

7683

I N S E N A T E

June 13, 2012

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the tax law, in relation to authorizing any city having a population of one million or more to provide an angel investor credit against the unincorporated business tax and personal income tax of such city for certain qualified emerging companies and medical technology companies

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

1 Section 1. Section 1201-a of the tax law is amended by adding a new
2 subdivision (e) to read as follows:
3 (E) ANGEL INVESTOR CREDIT. 1. ANY CITY IN THIS STATE HAVING A POPU-
4 LATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE
5 BODY, IS HEREBY AUTHORIZED TO ADOPT AND AMEND LOCAL LAWS TO ALLOW AN
6 ANGEL INVESTOR CREDIT AGAINST THE UNINCORPORATED BUSINESS TAX IMPOSED
7 PURSUANT TO THE AUTHORITY OF CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE
8 LAWS OF NINETEEN HUNDRED SIXTY-SIX TO AN ELIGIBLE TAXPAYER THAT: (A) IS
9 AN ACCREDITED INVESTOR AS DEFINED IN RULE 501 OF REGULATION D OF THE
10 SECURITIES EXCHANGE COMMISSION OF THE UNITED STATES PURSUANT TO THE
11 SECURITIES EXCHANGE ACT OF 1933, AS AMENDED; (B) MAKES A QUALIFIED
12 INVESTMENT IN A QUALIFIED EMERGING TECHNOLOGY COMPANY, AS DEFINED IN
13 PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF
14 THE PUBLIC AUTHORITIES LAW, EXCEPT THAT SUCH COMPANY SHALL MEAN A COMPA-
15 NY LOCATED IN SUCH CITY, THAT ENGAGES IN THE ACTIVITIES REFERENCED IN
16 SUBPARAGRAPH FIVE OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION
17 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, OR MAKES A QUAL-
18 IFIED INVESTMENT IN A COMPANY THAT ENGAGES IN MEDICAL TECHNOLOGY, AS
19 DEFINED IN PARTS 3345 AND 3394 OF THE NORTH AMERICAN INDUSTRY CLASSI-
20 FICATION SYSTEM; (C) HAS NO MORE THAN ONE HUNDRED FULL-TIME EMPLOYEES,
21 OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED IN SUCH CITY, HAS A
22 RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES, AS REFERRED TO IN
23 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, WHICH
24 EQUALS OR EXCEEDS SIX PERCENT DURING ITS TAXABLE YEAR, AND HAS GROSS
25 REVENUES, ALONG WITH THE GROSS REVENUES OF ITS AFFILIATES AND RELATED

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

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MEMBERS, NOT EXCEEDING TWENTY MILLION DOLLARS FOR THE TAXABLE YEAR IMMEDIATELY PRECEDING THE YEAR THE TAXPAYER IS ALLOWED A CREDIT UNDER THIS SUBDIVISION; AND (D) OWNS LESS THAN FIFTY PERCENT OF THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY AFTER THE QUALIFIED INVESTMENT; PROVIDED, HOWEVER, NO CREDIT AUTHORIZED BY THIS SUBDIVISION FOR A QUALIFIED INVESTMENT SHALL BE GRANTED TO A TAXPAYER IF SUCH TAXPAYER IS GRANTED AN ANGEL INVESTOR CREDIT AGAINST THE TAXES IMPOSED PURSUANT TO ARTICLE THIRTY OF THIS CHAPTER FOR SUCH QUALIFIED INVESTMENT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN PARAGRAPH TWO OF THIS SUBDIVISION. FOR THE PURPOSES OF THIS SUBDIVISION, A "QUALIFIED INVESTMENT" SHALL MEAN THE CONTRIBUTION OF PROPERTY TO A CORPORATION IN EXCHANGE FOR ORIGINAL ISSUE CAPITAL STOCK OR OTHER OWNERSHIP INTEREST, THE CONTRIBUTION OF PROPERTY TO A PARTNERSHIP IN EXCHANGE FOR AN INTEREST IN THE PARTNERSHIP, AND SIMILAR CONTRIBUTIONS IN THE CASE OF A BUSINESS ENTITY NOT IN CORPORATE OR PARTNERSHIP FORM IN EXCHANGE FOR AN OWNERSHIP INTEREST IN SUCH ENTITY; PROVIDED, HOWEVER, A QUALIFIED INVESTMENT SHALL NOT INCLUDE INVESTMENTS MADE BY OR ON BEHALF OF AN OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER, PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED MEMBER" SHALL MEAN 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 ARTICLES NINE, NINE-A, THIRTEEN, TWENTY-TWO, THIRTY-TWO, THIRTY-THREE OR THIRTY-THREE-A OF THIS CHAPTER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "AFFILIATES" SHALL MEAN THOSE CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP, AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, AS THE TAXPAYER.

