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

8167

2011-2012 Regular Sessions

I N A S S E M B L Y

June 3, 2011

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

AN ACT to amend the environmental conservation law, the tax law, the state finance law, the administrative code of the city of New York, the economic development law, the general municipal law, the insurance law and the public health law, relating to the business corporations franchise tax and to repeal certain provisions of the tax law and the general municipal law relating thereto

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

Section 1. Article 9-A of the tax law is REPEALED.

S 2. Subdivision 1 of section 17-0707 of the environmental conservation law, as amended by chapter 817 of the laws of 1987, is amended to read as follows:

1. For the purposes of sections [208, 210,] 606 and 612 of the Tax Law, the commissioner or his designated representative is hereby authorized to issue certificates of compliance concerning industrial waste treatment facilities and industrial waste treatment controlled process facilities as defined in such law. No such certificate shall be issued unless the facility to which it is applicable is in compliance with applicable provisions of titles 1 to 11, inclusive, and title 19 of article 17, article 19, and title 1 of article 27 of this chapter; of the Public Health Law; of the state sanitary code and of regulations, permits or orders issued pursuant thereto.

S 3. Subdivision 1 of section 19-0309 of the environmental conservation law, as amended by chapter 817 of the laws of 1987, is amended to read as follows:

1. For the purposes of sections [208, 210,] 606 and 612 of the Tax Law, the commissioner or his designated representative is hereby authorized to issue certificates of compliance concerning air pollution control facilities and air pollution controlled process facilities as defined in such law. No such certificate shall be issued unless the facility to which it is applicable is in compliance with applicable provisions of titles 1 to 11, inclusive, and title 19 of article 17,

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

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article 19, and title 1 of article 27 of this chapter; of the Public Health Law; of the state sanitary code and of codes, rules, regulations, permits or orders issued pursuant thereto.

S 4. Paragraphs 1 and 2 and clauses (i) and (ii) of subparagraph (A) of paragraph 4 of subdivision (j) of section 14 of the tax law, paragraphs 1 and 2 as amended by section 10 of part CC of chapter 85 of the laws of 2002 and clauses (i) and (ii) of subparagraph (A) of paragraph 4 as added by section 5 of part A of chapter 63 of the laws of 2005, are amended to read as follows:

(1) A new business shall include any corporation, except a corporation which is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine[; article nine-A], article thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter.

(2) For purposes of article twenty-two of this chapter, an individual who is either a sole proprietor or a member of a partnership shall qualify as an owner of a new business unless the business of which the individual is an owner is substantially similar in operation and in ownership to a business entity taxable, or previously taxable, under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine[; article nine-A], thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two.

(i) Notwithstanding paragraphs one and two of this subdivision, a new business shall include any corporation which is identical in operation and ownership to a business entity (or entities) taxable under section one hundred eighty-three[,] OR one hundred eighty-four or [one hundred eighty-five] of article nine[; article nine-A], article thirty-two or thirty-three of this chapter or the income (or losses) of which is includable under article twenty-two of this chapter, provided such corporation and such business entity or entities are operating in different counties in the state.

(ii) Notwithstanding paragraphs one and two of this subdivision, an individual who is either a sole proprietor or a member of a partnership shall qualify as an owner of a new business if the business of which the individual is an owner is identical in operation and in ownership to a business entity (or entities) taxable under section one hundred eighty-three[,] OR one hundred eighty-four [or one hundred eighty-five] of article nine[; article nine-A], article thirty-two or thirty-three of this chapter or the income (or losses) of which is includable under article twenty-two of this chapter, provided such business and such business entity or entities are operating in different counties in the state.

S 5. Paragraphs 1 and 3 of subdivision (a) of section 28 of the tax law, paragraph 1 as amended by chapter 440 of the laws of 2006 and paragraph 3 as added by section 2 of part V of chapter 62 of the laws of 2006, are amended to read as follows:

(1) A taxpayer which is a qualified commercial production company, or which is a sole proprietor of a qualified commercial production company, and which is subject to tax under article [nine-A or] twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the [provisions] PROVISION referenced in subdivision [(d)] (C) of this section, to be computed as provided in this section. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be costs incurred in New York state.

(3) No qualified production costs used by a taxpayer either as the basis for the allowance of the credit provided for under this section or used in the calculation of the credit provided for under this section shall be used by such taxpayer to claim any other credit allowed pursuant to this chapter.

Notwithstanding any provisions of this section to the contrary, a corporation or partnership, which otherwise qualifies as a qualified commercial production company, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under section one hundred eighty-three[,] OR one hundred eighty-four [or one hundred eighty-five] of article nine[; article nine-A], article thirty-two or thirty-three of this chapter or which would have been subject to tax under article twenty-three of this chapter (as such article was in effect on January first, nineteen hundred eighty) or the income or losses of which is or was includable under article twenty-two of this chapter shall not be deemed a new or separate business, and therefore shall not be eligible for empire state commercial production benefits, if it was not formed for a valid business purpose[, as such term is defined in clause (D) of subparagraph one of paragraph (o) of subdivision nine of section two hundred eight of this chapter] and was formed solely to gain empire state commercial production credit benefits.

S 6. Clause (i) of subparagraph (A) of paragraph 6 of subdivision (a) of section 292 of the tax law, as added by section 15 of part M of chapter 686 of the laws of 2003, is amended to read as follows:

(i) Related member or members. For purposes of this paragraph, the term related member or members means a person, corporation, or other entity, including an entity that is treated as a partnership or other pass-through vehicle for purposes of federal taxation, whether such person, corporation or entity is a taxpayer or not, where one such person, corporation, or entity, or set of related persons, corporations or entities, directly or indirectly owns or controls a controlling interest in another entity. Such entity or entities may include all taxpayers under article nine, [nine-A,] thirteen, twenty-two, thirty-two, thirty-three or thirty-three-A of this chapter.

S 7. Subparagraph (A) of paragraph 10 of subsection (a), subclause (II) of clause (i) and clause (ii) of subparagraph (D) of paragraph 5 and subparagraph (C) of paragraph 9 of subsection (n) of section 606 of the tax law, subparagraph (A) of paragraph 10 of subsection (a) as amended by section 3 of part CC of chapter 85 of the laws of 2002, subclause (II) of clause (i) and clause (ii) of subparagraph (D) of paragraph 5 as added by chapter 309 of the laws of 1996 and subparagraph (C) of paragraph 9 as added by section 3 of part K of chapter 62 of the laws of 2006, are amended to read as follows:

(A) the business of which the individual is an owner is substantially similar in operation and in ownership to a business entity taxable, or

previously taxable, under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine[; article nine-A], thirty-two or thirty-three of this chapter; article twenty-three of this chapter or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two of this chapter whereby the intent and purpose of this paragraph and paragraph five of this subsection with respect to refunding of credit to new business would be evaded; or

(II) a corporation subject to tax [under article nine-A of this chapter,] where more than fifty percent in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the taxpayer, or, where the taxpayer is a trust, where such stock is owned directly or indirectly by or for the grantor of such trust;

(ii) For purposes of subparagraph (C) of this paragraph, where the taxpayer is an estate or trust, the term "related person" shall also mean a corporation subject to tax [under article nine-A of this chapter], a partnership, an estate or trust:

(C) Eligible corporation. The term "eligible corporation" means a corporation subject to tax [under article nine-A of this chapter] which is a New York C corporation for federal income tax purposes.

S 8. Subsection (a) of section 660 of the tax law, as amended by section 50 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(a) Election. If a corporation is an eligible S corporation, the shareholders of the corporation may elect in the manner set forth in subsection (b) of this section to take into account, to the extent provided for in this article (or in article thirteen of this chapter, in the case of a shareholder which is a taxpayer under such article), the S corporation items of income, loss, deduction and reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code which are taken into account for federal income tax purposes for the taxable year. No election under this subsection shall be effective unless all shareholders of the corporation have so elected. An eligible S corporation is (i) an S corporation which is subject to tax under article [nine-A or] thirty-two of this chapter, (ii) an S corporation which is the parent of a qualified subchapter S subsidiary subject to tax [under article nine-A,] where the shareholders of such parent corporation are entitled to make the election under this subsection [by reason of subparagraph three of paragraph (k) of subdivision nine of section two hundred eight of this chapter]; or (iii) an S corporation which is the parent of a qualified subchapter S corporation subject to tax under article thirty-two, where the shareholders of such parent are entitled to make the election under this subsection by reason of paragraph three of subsection (o) of section fourteen hundred fifty-three of this chapter.

S 9. Subparagraph (C) of paragraph 1, paragraphs 3, 4 and 8 of subsection (c) and subsection (d) of section 1083 of the tax law, subparagraph (C) of paragraph 1 and paragraph 3 of subsection (c) and subsection (d) as amended by chapter 817 of the laws of 1987, paragraph 4 of subsection (c) as amended by chapter 548 of the laws of 1981 and paragraph 8 of subsection (c) as amended by chapter 365 of the laws of 1979, are amended to read as follows:

(C) in the case of the tax imposed under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C, the taxpayer fails to file a report or amended

return required under [subdivision three of section two hundred eleven or section two hundred nineteen-bb or two hundred nineteen-zz,] in respect of an increase or decrease in federal taxable income or federal alternative minimum taxable income or federal tax, or in respect of a change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal income tax purposes, or

(3) Report of changed or corrected federal income.---In [the case of the tax imposed under article nine-a, nine-b or nine-c, if the taxpayer files a report or amended return required under subdivision three of section two hundred eleven or section two hundred nineteen-bb or two hundred nineteen-zz, in] respect of an increase or decrease in federal taxable income or federal alternative minimum taxable income or federal tax, or in respect of a change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal income tax purposes, the assessment (if not deemed to have been made upon the filing of the report or amended return) may be made at any time within two years after such report or amended return was filed. The amount of such assessment of tax shall not exceed the amount of the increase in New York tax attributable to such federal change or correction or renegotiation, or computation or recomputation of tax. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

(4) Deficiency attributable to carryback.---If a deficiency of tax [under article nine-a] is attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback, it may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.

(8) Report concerning waste treatment facility, air pollution control facility or eligible business facility. [Under the circumstances described in subparagraph (3) of paragraph (g) of subdivision nine of section two hundred eight, paragraph (f) of subdivision eleven of section two hundred ten or paragraph (f) of subdivision eleven of section two hundred nineteen-q of this chapter, the] THE tax may be assessed within three years after the filing of the report containing the information required [by such paragraph], or, if a certificate of compliance in respect to an air pollution control facility shall be revoked, within three years after the [tax commission] COMMISSIONER shall receive notice of such revocation from the taxpayer or as required by subdivision three of section 19-0309 of the environmental conservation law, whichever notice is received earlier.

(d) Omission of income on return.--- The tax may be assessed at any time within six years after the return was filed if (i) a taxpayer omits from gross income required to be reported on a return under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C an amount properly includible therein which is in excess of twenty-five percent of the amount of gross income stated in the return or, (ii) a taxpayer omits from the sum of its items of tax preference and its adjustment required in the computation of minimum taxable income an amount properly includible therein which is in excess of twenty-five percent of such sum as stated in the return.

For purposes of this subsection---

(1) the term gross income means gross income for federal income tax purposes as reportable on a return under article nine-a, and "gross earnings", "gross income", "gross operating income" and "gross direct

premiums less return premiums", as those terms are used in article nine, [nine-b or nine-c] NINE-B OR NINE-C, whichever is applicable;

(2) there shall not be taken into account any amount which is omitted in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the tax commission of the nature and amount of such item.

S 10. Subsections (e) and (f) of section 1450 of the tax law, subsection (e) as added by chapter 298 of the laws of 1985 and subsection (f) as added by section 67 of part A of chapter 389 of the laws of 1997, are amended to read as follows:

(e) The term "subsidiary capital" means investments in the stock of subsidiaries and any indebtedness from subsidiaries, exclusive of accounts receivable acquired in the ordinary course of trade or business for services rendered or for sales of property held primarily for sale to customers, whether or not evidenced by written instrument, on which interest is not claimed and deducted by the subsidiary for purposes of taxation under article [nine-A,] thirty-two or thirty-three of this chapter, provided, however, there shall be deducted from subsidiary capital any liabilities payable by their terms on demand or within one year from the date incurred, other than loans or advances outstanding for more than a year as of any date during the year covered by the return, which are attributable to subsidiary capital.

(f) [The terms "New York S corporation", "New York S year", "New York S election", "New York C corporation", "New York C year", "termination year", "S short year", "C short year", and "New York S termination year" shall have the same meaning as those terms have under subdivision one-A of section two hundred eight of this chapter, except that references in such subdivision to article nine-A of this chapter shall be read as references to this article] THE TERM "NEW YORK S CORPORATION" MEANS, WITH RESPECT TO ANY TAXABLE YEAR, A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE FOR WHICH AN ELECTION IS IN EFFECT PURSUANT TO SUBSECTION (A) OF SECTION SIX HUNDRED SIXTY OF THIS CHAPTER FOR SUCH YEAR, ANY SUCH YEAR SHALL BE DENOMINATED A "NEW YORK S YEAR", AND SUCH ELECTION SHALL BE DENOMINATED A "NEW YORK S ELECTION". THE TERM "NEW YORK C CORPORATION" MEANS, WITH RESPECT TO ANY TAXABLE YEAR, A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE WHICH IS NOT A NEW YORK S CORPORATION, AND ANY SUCH YEAR SHALL BE DENOMINATED A "NEW YORK C YEAR". THE TERM "TERMINATION YEAR" MEANS ANY TAXABLE YEAR OF A CORPORATION DURING WHICH THE NEW YORK S ELECTION TERMINATES ON A DAY OTHER THAN THE FIRST DAY OF SUCH YEAR. THE PORTION OF THE TAXABLE YEAR ENDING BEFORE THE FIRST DAY FOR WHICH SUCH TERMINATION IS EFFECTIVE SHALL BE DENOMINATED THE "S SHORT YEAR", AND THE PORTION OF SUCH YEAR BEGINNING ON SUCH FIRST DAY SHALL BE DENOMINATED THE "C SHORT YEAR". THE TERM "NEW YORK S TERMINATION YEAR" MEANS ANY TERMINATION YEAR WHICH IS NOT ALSO AN S TERMINATION YEAR FOR FEDERAL PURPOSES.

