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

437

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

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

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

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

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

ARTICLE 16

MUNICIPAL SERVICE SUPPORT AND ENHANCEMENT TAX

SECTION 350. DEFINITIONS.
351. PERSONS SUBJECT TO TAX; IMPOSITION OF TAX.
352. ALLOCATION TO THE LARGE CITY.
353. ACCOUNTING PERIODS AND METHODS.
354. WITHHOLDING OF TAX ON WAGES.
355. INFORMATION STATEMENT FOR EMPLOYEE.
356. CREDIT FOR TAX WITHHELD.
357. EMPLOYER'S RETURN AND PAYMENT OF WITHHELD TAXES.
358. EMPLOYER'S LIABILITY FOR WITHHELD TAXES.
359. EMPLOYER'S FAILURE TO WITHHOLD.
360. RETURNS AND PAYMENT OF TAX.
361. COMBINED RETURNS, EMPLOYER'S RETURNS, AND PAYMENTS.
362. EFFECT OF INVALIDITY IN PART; INCONSISTENCIES WITH OTHER LAWS.
363. DEPOSIT AND DISPOSITION OF REVENUES.

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

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

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

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

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

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

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

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

(G) "RESIDENT INDIVIDUAL". A RESIDENT INDIVIDUAL SHALL MEAN AN INDIVIDUAL:

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

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

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

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

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

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

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

(B) A PERSON DOMICILED IN THE LARGE CITY AT THE TIME SUCH TRUST, OR PORTION OF A TRUST, BECAME IRREVOCABLE, IF IT WAS REVOCABLE WHEN SUCH PROPERTY WAS TRANSFERRED TO THE TRUST BUT HAS SUBSEQUENTLY BECOME IRREVOCABLE. FOR THE PURPOSES OF THE FOREGOING, A TRUST OR PORTION OF A TRUST IS REVOCABLE IF IT IS SUBJECT TO A POWER, EXERCISABLE IMMEDIATELY OR AT ANY FUTURE TIME, TO REVEST TITLE IN THE PERSON WHOSE PROPERTY CONSTITUTES SUCH TRUST OR PORTION OF A TRUST, AND A TRUST OR PORTION OF A TRUST BECOMES IRREVOCABLE WHEN THE POSSIBILITY THAT SUCH POWER MAY BE EXERCISED HAS BEEN TERMINATED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 361. COMBINED RETURNS, EMPLOYER'S RETURNS, AND PAYMENTS. THE ADMINISTRATOR MAY REQUIRE:

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

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

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

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

S 362. EFFECT OF INVALIDITY IN PART; INCONSISTENCIES WITH OTHER LAWS. (A) IF ANY CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION, PROVISION, OR OTHER PORTION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCES SHALL BE HELD TO BE INVALID, SUCH HOLDING SHALL NOT AFFECT, IMPAIR, OR INVALIDATE THE REMAINDER OF THIS ARTICLE OR THE APPLICATION OF SUCH PORTION HELD INVALID, TO ANY OTHER PERSON OR CIRCUMSTANCES, BUT SHALL BE CONFINED IN ITS OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SUBDIVISION, SECTION, PROVISION, OR OTHER PORTION THEREOF DIRECTLY INVOLVED IN SUCH HOLDING OR TO THE PERSON AND CIRCUMSTANCES THEREIN INVOLVED.

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

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

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