

3645

2009-2010 Regular Sessions

I N S E N A T E

March 26, 2009

Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law and the general city law, in relation to imposing the earnings tax on nonresidents

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

1 Section 1. Section 1301 of the tax law is amended by adding a new
2 subsection (c) to read as follows:

3 (C) THE TAXES AUTHORIZED BY THIS ARTICLE MAY BE IMPOSED ONLY IF THE
4 GENERAL CITY LAW AUTHORIZES THE ADOPTION OF A CITY TAX ON THE EARNINGS
5 OF NONRESIDENTS AND THE CITY IMPOSING THE TAX AUTHORIZED BY THIS ARTICLE
6 ALSO IMPOSES SUCH TAX ON THE EARNINGS OF NONRESIDENTS.

7 S 2. Subsection (b) of section 1305 of the tax law, as amended by
8 chapter 5 of the laws of 1999, is amended to read as follows:

9 (b) City nonresident individual. A city nonresident individual means
10 an individual who is not a resident of such city [or the state of New
11 York].

12 S 3. The general city law is amended by adding a new article 2-E to
13 read as follows:

14 ARTICLE 2-E

15 CITY EARNINGS TAX ON NONRESIDENTS

16 SECTION 25-M. AUTHORIZATION TO IMPOSE TAX.

17 25-N. ADMINISTRATIVE PROVISIONS.

18 25-O. DEPOSIT AND DISPOSITION OF REVENUES.

19 S 25-M. AUTHORIZATION TO IMPOSE TAX. IN ADDITION TO ANY OTHER TAXES,
20 NOW AUTHORIZED BY LAW, ANY CITY HAVING A POPULATION OF ONE MILLION OR
21 MORE IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS
22 IMPOSING A TAX ON THE EARNINGS OF NONRESIDENTS OF SUCH CITY TO BE ADMIN-
23 ISTERED IN THE MANNER PROVIDED FOR IN THIS ARTICLE BY THE ADMINISTRATOR
24 AS DEFINED IN SECTION ONE OF THE MODEL LOCAL LAW HEREINAFTER SET FORTH.

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

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1 THE TAX AUTHORIZED BY THIS ARTICLE MAY BE IMPOSED ONLY IF THE CITY
 2 IMPOSING THE TAX HEREIN AUTHORIZED ALSO IMPOSES A TAX ON THE PERSONAL
 3 INCOME OF ITS RESIDENTS. THE RATES OF SUCH TAX SHALL BE THE RATES
 4 CONTAINED IN EITHER SECTION TWO OR THREE OF THE MODEL LOCAL LAW AND SUCH
 5 RATES MAY BE REDUCED AND INCREASED, PROVIDED THAT THE RATES SHALL NOT BE
 6 FIXED HIGHER THAN THOSE CONTAINED IN SECTION THREE OF SUCH MODEL LOCAL
 7 LAW.

8 THE TERMS OF SUCH LOCAL LAW SHALL BE SUBSTANTIALLY THE SAME AS THE
 9 FOLLOWING MODEL LOCAL LAW EXCEPT THAT THE APPENDIX AND THE SUPPLEMENT TO
 10 THE APPENDIX IN SUCH LOCAL LAW MAY BE AMENDED FOR THE PURPOSE OF
 11 CONFORMING IT WITH THE UNITED STATES INTERNAL REVENUE CODE OR OTHER
 12 FEDERAL LAWS RELATING TO TAXATION AS PRESENTLY IN EFFECT OR AS THEY MAY
 13 BE AMENDED.

14 EARNINGS TAX ON NONRESIDENTS

15 MODEL LOCAL LAW

- 16 SECTION 1. MEANING OF TERMS.
 17 2. PERSONS SUBJECT TO TAX.
 18 3. PERSONS SUBJECT TO TAX.
 19 4. ALLOCATION TO THE CITY.
 20 5. ACCOUNTING PERIODS AND METHODS.
 21 6. WITHHOLDING OF TAX ON WAGES.
 22 7. WITHHOLDING OF TAX ON WAGES FOR TAXABLE PERIODS COMMENCING
 23 ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE.
 24 8. INFORMATION STATEMENT FOR EMPLOYEE.
 25 9. CREDIT FOR TAX WITHHELD.
 26 10. EMPLOYER'S RETURN AND PAYMENT OF WITHHELD TAXES.
 27 11. EMPLOYER'S LIABILITY FOR WITHHELD TAXES.
 28 12. EMPLOYER'S FAILURE TO WITHHOLD.
 29 13. RETURNS AND PAYMENT OF TAX.
 30 14. COMBINED RETURNS, EMPLOYER'S RETURNS AND PAYMENTS.
 31 15. EFFECT OF INVALIDITY IN PART; INCONSISTENCIES WITH OTHER
 32 LAWS.

33 S 1. MEANING OF TERMS. AS USED IN THIS LOCAL LAW, THE FOLLOWING TERMS
 34 SHALL MEAN AND INCLUDE:

35 (A) "ADMINISTRATOR" MEANS THE FINANCE ADMINISTRATOR OR OTHER FISCAL
 36 OFFICER OF THE CITY CHARGED WITH ADMINISTRATION OF THE TAX ON EARNINGS
 37 OF NONRESIDENTS IMPOSED BY THIS LOCAL LAW, EXCEPT WITH RESPECT TO TAXES
 38 IMPOSED FOR ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
 39 THOUSAND NINE, SUCH TERM SHALL MEAN STATE TAX COMMISSION.

40 (B) "CITY" MEANS THE CITY IMPOSING THE TAX.

41 (C) "PAYROLL PERIOD" AND "EMPLOYER" SHALL MEAN THE SAME AS PAYROLL
 42 PERIOD AND EMPLOYER AS DEFINED IN SUBSECTIONS (B) AND (D) OF SECTION
 43 THIRTY-FOUR HUNDRED ONE OF THE INTERNAL REVENUE CODE, AND "EMPLOYEE"
 44 SHALL ALSO INCLUDE ALL THOSE INCLUDED AS EMPLOYEES IN SUBSECTION (C) OF
 45 SUCH SECTION OF SUCH CODE.

46 (D) "WAGES" SHALL MEAN WAGES AS DEFINED IN SUBSECTION (A) OF SECTION
 47 THIRTY-FOUR HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT (1)
 48 WAGES SHALL NOT INCLUDE PAYMENTS FOR ACTIVE SERVICE AS A MEMBER OF THE
 49 ARMED FORCES OF THE UNITED STATES AND SHALL NOT INCLUDE, IN THE CASE OF
 50 A NONRESIDENT INDIVIDUAL OR PARTNER OF A PARTNERSHIP DOING AN INSURANCE
 51 BUSINESS AS A MEMBER OF THE NEW YORK INSURANCE EXCHANGE DESCRIBED IN
 52 SECTION SIX THOUSAND TWO HUNDRED ONE OF THE INSURANCE LAW, ANY ITEM OF
 53 INCOME, GAIN, LOSS OR DEDUCTION OF SUCH BUSINESS WHICH IS SUCH INDIVID-
 54 UAL'S DISTRIBUTIVE OR PRO RATA SHARE FOR FEDERAL INCOME TAX PURPOSES OR
 55 WHICH SUCH INDIVIDUAL IS REQUIRED TO TAKE INTO ACCOUNT SEPARATELY FOR
 56 FEDERAL INCOME TAX PURPOSES AND (2) WAGES SHALL INCLUDE THE AMOUNT OF

1 MEMBER OR EMPLOYEE CONTRIBUTIONS TO A RETIREMENT SYSTEM OR PENSION FUND
2 PICKED UP OR PAID BY THE EMPLOYER PURSUANT TO SUBDIVISION F OF SECTION
3 FIVE HUNDRED SEVENTEEN OR SUBDIVISION D OF SECTION SIX HUNDRED THIRTEEN
4 OF THE RETIREMENT AND SOCIAL SECURITY LAW.