S 11. Subdivision (f) of section 1518 of the tax law, as added by chapter 228 of the laws of 2002, is amended to read as follows:

(f) Notwithstanding the provisions of subdivision (a) of this section, in the case where a taxpayer which is an attorney-in-fact has claimed a deduction [pursuant to subparagraph fifteen of paragraph (a) of subdivision nine of section two hundred eight of this chapter,] the commissioner shall have the authority to release to such attorney-in-fact any information with respect to the entire net income or income allocation percentage of the interinsurer or reciprocal insurer, or any member of a combined group that includes the interinsurer or reciprocal insurer,

which is the basis for the denial in whole or in part of the deduction claimed by such attorney-in-fact.

S 12. Subdivision 2 of section 197 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

2. Where an application for consent to dissolution, as provided by section one thousand four of the business corporation law, is filed with the commissioner of taxation and finance, such consent shall be given only if the commissioner of taxation and finance ascertains that all fees and taxes imposed under this chapter or any related statute, as defined in section eighteen hundred of this chapter, as well as penalties and interest charges related thereto, accrued against the corporation have been paid, and where such application for consent to dissolution is filed with such commissioner prior to the commencement of any tax year or period, by a corporation subject to tax under [articles] ARTICLE nine [or nine-a] of this chapter, such corporation shall not be liable for any tax imposed by said [articles] ARTICLE for such following year or period (except as may be otherwise provided in section one hundred ninety-one, subdivision nine of section one hundred eighty-two[,] AND subdivision nine of section one hundred eighty-two-a[, subdivision nine of section one hundred eighty-two-b and subdivision three of section two hundred nine] of this chapter), provided that the certificate of dissolution for such corporation is duly filed in the office of the secretary of state within ninety days after the commencement of such tax year or period and such corporation does not conduct business in such tax year or period.

S 13. Intentionally omitted.

S 14. Subdivision 1 of section 171-A of the tax law, as amended by section 1 of part R of chapter 60 of the laws of 2004, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), [nine-A,] twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-two, thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter and article ten thereof out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter and article ten thereof. The commissioner and the comptroller shall maintain a system of accounts showing the amount of reven-

ue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this chapter, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this chapter, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, [nine-A,] twenty-two, thirty, thirty-A, thirty-B, thirty-two or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, [nine-A,] twenty-two, thirty, thirty-A, thirty-B, thirty-two, or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or one hundred seventy-one-l of this article and which is certified to the comptroller by the commissioner as the amount due such non-obligated spouse pursuant to paragraph six of subsection (b) of section six hundred fifty-one of this chapter; and (vi) the comptroller shall deduct a like amount which the comptroller shall pay into the treasury to the credit of the general fund from amounts subsequently payable to the department of social services, the state university of New York, the city university of New York, or the higher education services corporation, or the revenue arrearage account or special offset fiduciary account pursuant to section ninety-one-a or ninety-one-c of the state finance law, as the case may be, whichever had been credited the amount

originally withheld from such overpayment, and (vii) with respect to amounts originally withheld from such overpayment pursuant to section one hundred seventy-one-l of this article and paid to the city of New York, the comptroller shall collect a like amount from the city of New York.

S 15. Subdivisions 2 and 2-a of section 97-yy of the state finance law, as amended by chapter 385 of the laws of 2007, are amended to read as follows:

2. Such fund shall consist of all revenues received by the department of taxation and finance, pursuant to the provisions of section [two hundred nine-D and section] six hundred twenty-seven of the tax law, all moneys collected pursuant to section four hundred four-q of the vehicle and traffic law, as added by chapter five hundred twenty-eight of the laws of nineteen hundred ninety-nine, and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. For each state fiscal year, there shall be appropriated to the fund by the state, in addition to all other moneys required to be deposited into such fund, an amount equal to the amounts of monies collected and deposited into the fund pursuant to [sections two hundred nine-D and] SECTION six hundred twenty-seven of the tax law and section four hundred four-q of the vehicle and traffic law, as added by chapter five hundred twenty-eight of the laws of nineteen hundred ninety-nine, and the amounts of moneys received and deposited into the fund from grants, gifts and bequests during the preceding calendar year, as certified by the comptroller. Nothing contained herein shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

2-a. On or before the first day of February each year, the comptroller shall certify to the governor, temporary president of the senate, speaker of the assembly, chair of the senate finance committee and chair of the assembly ways and means committee, the amount of money deposited in the breast cancer research and education fund during the preceding calendar year as the result of revenue derived pursuant to [sections two hundred nine-D and] SECTION six hundred twenty-seven of the tax law and section four hundred four-q of the vehicle and traffic law, as added by chapter five hundred twenty-eight of the laws of nineteen hundred ninety-nine, and from grants, gifts and bequests.

S 16. Subdivisions 2 and 4 of section 95-e of the state finance law, subdivision 2 as amended by section 1 of part A of chapter 58 of the laws of 2004 and subdivision 4 as added by chapter 273 of the laws of 2004, are amended to read as follows:

2. Such fund shall consist of all revenues received pursuant to the provisions of [sections two hundred nine-E and] SECTION six hundred thirty of the tax law, all revenues received pursuant to appropriations by the legislature, and all moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. For each state fiscal year, there shall be appropriated to the fund by the state, in addition to all other moneys required to be deposited into such fund, an amount equal to the amounts of monies collected and deposited into the fund pursuant to [sections two hundred nine-e and] SECTION six hundred thirty of the tax law during the preceding calendar year, as certified by the comptroller. Nothing contained herein shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund

according to law. Any interest received by the comptroller on moneys on deposit in such fund shall be retained in and become part of such fund.

4. On or before the first day of February each year, the comptroller shall certify to the governor, temporary president of the senate, speaker of the assembly, chair of the senate finance committee and chair of the assembly ways and means committee, the amount of money deposited by source in the New York state prostate cancer research, detection and education fund during the preceding calendar year as the result of revenue derived pursuant to [sections two hundred nine-E and] SECTION six hundred thirty of the tax law and from all other sources.

S 17. Subdivision 2 of section 79 of the state finance law, as added by chapter 753 of the laws of 2005, is amended to read as follows:

2. Such fund shall consist of all revenues received by the department of taxation and finance pursuant to the provisions of [sections two hundred nine-F and] SECTION six hundred thirty-a of the tax law and all other money appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained herein shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

S 18. Subdivision 2 of section 99-q of the state finance law, as added by chapter 490 of the laws of 2009, is amended to read as follows:

2. Such fund shall consist of all revenues received by the department of taxation and finance, pursuant to the provisions of [sections two hundred nine-G and] SECTION six hundred thirty-b of the tax law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law. Any interest received by the comptroller on moneys on deposit in such fund shall be retained in and become part of such fund.

S 19. Paragraph 21 of subdivision (b), paragraph 21 of subdivision (c), paragraph 1 and subparagraph (A) of paragraph 2 of subdivision (n), clauses (ii) and (iv) and subclause 2 of clause (v) of subparagraph (B) of paragraph 1 of subdivision (o), and subdivision (p) of section 11-1712 of the administrative code of the city of New York, paragraph 21 of subdivision (b) as amended by section 62, paragraph 21 of subdivision (c) as amended by section 63 and paragraph 1 and subparagraph (A) of paragraph 2 of subdivision (n) as amended by section 64 of part A of chapter 389 of the laws of 1997, clause (ii) of subparagraph (B) of paragraph 1 of subdivision (o) and subdivision (p) as added by chapter 333 of the laws of 1987 and subdivision (o) as relettered by chapter 639 of the laws of 1986, are amended to read as follows:

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation beginning, [in the case of a corporation taxable under article nine-A of the tax law,] after December thirty-first, nineteen hundred eighty, and in the case of a corporation taxable under article thirty-two of the tax law, after December thirty-first, nineteen hundred ninety-six, the amount required to be added to federal adjusted gross income pursuant to subdivision (n) of this section.

(21) In relation to the disposition of stock or indebtedness of a corporation which elected under subchapter s of chapter one of the internal revenue code for any taxable year of such corporation begin-

ning, [in the case of a corporation taxable under article nine-A of the tax law, after December thirty-first, nineteen hundred eighty, and] in the case of a corporation taxable under article thirty-two of the tax law, after December thirty-first, nineteen hundred ninety-six, the amounts required to be subtracted from federal adjusted gross income pursuant to subdivision (n) of this section.

(1) There shall be added to federal adjusted gross income the amount of increase in basis with respect to such stock or indebtedness pursuant to subsection (a) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years beginning before January first, nineteen hundred eighty-three and subparagraphs (A) and (B) of paragraph one of subsection (a) of section thirteen hundred sixty-seven of such code, for each taxable year of the corporation beginning, in the case of a corporation taxable under [article nine-A of] the tax law, after December thirty-first, nineteen hundred eighty, and in the case of a corporation taxable under article thirty-two of the tax law, after December thirty-first, nineteen hundred ninety-six, for which the election provided for in subsection (a) of section six hundred sixty of the tax law was not in effect, and

(A) the amount of reduction in basis with respect to such stock or indebtedness pursuant to subsection (b) of section thirteen hundred seventy-six of the internal revenue code as such section was in effect for taxable years beginning before January first, nineteen hundred eighty-three and subparagraphs (B) and (C) of paragraph two of subsection (a) of section thirteen hundred sixty-seven of such code, for each taxable year of the corporation beginning, in the case of a corporation taxable under [article nine-A of] the tax law, after December thirty-first, nineteen hundred eighty, and in the case of a corporation taxable under article thirty-two of the tax law, after December thirty-first, nineteen hundred ninety-six, for which the election provided for in subsection (a) of section six hundred sixty of the tax law was not in effect and

(ii) is, at the date of adoption of such plan, subject to taxation (whether or not any amount is owing) under section one hundred eighty-three, one hundred eighty-four or one hundred eighty-six of article nine of the tax law, [or under article nine-a of the tax law] or article twenty-three of the tax law, or would have been subject to tax under article twenty-three of such law (as such article was in effect on January first, nineteen hundred eighty) if such article were still in effect, and the first taxable period for which such new business became subject to such taxation commenced on or after July first, nineteen hundred eighty-one and before January first, nineteen hundred eighty-eight, and such first taxable period includes the date of adoption of such plan; if not so subject to taxation, the new business must be subject to taxation under such sections or articles for the first time within one year from the date of adoption of such plan, and

(iv) within ninety days after adoption of such plan, or, if a return is required, as part of such return, under such article nine, [article nine-a] or article twenty-three, whichever is sooner, shall file a new business certificate with the tax commission attesting to whether it meets, if subject to taxation under such articles, or intends to meet, if not so subject, all of the conditions stated in clauses (i), (ii) and (iii) of this subparagraph within the time set forth therein. Thereafter, during the first four taxable years of such new business, along with, and as part of, any return required under such articles, such new business shall make and file a new business certificate for the period

covered by such return attesting to whether it has met the conditions specified in this subparagraph during the taxable period covered by such return. If no return is required under such articles, such certificate shall be filed annually on or before the fifteenth day of March which shall cover the twelve consecutive calendar month period ending on the last day of December immediately preceding such March fifteenth. If such new business fails to meet such conditions specified in this subparagraph, it shall, in addition, give notice of this fact, within the time prescribed by the tax commission, to the holders of its "new business investments." The tax commission shall prescribe the form and content of such new business certification and may require a new business to file such certificate for periods (even if no return is filed or required, but for this section) covering up to eight years from the date of adoption of such plan, as in its discretion, it deems the same necessary for the enforcement of this section, and

(2) A new business does not include: (i) any new business of which twenty-five percent or more of the number of shares of stock that entitle the holders thereof to vote for the election of directors or trustees is owned, directly or indirectly, by a taxpayer subject to tax under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine of the tax law, [or under article nine-a,] thirty-two or thirty-three of the tax law or (ii) any new business substantially similar in operation and in ownership, directly or indirectly, to a business entity (or entities) taxable, or previously taxable, under such section, such article, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includible under article twenty-two of such tax law whereby the intent and purpose of this section would be evaded.

