SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES,
44 TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-THREE OF THIS CHAPTER,
45 AGAINST THE TAX IMPOSED BY THIS ARTICLE.

46 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
47 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
48 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
49 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
50 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
51 SHALL BE PAID THEREON.

52 (CC-1) INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. ALLOWANCE OF CRED-
53 IT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED IN
54 SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR WHICH IS
55 A SOLE PROPRIETOR OF A ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A
56 PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, SHALL BE ALLOWED

1 AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT AGAINST THE TAX IMPOSED BY
2 SUBSECTIONS (A) THROUGH (E) OF SECTION SIX HUNDRED ONE OF THIS PART.

3 S 8. Section 210 of the tax law is amended by adding two new subdivi-
4 sions 27-a and 28-a to read as follows:

5 27-A. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A) ALLOW-
6 ANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS
7 DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW
8 SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE
9 COMPUTED AS PROVIDED IN SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST
10 THE TAX IMPOSED BY THIS ARTICLE.

11 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
12 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
13 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
14 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
15 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
16 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
17 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
18 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
19 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
20 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
21 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

22 28-A. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF
23 CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED
24 IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW SHALL BE
25 ALLOWED AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT, TO BE COMPUTED AS
26 PROVIDED IN SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED
27 BY THIS ARTICLE.

28 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
29 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
30 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS
31 SECTION.

32 S 9. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
33 of the tax law is amended by adding three new clauses (xxxi), (xxxii)
34 and (xxxiii) to read as follows:

35 (XXXI) INNOVATION TECHNOLOGY WAGE	ELIGIBLE WAGES UNDER SUBDIVISION
36 TAX CREDIT UNDER SUBSECTION (K-1)	NINETEEN-A OF SECTION TWO HUNDRED
37	TEN

38 (XXXII) INNOVATION TECHNOLOGY CREDIT	AMOUNT OF CREDIT UNDER SUBDIVISION
39 FOR REAL PROPERTY TAXES UNDER	TWENTY-SEVEN-A OF SECTION TWO
40 SUBSECTION (BB-1)	HUNDRED TEN

41 (XXXIII) INNOVATION TECHNOLOGY TAX	AMOUNT OF BENEFIT UNDER SUBDIVISION
42 REDUCTION CREDIT UNDER SUBSECTION	TWENTY-EIGHT-A OF SECTION TWO
43 (CC-1)	HUNDRED TEN

44 S 10. This act shall take effect immediately.