5 (E) "NET EARNINGS FROM SELF-EMPLOYMENT" SHALL MEAN THE SAME AS NET
6 EARNINGS FROM SELF-EMPLOYMENT AS DEFINED IN SUBSECTION (A) OF SECTION
7 FOURTEEN HUNDRED TWO OF THE INTERNAL REVENUE CODE, EXCEPT THAT THE
8 DEDUCTION FOR WAGES AND SALARIES PAID OR INCURRED FOR THE TAXABLE YEAR
9 WHICH IS NOT ALLOWED PURSUANT TO SECTION TWO HUNDRED EIGHTY-C OF SUCH
10 CODE SHALL BE ALLOWED, AND EXCEPT THAT AN ESTATE OR TRUST SHALL BE
11 DEEMED TO HAVE NET EARNINGS FROM SELF-EMPLOYMENT DETERMINED IN THE SAME
12 MANNER AS IF IT WERE AN INDIVIDUAL SUBJECT TO THE TAX ON SELF-EMPLOYMENT
13 INCOME IMPOSED BY SECTION FOURTEEN HUNDRED ONE OF THE INTERNAL REVENUE
14 CODE DIMINISHED BY (1) THE AMOUNT OF ANY DEDUCTION ALLOWED BY SUBSECTION
15 (C) OF SECTION SIX HUNDRED FORTY-TWO OF THE INTERNAL REVENUE CODE AND
16 (2) THE DEDUCTIONS ALLOWED BY SECTIONS SIX HUNDRED FIFTY-ONE AND SIX
17 HUNDRED SIXTY-ONE OF SAID CODE TO THE EXTENT THAT THEY REPRESENT
18 DISTRIBUTIONS OR PAYMENTS TO A RESIDENT OF THE CITY. HOWEVER, "TRADE OR
19 BUSINESS" AS USED IN SUBSECTION (A) OF SECTION FOURTEEN HUNDRED TWO OF
20 SUCH CODE SHALL MEAN THE SAME AS TRADE OR BUSINESS AS DEFINED IN
21 SUBSECTION (C) OF SECTION FOURTEEN HUNDRED TWO OF SUCH CODE, EXCEPT THAT
22 PARAGRAPHS (4), (5) AND (6) OF SUCH SUBSECTION SHALL NOT APPLY IN DETER-
23 MINING NET EARNINGS FROM SELF-EMPLOYMENT TAXABLE UNDER THIS LOCAL LAW.
24 PROVIDED HOWEVER, IN THE CASE OF A NONRESIDENT INDIVIDUAL OR PARTNER OF
25 A PARTNERSHIP DOING AN INSURANCE BUSINESS DESCRIBED IN SECTION SIX THOU-
26 SAND TWO HUNDRED ONE OF THE INSURANCE LAW, ANY ITEM OF INCOME, GAIN,
27 LOSS OR DEDUCTION OF SUCH BUSINESS WHICH IS THE INDIVIDUAL'S DISTRIBUTI-
28 TIVE OR PRO RATA SHARE FOR FEDERAL INCOME TAX PURPOSES OR WHICH THE
29 INDIVIDUAL IS REQUIRED TO TAKE INTO ACCOUNT SEPARATELY FOR FEDERAL
30 INCOME TAX PURPOSES SHALL NOT BE CONSIDERED TO BE "NET EARNINGS FROM
31 SELF-EMPLOYMENT".

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

34 (G) "RESIDENT INDIVIDUAL" SHALL MEAN AN INDIVIDUAL:

35 (1) WHO IS DOMICILED IN THE CITY, UNLESS (A) HE OR SHE MAINTAINS NO
36 PERMANENT PLACE OF ABODE IN THE CITY, MAINTAINS A PERMANENT PLACE OF
37 ABODE ELSEWHERE, AND SPENDS IN THE AGGREGATE NOT MORE THAN THIRTY DAYS
38 OF THE TAXABLE YEAR IN THE CITY, OR (B) (I) WITHIN ANY PERIOD OF FIVE
39 HUNDRED FORTY-EIGHT CONSECUTIVE DAYS HE OR SHE IS PRESENT IN A FOREIGN
40 COUNTRY OR COUNTRIES FOR AT LEAST FOUR HUNDRED FIFTY DAYS, AND (II)
41 DURING SUCH PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS HE OR
42 SHE IS NOT PRESENT IN THE CITY FOR MORE THAN NINETY DAYS AND DOES NOT
43 MAINTAIN A PERMANENT PLACE OF ABODE IN THE CITY AT WHICH HIS OR HER
44 SPOUSE (UNLESS SUCH SPOUSE IS LEGALLY SEPARATED) OR MINOR CHILDREN ARE
45 PRESENT FOR MORE THAN NINETY DAYS, AND (III) DURING ANY PERIOD OF LESS
46 THAN TWELVE MONTHS, WHICH WOULD BE TREATED AS A SEPARATE TAXABLE PERIOD
47 BASED ON A CHANGE OF RESIDENT STATUS, AND WHICH PERIOD IS CONTAINED
48 WITHIN SUCH PERIOD OF FIVE HUNDRED FORTY-EIGHT CONSECUTIVE DAYS, HE OR
49 SHE IS PRESENT IN THE CITY FOR A NUMBER OF DAYS WHICH DOES NOT EXCEED AN
50 AMOUNT WHICH BEARS THE SAME RATIO TO NINETY AS THE NUMBER OF DAYS
51 CONTAINED IN SUCH PERIOD OF LESS THAN TWELVE MONTHS BEARS TO FIVE
52 HUNDRED FORTY-EIGHT, OR

53 (2) WHO IS NOT DOMICILED IN THE CITY BUT MAINTAINS A PERMANENT PLACE
54 OF ABODE IN THE CITY AND SPENDS IN THE AGGREGATE MORE THAN ONE HUNDRED
55 EIGHTY-THREE DAYS OF THE TAXABLE YEAR IN THE CITY, UNLESS SUCH INDIVID-
56 UAL IS IN ACTIVE SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

1 (H) "NONRESIDENT INDIVIDUAL" SHALL MEAN AN INDIVIDUAL WHO IS NOT A
2 RESIDENT.

3 (I) "RESIDENT ESTATE OR TRUST" SHALL MEAN:

4 (1) THE ESTATE OF A DECEDENT WHO AT HIS OR HER DEATH WAS DOMICILED IN
5 THE CITY,

6 (2) A TRUST, OR A PORTION OF A TRUST, CONSISTING OF PROPERTY TRANS-
7 FERRED BY WILL OF A DECEDENT WHO AT HIS OR HER DEATH WAS DOMICILED IN
8 THE CITY, OR

9 (3) A TRUST, OR PORTION OF A TRUST, CONSISTING OF THE PROPERTY OF:

10 (A) A PERSON DOMICILED IN THE CITY AT THE TIME SUCH PROPERTY WAS
11 TRANSFERRED TO THE TRUST, IF SUCH TRUST OR PORTION OF A TRUST WAS THEN
12 IRREVOCABLE, OR IF IT WAS THEN REVOCABLE AND HAS NOT SUBSEQUENTLY BECOME
13 IRREVOCABLE; OR

14 (B) A PERSON DOMICILED IN THE CITY AT THE TIME SUCH TRUST, OR PORTION
15 OF A TRUST, BECAME IRREVOCABLE, IF IT WAS REVOCABLE WHEN SUCH PROPERTY
16 WAS TRANSFERRED TO THE TRUST BUT HAS SUBSEQUENTLY BECOME IRREVOCABLE.

17 FOR THE PURPOSES OF THE FOREGOING, A TRUST OR PORTION OF A TRUST IS
18 REVOCABLE IF IT IS SUBJECT TO A POWER, EXERCISABLE IMMEDIATELY OR AT ANY
19 FUTURE TIME, TO REVEST TITLE IN THE PERSON WHOSE PROPERTY CONSTITUTES
20 SUCH TRUST OR PORTION OF A TRUST, AND A TRUST OR PORTION OF A TRUST
21 BECOMES IRREVOCABLE WHEN THE POSSIBILITY THAT SUCH POWER MAY BE EXER-
22 CISED HAS BEEN TERMINATED.