(p) New business investment deferral. For taxable years beginning before January first, nineteen hundred eighty-eight, at the option of the taxpayer, there may be subtracted from federal adjusted gross income a reinvested amount of long-term capital gain realized in a taxable year from the sale of a capital asset, as such term is defined in section twelve hundred twenty-one of the internal revenue code, which is not a new business investment. A reinvested amount of long-term capital gain shall mean an amount which bears the same ratio to the long-term capital gain realized from the sale of a capital asset which was includible in New York adjusted gross income as that portion of the sale proceeds which is reinvested, within one year from date of sale, in a New York new business bears to the total sale proceeds. For the purposes of this subdivision, a New York new business is a business enterprise which: (1) has been a taxpayer under article [nine-A,] twenty-two, thirty-two or thirty-three of the tax law for no more than three taxable years (including short taxable years), (2) over fifty percent of the number of shares of stock that entitle the holders thereof to vote for the election of directors or trustees is not owned, directly or indirectly, by a taxpayer subject to tax under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine of the tax law, or under [article nine-A,] thirty-two or thirty-three of the tax law, (3) is not substantially similar in operation or ownership, directly or indirectly, to a business entity (or entities) taxable, or previously taxable, under such sections, such articles, article twenty-three of the tax law or which would have been subject to tax under article twenty-three (as such article was in effect

on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includible under article twenty-two of the tax law whereby the intent and purpose of this subdivision would be evaded, (4) locates and employs at least ninety percent of its assets in the state, (5) employs principally in the state eighty percent of its employees [(as ascertained within the meaning and intent of subparagraph three of paragraph (a) of subdivision three of section two hundred ten of the tax law and, in addition, in the case of a partnership, excluding partners)], and (6) derives less than forty percent of its gross income from dividends, interest, royalties (other than mineral, oil, or gas royalties or copyright royalties), annuities and (7) reports at least twenty-five hundred dollars in gross income in any taxable year. The reinvested amount must qualify as a capital asset as defined pursuant to section twelve hundred twenty-one of the internal revenue code and must be retained by the taxpayer for at least twelve months. The modification allowable under this subdivision shall be utilized with respect to the taxable year in which the twelve month retention period ends.

S 20. Subdivision 2 of section 355 of the economic development law, as amended by section 4 of part G of chapter 61 of the laws of 2011, is amended to read as follows:

2. Excelsior investment tax credit component. A participant in the excelsior jobs program shall be eligible to claim a credit on qualified investments. The credit shall be equal to two percent of the cost or other basis for federal income tax purposes of the qualified investment. A participant may not claim both the excelsior investment tax credit component and the investment tax credit set forth in [subdivision twelve of section two hundred ten,] subsection (a) of section six hundred six, subsection (i) of section fourteen hundred fifty-six, or subdivision (q) of section fifteen hundred eleven of the tax law for the same property in any taxable year, except that a participant may claim both the excelsior investment tax credit component and the investment tax credit for research and development property. In addition, a taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the brownfield tangible property credit component under section twenty-one of the tax law may claim either the excelsior investment tax credit component or such tangible property credit component, but not both with regard to a particular piece of property. A credit may not be claimed until a business enterprise has received a certificate of tax credit, provided that qualified investments made on or after the issuance of the certificate of eligibility but before the issuance of the certificate of tax credit to the business enterprise, may be claimed in the first taxable year for which the business enterprise is allowed to claim the credit. Expenses incurred prior to the date the certificate of eligibility is issued are not eligible to be included in the calculation of the credit.

S 21. Subdivisions (j), (n), (s) and (t) of section 957 of the general municipal law, as amended by section 1 of part S-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(j) "Targeted employee" shall mean a New York resident who receives empire zone wages [pursuant to subdivision nineteen of section two hundred ten of the tax law] and who is (i) an eligible individual under the provision of the targeted jobs tax credit (section fifty-one of the internal revenue code), (ii) eligible for benefits under the provisions of the job training partnership act (P.L. 97-300, as amended), (iii) a recipient of public assistance benefits, or (iv) an individual whose income is below the most recently established poverty rate promulgated

by the United States department of commerce, or a member of a family whose family income is below the most recently established poverty rate promulgated by the appropriate federal agency.

An individual who satisfies the criteria set forth in clause (i), (ii) or (iv) of this subdivision at the time of initial employment in the job with respect to which the credit is claimed, or who satisfies the criterion set forth in clause (iii) of this subdivision at such time or at any time within the previous two years, shall be a targeted employee so long as such individual continues to receive empire zone wages.

(n) "Community development projects" shall mean projects sponsored by not-for-profit organizations which have been approved by the zone board, which will advance the zone development plan. For purposes described in [subdivision twenty of section two hundred ten,] subsection (l) of section six hundred six, subsection (d) of section fourteen hundred fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law, such projects shall be limited to child care programs serving zone residents and businesses; community development projects in direct support of economic development and business revitalization activities, such as commercial revitalization projects; and business development activities of local development corporations.

(s) "Qualified investment project" shall mean a project (i) located within an empire zone, (ii) at which five hundred or more jobs will be created, provided such jobs are new to the state and are in addition to any other jobs previously created by the owner of such project in the state, and (iii) which will consist of tangible personal property and other tangible property, including buildings and structural components of buildings[, described in subparagraphs (i), (ii), (iii), (iv) and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision twelve-B of section two hundred ten of the tax law,] the basis of which for federal income tax purposes will equal or exceed seven hundred fifty million dollars. Provided however, the owner of such project does not employ more than two hundred persons in the state at the time such project is commenced.

(t) "Significant capital investment project" shall mean a project (i) located within an empire zone, (ii) which will be either a newly constructed facility or a newly constructed addition to or expansion of a qualified investment project, consisting of tangible personal property and other tangible property, including buildings and structural components of buildings[, described in subparagraphs (i), (ii), (iii), (iv) and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision twelve-B of section two hundred ten of the tax law,] the basis of which for federal income tax purposes will equal or exceed seven hundred fifty million dollars, (iii) which is constructed after the basis for federal income tax purposes of the property comprising such qualified investment project equals or exceeds seven hundred fifty million dollars, and (iv) at which five hundred or more jobs will be created, provided such jobs are new to the state and are in addition to any other jobs previously created by the owner of such project in the state.

S 22. Subdivision (c) of section 963 of the general municipal law, as amended by chapter 624 of the laws of 1990 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000 and, as relettered by section 7 of part S-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(c) At the request of any local empire zone administrative board, the department of taxation and finance, the department of economic development, the public service commission and any municipal corporation within

the empire zone shall, to the extent that it possesses any of the information required by subdivision [(c)] (B) of this section, and to the extent that such information can be disclosed without violating the secrecy provisions contained in sections two hundred two, [two hundred eleven,] six hundred ninety-seven, one thousand one hundred forty-six, one thousand two hundred fifty, one thousand four hundred sixty-seven and one thousand five hundred eighteen of the tax law, provide that information to the local empire zone administrative board for inclusion in its annual report. The amount of any real property taxes required to be set forth in the report pursuant to subdivision [(c)] (B) of this section shall be computed and furnished to the zone's administrative board by the municipality which levied the tax. The failure of any empire zone administrative board to prepare and submit a report as required by subdivision [(b)] (A) of this section shall make the board or other community-based development organization ineligible to receive any financial support for administrative expenses authorized by paragraph (vii) of subdivision (b) of this section; provided, however, that such financial assistance shall not be withheld on account of the report's failure to include any information which is required by subdivision [(c)] (B) of this section but is not available to the empire zone administrative board.

S 23. Subdivision (d) of section 964 of the general municipal law, as amended by chapter 708 of the laws of 1993, is amended to read as follows:

(d) The total amount of tax credits available to each zone pursuant to [subdivision twenty of section two hundred ten,] subsection (l) of section six hundred six, subsection (d) of section fourteen hundred fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law, shall be two million five hundred thousand dollars, (provided, however, that in no event shall the credits available in any zone exceed five hundred thousand dollars in the case of qualified investments in certified zone businesses as described in such subdivisions and subsections). Apportionment of credits within a zone between capital investments in and contributions to zone capital corporations, direct investments in certified zone businesses or contributions to community development projects will be determined and accounted for by the local zone administrative board in consultation with the zone administrative entity, subject to regulations promulgated by the commissioner of the department of economic development. Credits not used by a zone within four years of their apportionment may, after a public hearing, be reallocated pursuant to regulations promulgated by the commissioner. Certifications under [subdivision twenty of section two hundred ten,] subsection (l) of section six hundred six, subsection (d) of section fourteen HUNDRED fifty-six and subdivision (h) of section fifteen hundred eleven of the tax law shall be consistent with the provisions of this subdivision.

S 24. Subdivisions (e) and (f) of section 966 of the general municipal law, subdivision (e) as amended by chapter 170 of the laws of 1994, subdivision (f) as amended by chapter 708 of the laws of 1993 and such subdivisions as further amended by section 15 of part GG of chapter 63 of the laws of 2000, are amended to read as follows:

(e) For credits against the taxes imposed under articles [nine-A,] twenty-two, thirty-two and thirty-three of the tax law, based on wages paid to certain employees employed by a business located in an empire zone or in a zone equivalent area, see [subdivision nineteen of section two hundred ten,] subsection (k) of section six hundred six, subsection

(e) of section fourteen hundred fifty-six and subdivision (g) of section fifteen hundred eleven, respectively, of the tax law;

(f) For credits against the tax imposed under articles [nine-A,] twenty-two, thirty-two and thirty-three of the tax law, based on qualified investments in or contributions to empire zone capital corporations, qualified investments in certified zone businesses and contributions to community development projects, see [subdivision twenty of section two hundred ten,] subsection (l) of section six hundred six, subsection (d) of section fourteen hundred fifty-six, and subdivision (h) of section fifteen hundred eleven of the tax law;

S 24-a. Subdivision (c) of section 966 of the general municipal law is REPEALED.

S 25. Paragraph 1 of subsection (g) of section 1117 of the insurance law, as amended by chapter 417 of the laws of 2001, is amended to read as follows:

(1) Except for certain group contracts described in paragraph four of this subsection, in order for premium payments for long-term care insurance to qualify for purposes of [section one hundred ninety, subdivision twenty-five-a of section two hundred ten,] subsection (aa) of section six hundred six, subsection (k) of section one thousand four hundred fifty-six and subsection (m) of section one thousand five hundred eleven of the tax law, the long-term care insurance must be approved by the superintendent pursuant to this subsection. Prior to approving any such insurance, the superintendent shall conclude that it meets minimum standards, including minimum loss ratio standards under this section or section three thousand two hundred twenty-nine of this chapter and is a qualified long-term care insurance contract as defined in section 7702B of the internal revenue code.

S 26. The opening paragraph of paragraph (pp) of subdivision 1 of section 2807-v of the public health law, as amended by section 8 of part C of chapter 59 of the laws of 2011, is amended to read as follows:

Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting the provision of tax credits for long term care insurance pursuant to subdivision one of section one hundred ninety of the tax law, [paragraph (a) of subdivision twenty-five-a of section two hundred ten of such law,] subsection (aa) of section six hundred six of such law, paragraph one of subsection (k) of section fourteen hundred fifty-six of such law and paragraph one of subdivision (m) of section fifteen hundred eleven of such law, in the following amounts:

S 27. Paragraph 1 of subdivision (a), subdivision (f) and paragraph 1 of subdivision (i) of section 14 of the tax law, paragraph 1 of subdivision (a) as amended by section 3 of part V-1 of chapter 109 of the laws of 2006, subdivision (f) as amended by section 10 of part CC of chapter 85 of the laws of 2002 and paragraph 1 of subdivision (i) as amended by section 5 of part A of chapter 63 of the laws of 2005, are amended to read as follows:

(1) except as provided in paragraphs one-a and one-b of this subdivision, for purposes of section one hundred eighty-seven-j and articles [nine-A,] twenty-two, thirty-two and thirty-three of this chapter, for each of the taxable years within the "business tax benefit period," which period shall consist of (A) in the case of a business enterprise with a test date occurring on or before December thirty-first, two thousand one, the first fifteen taxable years beginning on or after January first, two thousand one, (B) in the case of a business enterprise with a test date occurring on or after January first, two thousand two, but

prior to April first, two thousand five, the fifteen taxable years next following the business enterprise's test year, and (C) in the case of a business enterprise which is first certified under article eighteen-B of the general municipal law on or after April first, two thousand five, the ten taxable years starting with the taxable year in which the business enterprise's first date of certification under article eighteen-B of the general municipal law occurs, but only with respect to each of such business tax benefit period years for which the employment test is met,

(f) Taxable year. The term "taxable year" means the taxable year of the business enterprise under section one hundred eighty-three, one hundred eighty-four, one hundred eighty-five or former section one hundred eighty-six of article nine, or under article [nine-A,] twenty-two, thirty-two or thirty-three of this chapter. If a business enterprise does not have a taxable year because it is exempt from taxation or otherwise not required to file a return under any of such sections of article nine or under article [nine-A,] twenty-two, thirty-two or thirty-three, then the term "taxable year" means (i) the business enterprise's federal taxable year, or, (ii) if the enterprise does not have a federal taxable year, the calendar year.