2. (A) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS SUBDIVISION SHALL BE TWO PERCENT PER EACH QUALIFIED INVESTMENT MADE DURING THE TAXABLE YEAR AND THE SUCCEEDING FOUR YEARS PROVIDED THE CREDIT IS PROPERLY CLAIMED PURSUANT TO THE RULES ESTABLISHED BY THE NEW YORK CITY DEPARTMENT OF FINANCE, UP TO A MAXIMUM ALLOWED CREDIT OF TWENTY THOUSAND DOLLARS PER TAXABLE YEAR. THE TOTAL AMOUNT OF CREDIT ALLOWABLE TO A TAXPAYER UNDER THIS SUBDIVISION FOR ALL YEARS, TAKEN IN THE AGGREGATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR MEMBER IN AN UNINCORPORATED BUSINESS, THEN THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS IN SUCH PARTNERSHIP OR MEMBERS IN SUCH UNINCORPORATED BUSINESS IN ANY TAXABLE YEAR DOES NOT EXCEED TWENTY THOUSAND DOLLARS, AND THE TOTAL AMOUNT OF CREDIT ALLOWABLE TO ALL THE PARTNERS IN SUCH PARTNERSHIP OR MEMBERS IN SUCH UNINCORPORATED BUSINESS FOR ALL YEARS, TAKEN IN THE AGGREGATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE ALLOWED TO A TAXPAYER WITH RESPECT TO ANY UNINCORPORATED BUSINESS TAX PAID FOR ANY TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR REFUNDED,

1 WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11-526 OF
2 THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

3 (B) IF, AT ANY TIME DURING THE FIVE YEAR PERIOD BEGINNING ON THE DATE
4 THAT THE QUALIFIED INVESTMENT IS MADE BY THE TAXPAYER THERE IS A RECAP-
5 TURE EVENT WITH RESPECT TO SUCH INVESTMENT, THEN THE UNINCORPORATED TAX
6 OWED BY SUCH TAXPAYER FOR THE TAXABLE YEAR IN WHICH SUCH EVENT OCCURS
7 SHALL BE INCREASED BY THE CREDIT RECAPTURE AMOUNT.

8 (1) FOR PURPOSES OF THIS SUBPARAGRAPH, THE CREDIT RECAPTURE AMOUNT IS
9 AN AMOUNT EQUAL TO THE SUM OF: (I) THE AGGREGATE DECREASE IN THE CREDITS
10 ALLOWED TO THE TAXPAYER UNDER THIS SUBDIVISION FOR ALL PRIOR TAXABLE
11 YEARS WHICH WOULD HAVE RESULTED IF NO CREDIT HAD BEEN DETERMINED UNDER
12 THIS SUBDIVISION WITH RESPECT TO SUCH QUALIFIED INVESTMENT, PLUS (II)
13 INTEREST AT THE UNDERPAYMENT RATE ESTABLISHED BY THE NEW YORK CITY
14 DEPARTMENT OF FINANCE FOR EACH PRIOR TAXABLE YEAR FOR THE PERIOD BEGIN-
15 NING ON THE DUE DATE FOR FILING THE RETURN FOR THE PRIOR TAXABLE YEAR
16 INVOLVED.