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

25 (K) UNLESS A DIFFERENT MEANING IS CLEARLY REQUIRED, ANY TERM USED IN
26 THIS LOCAL LAW SHALL HAVE THE SAME MEANING AS WHEN USED IN A COMPARABLE
27 CONTEXT IN THE LAWS OF THE UNITED STATES RELATING TO FEDERAL TAXES BUT
28 SUCH MEANING SHALL BE SUBJECT TO THE EXEMPTIONS OR MODIFICATIONS
29 PRESCRIBED IN OR PURSUANT TO ARTICLE TWO-E OF THE GENERAL CITY LAW OR BY
30 THE LAWS OF THIS STATE. ANY REFERENCE IN THIS LOCAL LAW TO THE INTERNAL
31 REVENUE CODE, THE INTERNAL REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX
32 OR TO THE LAWS OF THE UNITED STATES SHALL MEAN THE PROVISIONS OF THE
33 INTERNAL REVENUE CODE OF NINETEEN HUNDRED EIGHTY-SIX (UNLESS A REFERENCE
34 TO THE INTERNAL REVENUE CODE OF NINETEEN HUNDRED FIFTY-FOUR IS CLEARLY
35 INTENDED), AND AMENDMENTS THERETO, AND OTHER PROVISIONS OF THE LAWS OF
36 THE UNITED STATES RELATING TO FEDERAL TAXES, AS THE SAME ARE INCLUDED IN
37 THIS LOCAL LAW AS AN APPENDIX AND SUPPLEMENT TO THE APPENDIX OR AS
38 INCLUDED BY REFERENCE TO AN APPENDIX AND SUPPLEMENT TO THE APPENDIX OF A
39 TITLE ENACTED BY THE SAME LOCAL LAW AS ENACTS THIS LOCAL LAW. (THE
40 QUOTATION OF THE AFORESAID LAWS OF THE UNITED STATES IS INTENDED TO MAKE
41 THEM A PART OF THIS LOCAL LAW AND TO AVOID CONSTITUTIONAL UNCERTAINTIES
42 WHICH MIGHT RESULT IF SUCH LAWS WERE MERELY INCORPORATED BY REFERENCE.
43 THE QUOTATION OF A PROVISION OF THE FEDERAL INTERNAL REVENUE CODE OR OF
44 ANY OTHER LAW OF THE UNITED STATES SHALL NOT NECESSARILY MEAN THAT IT IS
45 APPLICABLE TO OR HAS RELEVANCE TO THIS LOCAL LAW.)

46 S 2. PERSONS SUBJECT TO TAX. (A) IMPOSITION OF TAX. A TAX IS HEREBY
47 IMPOSED FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
48 THOUSAND NINE ON THE WAGES EARNED, AND NET EARNINGS FROM SELF-EMPLOY-
49 MENT, WITHIN THE CITY, OF EVERY NONRESIDENT INDIVIDUAL, ESTATE AND TRUST
50 WHICH SHALL COMPRISE:

51 (1) A TAX AT THE RATE OF ONE-FOURTH OF ONE PERCENT ON ALL WAGES.

52 (2) A TAX AT THE RATE OF THREE-EIGHTHS OF ONE PERCENT ON ALL NET EARN-
53 INGS FROM SELF-EMPLOYMENT.

54 (B) EXCLUSION. (1) IN COMPUTING THE AMOUNT OF WAGES AND NET EARNINGS
55 FROM SELF-EMPLOYMENT TAXABLE UNDER SUBDIVISION (A), THERE SHALL BE

1 ALLOWED AN EXCLUSION AGAINST THE TOTAL OF WAGES AND NET EARNINGS FROM
2 SELF-EMPLOYMENT IN ACCORDANCE WITH THE FOLLOWING TABLE:

3 TOTAL OF WAGES AND NET EARNINGS	
4 FROM SELF-EMPLOYMENT	EXCLUSION ALLOWABLE
5 NOT OVER \$10,000	\$3,000
6 OVER \$10,000 BUT NOT OVER \$20,000	\$2,000
7 OVER \$20,000 BUT NOT OVER \$30,000	\$1,000
8 OVER \$30,000	NONE

9 (2) THE EXCLUSION ALLOWABLE SHALL BE APPLIED PRO RATA AGAINST WAGES
10 AND NET EARNINGS FROM SELF-EMPLOYMENT.

11 (3) FOR TAXABLE PERIODS OF LESS THAN ONE YEAR, THE EXCLUSION ALLOWABLE
12 SHALL BE PRORATED PURSUANT TO REGULATIONS OF THE ADMINISTRATOR.

13 (C) LIMITATION. IN NO EVENT SHALL A TAXPAYER BE SUBJECT TO THE TAX
14 UNDER THIS LOCAL LAW IN AN AMOUNT GREATER THAN HE OR SHE WOULD BE
15 REQUIRED TO PAY IF HE OR SHE WERE A RESIDENT OF THE CITY AND SUBJECT TO
16 A TAX ON PERSONAL INCOME OF RESIDENTS OF THE CITY ADOPTED BY THE CITY
17 PURSUANT TO AUTHORITY GRANTED BY THE GENERAL CITY LAW.

18 S 3. PERSONS SUBJECT TO TAX. (A) IMPOSITION OF TAX. (1) A TAX IS HERE-
19 BY IMPOSED FOR EACH TAXABLE YEAR BEGINNING AFTER DECEMBER THIRTY-FIRST,
20 TWO THOUSAND EIGHT ON THE WAGES EARNED, AND NET EARNINGS FROM SELF-EM-
21 PLOYMENT, WITHIN THE CITY, OF EVERY NONRESIDENT INDIVIDUAL, ESTATE AND
22 TRUST WHICH SHALL COMPRISE:

23 (I) A TAX AT THE RATE OF ONE-FOURTH OF ONE PERCENT ON ALL WAGES.

24 (II) A TAX AT THE RATE OF THREE-EIGHTHS OF ONE PERCENT ON ALL NET
25 EARNINGS FROM SELF-EMPLOYMENT.

26 (2) FOR EACH TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
27 THOUSAND NINE, A TAX IS HEREBY IMPOSED ON THE WAGES EARNED, AND NET
28 EARNINGS FROM SELF-EMPLOYMENT, WITHIN THE CITY, OF EVERY NONRESIDENT
29 INDIVIDUAL, ESTATE AND TRUST WHICH SHALL COMPRISE:

30 (I) A TAX AT THE RATE OF FORTY-FIVE HUNDREDTHS OF ONE PERCENT ON ALL
31 WAGES.

32 (II) A TAX AT THE RATE OF SIXTY-FIVE HUNDREDTHS OF ONE PERCENT ON ALL
33 NET EARNINGS FROM SELF-EMPLOYMENT.

34 (B) EXCLUSION. (1) IN COMPUTING THE AMOUNT OF WAGES AND NET EARNINGS
35 FROM SELF-EMPLOYMENT TAXABLE UNDER SUBDIVISION (A), THERE SHALL BE
36 ALLOWED AN EXCLUSION AGAINST THE TOTAL OF WAGES AND NET EARNINGS FROM
37 SELF-EMPLOYMENT IN ACCORDANCE WITH THE FOLLOWING TABLE:

38 TOTAL OF WAGES AND NET EARNINGS	
39 FROM SELF-EMPLOYMENT	EXCLUSION ALLOWABLE
40 NOT OVER \$10,000	\$3,000
41 OVER \$10,000 BUT NOT OVER \$20,000	\$2,000
42 OVER \$20,000 BUT NOT OVER \$30,000	\$1,000
43 OVER \$30,000	NONE

44 (2) THE EXCLUSION ALLOWABLE SHALL BE APPLIED PRO RATA AGAINST WAGES
45 AND NET EARNINGS FROM SELF-EMPLOYMENT.

46 (3) FOR TAXABLE PERIODS OF LESS THAN ONE YEAR, THE EXCLUSION ALLOWABLE
47 SHALL BE PRORATED PURSUANT TO REGULATIONS OF THE ADMINISTRATOR.

48 (C) LIMITATION. IN NO EVENT SHALL A TAXPAYER BE SUBJECT TO THE TAX
49 UNDER THIS LOCAL LAW IN AN AMOUNT GREATER THAN HE OR SHE WOULD BE
50 REQUIRED TO PAY IF HE OR SHE WERE A RESIDENT OF THE CITY AND SUBJECT TO
51 A TAX ON PERSONAL INCOME OF RESIDENTS OF THE CITY ADOPTED BY THE CITY
52 PURSUANT TO AUTHORITY GRANTED BY THE GENERAL CITY LAW OR THE TAX LAW.

53 S 4. ALLOCATION TO THE CITY. (A) GENERAL. IF NET EARNINGS FROM
54 SELF-EMPLOYMENT ARE DERIVED FROM SERVICES PERFORMED, OR FROM SOURCES,
55 WITHIN AND WITHOUT THE CITY, THERE SHALL BE ALLOCATED TO THE CITY A FAIR
56 AND EQUITABLE PORTION OF SUCH EARNINGS.

1 (B) ALLOCATION OF NET EARNINGS FROM SELF-EMPLOYMENT.

2 (1) PLACE OF BUSINESS. IF A TAXPAYER HAS NO REGULAR PLACE OF BUSINESS
3 OUTSIDE THE CITY ALL OF HIS OR HER NET EARNINGS FROM SELF-EMPLOYMENT
4 SHALL BE ALLOCATED TO THE CITY.