(1) for purposes of section one hundred eighty-seven-j of article nine, and articles [nine-A,] twenty-two, thirty-two and thirty-three of this chapter, on the first day of the taxable year during which revocation of its certification under article eighteen-B of the general municipal law occurs, and

S 28. Subdivisions (a) and (d) of section 14-a of the tax law, as added by section 45 of part Y of chapter 63 of the laws of 2000, are amended to read as follows:

(a) Allowance of credit. A taxpayer which is an industrial or manufacturing business (IMB), or which is a sole proprietor of an IMB or a member of a partnership which is an IMB, and which is subject to tax under article [nine-A or] twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the [provisions] PROVISION referenced in subdivision (d) of this section. Such credit shall be equal to the sum (or pro rata share of the sum, in the case of a member of a partnership) of the taxes imposed under sections one hundred eighty-six-a[,] AND one hundred eighty-six-c[, one hundred eighty-nine and one hundred eighty-nine-a] of this chapter which during the taxable year were either paid by, or passed through to, the IMB, on or after January first, two thousand, but only with regard to gas, electricity, steam, water or refrigeration, or gas, electric, steam, water or refrigeration services, consumed or used by the IMB in this state.

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

[(1) Article 9-A: Section 210.26-a.

(2)] Article 22: Sections 606(i) and (t-1).

S 29. Subdivision (a) of section 15 of the tax law, as amended by section 5 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(a) Allowance of credit. A taxpayer which is a qualified empire zone enterprise (QEZE), or which is a sole proprietor of a QEZE or a member of a partnership which is a QEZE, and which is subject to tax under article [nine-A,] twenty-two, thirty-two or thirty-three of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (h) of this section, for eligible real property taxes.

S 30. Subdivisions (a), (f) and (g) of section 16 of the tax law, subdivisions (a) and (g) as added by section 2 of part GG of chapter 63 of the laws of 2000, and subdivision (f) as amended by section 14 of part CC of chapter 85 of the laws of 2002, are amended to read as follows:

(a) Allowance of credit. A taxpayer which is a qualified empire zone enterprise (QEZE), or which is a sole proprietor of a QEZE or a member of a partnership which is a QEZE, and which is subject to tax under article [nine-A,] twenty-two, thirty-two or thirty-three of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (g) of this section, to be computed as hereinafter provided.

(f) Tax factor. (1) General. [The tax factor shall be, in the case of article nine-A of this chapter, the larger of the amounts of tax determined for the taxable year under paragraphs (a) and (c) of subdivision one of section two hundred ten of such article.] The tax factor shall be, in the case of article twenty-two of this chapter, the tax determined for the taxable year under subsections (a) through (d) of section six hundred one of such article. The tax factor shall be, in the case of article thirty-two of this chapter, the larger of the amounts of tax determined for the taxable year under subsection (a) and paragraph two of subsection (b) of section fourteen hundred fifty-five of such article. The tax factor shall be, in the case of article thirty-three of this chapter, the larger of the amounts of tax determined for the taxable year under paragraphs one and three of subdivision (a) of section fifteen hundred two of such article.

(2) Sole proprietors, partners and S corporation shareholders. (A) Where the taxpayer is a sole proprietor of a qualified empire zone enterprise, the taxpayer's tax factor shall be that portion of the amount determined in paragraph one of this subdivision which is attributable to the income of the qualified empire zone enterprise. Such attribution shall be made in accordance with the ratio of the taxpayer's income from the qualified empire zone enterprise allocated within the state, entering into New York adjusted gross income, to the taxpayer's New York adjusted gross income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment which reasonably reflects the portion of the taxpayer's tax attributable to the income of the qualified empire zone enterprise. In no event may the ratio so determined exceed 1.0.

(B)(i) Where the taxpayer is a member of a partnership which is a qualified empire zone enterprise, the taxpayer's tax factor shall be that portion of the amount determined in paragraph one of this subdivision which is attributable to the income of the partnership. Such attribution shall be made in accordance with the ratio of the partner's income from the partnership allocated within the state to the partner's entire income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment which reasonably reflects the portion of the partner's tax attributable to the income of the partnership. In no event may the ratio so determined exceed 1.0.

(ii) For purposes of article [nine-A,] thirty-two or thirty-three of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into entire net income, minimum taxable income, alternative entire net income or entire net income plus compensation and the term "partner's entire income" means entire net income, minimum taxable income, alternative entire net income or entire net

income plus compensation, allocated within the state. For purposes of article twenty-two of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into New York adjusted gross income, and the term "partner's entire income" means New York adjusted gross income.

(C) Where the taxpayer is a shareholder of a New York S corporation which is a qualified empire zone enterprise, the shareholder's tax factor shall be that portion of the amount determined in paragraph one of this subdivision which is attributable to the income of the S corporation. Such attribution shall be made in accordance with the ratio of the shareholder's income from the S corporation allocated within the state, entering into New York adjusted gross income, to the shareholder's New York adjusted gross income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment which reasonably reflects the portion of the shareholder's tax attributable to the income of the qualified empire zone enterprise. In no event may the ratio so determined exceed 1.0.

(3) Combined returns or reports. (A) Where the taxpayer is a qualified empire zone enterprise and is required or permitted to make a return or report on a combined basis under article [nine-A,] thirty-two or thirty-three of this chapter, the taxpayer's tax factor shall be the amount determined in paragraph one of this subdivision which is attributable to the income of the qualified empire zone enterprise. Such attribution shall be made in accordance with the ratio of the qualified empire zone enterprise's income allocated within the state to the combined group's income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment which reasonably reflects the portion of the combined group's tax attributable to the income of the qualified empire zone enterprise. In no event may the ratio so determined exceed 1.0.

(B) The term "income of the qualified empire zone enterprise" means entire net income, minimum taxable income, alternative entire net income or entire net income plus compensation calculated as if the taxpayer was filing separately and the term "combined group's income" means entire net income, minimum taxable income, alternative entire net income or entire net income plus compensation as shown on the combined return or report, allocated within the state.

(4) If the amount determined in paragraph one of this subdivision is less than zero, a taxpayer shall not be allowed a credit under this section.

(g) Definitions and cross-references. For definitions of terms used in this section see sections fourteen and fifteen of this article. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) [Article 9-A: Section 210: subdivision 28.

(2)] Article 22: Section 606: subsections (i) and (cc).

[(3)] (2) Article 32: Section 1456: subsection (p).

[(4)] (3) Article 33: Section 1511: subdivision (s).

S 31. Subdivisions (a) and (d) of section 18 of the tax law, as added by section 2 of part CC of chapter 63 of the laws of 2000, are amended to read as follows:

(a) Allowance of credit. A taxpayer subject to tax under [article nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (d) of this section, with respect to the ownership of

eligible low-income buildings for which an eligibility statement has been issued by the commissioner of housing and community renewal. The amount of the credit shall be the credit amount for each such building allocated by such commissioner as provided in article two-A of the public housing law. The credit amount shall be allowed for each of the ten taxable years in the credit period, and any reduction in first-year credit as provided in subdivision two of section twenty-two of such law shall be allowed in the eleventh taxable year.

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) [Article 9-A: Section 210: subdivision 30,

(2)] Article 22: Section 606: subsections (i) and (x),

[(3)] (2) Article 32: Section 1456: subsection (l),

[(4)] (3) Article 33: Section 1511: subdivision (n).

S 32. Subparagraph (A) of paragraph 1 of subdivision (a) and subdivision (f) of section 19 of the tax law, as added by section 2 of part II of chapter 63 of the laws of 2000, are amended to read as follows:

(A) Green building credit. A taxpayer subject to tax under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be allowed a green building credit against such tax, pursuant to the provisions referenced in subdivision (f) of this section. Provided, however, no credit shall be allowed under this section unless the taxpayer has complied with the applicable requirements of paragraph two of subdivision (d) of this section (relating to reports to DEC). The amount of the credit shall be the sum of the credit components specified in paragraphs two through seven of this subdivision. Provided, however, the amount of each such credit component shall not exceed the limit set forth in the initial credit component certificate obtained pursuant to subdivision (c) of this section. In the determination of such credit components, no cost paid or incurred by the taxpayer shall be the basis for more than one such component.

(f) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article nine: Section one hundred eighty-seven-d;

(2) [Article nine-A: Subdivision thirty-one of section two hundred ten;

(3)] Article twenty-two: Subsections (i) and (y) of section six hundred six;

[(4)] (3) Article thirty-two: Subsection (m) of section fourteen hundred fifty-six;

[(5)] (4) Article thirty-three: Subdivision (o) of section fifteen hundred eleven.

S 33. Subdivision (a), paragraph 2 of subdivision (c) and subdivision (d) of section 20 of the tax law, subdivision (a) as amended by section 6 of part C-1 of chapter 57 of the laws of 2009, paragraph 2 of subdivision (c) and subdivision (d) as added by section 1 of part I of chapter 63 of the laws of 2000, are amended to read as follows:

(a) Allowance of credit. For taxable years beginning before January first, two thousand nine, a taxpayer subject to tax under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (d) of this section. The credit shall be allowed where a taxpayer has made a certified contribution of at least ten million dollars to a qualified transportation improvement project in a prior taxable year. The credit shall be equal to six percent of the taxpayer's increased qualified business facility payroll for the taxable

year. The aggregate of all credit amounts allowed to the taxpayer pursuant to this section with respect to a certified contribution shall not exceed the amount of such certified contribution.

(2) The amount required to be added back pursuant to this subdivision shall be augmented by an amount equal to the product of such amount and the underpayment rate of interest (without regard to compounding), set by the commissioner pursuant to subsection (e) of section one thousand ninety-six of this chapter, in the case of taxpayers which applied the credit against tax under article nine, [nine-A,] thirty-two or thirty-three, or pursuant to subsection (j) of section six hundred ninety-seven of this chapter, in the case of taxpayers who applied the credit against tax under article twenty-two of this chapter, in effect on the last day of the taxable year.

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-e,

(2) [Article 9-A: Section 210: subdivision 32,

(3)] Article 22: Section 606: subsections (i) and (z),

[(4)] (3) Article 32: Section 1456: subsection (n),

[(5)] (4) Article 33: Section 1511: subdivision (p).

S 34. Paragraphs 1 and 5 of subdivision (a) and subdivision (f) of section 21 of the tax law, paragraphs 1 and 5 of subdivision (a) as amended by section 1 of part H of chapter 577 of the laws of 2004 and subdivision (f) as added by section 1 of part H of chapter 1 of the laws of 2003, are amended to read as follows:

(1) General. A taxpayer subject to tax under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (f) of this section. Such credit shall be allowed with respect to a qualified site, as such term is defined in paragraph one of subdivision (b) of this section. The amount of the credit in a taxable year shall be the sum of the credit components specified in paragraphs two, three and four of this subdivision applicable in such year.

(5) Applicable percentage. For purposes of paragraphs two, three and four of this subdivision, the applicable percentage shall be twelve percent in the case of credits claimed under article nine, [nine-A,] thirty-two or thirty-three of this chapter, and ten percent in the case of credits claimed under article twenty-two of this chapter, except that where at least fifty percent of the area of the qualified site relating to the credit provided for in this section is located in an environmental zone as defined in paragraph six of subdivision (b) of this section, the applicable percentage shall be increased by an additional eight percent. Provided, however, as afforded in section 27-1419 of the environmental conservation law, if the certificate of completion indicates that the qualified site has been remediated to Track 1 as that term is described in subdivision four of section 27-1415 of the environmental conservation law, the applicable percentage set forth in the first sentence of this paragraph shall be increased by an additional two percent.

(f) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-g

(2) [Article 9-A: Section 210, subdivision 33

(3)] Article 22: Section 606, subsections (i) and (dd)

[(4)] (3) Article 32: Section 1456, subsection (q)

[(5)] (4) Article 33: Section 1511, subdivision (u).

S 35. Paragraph 3 of subdivision (a) and paragraphs 1 and 9 of subdivision (b) of section 22 of the tax law, as amended by section 4 of part H of chapter 577 of the laws of 2004, are amended to read as follows:

(3) Developer. (i) A "developer" is a taxpayer under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter who or which either (I) has been issued a certificate of completion with respect to a qualified site or (II) has purchased or in any other way has been conveyed all or any portion of a qualified site from a taxpayer or any other party who or which has been issued a certificate of completion with respect to such site provided, such purchase or conveyance occurs within seven years of the effective date of the certificate of completion issued with respect to such qualified site. Provided further, that the taxpayer who or which is purchasing all or any portion of a qualified site and the taxpayer or any other party who or which has been issued a certificate of completion with respect to such site may not be related persons, as such term is defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code.

(ii) Where the entity to whom a certificate of completion has been issued is a partnership, or where the entity which has purchased all or any portion of a qualified site from a taxpayer who or which has been issued a certificate of completion with respect to such site within the applicable time limit is a partnership, any partner in such partnership who or which is taxable under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be a developer under this paragraph. Where the entity to whom a certificate of completion has been issued is a New York S corporation, or where the entity which has purchased all or any portion of a qualified site from a taxpayer who or which has been issued a certificate of completion with respect to such site within the applicable time limit is a New York S corporation, any shareholder in such New York S corporation shall be a developer under this paragraph.

(1) Allowance of credit. A developer of a qualified site who or which is subject to tax under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in paragraph nine of this subdivision, for eligible real property taxes imposed on such site.

(9) Cross-references. For application of the credit provided for in this subdivision, see the following provisions of this chapter:

(i) Article 9: Section 187-h.

(ii) [Article 9-A: Section 210: subdivision 34.

(iii)] Article 22: Section 606: subsections (i) and (ee).

[(iv)] (III) Article 32: Section 1456: subsection (r).

[(v)] (IV) Article 33: Section 1511: subdivision (v).