17 (2) FOR PURPOSES OF THIS SUBPARAGRAPH, A RECAPTURE EVENT SHALL MEAN IF
18 AT THE CLOSE OF ANY TAXABLE YEAR IN THE FIVE-YEAR PERIOD: (I) THE QUALI-
19 FIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY NO LONGER
20 QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOL-
21 OGY COMPANY; (II) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL
22 TECHNOLOGY COMPANY HAS BEEN SOLD BY THE TAXPAYER INVESTING IN SUCH
23 COMPANY; OR (III) THE TAXPAYER HAS WITHDRAWN THE TAXPAYER'S INVESTMENT
24 WHOLLY OR PARTIALLY FROM THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR
25 MEDICAL TECHNOLOGY COMPANY.

26 3. THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY
27 OCTOBER THIRTY-FIRST, TWO THOUSAND TWELVE PROCEDURES FOR THE ALLOCATION
28 OF TAX CREDITS AS REQUIRED BY PARAGRAPH TWO OF THIS SUBDIVISION. SUCH
29 RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICATION PROCESS, THE
30 DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT SHALL BE USED TO
31 EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL BE PROVIDED TO
32 TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLOCATED TO SUCH
33 TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY AND APPROPRI-
34 ATE.

35 4. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBDIVISION MAY PROVIDE FOR
36 A CREDIT AS AUTHORIZED BY THIS SUBDIVISION FOR A MAXIMUM OF THREE
37 CONSECUTIVE CALENDAR YEARS, PROVIDED, HOWEVER, THAT ANY SUCH CREDIT MAY
38 NOT APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND
39 THIRTEEN OR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN.

40 S 2. Section 1310 of the tax law is amended by adding a new subsection
41 (g) to read as follows:

42 (G) ANGEL INVESTOR CREDIT. (1) NOTWITHSTANDING ANY OTHER PROVISION OF
43 LAW TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR
44 MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED
45 AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS GRANTING IN ANY SUCH CITY,
46 AN ANGEL INVESTOR CREDIT AGAINST THE TAXES AUTHORIZED IN THIS ARTICLE TO
47 AN ELIGIBLE TAXPAYER THAT: (A) IS AN ACCREDITED INVESTOR AS DEFINED IN
48 RULE 501 OF REGULATION D OF THE SECURITIES EXCHANGE COMMISSION OF THE
49 UNITED STATES PURSUANT TO THE SECURITIES EXCHANGE ACT OF 1933, AS
50 AMENDED; (B) MAKES A QUALIFIED INVESTMENT IN A QUALIFIED EMERGING TECH-
51 NOLOGY COMPANY, AS DEFINED IN PARAGRAPH (C) OF SUBDIVISION ONE OF
52 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, EXCEPT
53 THAT SUCH COMPANY SHALL MEAN A COMPANY LOCATED IN SUCH CITY, THAT
54 ENGAGES IN THE ACTIVITIES REFERENCED IN SUBPARAGRAPH FIVE OF PARAGRAPH B
55 OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC
56 AUTHORITIES LAW, OR MAKES A QUALIFIED INVESTMENT IN A COMPANY THAT