5 (2) ALLOCATION BY TAXPAYER'S BOOKS. THE PORTION OF NET EARNINGS FROM
6 SELF-EMPLOYMENT ALLOCABLE TO THE CITY MAY BE DETERMINED FROM THE BOOKS
7 AND RECORDS OF A TAXPAYER'S TRADE OR BUSINESS, IF THE METHODS USED IN
8 KEEPING SUCH BOOKS AND THE ACCURACY THEREOF ARE APPROVED BY THE ADMINIS-
9 TRATOR AS FAIRLY AND EQUITABLY REFLECTING NET EARNINGS FROM SELF-EMPLOY-
10 MENT WITHIN THE CITY.

11 (3) ALLOCATION BY FORMULA. IF PARAGRAPH (2) DOES NOT APPLY TO THE
12 TAXPAYER, THE PORTION OF NET EARNINGS FROM SELF-EMPLOYMENT ALLOCABLE TO
13 THE CITY SHALL BE DETERMINED BY MULTIPLYING (A) NET EARNINGS FROM SELF-
14 EMPLOYMENT WITHIN AND WITHOUT THE CITY, BY (B) THE AVERAGE OF THE
15 FOLLOWING THREE PERCENTAGES:

16 (I) PROPERTY PERCENTAGE. THE PERCENTAGE COMPUTED BY DIVIDING (A) THE
17 AVERAGE OF THE VALUE, AT THE BEGINNING AND END OF THE TAXABLE YEAR, OF
18 REAL AND TANGIBLE PERSONAL PROPERTY CONNECTED WITH THE NET EARNINGS FROM
19 SELF-EMPLOYMENT AND LOCATED WITHIN THE CITY, BY (B) THE AVERAGE OF THE
20 VALUE, AT THE BEGINNING AND END OF THE TAXABLE YEAR, OF ALL REAL AND
21 TANGIBLE PERSONAL PROPERTY CONNECTED WITH THE NET EARNINGS FROM SELF-EM-
22 PLOYMENT AND LOCATED BOTH WITHIN AND WITHOUT THE CITY. FOR THIS PURPOSE,
23 REAL PROPERTY SHALL INCLUDE REAL PROPERTY, WHETHER OWNED OR RENTED.

24 (II) PAYROLL PERCENTAGE. THE PERCENTAGE COMPUTED BY DIVIDING (A) THE
25 TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION PAID OR
26 INCURRED DURING THE TAXABLE YEAR TO EMPLOYEES IN CONNECTION WITH THE NET
27 EARNINGS FROM SELF-EMPLOYMENT DERIVED FROM A TRADE OR BUSINESS CARRIED
28 ON WITHIN THE CITY, BY (B) THE TOTAL OF ALL WAGES, SALARIES AND OTHER
29 PERSONAL SERVICE COMPENSATION PAID OR INCURRED DURING THE TAXABLE YEAR
30 TO EMPLOYEES IN CONNECTION WITH THE NET EARNINGS FROM SELF-EMPLOYMENT
31 DERIVED FROM A TRADE OR BUSINESS CARRIED ON BOTH WITHIN AND WITHOUT THE
32 CITY.

33 (III) GROSS INCOME PERCENTAGE. THE PERCENTAGE COMPUTED BY DIVIDING (A)
34 THE GROSS SALES OR CHARGES FOR SERVICES PERFORMED BY OR THROUGH AN AGEN-
35 CY LOCATED WITHIN THE CITY, BY (B) THE TOTAL OF ALL GROSS SALES OR
36 CHARGES FOR SERVICES PERFORMED WITHIN AND WITHOUT THE CITY. THE SALES OR
37 CHARGES TO BE ALLOCATED TO THE CITY SHALL INCLUDE ALL SALES NEGOTIATED
38 OR CONSUMMATED, AND CHARGES FOR SERVICES PERFORMED, BY AN EMPLOYEE,
39 AGENT, AGENCY OR INDEPENDENT CONTRACTOR CHIEFLY SITUATED AT, CONNECTED
40 BY CONTRACT OR OTHERWISE WITH, OR SENT OUT FROM, OFFICES OR OTHER AGEN-
41 CIES OF THE TRADE OR BUSINESS FROM WHICH A TAXPAYER IS DERIVING NET
42 EARNINGS FROM SELF-EMPLOYMENT, SITUATED WITHIN THE CITY.

43 (C) OTHER ALLOCATION METHODS. THE PORTION OF NET EARNINGS FROM
44 SELF-EMPLOYMENT ALLOCABLE TO THE CITY SHALL BE DETERMINED IN ACCORDANCE
45 WITH RULES AND REGULATIONS OF THE ADMINISTRATOR IF IT SHALL APPEAR TO
46 THE ADMINISTRATOR THAT THE NET EARNINGS FROM SELF-EMPLOYMENT ARE NOT
47 FAIRLY AND EQUITABLY REFLECTED UNDER THE PROVISIONS OF SUBDIVISION (B).

48 (D) SPECIAL RULES FOR REAL ESTATE. INCOME AND DEDUCTIONS FROM THE
49 RENTAL OF REAL PROPERTY AND GAIN AND LOSS FROM THE SALE, EXCHANGE OR
50 OTHER DISPOSITION OF REAL PROPERTY, SHALL NOT BE SUBJECT TO ALLOCATION
51 UNDER SUBDIVISION (B) OR (C), BUT SHALL BE CONSIDERED AS ENTIRELY
52 DERIVED FROM OR CONNECTED WITH THE PLACE IN WHICH SUCH PROPERTY IS
53 LOCATED.

54 S 5. ACCOUNTING PERIODS AND METHODS. (A) ACCOUNTING PERIODS. A TAXPAY-
55 ER'S TAXABLE YEAR UNDER THIS LOCAL LAW SHALL BE THE SAME AS HIS OR HER
56 TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES.

1 (B) CHANGE OF ACCOUNTING PERIODS. IF A TAXPAYER'S TAXABLE YEAR IS
2 CHANGED FOR FEDERAL INCOME TAX PURPOSES, HIS OR HER TAXABLE YEAR FOR
3 PURPOSES OF THIS LOCAL LAW SHALL BE SIMILARLY CHANGED. IF A TAXABLE
4 PERIOD OF LESS THAN TWELVE MONTHS RESULTS FROM A CHANGE OF TAXABLE YEAR,
5 THE EXCLUSION ALLOWABLE UNDER SECTION TWO OR THREE OF THIS LOCAL LAW
6 SHALL BE PRORATED UNDER REGULATIONS OF THE ADMINISTRATOR.

7 (C) ACCOUNTING METHODS. A TAXPAYER'S METHOD OF ACCOUNTING UNDER THIS
8 PART SHALL BE THE SAME AS HIS OR HER METHOD OF ACCOUNTING FOR FEDERAL
9 INCOME TAX PURPOSES. IN THE ABSENCE OF ANY METHOD OF ACCOUNTING FOR
10 FEDERAL INCOME TAX PURPOSES, NET EARNINGS FROM SELF-EMPLOYMENT WITHIN
11 THE CITY SHALL BE COMPUTED UNDER SUCH METHOD AS IN THE OPINION OF THE
12 ADMINISTRATOR CLEARLY REFLECTS NET EARNINGS FROM SELF-EMPLOYMENT WITHIN
13 THE CITY.

14 (D) CHANGE OF ACCOUNTING METHODS.

15 (1) IF A TAXPAYER'S METHOD OF ACCOUNTING IS CHANGED FOR FEDERAL INCOME
16 TAX PURPOSES, HIS OR HER METHOD OF ACCOUNTING FOR PURPOSES OF THIS LOCAL
17 LAW SHALL BE SIMILARLY CHANGED.

18 (2) IF A TAXPAYER'S METHOD OF ACCOUNTING IS CHANGED, OTHER THAN FROM
19 AN ACCRUAL TO AN INSTALLMENT METHOD, ANY ADDITIONAL TAX WHICH RESULTS
20 FROM ADJUSTMENTS DETERMINED TO BE NECESSARY SOLELY BY REASON OF THE
21 CHANGE SHALL NOT BE GREATER THAN IF SUCH ADJUSTMENTS WERE RATABLY ALLO-
22 CATED AND INCLUDED FOR THE TAXABLE YEAR OF THE CHANGE AND THE PRECEDING
23 TAXABLE YEARS, BEGINNING AFTER JANUARY FIRST, TWO THOUSAND NINE, NOT IN
24 EXCESS OF TWO, DURING WHICH THE TAXPAYER USED THE METHOD OF ACCOUNTING
25 FROM WHICH THE CHANGE IS MADE.