S 36. Subdivisions (a) and (e) of section 23 of the tax law, subdivision (a) as amended by section 10 of part H of chapter 577 of the laws of 2004 and subdivision (e) as added by section 19 of part H of chapter 1 of the laws of 2003, are amended to read as follows:

(a) Allowance of credit. General. A taxpayer subject to tax under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (e) of this section. The amount of such credit shall be equal to the lesser of thirty thousand dollars or fifty percent of the premiums paid on or after the date of the brownfield site cleanup agreement executed by the taxpayer and the department of environmental conservation pursuant to section 27-1409 of the envi-

ronmental conservation law by the taxpayer for environmental remediation insurance issued with respect to a qualified site.

(e) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-i

(2) [Article 9-A: Section 210, subdivision 35

(3)] Article 22: Section 606, subsections (i) and (ff)

[(4)] (3) Article 32: Section 1456, subsection (s)

[(5)] (4) Article 33: Section 1511, subdivision (w).

S 37. Paragraph 1 of subdivision (a) and subdivision (c) of section 24 of the tax law, paragraph 1 of subdivision (a) as amended by section 3 of part Q of chapter 57 of the laws of 2010 and subdivision (c) as added by section 1 of part P of chapter 60 of the laws of 2004, are amended to read as follows:

(1) Allowance of credit. A taxpayer which is a qualified film production company, or a qualified independent film production company, or which is a sole proprietor of or a member of a partnership which is a qualified film production company or a qualified independent film production company, and which is subject to tax under [articles nine-A or] ARTICLE twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the [provisions] PROVISION referenced in subdivision (c) of this section, to be computed as hereinafter provided.

(c) Cross-references. For application of the credit provided for in this section, see the following [provisions] PROVISION of this chapter:

[(1) article 9-A: section 210: subdivision 36.

(2)] article 22: section 606: subsection (gg).

S 38. Subdivisions (a) and (f) of section 26 of the tax law, subdivisions (a) and (f) as added by chapter 537 of the laws of 2005, are amended to read as follows:

(a) Allowance of credit. A taxpayer, which is subject to tax under article nine, [nine-A,] twenty-two, thirty-two or thirty-three of this chapter and which is a qualified building owner, shall be allowed a credit against such tax. The amount of the credit allowed under this section shall equal the sum of the number of qualified security officers providing protection to a building or buildings owned by the taxpayer multiplied by three thousand dollars. Provided, however, that in the case of a worker not so employed for a full year, such amount shall be prorated to reflect the length of such employment under regulations of the commissioner.

(f) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9: section 187-n.

(2) [article 9-A: section 210: subdivision 37.

(3)] article 22: section 606: subsection (ii).

[(4)] (3) article 32: section 1456: subsection (t).

[(5)] (4) article 33: section 1511: subdivision (x).

S 39. Subdivision (c) of section 28 of the tax law, as added by section 2 of part V of chapter 62 of the laws of 2006, is amended to read as follows:

(c) Cross-references. For application of the credit provided for in this section, see the following provision of this chapter:

[(1) article 9-A: section 210: subdivision 38.

(2)] article 22: section 606: subsection (jj).

S 40. Subdivisions (a) and (d) of section 28 of the tax law, subdivision (a) as amended by section 1 of part A of chapter 57 of the laws of

2010 and subdivision (d) as added by section 7 of part X of chapter 62 of the laws of 2006, are amended to read as follows:

(a) General. A taxpayer subject to tax under article nine, [nine-A] or twenty-two of this chapter shall be allowed a credit against such tax pursuant to the provisions referenced in subdivision (d) of this section. The credit (or pro rata share of earned credit in the case of a partnership) for each gallon of biofuel produced at a biofuel plant on or after January first, two thousand six shall equal fifteen cents per gallon after the production of the first forty thousand gallons per year presented to market. The credit under this section shall be capped at two and one-half million dollars per taxpayer per taxable year for up to no more than four consecutive taxable years per biofuel plant. If the taxpayer is a partner in a partnership or shareholder of a New York S corporation, then the cap imposed by the preceding sentence shall be applied at the entity level, so that the aggregate credit allowed to all the partners or shareholders of each such entity in the taxable year does not exceed two and one-half million dollars.

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) Article 9: Section 187-c.

(2) [Article 9-A: Section 210, subdivision 38.

(3)] Article 22: Section 606, subsections (i) and (jj).

S 41. Subdivisions (a), (c) and (g) of section 31 of the tax law, subdivisions (a) and (g) as amended by section 7 of part G of chapter 61 of the laws of 2011 and subdivision (c) as added by section 2 of part MM of chapter 59 of the laws of 2010, are amended to read as follows:

(a) General. A taxpayer subject to tax under section one hundred eighty-five, article [nine-A,] twenty-two, thirty-two or thirty-three of this chapter shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (g) of this section. The amount of the credit, allowable for up to ten consecutive taxable years, is the sum of the following four credit components:

(1) the excelsior jobs tax credit component;

(2) the excelsior investment tax credit component;

(3) the excelsior research and development tax credit component; and

(4) the excelsior real property tax credit component.

(c) Election of credit. A taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the investment tax credit provided for under [subdivision twelve of section two hundred ten,] subsection (a) of section six hundred six, or subsection (i) of section fourteen hundred fifty-six of this chapter, may claim either the excelsior investment tax credit component or the investment tax credit, but not both with regard to a particular piece of property. In addition, a taxpayer who or which is qualified to claim the excelsior investment tax credit component and is also qualified to claim the brownfield tangible property credit component under section twenty-one of this article, as added by chapter one of the laws of two thousand three, may claim either the excelsior investment tax credit component or such tangible property credit component, but not both with regard to a particular piece of property. The election to claim the excelsior investment tax credit component, the investment tax credit or the brownfield tangible property credit component, with regard to the same property, is irrevocable.

(g) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9: section 187-q.

(2) [article 9-A: section 210: subdivision 41.
(3)] article 22: section 606: subsection (qq).
[(4)] (3) article 32: section 1456: subsection (u).
[(5)] (4) article 33: section 1511: subdivision (y).

S 42. Paragraph 1 of subdivision (a) and subdivision (d) of section 31 of the tax law, as added by section 12 of part Q of chapter 57 of the laws of 2010, are amended to read as follows:

(1) A taxpayer which is a qualified film production company, and which is subject to tax under article [nine-A or] twenty-two of this chapter, unless eligible for the credit under section twenty-four of this article with respect to the qualified film, shall be allowed a credit against such tax, pursuant to the [provisions] PROVISION referenced in subdivision [(c)] (D) of this section to be computed as provided in this subdivision.

(d) Cross-references. For application of the credit provided for in this section, see the following [provisions] PROVISION of this chapter:
[(1) article 9-A: section 210: subdivision 41.
(2)] article 22: section 606: subsection (qq).

S 43. Subdivision 3 of section 34 of the tax law, as added by section 2 of part Y of chapter 57 of the laws of 2010, is amended to read as follows:

3. (a) For application of the temporary deferral nonrefundable payout credit, see the following provisions of this chapter:
(1) Article 9: section 187-0
(2) [Article 9-A: section 210(41)
(3)] Article 22: section 606(qq)
[(4)] (3) Article 32: section 1456(v)
[(5)] (4) Article 33: section 1511(y)

(b) For application of the temporary deferral refundable payout credit, see the following provisions of this chapter:
(1) Article 9: section 187-p
(2) [Article 9-A: section 210(42)
(3)] Article 22: section 606(rr)
[(4)] (3) Article 32: section 1456(w)
[(5)] (4) Article 33: section 1511(z)

S 44. Subdivision 3 of section 33 of the tax law, as added by section 1 of part Y of chapter 57 of the laws of 2010, is amended to read as follows:

3. [(a)] This section shall apply to the credits allowed under [the following provisions in article nine-a of this chapter and any applicable counterpart provisions in] articles nine, twenty-two, thirty-two and thirty-three of this chapter[:
Section 210(12) investment tax credit
Section 210(12-B) empire zone investment tax credit
Section 210(12-C) empire zone employment incentive credit
Section 210(12-D) employment incentive credit
Section 210(12-E) QETC employment credit
Section 210(12-F) QETC capital tax credit
Section 210(12-G) QETC facilities, operations, and training credit
Section 210(17) special additional mortgage recording tax credit
Section 210(19) empire zone wage tax credit
Section 210(20) empire zone capital tax credit
Section 210(21-a) credit for servicing certain mortgages
Section 210(23) credit for employment of persons with disabilities
Section 210(24) alternative fuels credit

Section 210(25) credit for purchase of an automated external defibrillator
Section 210(27) QEZE credit for real property taxes
Section 210(28) QEZE tax reduction credit
Section 210(30) low income housing credit
Section 210(31) green building credit
Section 210(33) brownfield redevelopment tax credit
Section 210(34) remediated brownfield credit for real property taxes for qualified sites
Section 210(35) environmental remediation insurance credit
Section 210(37) security training tax credit
Section 210(37) credit for fuel cell electric generating equipment expenditures
Section 210(38) conservation easement tax credit
Section 210(38) empire state commercial production credit
Section 210(38) biofuel production credit
Section 210(39) clean heating fuel credit
Section 210(40) credit for rehabilitation of historic properties
Section 210(40) credit for companies who provide transportation to individuals with disabilities
(b) This section] AND shall also apply to the credits allowed by the following sections:
Section 186-a(9) power for jobs credit
Section 606(g-1) solar energy system equipment credit
Section 606(pp) historic homeownership rehabilitation credit
Section 1511(k) credit for certain investments in certified capital companies

S 45. Paragraph (b) of subdivision 8 of section 186-a of the tax law, as amended by chapter 708 of the laws of 1993 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(b) which is subject to the supervision of the department of public service, shall provide, in addition to any other discount, a reduction of three percent in the rate charged for gas, electricity, steam or water sold, or gas, electric, steam or water service rendered, prior to nineteen hundred ninety-four, for ultimate consumption or use within an area designated as an empire zone pursuant to article eighteen-B of the general municipal law by a business, whether incorporated or unincorporated, [other than a retail enterprise as defined in paragraph (k) of subdivision twelve of section two hundred ten of this chapter but without regard to subparagraph (iii) thereof,] which has been certified pursuant to article eighteen-B of the general municipal law, and which has claimed a credit under [subdivision nineteen of section two hundred ten,] subsection (k) of section six hundred six, subsection (e) of section fourteen hundred fifty-six or subdivision (g) of section fifteen hundred eleven of this chapter during the previous fifteen months, as evidenced by a certificate issued by the commissioner to such business. Ninety-six and one-half percent of the aggregate of such reductions during the year may be applied as a credit against the tax imposed pursuant to this section with respect to such year.

S 46. Subdivision 2 of section 187-l of the tax law, as added by section 5 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

2. The average number of employees employed in an empire zone, or, where applicable, in the geographic area subsequently constituting such zone, in a taxable year shall be computed by ascertaining the number of

such employees within such zone, or, where applicable, in the geographic area subsequently constituting such zone, except general executive officers, employed by the taxpayer on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December in the taxable year, by adding together the number of employees ascertained on each of such dates and dividing the sum so obtained by the number of such above-mentioned dates occurring within the taxable year. [For the purposes of this section, the term "employees" and the term "general executive officers" shall mean the same as in subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter.]

S 47. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law, as amended by section 7 of part C-1 of chapter 57 of the laws of 2009, clause (xxxi) as added by section 5 of part MM of chapter 59 of the laws of 2010, clause (xxxi) as added by section 14 of part Q of chapter 57 of the laws of 2010 and clause (xxxii) as added by section 6 of part V of chapter 61 of the laws of 2011, is amended to read as follows:

(B) shall be treated as the owner of a new business with respect to such share if the corporation qualifies as a new business [pursuant to paragraph (j) of subdivision twelve of section two hundred ten of this chapter].

