

8997

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

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 INDI-
21 CATE ANOTHER OR DIFFERENT MEANING OR INTENT:

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

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

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1 (B) "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF ECONOMIC DEVELOP-
2 MENT.

3 (C) "HIGH-TECH ENTERPRISE" SHALL MEAN AN ENTERPRISE WHICH IS ENGAGED
4 IN THE DEVELOPMENT OR MANUFACTURING OF SEMICONDUCTOR CHIPS OR MICRO-E-
5 ELECTRONIC DEVICES OR PHOTOVOLTAICS.

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

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

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

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

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

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

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

52 (1) THE EMPLOYMENT TEST SHALL BE MET WITH RESPECT TO A TAXABLE YEAR IF
53 THE BUSINESS ENTERPRISE'S EMPLOYMENT NUMBER AT LOCATIONS OF ITS OPER-
54 ATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED
55 AS AN ELIGIBLE HIGH-TECH ENTERPRISE FOR SUCH TAXABLE YEAR EQUALS OR
56 EXCEEDS ITS EMPLOYMENT NUMBER IN SUCH LOCATIONS FOR THE BASE PERIOD.

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

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

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

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

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

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

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

52 S 352. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL
53 PROMULGATE REGULATIONS:

54 (A) REGARDING THE PROCESS FOR HIGH-TECH ENTERPRISES TO BE DESIGNATED
55 AS ELIGIBLE HIGH-TECH ENTERPRISES FOR PURPOSES OF THIS ARTICLE. SUCH
56 REGULATIONS SHALL NOT IMPOSE ANY ADDITIONAL CONSIDERATIONS FOR TREATMENT

1 AS AN ELIGIBLE HIGH-TECH ENTERPRISE OTHER THAN REQUIRING THE APPLICANT
2 TO SUBMIT DOCUMENTATION THAT IT WILL SATISFY THE CONDITIONS SET FORTH IN
3 SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE AND SHALL
4 REQUIRE THE APPLICANT TO IDENTIFY THE LOCATION OR LOCATIONS THAT WILL BE
5 THE SITUS OF THE INVESTMENT UNDER SUCH SUBDIVISION;

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

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

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

19 S 4. The tax law is amended by adding four new sections 33, 34, 35 and
20 36 to read as follows:

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

31 (B) AMOUNT OF CREDIT. AN ELIGIBLE HIGH-TECH ENTERPRISE SHALL BE ENTI-
32 TLED TO RECEIVE A CREDIT EQUAL TO THE GREATER OF: (1) THE PRODUCT (OR
33 PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP)
34 OF TWENTY-FIVE PERCENT OF THE TOTAL WAGES, HEALTH BENEFITS AND RETIRE-
35 MENT BENEFITS PAID TO OR ON BEHALF OF NET NEW EMPLOYEES DURING THE TAXA-
36 BLE YEAR, PROVIDED HOWEVER, THAT THE TOTAL AMOUNT OF THE CREDIT SHALL
37 NOT EXCEED TEN THOUSAND DOLLARS FOR EACH SUCH EMPLOYEE, OR

38 (2) THE PRODUCT OF (A) TEN PERCENT OF THE GREATER OF (I) THE COST OR
39 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF REAL PROPERTY, INCLUDING
40 BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT,
41 OWNED BY THE ELIGIBLE HIGH-TECH ENTERPRISE AT LOCATIONS OF ITS OPER-
42 ATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS DETER-
43 MINED ON THE EFFECTIVE DATE, AS DEFINED IN SUBDIVISION (E) OF SECTION
44 THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR (II) THE COST OR
45 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH REAL PROPERTY
46 DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE LAST DAY OF THE
47 TAXABLE YEAR, AND (B) THE GREATER OF (I) THE PERCENTAGE OF SUCH REAL
48 PROPERTY DESCRIBED IN CLAUSE (I) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH
49 WHICH IS PHYSICALLY OCCUPIED AND USED BY THE ELIGIBLE HIGH-TECH ENTER-
50 PRISE, OR (II) THE PERCENTAGE OF SUCH COST OR OTHER BASIS WHICH IS
51 ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION OF SUCH
52 PROPERTY, RATHER THAN THE ACQUISITION OF SUCH REAL PROPERTY, BY THE
53 ELIGIBLE HIGH-TECH ENTERPRISE.

54 PROVIDED, HOWEVER, IF THE PERCENTAGE OF SUCH COST OR OTHER BASIS,
55 WHICH IS ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION
56 OF SUCH REAL PROPERTY EQUALS OR EXCEEDS FIFTY PERCENT, THEN THE PERCENT-

1 AGE DESCRIBED IN CLAUSE (II) OF SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL
2 BE DEEMED TO BE ONE HUNDRED PERCENT. FOR PURPOSES OF COMPUTING TOTAL
3 WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS, WAGES, HEALTH BENEFITS
4 AND RETIREMENT BENEFITS FOR EACH EMPLOYEE IN EXCESS OF FORTY THOUSAND
5 DOLLARS SHALL BE EXCLUDED FROM SUCH COMPUTATION. PROVIDED FURTHER, THE
6 AMOUNT OF THE CREDIT MAY NOT EXCEED THE CREDIT AMOUNT SET FORTH IN
7 SUBDIVISION (C) OF THIS SECTION.