26 (3) IF A TAXPAYER'S METHOD OF ACCOUNTING IS CHANGED FROM AN ACCRUAL TO
27 AN INSTALLMENT METHOD, ANY ADDITIONAL TAX FOR THE YEAR OF SUCH CHANGE OF
28 METHOD AND FOR ANY SUBSEQUENT YEAR WHICH IS ATTRIBUTABLE TO THE RECEIPT
29 OF INSTALLMENT PAYMENTS PROPERLY ACCRUED IN A PRIOR YEAR, SHALL BE
30 REDUCED BY THE PORTION OF TAX FOR ANY PRIOR TAXABLE YEAR ATTRIBUTABLE TO
31 THE ACCRUAL OF SUCH INSTALLMENT PAYMENTS, IN ACCORDANCE WITH REGULATIONS
32 OF THE ADMINISTRATOR.

33 S 6. WITHHOLDING OF TAX ON WAGES. ON OR AFTER THE FIRST PAYROLL PERIOD
34 BEGINNING FORTY-FIVE DAYS AFTER THE DATE THIS LOCAL LAW BECOMES EFFEC-
35 TIVE EVERY EMPLOYER MAINTAINING AN OFFICE OR TRANSACTING BUSINESS WITHIN
36 THIS STATE AND MAKING PAYMENT OF ANY WAGES TAXABLE UNDER THIS LOCAL LAW
37 SHALL DEDUCT AND WITHHOLD FROM SUCH WAGES FOR EACH PAYROLL PERIOD A TAX
38 COMPUTED IN SUCH MANNER AS TO RESULT, SO FAR AS PRACTICABLE, IN WITH-
39 HOLDING FROM THE EMPLOYEE'S WAGES DURING EACH CALENDAR YEAR AN AMOUNT
40 SUBSTANTIALLY EQUIVALENT TO THE TAX REASONABLY ESTIMATED TO BE DUE FROM
41 THE EMPLOYEE UNDER THIS LOCAL LAW. THE METHOD OF DETERMINING THE AMOUNT
42 TO BE WITHHELD SHALL BE PRESCRIBED BY REGULATIONS OF THE ADMINISTRATOR.

43 S 7. WITHHOLDING OF TAX ON WAGES FOR TAXABLE PERIODS COMMENCING ON OR
44 AFTER JANUARY FIRST, TWO THOUSAND NINE. THE PROVISIONS CONTAINED IN THIS
45 SECTION AND SECTIONS SEVEN, NINE, TEN, ELEVEN, TWELVE AND THIRTEEN OF
46 THIS LOCAL LAW SHALL NOT BE APPLICABLE TO TAXES IMPOSED FOR TAXABLE
47 PERIODS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE PROVIDED
48 HOWEVER, WITH RESPECT TO SUCH PERIODS, THE PROVISIONS CONTAINED IN PART
49 V OF ARTICLE TWENTY-TWO OF THE TAX LAW SHALL BE APPLICABLE WITH THE SAME
50 FORCE AND EFFECT AS IF THOSE PROVISIONS HAD BEEN INCORPORATED IN FULL IN
51 THIS SUBSECTION EXCEPT WHERE INCONSISTENT WITH THE PROVISIONS OF THIS
52 ARTICLE, EXCEPT THAT THE TERM "AGGREGATE AMOUNT" CONTAINED IN PARAGRAPHS
53 ONE, TWO, THREE, FOUR AND FIVE OF SUBSECTION (A) OF SECTION SIX HUNDRED
54 SEVENTY-FOUR OF THE TAX LAW SHALL MEAN THE AGGREGATE OF THE AGGREGATE
55 AMOUNTS OF NEW YORK STATE PERSONAL INCOME TAX, CITY EARNINGS TAX ON
56 NONRESIDENTS AND CITY PERSONAL INCOME TAX ON RESIDENTS AUTHORIZED PURSU-

1 ANT TO ARTICLE THIRTY OF THE TAX LAW REQUIRED TO BE DEDUCTED AND WITH-
2 HELD AND PROVIDED, HOWEVER, THAT THE PROVISIONS OF SUCH PARAGRAPHS SHALL
3 NOT BE APPLICABLE TO EMPLOYER'S RETURNS REQUIRED TO BE FILED WITH
4 RESPECT TO TAXES REQUIRED TO BE DEDUCTED AND WITHHELD DURING THE CALEN-
5 DAR YEAR TWO THOUSAND NINE, BUT SUCH RETURNS SHALL BE REQUIRED TO BE
6 FILED WITH THE STATE TAX COMMISSION AT THE TIMES AND IN THE MANNER
7 PROVIDED FOR IN SUBDIVISION (A) OF SECTION TEN OF THIS LOCAL LAW, EXCEPT
8 THE TERM "ADMINISTRATOR" IN SUCH SUBDIVISION SHALL BE READ AS "STATE TAX
9 COMMISSION."

10 S 8. INFORMATION STATEMENT FOR EMPLOYEE. EVERY EMPLOYER REQUIRED TO
11 DEDUCT AND WITHHOLD TAX UNDER THIS LOCAL LAW FROM THE WAGES OF AN
12 EMPLOYEE, SHALL FURNISH TO EACH SUCH EMPLOYEE IN RESPECT OF THE WAGES
13 PAID BY SUCH EMPLOYER TO SUCH EMPLOYEE DURING THE CALENDAR YEAR ON OR
14 BEFORE FEBRUARY FIFTEENTH OF THE SUCCEEDING YEAR, OR, IF HIS OR HER
15 EMPLOYMENT IS TERMINATED BEFORE THE CLOSE OF SUCH CALENDAR YEAR, WITHIN
16 THIRTY DAYS FROM THE DATE ON WHICH THE LAST PAYMENT OF THE WAGES IS
17 MADE, A WRITTEN STATEMENT AS PRESCRIBED BY THE ADMINISTRATOR SHOWING THE
18 TOTAL AMOUNT OF WAGES PAID BY THE EMPLOYER TO THE EMPLOYEE, THE AMOUNT
19 OF WAGES PAID FOR SERVICES PERFORMED WITHIN THE CITY, THE AMOUNT
20 DEDUCTED AND WITHHELD AS TAX, AND SUCH OTHER INFORMATION AS THE ADMINIS-
21 TRATOR MAY PRESCRIBE.

22 S 9. CREDIT FOR TAX WITHHELD. WAGES UPON WHICH TAX IS REQUIRED TO BE
23 WITHHELD SHALL BE TAXABLE UNDER THIS LOCAL LAW AS IF NO WITHHOLDING WERE
24 REQUIRED, BUT ANY AMOUNT OF TAX ACTUALLY DEDUCTED AND WITHHELD UNDER
25 THIS LOCAL LAW IN ANY CALENDAR YEAR SHALL BE DEEMED TO HAVE BEEN PAID ON
26 BEHALF OF THE EMPLOYEE FROM WHOM WITHHELD, AND SUCH EMPLOYEE SHALL BE
27 CREDITED WITH HAVING PAID THAT AMOUNT OF TAX IN SUCH CALENDAR YEAR. FOR
28 A TAXABLE YEAR OF LESS THAN TWELVE MONTHS, THE CREDIT SHALL BE MADE
29 UNDER REGULATIONS OF THE ADMINISTRATOR.