With respect to the following credit under this section:	The corporation's credit base under [section two hundred ten or] section fourteen hundred fifty-six of this chapter is:
(i) [Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision twelve of section two hundred ten
(ii) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision twelve-B of section two hundred ten
(iii)] Empire zone wage tax credit under subsection (k)	Eligible wages under [subdivision nineteen of section two hundred ten or] subsection (e) of section fourteen hundred fifty-six
[(iv)](II) Empire zone capital tax credit under subsection (l)	Qualified investments and contributions under [subdivision twenty of section two hundred ten or] subsection (d) of section fourteen hundred fifty-six
[(v) Agricultural property tax credit under subsection (n)	Allowable school district property taxes under subdivision twenty-two of section two hundred ten
(vi)](III) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under [subdivision twenty-three of section two hundred ten or]

	subsection (f) of section fourteen hundred fifty-six
[(vii) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision twelve-D of section two hundred ten
(viii) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision twelve-C of section two hundred ten
(ix) Alternative fuels credit under subsection (p)	Cost under subdivision twenty-four of section two hundred ten
(x) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision twelve-E of section two hundred ten
(xi) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision twelve-F of section two hundred ten
(xii)](IV) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under [subdivision twenty-five of section two hundred ten or] subsection (j) of section fourteen hundred fifty-six
[(xiii)](V) Low-income housing credit under subsection (x)	Credit amount under [subdivision thirty of section two hundred ten or] subsection (l) of section fourteen hundred fifty-six
[(xiv)](VI) Credit for transportation improvement contributions under subsection (z)	For taxable years beginning before January first, two thousand nine, amount of credit under [subdivision thirty-two of section two hundred ten or] subsection (n) of section fourteen hundred fifty-six
[(xv)](VII) QEZE credit for real property taxes under subsection (bb)	Amount of credit under [subdivision twenty-seven of section two hundred ten or] subsection (o) of section fourteen hundred fifty-six
[(xvi)](VIII) QEZE tax reduction credit under subsection (cc)	Amount of benefit period factor, employment increase factor and zone allocation factor (without regard to pro ration) under [subdivision twenty-eight of section two hundred ten or] subsection (p) of section fourteen hundred fifty-six and amount of tax factor as determined under subdivision (f) of section sixteen

[(xvii)](IX) Green building credit under subsection (y)	Amount of green building credit under [subdivision thirty-one of section two hundred ten or] subsection (m) of section fourteen hundred fifty-six
[(xviii)](X) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under [subdivision twenty-five-a of section two hundred ten or] subsection (k) of section fourteen hundred fifty-six
[(xix)](XI) Brownfield redevelopment credit under subsection (dd)	Amount of credit under [subdivision thirty-three of section two hundred ten or] subsection (q) of section fourteen hundred fifty-six
[(xx)](XII) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under [subdivision thirty-four of section two hundred ten or] subsection (r) of section fourteen hundred fifty-six
[(xxi)](XIII) Environmental remediation insurance credit under subsection (ff)	Amount of credit under [subdivision thirty-five of section two hundred ten or] subsection (s) of section fourteen hundred fifty-six
[(xxii) Empire state film production credit under subsection (gg)	Amount of credit for qualified production costs in production of a qualified film under subdivision thirty-six of section two hundred ten
(xxiii) Qualified emerging technology company facilities, operations and training credit under subsection (nn)	Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten
(xxiv)](XIV) Security training tax credit under subsection (ii)	Amount of credit under [subdivision thirty-seven of section two hundred ten or under] subsection (t) of section fourteen hundred fifty-six
[(xxv)](XV) Credit for qualified fuel cell electric generating equipment expenditures under subsection (g-2)	For taxable years beginning before January first, two thousand nine, amount of credit under [subdivision thirty-seven of section two hundred ten or] subsection (t) of section fourteen hundred fifty-six
[(xxvi) Empire state commercial production credit under subsection (jj)	Amount of credit for qualified production costs in production of a qualified commercial under subdivision thirty-eight of section two hundred ten
(xxvii) Biofuel production tax	Amount of credit under subdivision

credit under subsection (jj)	thirty-eight of section two hundred ten
(xxviii) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision thirty-nine of section two hundred ten
(xxix) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision forty of section two hundred ten
(xxxi)](XVI) Excelsior jobs program tax credit under subsection (qq)	Amount of credit under [subdivision forty-one of section two hundred ten or] under subdivision (u) of section fourteen hundred fifty-six
[(xxxi) Empire state film post production credit under subsection (qq)	Amount of credit for qualified post production costs of a qualified film under subdivision forty-one of section two hundred ten
(xxxii)](XVII) Economic transformation and facility redevelopment PROGRAM TAX credit UNDER SUBSECTION (SS)	Amount of credit under [subdivision forty-three of section 210 or under] subsection (x) of section fourteen hundred fifty-six

S 48. Clauses (ii), (iii) and (iv) and subclause 2 of clause (v) of subparagraph (B) of paragraph 1 of subsection (o) and subsection (p) of section 612 of the tax law, clause (ii) of subparagraph (B) of paragraph 1 of subsection o and subsection p as amended by chapter 28 of the laws of 1987, clause (iii) of subparagraph (B) of paragraph 1 of subsection (o) as added by chapter 103 of the laws of 1981, clause (iv) of subparagraph (B) of paragraph (1) of subsection (o) as amended by chapter 267 of the laws of 1987 and subclause 2 of clause (v) of subparagraph (B) of paragraph 1 of subsection o as amended by chapter 1043 of the laws of 1981, are amended to read as follows:

(ii) is, at the date of adoption of such plan, subject to taxation (whether or not any amount is owing) under section one hundred eighty-three[,] OR one hundred eighty-four [or one hundred eighty-six] of article nine of this chapter, [or under article nine-a of this chapter] or article twenty-three of this chapter, or would have been subject to tax under article twenty-three (as such article was in effect on January first, nineteen hundred eighty) if such article were still in effect, and the first taxable period for which such new business became subject to such taxation commenced on or after July first, nineteen hundred eighty-one and before January first, nineteen hundred eighty-eight, and such first taxable period includes the date of adoption of such plan; if not so subject to taxation, the new business must be subject to taxation under such sections or articles for the first time within one year from the date of adoption of such plan, and

(iii) is conducted (or will be conducted, as evidenced by such plan) whereby at least ninety percent of the assets (valued at original cost) are located and employed in this state and eighty percent of the employees [(as ascertained within the meaning and intent of subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter and,] in addition, in the case of a partnership, excluding part-

ners) are principally employed in this state during each taxable period, or part thereof, as required by clause (iv) of this subparagraph, and

(iv) within ninety days after the adoption of such plan, or, if a return is required, as part of such return, under such article nine, [article nine-A] or article twenty-three (as such article was in effect on or before December thirtieth, nineteen hundred eighty-two), whichever is sooner, shall file a new business certificate with the state tax commission attesting to whether it meets, if subject to taxation under such articles, or intends to meet, if not so subject, all of the conditions stated in clauses (i), (ii) and (iii) of this subparagraph within the time set forth therein. Thereafter, during the first four taxable years of such new business, along with, and as part of, any return required under such articles, such new business shall make and file a new business certificate for the period covered by such return attesting to whether it has met the conditions specified in this subparagraph during the taxable period covered by such return. If no return is required under such articles, such certificate shall be filed annually on or before the fifteenth day of March which shall cover the twelve consecutive calendar month period ending on the last day of December immediately preceding such March fifteenth. If such new business fails to meet such conditions specified in this subparagraph, it shall, in addition, give notice of this fact, within the time prescribed by the state tax commission, to the holders of its "new business investments." The state tax commission shall prescribe the form and content of such new business certification and may require a new business to file such certificate for periods (even if no return is filed or required, but for this section) covering up to eight years from the date of adoption of such plan, as in its discretion, it deems the same necessary for the enforcement of this subparagraph, and

(2) A new business does not include (i) any new business of which twenty-five percent or more of the number of shares of stock that entitle the holders thereof to vote for the election of directors or trustees is owned, directly or indirectly, by a taxpayer subject to tax under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine of this chapter, or under article [nine-A,] thirty-two or thirty-three of this chapter or (ii) any new business substantially similar in operation and in ownership, directly or indirectly, to a business entity (or entities) taxable, or previously taxable, under such sections, such articles, article twenty-three or which would have been subject to tax under article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two whereby the intent and purpose of this subsection would be evaded.

(p) New business investment deferral. For taxable years beginning before January first, nineteen hundred eighty-eight, at the option of the taxpayer, there may be subtracted from federal adjusted gross income a reinvested amount of long-term capital gain realized in a taxable year from the sale of a capital asset, as such term is defined in section 1221 of the internal revenue code, which is not a new business investment. A reinvested amount of long-term capital gain shall mean an amount which bears the same ratio to the long-term capital gain realized from the sale of a capital asset which was includable in New York adjusted gross income as that portion of the sale proceeds which is reinvested, within one year from date of sale, in a New York new business bears to the total sale proceeds. For the purposes of this subsection, a New York

new business is a business enterprise which (1) has been a taxpayer under this article for no more than three taxable years (including short taxable years), (2) over fifty percent of the number of shares of stock that entitle the holders thereof to vote for the election of directors or trustees is not owned, directly or indirectly, by a taxpayer subject to tax under section one hundred eighty-three, one hundred eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of article nine of this chapter, or under article [nine-A,] thirty-two or thirty-three of this chapter, (3) is not substantially similar in operation or ownership, directly or indirectly, to a business entity (or entities) taxable, or previously taxable, under such sections, such articles, article twenty-three or which would have been subject to tax under article twenty-three (as such article was in effect on January first, nineteen hundred eighty) or the income (or losses) of which is (or was) includable under article twenty-two whereby the intent and purpose of this subsection would be evaded, (4) locates and employs at least ninety percent of its assets in the state, (5) employs principally in the state eighty percent of its employees [(as ascertained within the meaning and intent of subparagraph three of paragraph (a) of subdivision three of section two hundred ten of this chapter and, in addition, in the case of a partnership, excluding partners)], (6) derives less than forty percent of its gross income from dividends, interest, royalties (other than mineral, oil, or gas royalties or copyright royalties), and annuities and (7) reports at least twenty-five hundred dollars in gross income in any taxable year. The reinvested amount must qualify as a capital asset as defined in section 1221 of the internal revenue code and must be retained by the taxpayer for at least twelve months. The modification allowable under this subsection shall be utilized with respect to the taxable year in which the twelve month retention period ends. The commissioner of taxation and finance may require annual information reports on the investments in new businesses made pursuant to this subsection, and such other reports as he may require to ensure against the evasion of the intent and purposes of this subsection.

S 49. Subparagraph (A) of paragraph 4 of subsection (c) of section 658 of the tax law, as amended by section 1 of part DD of chapter 686 of the laws of 2003, is amended to read as follows:

(A) General. Every entity which is a partnership, other than a publicly traded partnership as defined in section 7704 of the federal Internal Revenue Code, subchapter K limited liability company or an S corporation for which the election provided for in subsection (a) of section six hundred sixty of this article is in effect, which has partners, members or shareholders who are nonresident individuals, as defined under subsection (b) of section six hundred five of this article, or C corporations, and which has any income derived from New York sources, determined in accordance with the applicable rules of section six hundred thirty-one of this article as in the case of a nonresident individual, shall pay estimated tax on such income on behalf of such partners, members or shareholders in the manner and at the times prescribed by subsection (c) of section six hundred eighty-five of this article. For purposes of this paragraph, the term "estimated tax" shall mean a partner's, member's or shareholder's distributive share or pro rata share of the entity income derived from New York sources, multiplied by the highest rate of tax prescribed by section six hundred one of this article for the taxable year of any partner, member or shareholder who is an individual taxpayer, [or paragraph (a) of subdivision one of section two hundred ten of this chapter for the taxable year of any partner,] member

or shareholder which is a C corporation, whether or not such C corporation is subject to tax under article nine, [nine-A,] thirty-two, or thirty-three of this chapter, and reduced by the distributive share or pro rata share of any credits determined under section one hundred eighty-seven, one hundred eighty-seven-a, six hundred six, fourteen hundred fifty-six or fifteen hundred eleven of this chapter, whichever is applicable, derived from the entity.

S 50. Subsection (a), paragraphs 3 and 4 of subsection (c) and the opening paragraph and paragraph 1 of subsection (d) of section 1083 of the tax law, subsection (a) as added by chapter 188 of the laws of 1964, paragraph 3 of subsection (c) and the opening paragraph and paragraph 1 of subsection (d) as amended by chapter 817 of the laws of 1987 and paragraph 4 of subsection (c) as amended by chapter 548 of the laws of 1981, are amended to read as follows:

(a) General.--- Except as otherwise provided in this section, any tax under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C shall be assessed within three years after the return was filed (whether or not such return was filed on or after the date prescribed).

(3) Report of changed or corrected federal income.---[In the case of the tax imposed under article nine-a, nine-b or nine-c, if the taxpayer files a report or amended return required under subdivision three of section two hundred eleven or section two hundred nineteen-bb or two hundred nineteen-zz, in respect of] WITH RESPECT TO an increase or decrease in federal taxable income or federal alternative minimum taxable income or federal tax, or in respect of a change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal income tax purposes, the assessment (if not deemed to have been made upon the filing of the report or amended return) may be made at any time within two years after such report or amended return was filed. The amount of such assessment of tax shall not exceed the amount of the increase in New York tax attributable to such federal change or correction or renegotiation, or computation or recomputation of tax. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

(4) Deficiency attributable to carryback.---If a deficiency of tax under [article nine-a] is attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback, it may be assessed at any time that a deficiency for the taxable year of the loss may be assessed.

The tax may be assessed at any time within six years after the return was filed if (i) a taxpayer omits from gross income required to be reported on a return under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C an amount properly includible therein which is in excess of twenty-five percent of the amount of gross income stated in the return or, (ii) a taxpayer omits from the sum of its items of tax preference and its adjustment required in the computation of minimum taxable income an amount properly includible therein which is in excess of twenty-five percent of such sum as stated in the return.

For purposes of this subsection---

(1) the term gross income means gross income for federal income tax purposes as reportable on a return [under article nine-a,] and "gross earnings", "gross income", "gross operating income" and "gross direct premiums less return premiums", as those terms are used in article nine, nine-b or nine-c, whichever is applicable;

S 51. Subdivisions (b) and (c) and paragraph 1 of subdivision (d) of section 1201-a of the tax law, subdivision (b) as amended by section 5 of part Y of chapter 62 of the laws of 2006, subdivision (c) as amended by chapter 300 of the laws of 2007 and paragraph 1 of subdivision (d) as added by chapter 453 of the laws of 2009, are amended to read as follows:

(b) Empire state film production credit. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized to adopt and amend local laws to allow a credit against the general corporation tax and the unincorporated business tax imposed pursuant to the authority of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six which shall be substantially identical to the credit allowed under section twenty-four of this chapter, except that (A) the percentage of qualified production costs used to calculate such credit shall be five percent, (B) whenever such section twenty-four references the state, such words shall be read as referencing the city, (C) such credit shall be allowed only to a taxpayer which is a qualified film production company, and (D) the effective date of such credit shall be July first, two thousand six. [Such credit shall be applied in a manner consistent with the credit allowed under subdivision thirty-six of section two hundred ten of this chapter except as may be necessary to take into account differences between the general corporation tax and the unincorporated business tax.]