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

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

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

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

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

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

51 (E) REFUND. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
52 FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
53 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
54 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHT-
55 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
56 THEREON.

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

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

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

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

15 (B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT OF

16 (1) THE BENEFIT PERIOD FACTOR, (2) THE EMPLOYMENT INCREASE FACTOR, (3)
17 THE LOCATION ALLOCATION FACTOR AND (4) THE TAX FACTOR.

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

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

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

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

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

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

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

50 (2) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER
51 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF
52 EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, OF THE ELIGIBLE HIGH-TECH
53 ENTERPRISE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER
54 OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE
55 HIGH-TECH ENTERPRISE, TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL
56 SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD, OF ALL THE

1 ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYEES WITHIN THE STATE, EXCEPT
2 GENERAL EXECUTIVE OFFICERS; AND

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

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

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

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

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

50 (C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION
51 WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, THE SHAREHOLDER'S TAX FACTOR
52 SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS
53 SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE S CORPORATION.
54 SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE
55 SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE STATE,
56 ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLDER'S NEW

1 YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS
2 THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH
3 REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUTABLE TO
4 THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE
5 RATIO SO DETERMINED EXCEED 1.0.

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

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

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

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

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

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

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

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

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

53 (C) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION
54 WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROP-
55 erty, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND
56 CAPITAL EQUIPMENT, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION.

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

12 (E) AT THE OPTION OF THE TAXPAYER, AIR OR WATER POLLUTION CONTROL
13 FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATIONS UNDER SUBSECTION (H)
14 OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER, OR RESEARCH AND DEVELOP-
15 MENT FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATION UNDER PARAGRAPHS
16 THREE AND FOUR OF SUBSECTION (G) OF SECTION SIX HUNDRED TWELVE OF THIS
17 CHAPTER, OR PROPERTY WHICH QUALIFIES FOR THE CREDIT PROVIDED UNDER
18 SUBDIVISION (A) OF THIS SECTION MAY BE TREATED AS PROPERTY PRINCIPALLY
19 USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROC-
20 ESSING, OR ASSEMBLING, PROVIDED THE PROPERTY OTHERWISE QUALIFIES UNDER
21 PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, IN WHICH EVENT A
22 DEDUCTION SHALL NOT BE ALLOWED UNDER SUCH SUBSECTION (H) OR SUCH PARA-
23 GRAPHS THREE AND FOUR OF SUBSECTION (G) AND A CREDIT SHALL NOT BE
24 ALLOWED UNDER SUCH SUBSECTION (G) OR (H).

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

45 (2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF
46 THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE
47 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
48 CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH
49 SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS
50 DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE
51 TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CRED-
52 IT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION
53 WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO
54 SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR
55 CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE
56 DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL

1 USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT
2 ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL
3 CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

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

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

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

51 (B) THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN A LOCATION OF ITS
52 OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS
53 APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE IN A TAXA-
54 BLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH EMPLOYEES
55 WITHIN SUCH LOCATION EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF
56 MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE

1 THIRTY-FIRST DAY OF DECEMBER IN THE TAXABLE YEAR, BY ADDING TOGETHER THE
2 NUMBER OF EMPLOYEES ASCERTAINED IN EACH OF SUCH DATES AND DIVIDING THE
3 SUM SO OBTAINED BY THE NUMBER OF SUCH ABOVEMENTIONED DATES OCCURRING
4 WITHIN THE TAXABLE YEAR.

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

14 S 5. Section 210 of the tax law is amended by adding a new subdivision
15 19-a to read as follows:

16 19-A. INNOVATION TECHNOLOGY WAGE TAX CREDIT. (A) A TAXPAYER SHALL BE
17 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
18 TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN
19 ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE
20 ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS
21 PRESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION. SUCH CREDIT SHALL BE
22 AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH
23 THE TAXPAYER HAS NET NEW EMPLOYEES AS DEFINED IN SECTION THREE HUNDRED
24 FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW FOR MORE THAN HALF THE TAXPAY-
25 ER'S FISCAL YEAR.

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

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

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

51 (3) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE
52 COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE
53 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,
54 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER
55 DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER
56 THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND

1 DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITH-
2 IN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

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

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

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

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

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

55 (K-1) INNOVATION TECHNOLOGY WAGE TAX CREDIT. (1) A TAXPAYER SHALL BE
56 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE

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

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

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

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

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

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

1 CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY
2 NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER
3 SECTION SIX HUNDRED ONE OF THIS PART COMPUTED WITHOUT REGARD TO ANY
4 CREDIT PROVIDED FOR UNDER THIS ARTICLE.

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

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

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

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

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

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

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

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

3 27-A. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A) ALLOW-
4 ANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS
5 DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW
6 SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE
7 COMPUTED AS PROVIDED IN SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST
8 THE TAX IMPOSED BY THIS ARTICLE.

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

20 28-A. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF
21 CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED
22 IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW SHALL BE
23 ALLOWED AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT, TO BE COMPUTED AS
24 PROVIDED IN SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED
25 BY THIS ARTICLE.

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

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

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

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

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

42 S 10. This act shall take effect immediately.