30 S 10. EMPLOYER'S RETURN AND PAYMENT OF WITHHELD TAXES. (A) GENERAL. ON
31 OR AFTER THE FIRST PAYROLL PERIOD BEGINNING FORTY-FIVE DAYS AFTER THE
32 EFFECTIVE DATE OF THIS LOCAL LAW, EVERY EMPLOYER REQUIRED TO DEDUCT AND
33 WITHHOLD TAX UNDER THIS LOCAL LAW SHALL, FOR EACH CALENDAR MONTH, ON OR
34 BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE CLOSE OF SUCH CALEN-
35 DAR MONTH FILE A WITHHOLDING RETURN AS PRESCRIBED BY THE ADMINISTRATOR
36 AND PAY OVER TO THE ADMINISTRATOR OR TO THE DEPOSITORY DESIGNATED BY THE
37 ADMINISTRATOR, THE TAXES SO REQUIRED TO BE DEDUCTED AND WITHHELD, EXCEPT
38 THAT FOR THE MONTH OF DECEMBER IN ANY YEAR THE RETURNS SHALL BE FILED
39 AND THE TAXES PAID ON OR BEFORE JANUARY THIRTY-FIRST OF THE SUCCEEDING
40 YEAR. WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND WITHHELD BY
41 ANY EMPLOYER UNDER THIS LOCAL LAW AND UNDER ANY LOCAL LAW IMPOSING A TAX
42 ON PERSONAL INCOME OF RESIDENTS OF THE CITY ADOPTED BY THE CITY PURSUANT
43 TO AUTHORITY GRANTED BY THE GENERAL CITY LAW IS LESS THAN TWENTY-FIVE
44 DOLLARS IN A CALENDAR MONTH AND THE AGGREGATE OF SUCH TAXES FOR THE
45 SEMI-ANNUAL PERIOD ENDING ON JUNE THIRTIETH AND DECEMBER THIRTY-FIRST
46 CAN REASONABLY BE EXPECTED TO BE LESS THAN ONE HUNDRED FIFTY DOLLARS,
47 THE ADMINISTRATOR MAY, BY REGULATION, PERMIT AN EMPLOYER TO FILE A
48 RETURN ON OR BEFORE JULY THIRTY-FIRST FOR THE SEMI-ANNUAL PERIOD ENDING
49 ON JUNE THIRTIETH AND ON OR BEFORE JANUARY THIRTY-FIRST FOR THE SEMI-AN-
50 NUAL PERIOD ENDING ON DECEMBER THIRTY-FIRST. THE ADMINISTRATOR MAY, IF
51 HE OR SHE BELIEVES SUCH ACTION NECESSARY FOR THE PROTECTION OF THE
52 REVENUES, REQUIRE ANY EMPLOYER TO MAKE A RETURN AND PAY TO HIM OR HER
53 THE TAX DEDUCTED AND WITHHELD AT ANY TIME, OR FROM TIME TO TIME. WHERE
54 THE AMOUNT OF WAGES PAID BY AN EMPLOYER IS NOT SUFFICIENT UNDER THIS
55 LOCAL LAW AND UNDER ANY LOCAL LAW IMPOSING A TAX ON PERSONAL INCOME OF
56 RESIDENTS OF THE CITY ADOPTED BY THE CITY PURSUANT TO AUTHORITY GRANTED

1 BY THE GENERAL CITY LAW TO REQUIRE THE WITHHOLDING OF TAX FROM THE WAGES
2 OF ANY OF HIS OR HER EMPLOYEES, THE ADMINISTRATOR MAY, BY REGULATION,
3 PERMIT SUCH EMPLOYER TO FILE AN ANNUAL RETURN ON OR BEFORE FEBRUARY
4 TWENTY-EIGHTH OF THE FOLLOWING CALENDAR YEAR.

5 (B) COMBINED RETURNS. THE ADMINISTRATOR MAY BY REGULATION PROVIDE FOR
6 THE FILING OF ONE RETURN WHICH SHALL INCLUDE THE RETURN REQUIRED TO BE
7 FILED UNDER THIS SECTION, TOGETHER WITH THE EMPLOYER'S RETURN REQUIRED
8 TO BE FILED UNDER ANY LOCAL LAW IMPOSING A TAX ON PERSONAL INCOME OF
9 RESIDENTS OF THE CITY ADOPTED BY THE CITY PURSUANT TO AUTHORITY GRANTED
10 BY THE GENERAL CITY LAW.

11 (C) DEPOSIT IN TRUST FOR CITY. WHENEVER ANY EMPLOYER FAILS TO COLLECT,
12 TRUTHFULLY ACCOUNT FOR, PAY OVER THE TAX, OR MAKE RETURNS OF THE TAX AS
13 REQUIRED IN THIS SECTION, THE ADMINISTRATOR MAY SERVE A NOTICE REQUIRING
14 SUCH EMPLOYER TO COLLECT THE TAXES WHICH BECOME COLLECTIBLE AFTER
15 SERVICE OF SUCH NOTICE, TO DEPOSIT SUCH TAXES IN A BANK APPROVED BY THE
16 ADMINISTRATOR, IN A SEPARATE ACCOUNT, IN TRUST FOR THE CITY AND PAYABLE
17 TO THE ADMINISTRATOR, AND TO KEEP THE AMOUNT OF SUCH TAX IN SUCH ACCOUNT
18 UNTIL PAYMENT OVER TO THE ADMINISTRATOR. SUCH NOTICE SHALL REMAIN IN
19 EFFECT UNTIL A NOTICE OF CANCELLATION IS SERVED BY THE ADMINISTRATOR.

20 S 11. EMPLOYER'S LIABILITY FOR WITHHELD TAXES. EVERY EMPLOYER REQUIRED
21 TO DEDUCT AND WITHHOLD THE TAX UNDER THIS LOCAL LAW IS HEREBY MADE
22 LIABLE FOR SUCH TAX. FOR PURPOSES OF ASSESSMENT AND COLLECTION, ANY
23 AMOUNT REQUIRED TO BE WITHHELD AND PAID OVER TO THE ADMINISTRATOR, AND
24 ANY ADDITIONS TO TAX, PENALTIES AND INTEREST WITH RESPECT THERETO SHALL
25 BE CONSIDERED THE TAX OF THE EMPLOYER. ANY AMOUNT OF TAX ACTUALLY
26 DEDUCTED AND WITHHELD UNDER THIS LOCAL LAW SHALL BE HELD TO BE A SPECIAL
27 FUND IN TRUST FOR THE CITY.

28 NO EMPLOYEE SHALL HAVE ANY RIGHT OF ACTION AGAINST HIS OR HER EMPLOYER
29 IN RESPECT TO ANY MONIES DEDUCTED AND WITHHELD FROM HIS OR HER WAGES AND
30 PAID OVER TO THE ADMINISTRATOR IN COMPLIANCE OR IN INTENDED COMPLIANCE
31 WITH THIS LOCAL LAW.

32 S 12. EMPLOYER'S FAILURE TO WITHHOLD. IF AN EMPLOYER FAILS TO DEDUCT
33 AND WITHHOLD THE TAX, AS REQUIRED, AND THEREAFTER THE TAX AGAINST WHICH
34 SUCH TAX MAY BE CREDITED IS PAID, THE TAX SO REQUIRED TO BE DEDUCTED AND
35 WITHHELD SHALL NOT BE COLLECTED FROM THE EMPLOYER, BUT THE EMPLOYER
36 SHALL NOT BE RELIEVED FROM LIABILITY FOR ANY PENALTIES, INTEREST OR
37 ADDITIONS TO THE TAX OTHERWISE APPLICABLE IN RESPECT OF SUCH FAILURE TO
38 DEDUCT AND WITHHOLD.

39 S 13. RETURNS AND PAYMENT OF TAX. ON OR BEFORE THE FIFTEENTH DAY OF
40 THE FOURTH MONTH FOLLOWING THE CLOSE OF THE TAXABLE YEAR, EVERY PERSON
41 SUBJECT TO THE TAX SHALL MAKE AND FILE A RETURN AND ANY BALANCE OF THE
42 TAX SHOWN DUE ON THE FACE OF SUCH RETURN SHALL BE PAID THEREWITH. THE
43 ADMINISTRATOR MAY, BY REGULATION, PROVIDE FOR THE FILING OF RETURNS AND
44 PAYMENT OF THE TAX AT SUCH OTHER TIMES AS HE OR SHE DEEMS NECESSARY FOR
45 THE PROPER ENFORCEMENT OF THIS LOCAL LAW. THE ADMINISTRATOR MAY ALSO
46 PROVIDE BY REGULATION THAT ANY RETURN OTHERWISE REQUIRED TO BE MADE AND
47 FILED UNDER THIS LOCAL LAW BY ANY NONRESIDENT INDIVIDUAL NEED NOT BE
48 MADE AND FILED IF SUCH NONRESIDENT INDIVIDUAL HAD, DURING THE TAXABLE
49 YEAR TO WHICH THE RETURN WOULD RELATE, NO NET EARNINGS FROM SELF-EMPLOY-
50 MENT WITHIN THE CITY. ANY REGULATION ALLOWING SUCH WAIVER OF RETURN MAY
51 PROVIDE FOR ADDITIONAL LIMITATIONS ON AND CONDITIONS AND PREREQUISITES
52 TO THE PRIVILEGE OF NOT FILING A RETURN.

53 S 14. COMBINED RETURNS, EMPLOYER'S RETURNS AND PAYMENTS. THE STATE TAX
54 COMMISSION MAY REQUIRE:

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

1 (1) A COMBINED RETURN WHICH IN ADDITION TO THE RETURN PROVIDED FOR IN
2 A LOCAL LAW AUTHORIZED BY THIS ARTICLE MAY ALSO INCLUDE RETURNS REQUIRED
3 TO BE FILED UNDER A LOCAL LAW AUTHORIZED BY ARTICLE THIRTY OF THE TAX
4 LAW AND UNDER ARTICLE TWENTY-TWO OF THE TAX LAW.