(c) Empire state commercial production credit. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized to adopt and amend local laws to allow a credit against the general corporation tax and the unincorporated business tax imposed pursuant to the authority of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six which shall be substantially identical to the credit allowed under the provisions of section twenty-eight of this chapter, except that (A) the percentage of qualified production costs used to calculate such credit shall be five percent, (B) whenever such section twenty-eight references the state, such words shall be read as referencing the city, (C) such credit shall be allowed only to a taxpayer that is a qualified commercial production company, and (D) the effective date of such credit shall be as provided in local laws. [Such credit shall be applied in a manner consistent with the credit allowed under subdivision thirty-eight of section two hundred ten of this chapter except as may be necessary to take into account differences between the general corporation tax and unincorporated business tax.]

1. Any city in this state having a population of one million or more, acting through its local legislative body, is hereby authorized to adopt and amend local laws to allow a credit against the general corporation tax, unincorporated business tax and the banking corporation tax imposed pursuant to the authority of chapter seven hundred seventy-two of the laws of nineteen hundred sixty-six [which shall be substantially identical to the credit allowed under subdivision twelve-G of section two hundred ten of this chapter,] except that (A) whenever [subdivision twelve-G of section two hundred ten of this chapter] references ARE MADE TO the state, such words shall be read as referencing the city, (B) such credit shall be allowed only to a taxpayer that (1) is a qualified emerging technology company pursuant to the provisions of paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law, except that such company shall mean a company located

in such city, AND (2) engages in activities referenced in subparagraph five of paragraph (b) of subdivision one of section thirty-one hundred two-e of the public authorities law, [and (3) meets the eligibility requirements in paragraph (b) of subdivision twelve-G of section two hundred ten of this chapter,] and (C) the effective date of such credit shall be as provided in local laws. [Subject to the limitations set forth in paragraph two of this subdivision, such credit shall be applied in a manner consistent with the credit allowed under subdivision twelve-G of section two hundred ten of this chapter except as may be necessary to take into account differences between article nine-A of this chapter and the general corporation tax, the unincorporated business tax or the banking corporation tax.]

S 52. Subdivision (a) of section 1809 of the tax law, as added by section 1 of subpart A of part S of chapter 57 of the laws of 2010, is amended to read as follows:

(a) Any person who, with intent to evade payment of any tax imposed under article nine (other than under section one hundred eighty or one hundred eighty-one), [nine-A,] thirteen, thirty-two, thirty-three or thirty-three-A of this chapter, fails to file a return or report for three consecutive taxable years shall be guilty of a class E felony, provided that such person had an unpaid tax liability, in excess of the threshold amount with respect to each of the three consecutive taxable years. The threshold amount in [the case of a taxable year under article nine-A of this chapter ending after June thirtieth, nineteen hundred eighty-nine is the applicable fixed dollar minimum prescribed under paragraph (d) of subdivision one of section two hundred ten of this chapter. In the event such fixed dollar minimum is less than two hundred fifty dollars, the threshold amount in the case of such taxable year is two hundred fifty dollars. In] all [other] cases [the threshold amount] is two hundred fifty dollars.

S 53. Section 295 of the tax law, as added by chapter 1005 of the laws of 1970, is amended to read as follows:

S 295. Procedural provisions. The provisions [of section two hundred eleven, except subdivisions one, four and nine thereof, the provisions of subdivision three of section two hundred sixteen, and the provisions of section two hundred nineteen of this chapter and the provisions] of article twenty-seven of this chapter, shall apply to the provisions of this article in the same manner and with the same force and effect as if the language of those sections had been incorporated in full into this article and had expressly referred to the tax under this article, except to the extent that any such provision is either inconsistent with a provision of this article or is not relevant to this article, and except that the term "report" shall be read as "return", the term "taxable income" shall be read as "unrelated business taxable income" and the terms "corporation" and "foreign corporation" shall be read as "taxpayer".

S 54. Subsection (a), paragraph 2 of subsection (b), subsection (d) and paragraph 1 of subsection (e) of section 1096 of the tax law, subsections (a) and (d) as added by chapter 188 of the laws of 1964, paragraph 2 of subsection (b) as amended by chapter 411 of the laws of 1986, and paragraph 1 of subsection (e) as amended by section 8 of subpart D of part V-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(a) General.---The tax commission shall administer and enforce the tax imposed by article nine, [nine-a,] nine-b and nine-c, and it is authorized to make such rules and regulations, and to require such facts and

information to be reported, as it may deem necessary to enforce the provisions of such articles and of this article.

(2) The tax commission may take any action under paragraph one of this subdivision to inquire into the commission of an offense connected with the administration or enforcement of this article or article nine, [nine-a,] thirteen, [thirteen-a] THIRTEEN-A, thirty-two, or thirty-three of this chapter, provided, however, that notwithstanding the provisions of section one hundred seventy-four of this chapter no such action shall be taken when a referral by the department or the tax commission to the attorney general, a district attorney or any other prosecutorial agency is in effect. Provided, however, the tax commission shall have power, during the period when such referral is in effect, to examine or to cause to have examined, by any agent or representative designated by it for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return, where such books, papers, records or memoranda are in its possession, or where such books, papers, records or memoranda are in the possession of the attorney general, district attorney or other prosecutorial agency to which such referral is made.

(d) Special refund authority.---Where no questions of fact or law are involved and it appears from the records of the tax commission that any moneys have been erroneously or illegally collected from any taxpayer or other person, or paid by such taxpayer or other person under a mistake of facts, pursuant to the provisions of this article or of article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C, the tax commission at any time, without regard to any period of limitations, shall have the power, upon making a record of its reasons therefor in writing, to cause such moneys so paid and being erroneously and illegally held to be refunded and to issue therefor its certificate to the comptroller.

(1) Authority to set interest rates.---The commissioner shall set the overpayment and underpayment rates of interest to be paid pursuant to sections [two hundred thirteen, two hundred thirteen-b,] two hundred fifty-eight, two hundred sixty-three, two hundred ninety-four, one thousand eighty-four, one thousand eighty-five, one thousand eighty-eight, fourteen hundred sixty-one and fourteen hundred sixty-three of this chapter, but if no such rate or rates of interest are set, such overpayment rate shall be deemed to be set at six percent per annum and such underpayment rate shall be deemed to be set at seven and one-half percent per annum. Such overpayment and underpayment rates shall be the rates prescribed in paragraph two of this subsection, but the underpayment rate shall not be less than seven and one-half percent per annum. Any such rates set by the commissioner shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

S 55. Section 1825 of the tax law, as amended by section 2 of part E of chapter 25 of the laws of 2009, is amended to read as follows:

S 1825. Violation of secrecy provisions of the tax law.--Any person who violates the provisions of [subdivision (b) of section twenty-one, subdivision one of section two hundred two, subdivision eight of section two hundred eleven,] subdivision (a) of section three hundred fourteen, subdivision one or two of section four hundred thirty-seven, section four hundred eighty-seven, subdivision one or two of section five hundred fourteen, subsection (e) of section six hundred ninety-seven, subsection (a) of section nine hundred ninety-four, subdivision (a) of

section eleven hundred forty-six, section twelve hundred eighty-seven, subdivision (a) of section fourteen hundred eighteen, subsection (a) of section fourteen hundred sixty-seven, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of this chapter, and subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

S 56. Subsection (e) of section 301-l of the tax law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

(e) If there is a disallowance of a bad debt with respect to which a refund under this section has been paid, such disallowance shall have the effect of and be treated as a report of federal change, correction or disallowance (as such effect and treatment is described in section six hundred fifty-nine [and subdivision three of section two hundred eleven] of this chapter) and the time to assess under this article with respect to such disallowance shall be determined as set forth in such [sections] SECTION.

S 57. Subsections (a) an (g) and the opening paragraph of subsection (h) of section 1081 of the tax law, as added by chapter 188 of the laws of 1964, are amended to read as follows:

(a) General.-- If upon examination of a taxpayer's return under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C, the tax commission determines that there is a deficiency of tax, it may mail a notice of deficiency to the taxpayer. If a taxpayer fails to file a tax return required under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C, the tax commission is authorized to estimate the taxpayer's New York tax liability from any information in its possession, and to mail a notice of deficiency to the taxpayer. A notice of deficiency shall be mailed by certified or registered mail to the taxpayer at its last known address in or out of this state. If the taxpayer has terminated its existence, a notice of deficiency may be mailed to its last known address in or out of this state, unless the tax commission has received notice of the existence of a fiduciary relationship with respect to the taxpayer.

(g) Two or more corporations.--In the case of a [combined return under article nine-a or a] consolidated return under article [nine-b or nine-c] NINE-B OR NINE-C of two or more corporations, the tax commission may determine a deficiency of tax under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C with respect to the entire tax due upon such return against any taxpayer included therein. In the case of a taxpayer which might have been included in such a return under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C when the tax under such articles was originally reported, the tax commission may determine a deficiency of tax under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C against such taxpayer and against any other taxpayers which might have been included in such a return.

For purposes of this article, a deficiency means the amount of the tax imposed by article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C, less (i) the amount shown as the tax upon the taxpayer's return (whether the return was made or the tax computed by it or by the tax commission), and less (ii) the amounts previously assessed (or collected without assessment) as a deficiency and plus (iii) the amount of any rebates. For the purpose of this definition, the tax imposed by article [nine-a, nine-b or nine-c] NINE-B OR NINE-C and the tax shown on the return shall both be determined without regard to any payment of estimated tax; and a rebate means so much of an abatement, credit, refund or other repayment (whether or not erroneous) as was made on the ground that the amounts

entering into the definition of a deficiency showed a balance in favor of the taxpayer.

S 58. Paragraph 2 of subsection (a) and subsections (b) and (c) of section 1082 of the tax law, paragraph 2 of subsection (a) as amended by chapter 788 of the laws of 1982 and subsections (b) and (c) as added by chapter 188 of the laws of 1964, are amended to read as follows:

(2) If a report or an amended return filed [pursuant to subdivision three of section two hundred eleven or section two hundred nineteen-bb or two hundred nineteen-zz] concedes the accuracy of a federal change or correction or renegotiation, or computation or recomputation of tax, any deficiency in tax under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C resulting therefrom shall be deemed to be assessed on the date of filing such report or amended return, and such assessment shall be timely notwithstanding section one thousand eighty-three. If a notice of additional tax due, as prescribed in subsection (e) of section one thousand eighty-one, has been mailed, the amount of the deficiency shall be deemed to be assessed on the date specified in such subsection unless within thirty days after the mailing of such notice a report of the federal change or correction or renegotiation or computation or recomputation of tax, or an amended return, [where such return was required by subdivision three of section two hundred eleven or by section two hundred nineteen-bb or by section two hundred nineteen-zz,] is filed accompanied by a statement showing wherein such federal determination and such notice of additional tax due are erroneous.

(b) Other assessment powers.---If the mode or time for the assessment of any tax under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C (including interest, additions to tax and assessable penalties) is not otherwise provided for, the tax commission may establish the same by regulations.

(c) Estimated tax.---No unpaid amount of estimated tax under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C shall be assessed.

S 59. Paragraphs 1, 2 and 3 of subsection (a), paragraph 1 of subsection (b), paragraphs 1 and 3 of subsection (c), the opening paragraph, paragraph 3 and clause (i) of subparagraph (A) of paragraph 4 of subsection (d), subsection (g), the opening paragraph of subsection (h), paragraph 1 of subsection (l), clause (ii) of subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of subsection (s) and clause (iv) of subparagraph (C) of paragraph 1 of subsection (t) of section 1085 of the tax law, paragraph 1 of subsection (a), paragraph 1 of subsection (b) and the opening paragraph of subsection (h) as amended by chapter 65 of the laws of 1985, paragraph 2 of subsection (a) as amended by chapter 1005 of the laws of 1970, subparagraph (B) of paragraph 1 of subsection (a) and paragraph 1 of subsection (l) as amended by chapter 765 of the laws of 1985, paragraph 3 of subsection (a) as amended by chapter 577 of the laws of 1997, paragraph 1 of subsection (c) as amended by section 7 of subpart D of part V-1 of chapter 57 of the laws of 2009, paragraph 3 of subsection (c) as amended by section 15 of part Y of chapter 63 of the laws of 2000, the opening paragraph of subsection (d) as amended and subsection (g) as relettered by chapter 15 of the laws of 1983, paragraph 3 of subsection (d) as amended by chapter 170 of the laws of 1994, clause (i) of subparagraph (A) of paragraph 4 of subsection (d) as amended by chapter 57 of the laws of 1993, subsection (g) as added by chapter 188 of the laws of 1964, clause (ii) of subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of subsection (S) and clause (iv) of subparagraph (C) of paragraph 1 of subsection (t) as added by

section 10 of part N of chapter 61 of the laws of 2005, are amended to read as follows:

(1) Failure to file return.---(A) In case of failure to file a return under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C on or before the prescribed date (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate.

(B) In the case of a failure to file a return of tax within sixty days of the date prescribed for filing of such return (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under subparagraph (A) of this paragraph shall not be less than the lesser of one hundred dollars or one hundred percent of the amount required to be shown as tax on such return.

(C) For purposes of this paragraph, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(2) Failure to pay tax shown on return.--In case of failure to pay the amounts shown as tax on any return required to be filed under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C on or before the prescribed date (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return one-half of one per cent of the amount of such tax if the failure is not for more than one month, with an additional one-half of one per cent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five per cent in the aggregate. For the purpose of computing the addition for any month the amount of tax shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed upon the return. If the amount of tax required to be shown on a return is less than the amount shown as tax on such return, this paragraph shall be applied by substituting such lower amount.

(3) Failure to pay tax required to be shown on return.--In case of failure to pay any amount in respect of any tax required to be shown on a return required to be filed under article nine [or nine-a] which is not so shown (including an assessment made pursuant to subsection (a) of section one thousand eighty-two of this article) within twenty-one calendar days of the date of a notice and demand therefor (ten business days if the amount for which such notice and demand is made equals or exceeds one hundred thousand dollars), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand one-half of one percent of such tax if the failure is not for more than one month, with an additional one-half of one percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate. For the purpose of computing the addition for any month, the amount of tax stated in the

notice and demand shall be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(l) If any part of a deficiency is due to negligence or intentional disregard of this article or article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C, or rules or regulations thereunder (but without intent to defraud), there shall be added to the tax an amount equal to five percent of the deficiency.

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

(3) The provisions of this subsection and subsections (d) and (e) of this section shall apply to the failure of a taxpayer to file a declaration of estimated tax surcharge or the failure to pay all or any part of an amount which is applied as an installment against such estimated tax surcharge pursuant to sections one hundred ninety-seven-a, one hundred ninety-seven-b, two hundred thirteen-a, two hundred thirteen-b, fourteen hundred sixty, fourteen hundred sixty-one, fifteen hundred thirteen and fifteen hundred fourteen of this chapter. For purposes of applying this section and subsections (d) and (e) of this section to the estimated tax surcharge, where appropriate the term "tax" shall be read to mean "tax surcharge," and the terms "amount required to be paid," "amount which would be required to be paid," and "amount which would have been required to be paid" shall be computed as the product of (1) such amount computed without regard to the tax surcharges imposed under sections one hundred eighty-four-a, one hundred eighty-six-c, one hundred eighty-eight, [two hundred nine-A, two hundred nine-B,] fourteen hundred fifty-five-A, fourteen hundred fifty-five-B, fifteen hundred five-a, and fifteen hundred twenty of this chapter, and (2) the MTA percentage. The term "MTA percentage" shall mean the product of (A) the tax rate applicable under such sections imposing such surcharges and (B) the percentage utilized in determining the portion of the taxpayer's business activity carried on within the metropolitan commuter transportation district under such sections.

The addition to tax under subsection (c) with respect to any underpayment of any amount which is applied as an installment against estimated tax under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of any such amount equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least--

(3) Annualized income installment. (A) General. An amount equal to ninety-one percent of the tax for the taxable year computed on all items entering into the computation of the tax or taxes of the taxpayer for the taxable year under article nine, [nine-A,] thirty-two or thirty-three of this chapter. For purposes of computing the tax, all items of receipts, income and expenses shall be placed on an annualized basis--

(i) take the items entering into the computation of the tax or taxes of the taxpayer for the taxable year under article nine, [nine-A,] thirty-two or thirty-three of this chapter, for all months during the taxable year preceding the filing month,

(g) Additional penalty.---Any person who with fraudulent intent shall fail to pay under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C, any tax, or to make, render, sign or certify any return or declaration of estimated tax, or to supply any information within the time required by or under such article, shall be liable to penalty of not more than one thousand dollars, in addition to any other amounts required under this article, to be imposed, assessed and collected by the tax commission. The tax commission shall have the power, in its discretion, to waive, reduce or compromise any penalty under this subsection.

The additions to tax and penalties provided by this section shall be paid upon notice and demand and shall be assessed, collected and paid in the same manner as taxes, and any reference in this article to tax imposed by article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C shall be deemed also to refer to the additions to tax and penalties provided by this section. For purposes of section one thousand eighty-one, this subsection shall not apply to---

(1) Any person who, with the intent that tax be evaded, shall, for a fee or other compensation or as an incident to the performance of other services for which such person receives compensation, aid or assist in, or procure, counsel, or advise the preparation or presentation under, or in connection with any matter arising under article nine, [nine-A,] nine-B or nine-C of this chapter of any return, report, declaration, statement or other document which is fraudulent or false as to any material matter, or supply any false or fraudulent information, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, report, declaration, statement or other document shall pay a penalty not exceeding ten thousand dollars.

(ii) fifty percent of the gross income that the organizer or material advisor derived with respect to activities that were the basis for the requirement to file, disclose or provide information pursuant to section six thousand eleven of the internal revenue code, to the extent such gross income is attributable to the avoidance of any tax imposed under article nine, [nine-A,] thirty-two, or thirty-three of this chapter.

(3) For purposes of this subsection, the term "understatement of liability" means any understatement of the net amount payable with respect to any tax imposed under article nine, [nine-A,] thirty-two, or

thirty-three of this chapter or any overstatement of the net amount creditable or refundable with respect to any such tax.

(iv) the person conducts any of the activities described in subparagraph (A) or (B) of this paragraph within the state of New York, shall pay, with respect to each activity described in subparagraph (A) of this paragraph, a penalty equal to one thousand dollars or, if the person establishes that it is lesser, one hundred percent of the gross income derived (or to be derived) by such person from such activity to the extent such gross income is attributed to the avoidance of any tax imposed under articles nine, [nine-A,] thirty-two or thirty-three of this chapter; provided, however, that if an activity with respect to which a penalty imposed under this subsection involves a statement described in clause (i) of subparagraph (B) of paragraph one of this subsection, the penalty shall be equal to fifty percent of the gross income derived (or to be derived) from that activity within the state by the person on which the penalty is imposed. For purposes of the preceding sentence, activities described in clause (i) of subparagraph (A) of this paragraph with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in clause (ii) of subparagraph (A) of this paragraph shall be so treated.

S 60. The opening paragraph of subsection (a), the opening paragraph of subsection (c) and subsections (d), (e) and (i) of section 1087 of the tax law, the opening paragraph of subsection (a) as amended by section 9 of part H of chapter 1 of the laws of 2003, the opening paragraph of subsection (c) as separately amended by chapters 760 and 770 of the laws of 1992, subsection (d) as amended by chapter 548 of the laws of 1981 and subsections (e) and (i) as added by chapter 188 of the laws of 1964, are amended to read as follows:

Claim for credit or refund of an overpayment of tax under article nine [or nine-A] shall be filed by the taxpayer within:

If a taxpayer is required by [subdivision three of section two hundred eleven,] subsection (e) of section fourteen hundred sixty-two or paragraph one of subdivision (e) of section fifteen hundred fifteen, to file a report or amended return in respect of:

(d) Overpayment attributable to net operating loss carryback or capital loss carryback.--A claim for credit or refund of so much of an overpayment [under article nine-a] as is attributable to the application to the taxpayer of a net operating loss carryback or a capital loss carryback shall be filed within three years from the time the return was due (including extensions thereof) for the taxable year of the loss, or within the period prescribed in subsection (b) in respect of such taxable year, or within the period prescribed in subsection (c), where applicable, in respect of the taxable year to which the net operating loss or capital loss is carried back, whichever expires the latest. Where such claim for credit or refund is filed after the expiration of the period prescribed in subsection (a), or in subsection (b) where applicable, in respect of the taxable year to which the net operating loss or capital loss is carried back, the amount of such credit or refund shall be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based.

(e) Failure to file claim within prescribed period.--No credit or refund shall be allowed or made, except as provided in subsection (f) of this section or subsection (d) of section one thousand ninety, after the expiration of the applicable period of limitation specified in this

article, unless a claim for credit or refund is filed by the taxpayer within such period. Any later credit shall be void and any later refund erroneous. No period of limitations specified in any other law shall apply to the recovery by a taxpayer of moneys paid in respect of taxes under article nine, [nine-a, nine-b or nine-c] NINE-B OR NINE-C.

(i) Prepaid tax.--For purposes of this section, any tax paid by the taxpayer before the last day prescribed for its payment (including any amount paid by the taxpayer as estimated tax for a taxable year) shall be deemed to have been paid by it on the fifteenth day of the third month following the close of the taxable year the income of which is the basis for tax under article [nine-a, nine-b or nine-c] NINE-B OR NINE-C, or on the last day prescribed in article nine for the filing of a final return for such taxable year, or portion thereof, determined in all cases without regard to any extension of time granted the taxpayer.

S 61. The opening paragraph of subsection (a), paragraph 1 of subsection (c) and subsections (d) and (g) of section 1088 of the tax law, the opening paragraph of subsection (a) and subsection (g) as amended by chapter 61 of the laws of 1989, paragraph 1 of subsection (c) as amended by chapter 166 of the laws of 1991, subsection (d) as amended by chapter 15 of the laws of 1983 and subsection (g) as relettered by chapter 55 of the laws of 1992, are amended to read as follows:

Notwithstanding the provisions of section sixteen of the state finance law, interest shall be allowed and paid as follows at the overpayment rate set by the commissioner [of taxation and finance] pursuant to section one thousand ninety-six, or if no rate is set, at the rate of six percent per annum upon any overpayment in respect of the tax imposed by article nine [or nine-a]:

(1) If any overpayment of tax imposed by article nine [or nine-a] is credited or refunded within three months after the last date prescribed (or permitted by extension of time) for filing the return of such tax on which such overpayment was claimed or within three months after such return was filed, whichever is later, or within three months after an amended return was filed claiming such overpayment or within three months after a claim for credit or refund was filed on which such over-payment was claimed, no interest shall be allowed under this section on any such overpayment. For purposes of this subsection, any amended return or claim for credit or refund filed before the last day prescribed (or permitted by extension of time) for the filing of the return of tax for such year or period shall be considered as filed on such last day.

(d) Refund of tax caused by carryback.--For purposes of this section, if any overpayment of tax imposed by [article nine-a] THIS CHAPTER results from a carryback of a net operating loss or a net capital loss, such overpayment shall be deemed not to have been made prior to the filing date for the taxable year in which such net operating loss or net capital loss arises. In the case of a taxpayer which has made an election under subchapter s of chapter one of the internal revenue code, where an overpayment of tax results from a carryback of a net operating loss arising in a taxable year ending on or after December thirty-first, nineteen hundred seventy-six, or from a carryback of a net capital loss arising in a taxable year ending on or after December thirty-first, nineteen hundred eighty-one, unless a claim for refund based on such overpayment has been filed within a period ending twelve months and one hundred eighty days subsequent to the last day of the taxable year in which the net operating loss or net capital loss arises, interest on any resulting refund or credit shall cease to accrue upon the conclusion of

such period. Such filing date shall be determined without regard to extensions of time to file. For purposes of subsection (c) of this section any overpayment described herein shall be treated as an overpayment for the loss year and such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed. The term "loss year" means the taxable year in which such loss arises.

(g) Cross-reference.--For provision with respect to interest after failure to file a report or amended return under [subdivision three of section two hundred eleven,] subsection (e) of section fourteen hundred sixty-two or paragraph one of subdivision (e) of section fifteen hundred fifteen, see subsection (c) of section one thousand eighty-seven.

S 62. Paragraph 4 of subsection (d) and paragraph 3 of subsection (e) of section 1089 of the tax law, as amended by chapter 817 of the laws of 1987, are amended to read as follows:

(4) Restriction on further notices of deficiency.---If the taxpayer files a petition with the tax commission under this section, no notice of deficiency under section one thousand eighty-one may thereafter be issued by the tax commission for the same taxable year, except in case of fraud or with respect to an increase or decrease in federal taxable income or federal alternative minimum taxable income or federal tax or a federal change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal income tax purposes, required to be reported [under subdivision three of section two hundred eleven, or under section two hundred nineteen-bb or under section two hundred nineteen-zz].

(3) whether the petitioner is liable for any increase in a deficiency where such increase is asserted initially after a notice of deficiency was mailed and a petition under this section filed, unless such increase in deficiency is the result of an increase or decrease in federal taxable income or federal alternative minimum taxable income or federal tax or a federal change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal income tax purposes, required to be reported [under subdivision three of section two hundred eleven, or under section two hundred nineteen-bb, or under section two hundred nineteen-zz,] and of which increase, decrease, change or correction or renegotiation, or computation or recomputation, the tax commission had no notice at the time it mailed the notice of deficiency; and

S 63. Subsections (d), (h), (i), (j), (k), (l), (m) and (n) of section 1452 of the tax law are REPEALED.

S 64. This act shall take effect immediately; provided, however that:

(a) the amendments to section 28 of the tax law made by sections five and thirty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(b) the amendments to clause (xxxii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law made by section forty-seven of this act shall not affect the repeal of such clause and shall be deemed repealed therewith;

(c) the amendments to subdivision (c) of section 1201-a of the tax law made by section fifty-one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith; and

(d) the amendments to subsections (q), (s) and (t) of section 1085 of the tax law made by section fifty-nine of this act shall not affect the repeal of such subsections and shall be deemed repealed therewith.