5 (2) A COMBINED EMPLOYER'S RETURN WHICH IN ADDITION TO THE EMPLOYER'S
6 RETURN PROVIDED FOR IN A LOCAL LAW AUTHORIZED BY THIS ARTICLE MAY ALSO
7 INCLUDE EMPLOYER'S RETURNS REQUIRED TO BE FILED UNDER A LOCAL LAW
8 AUTHORIZED BY ARTICLE THIRTY OF THE TAX LAW AND UNDER ARTICLE TWENTY-TWO
9 OF THE TAX LAW.

10 (B) WHERE A COMBINED RETURN OR EMPLOYER'S RETURN IS REQUIRED, AND WITH
11 RESPECT TO THE PAYMENT OF ESTIMATED TAX, THE STATE TAX COMMISSION MAY
12 ALSO REQUIRE PAYMENT OF A SINGLE AMOUNT WHICH SHALL BE THE TOTAL OF THE
13 AMOUNTS (TOTAL TAXES LESS ANY CREDITS OR REFUNDS) REQUIRED TO BE PAID
14 WITH THE RETURNS OR EMPLOYER'S RETURNS OR IN PAYMENT OF ESTIMATED TAX
15 PURSUANT TO THE PROVISIONS OF LOCAL LAWS IMPOSED UNDER THE AUTHORITY OF
16 ARTICLE TWO-E OF THE GENERAL CITY LAW, ARTICLE THIRTY OF THE TAX LAW AND
17 PURSUANT TO THE PROVISIONS OF ARTICLE TWENTY-TWO OF THE TAX LAW.

18 S 15. EFFECT OF INVALIDITY IN PART; INCONSISTENCIES WITH OTHER LAWS.

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

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

33 S 25-N. ADMINISTRATIVE PROVISIONS. (A) GENERAL. ANY LOCAL LAW ADOPTED
34 PURSUANT TO THIS ARTICLE SHALL ALSO CONTAIN PROVISIONS NECESSARY AND
35 APPROPRIATE FOR THE COLLECTION AND THE ADMINISTRATION OF THE TAX HEREIN
36 AUTHORIZED, ANY LOCAL LAW ADOPTED PURSUANT TO THIS ARTICLE SHALL CONTAIN
37 THE SAME PROVISIONS AS ARE CONTAINED IN CHAPTER NINETEEN OF TITLE ELEVEN
38 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, BUT "ADMINISTRATOR"
39 SHALL BE READ "STATE TAX COMMISSION"; "ADMINISTRATIVE AGENCIES OF THE
40 CITY" SHALL BE READ AS "ADMINISTRATIVE AGENCIES OF THE STATE"; "DEPOSI-
41 TORIES OR FINANCIAL AGENTS OF THE CITY" SHALL BE READ AS "DEPOSITORIES
42 OR FINANCIAL AGENTS OF THE STATE"; "OFFICERS OR EMPLOYEES OF THE DEPART-
43 MENT OF FINANCE OF THE CITY" SHALL BE READ "OFFICERS OR EMPLOYEES OF THE
44 STATE DEPARTMENT OF TAXATION AND FINANCE"; IN SECTIONS 11-1934, 11-1936
45 AND 11-1942 OF SUCH CODE (EXCEPT FOR THE LAST SENTENCE THEREOF) "CITY"
46 SHALL BE READ AS "STATE"; "CORPORATION COUNSEL OR OTHER APPROPRIATE
47 OFFICER OF THE CITY" OR "CORPORATION COUNSEL OF THE CITY" SHALL BE READ
48 AS "STATE ATTORNEY GENERAL"; AND THE WORDS "IT" OR "ITS" SHALL APPLY
49 INSTEAD OF THE PRONOUNS USED WHERE THE REFERENCE IS TO STATE TAX COMMIS-
50 SION.

51 (B) METHODS OF REVIEW. SUCH LOCAL LAW SHALL ALSO CONTAIN PROVISIONS
52 SUBSTANTIALLY THE SAME AS THE FOLLOWING:

53 (I) ANY FINAL DETERMINATION OF THE AMOUNT OF ANY TAX PAYABLE HEREUNDER
54 SHALL BE REVIEWABLE FOR ERROR, ILLEGALITY OR UNCONSTITUTIONALITY OR ANY
55 OTHER REASON WHATSOEVER BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF
56 THE CIVIL PRACTICE LAW AND RULES IF APPLICATION THEREFOR IS MADE TO THE

1 SUPREME COURT WITHIN FOUR MONTHS AFTER THE GIVING OF THE NOTICE OF SUCH
2 FINAL DETERMINATION, PROVIDED, HOWEVER, THAT ANY SUCH PROCEEDING UNDER
3 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT BE
4 INSTITUTED UNLESS (A) THE AMOUNT OF ANY TAX SOUGHT TO BE REVIEWED, WITH
5 SUCH INTEREST AND PENALTIES THEREON AS MAY BE PROVIDED FOR BY LOCAL LAW
6 OR REGULATION, SHALL BE FIRST DEPOSITED AND THERE IS FILED AN UNDERTAK-
7 ING, ISSUED BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS
8 STATE AND APPROVED BY THE SUPERINTENDENT OF INSURANCE OF THIS STATE AS
9 TO SOLVENCY AND RESPONSIBILITY, IN SUCH AMOUNT AS A JUSTICE OF THE
10 SUPREME COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE
11 DISMISSED OR THE TAX CONFIRMED THE PETITIONER WILL PAY ALL COSTS AND
12 CHARGES WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING OR (B) AT
13 THE OPTION OF THE PETITIONER SUCH UNDERTAKING MAY BE IN A SUM SUFFICIENT
14 TO COVER THE TAXES, INTEREST AND PENALTIES STATED IN SUCH DETERMINATION
15 PLUS THE COSTS AND CHARGES WHICH MAY ACCRUE AGAINST IT IN THE PROSE-
16 CUTION OF THE PROCEEDING, IN WHICH EVENT THE PETITIONER SHALL NOT BE
17 REQUIRED TO PAY SUCH TAXES, INTEREST OR PENALTIES AS A CONDITION PRECE-
18 DENT TO THE APPLICATION.

19 (II) WHERE ANY TAX IMPOSED HEREUNDER SHALL HAVE BEEN ERRONEOUSLY,
20 ILLEGALLY OR UNCONSTITUTIONALLY COLLECTED AND APPLICATION FOR THE REFUND
21 THEREOF DULY MADE TO THE PROPER FISCAL OFFICER OR OFFICERS, AND SUCH
22 OFFICER OR OFFICERS SHALL HAVE MADE A DETERMINATION DENYING SUCH REFUND,
23 SUCH DETERMINATION SHALL BE REVIEWABLE BY A PROCEEDING UNDER ARTICLE
24 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, PROVIDED, HOWEVER,
25 THAT SUCH PROCEEDING IS INSTITUTED WITHIN FOUR MONTHS AFTER THE GIVING
26 OF THE NOTICE OF SUCH DENIAL, THAT A FINAL DETERMINATION OF TAX DUE WAS
27 NOT PREVIOUSLY MADE, AND THAT AN UNDERTAKING IS FILED WITH THE PROPER
28 FISCAL OFFICER OR OFFICERS IN SUCH AMOUNT AND WITH SUCH SURETIES AS A
29 JUSTICE OF THE SUPREME COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH
30 PROCEEDING BE DISMISSED OR THE TAX CONFIRMED, THE PETITIONER WILL PAY
31 ALL COSTS AND CHARGES WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH
32 PROCEEDING.

33 (III) NO ASSESSMENT OF ADDITIONAL TAX SHALL BE MADE AFTER THE EXPIRA-
34 TION OF MORE THAN THREE YEARS FROM THE DATE OF THE FILING OF THE RETURN
35 EXCEPT THAT WHERE NO RETURN HAS BEEN FILED OR, IN THE CASE OF THE FILING
36 OF A WILFULLY FALSE OR FRAUDULENT RETURN WITH INTENT TO EVADE THE TAX,
37 THE TAX MAY BE ASSESSED AT ANY TIME; PROVIDED, HOWEVER, WHERE A TAXPAYER
38 OMITTS FROM HIS OR HER RETURN AN AMOUNT WHICH SHOULD BE PROPERLY INCLUDED
39 THEREIN WHICH IS IN EXCESS OF TWENTY-FIVE PERCENT OF THE AMOUNT OF THE
40 GROSS INCOME DERIVED BY HIM OR HER FROM ANY TRADE OR BUSINESS, NO
41 ASSESSMENT OF ADDITIONAL TAX SHALL BE MADE AFTER THE EXPIRATION OF MORE
42 THAN SIX YEARS FROM THE DATE OF THE FILING OF THE RETURN, EXCEPT AS
43 OTHERWISE PROVIDED HEREIN.

44 (C) BULK SALES. SUCH LOCAL LAW MAY CONTAIN A PROVISION SUBSTANTIALLY
45 THE SAME AS THE FOLLOWING:

46 WHENEVER THERE IS MADE A SALE, TRANSFER OR ASSIGNMENT IN BULK OF ANY
47 PART OR THE WHOLE OF A STOCK OF MERCHANDISE OR OF FIXTURES, OR MERCHAN-
48 DISE AND OF FIXTURES PERTAINING TO THE CONDUCTING OF THE BUSINESS OF THE
49 SELLER, TRANSFEROR OR ASSIGNOR, OTHERWISE THAN IN THE ORDINARY COURSE OF
50 TRADE AND IN THE REGULAR PROSECUTION OF SAID BUSINESS, THE PURCHASER,
51 TRANSFEREE OR ASSIGNEE SHALL AT LEAST TEN DAYS BEFORE TAKING POSSESSION
52 OF SUCH MERCHANDISE, FIXTURES, OR MERCHANDISE AND FIXTURES, OR PAYING
53 THEREFOR, NOTIFY THE ADMINISTRATOR BY REGISTERED MAIL OF THE PROPOSED
54 SALE AND OF THE PRICE, TERMS AND CONDITIONS THEREOF, WHETHER OR NOT THE
55 SELLER, TRANSFEROR OR ASSIGNOR, HAS REPRESENTED TO, OR INFORMED THE
56 PURCHASER, TRANSFEREE OR ASSIGNEE, THAT IT OWES ANY TAX PURSUANT TO THIS

1 LOCAL LAW, WHETHER OR NOT THE PURCHASER, TRANSFEREE OR ASSIGNEE HAS
2 KNOWLEDGE THAT SUCH TAXES ARE OWING, AND WHETHER OR NOT ANY SUCH TAXES
3 ARE IN FACT OWING.

4 WHENEVER THE PURCHASER, TRANSFEREE OR ASSIGNEE SHALL FAIL TO GIVE THE
5 NOTICE TO THE ADMINISTRATOR REQUIRED BY THE PRECEDING PARAGRAPH, OR
6 WHENEVER THE ADMINISTRATOR SHALL INFORM THE PURCHASER, TRANSFEREE OR
7 ASSIGNEE THAT A POSSIBLE CLAIM FOR SUCH TAX OR TAXES EXISTS, ANY SUMS OF
8 MONEY, PROPERTY OR CHOSE IN ACTION, OR OTHER CONSIDERATION, WHICH THE
9 PURCHASER, TRANSFEREE OR ASSIGNEE IS REQUIRED TO TRANSFER OVER TO THE
10 SELLER, TRANSFEROR OR ASSIGNOR SHALL BE SUBJECT TO A FIRST PRIORITY
11 RIGHT AND LIEN FOR ANY SUCH TAXES THERETOFORE OR THEREAFTER DETERMINED
12 TO BE DUE FROM THE SELLER, TRANSFEROR OR ASSIGNOR TO THE CITY, AND THE
13 PURCHASER, TRANSFEREE OR ASSIGNEE IS FORBIDDEN TO TRANSFER TO THE SELL-
14 ER, TRANSFEROR OR ASSIGNOR ANY SUCH SUMS OF MONEY, PROPERTY OR CHOSE IN
15 ACTION TO THE EXTENT OF THE AMOUNT OF THE CITY'S CLAIM. FOR FAILURE TO
16 COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION THE PURCHASER, TRANSFEREE
17 OR ASSIGNEE, IN ADDITION TO BEING SUBJECT TO THE LIABILITIES AND REME-
18 DIES IMPOSED AS PROVIDED BY LAW, SHALL BE PERSONALLY LIABLE FOR THE
19 PAYMENT TO THE CITY OF ANY SUCH TAXES, THERETOFORE OR THEREAFTER DETER-
20 MINED TO BE DUE TO THE CITY FROM THE SELLER, TRANSFEROR OR ASSIGNOR AND
21 SUCH LIABILITY MAY BE ASSESSED AND ENFORCED IN THE SAME MANNER AS THE
22 LIABILITY FOR TAX IS IMPOSED UNDER THIS LOCAL LAW.

23 (D) DELEGATION OF FUNCTIONS. THE LOCAL LAW MAY PROVIDE THAT THE ADMIN-
24 ISTRATOR OF THE TAX IMPOSED, AS DEFINED IN THE LOCAL LAW, MAY DELEGATE
25 HIS OR HER POWERS AND FUNCTIONS UNDER THE LOCAL LAW TO ONE OF HIS OR HER
26 DEPUTIES OR TO ANY EMPLOYEE OR EMPLOYEES OF HIS OR HER DEPARTMENT AND
27 AUTHORIZE BANKS OR TRUST COMPANIES WHICH ARE DEPOSITORIES OR FINANCIAL
28 AGENTS OF THE CITY TO RECEIVE AND GIVE A RECEIPT FOR ANY TAX IMPOSED
29 UNDER THE LOCAL LAW.

30 (E) THE PROVISIONS CONTAINED IN SUBDIVISIONS (A), (B), (C) AND (D) OF
31 THIS SECTION SHALL NOT BE APPLICABLE WITH RESPECT TO TAXES IMPOSED FOR
32 TAXABLE PERIODS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE
33 BUT, WITH RESPECT TO THE TAX IMPOSED FOR SUCH PERIODS THE PROVISIONS
34 CONTAINED IN PART VI OF ARTICLE TWENTY-TWO OF THE TAX LAW AND SECTION
35 THIRTEEN HUNDRED ELEVEN OF THE TAX LAW INCLUDING THE PROVISIONS OF JUDI-
36 CIAL REVIEW BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL
37 PRACTICE LAW AND RULES SHALL BE APPLICABLE WITH THE SAME FORCE AND
38 EFFECT AS IF THOSE PROVISIONS HAD BEEN INCORPORATED IN FULL IN THIS
39 SECTION EXCEPT WHERE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE.

40 S 25-0. DEPOSIT AND DISPOSITION OF REVENUES. REVENUES RESULTING FROM
41 THE IMPOSITION OF THE TAX AUTHORIZED BY THIS ARTICLE SHALL BE PAID TO
42 THE METROPOLITAN TRANSPORTATION AUTHORITY TO BE APPLIED FIRST TO PAY ALL
43 TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY OPERATING AND CAPITAL COSTS
44 RELATED TO THE HARLEM AND EAST RIVER BRIDGES, AND ALL TAX REVENUES IN
45 EXCESS OF THAT AMOUNT ("SURPLUS TAX REVENUES") AS DETERMINED BY THE
46 TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY. SUCH SURPLUS TAX REVENUES MAY
47 ONLY BE (A) USED FOR PAYMENT OF CAPITAL COSTS OF, AND/OR PLEDGED BY THE
48 METROPOLITAN TRANSPORTATION AUTHORITY TO SECURE AND BE APPLIED TO THE
49 PAYMENT OF THE BONDS, NOTES OR OTHER OBLIGATIONS OF THE AUTHORITY ISSUED
50 TO FINANCE CAPITAL PROJECTS OF SUCH AUTHORITY AND ITS SUBSIDIARIES AND
51 AFFILIATES, INCLUDING, WITHOUT LIMITATION, CAPITAL PROJECTS RELATING TO
52 THE HARLEM AND EAST RIVER BRIDGES, AS SUCH AUTHORITY SHALL DETERMINE,
53 INCLUDING DEBT SERVICE, RESERVE REQUIREMENTS, IF ANY, THE PAYMENT OF
54 AMOUNTS REQUIRED UNDER BOND AND NOTE FACILITIES OR AGREEMENTS RELATED
55 THERETO, THE PAYMENT OF FEDERAL GOVERNMENT LOANS, SECURITY OR CREDIT
56 ARRANGEMENTS OR OTHER AGREEMENTS RELATED THERETO, AND THE PAYMENT OF ALL

1 COSTS RELATED TO SUCH OBLIGATIONS, OR (B) OTHERWISE APPLIED TO THE OPER-
2 ATING COSTS OF THE METROPOLITAN TRANSPORTATION AUTHORITY AND ITS SUBSID-
3 IARIES AND AFFILIATES.
4 S 4. This act shall take effect immediately.