1 ENGAGES IN MEDICAL TECHNOLOGY, AS DEFINED IN PARTS 3345 AND 3394 OF THE
2 NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM; (C) HAS NO MORE THAN ONE
3 HUNDRED FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE
4 EMPLOYED IN SUCH CITY, HAS A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO
5 NET SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE
6 PUBLIC AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING ITS
7 TAXABLE YEAR, AND HAS GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF
8 ITS AFFILIATES AND RELATED MEMBERS, NOT EXCEEDING TWENTY MILLION DOLLARS
9 FOR THE TAXABLE YEAR IMMEDIATELY PRECEDING THE YEAR THE TAXPAYER IS
10 ALLOWED A CREDIT UNDER THIS SUBSECTION; AND (D) OWNS LESS THAN FIFTY
11 PERCENT OF THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOL-
12 OGY COMPANY AFTER THEIR QUALIFIED INVESTMENT; PROVIDED, HOWEVER, NO
13 CREDIT AUTHORIZED BY THIS SUBSECTION FOR A QUALIFIED INVESTMENT SHALL BE
14 GRANTED TO A TAXPAYER IF SUCH TAXPAYER IS GRANTED AN ANGEL INVESTOR
15 CREDIT AGAINST THE UNINCORPORATED BUSINESS TAX IMPOSED PURSUANT TO THE
16 AUTHORITY OF CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE LAWS OF NINETEEN
17 HUNDRED SIXTY-SIX FOR SUCH QUALIFIED INVESTMENT. THE AMOUNT OF THE CRED-
18 IT SHALL BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN PARAGRAPH TWO
19 OF THIS SUBSECTION SUBJECT TO THE LIMITATIONS IN PARAGRAPHS THREE AND
20 FOUR OF THIS SUBSECTION. FOR PURPOSES OF THIS SUBSECTION, A "QUALIFIED
21 INVESTMENT" SHALL MEAN THE CONTRIBUTION OF PROPERTY TO A CORPORATION IN
22 EXCHANGE FOR ORIGINAL ISSUE CAPITAL STOCK OR OTHER OWNERSHIP INTEREST,
23 THE CONTRIBUTION OF PROPERTY TO A PARTNERSHIP IN EXCHANGE FOR AN INTER-
24 EST IN THE PARTNERSHIP, AND SIMILAR CONTRIBUTIONS IN THE CASE OF A BUSI-
25 NESS ENTITY NOT IN CORPORATE OR PARTNERSHIP FORM IN EXCHANGE FOR AN
26 OWNERSHIP INTEREST IN SUCH ENTITY; PROVIDED, HOWEVER, A QUALIFIED
27 INVESTMENT SHALL NOT INCLUDE INVESTMENTS MADE BY OR ON BEHALF OF AN
28 OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER,
29 PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPAR-
30 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED
31 SIXTY-FIVE OF THE INTERNAL REVENUE CODE. FOR PURPOSES OF THIS SUBSECTION
32 A "RELATED MEMBER" SHALL MEAN A PERSON, CORPORATION, OR OTHER ENTITY,
33 INCLUDING AN ENTITY THAT IS TREATED AS A PARTNERSHIP OR OTHER
34 PASS-THROUGH VEHICLE FOR PURPOSES OF FEDERAL TAXATION, WHETHER SUCH
35 PERSON, CORPORATION OR ENTITY IS A TAXPAYER OR NOT, WHERE ONE SUCH
36 PERSON, CORPORATION, OR ENTITY, OR SET OF RELATED PERSONS, CORPORATIONS
37 OR ENTITIES, DIRECTLY OR INDIRECTLY OWNS OR CONTROLS A CONTROLLING
38 INTEREST IN ANOTHER ENTITY. SUCH ENTITY OR ENTITIES MAY INCLUDE ALL
39 TAXPAYERS UNDER ARTICLES NINE, NINE-A, THIRTEEN, TWENTY-TWO, THIRTY-TWO,
40 THIRTY-THREE OR THIRTY-THREE-A OF THIS CHAPTER. FOR PURPOSES OF THIS
41 SUBSECTION, "AFFILIATES" SHALL MEAN THOSE CORPORATIONS THAT ARE MEMBERS
42 OF THE SAME AFFILIATED GROUP, AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR
43 OF THE INTERNAL REVENUE CODE, AS THE TAXPAYER.

44 (2) (A) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS
45 SUBSECTION SHALL BE TWO PERCENT PER EACH QUALIFIED INVESTMENT MADE
46 DURING THE TAXABLE YEAR AND THE SUCCEEDING FOUR YEARS PROVIDED THE CRED-
47 IT IS PROPERLY CLAIMED PURSUANT TO THE RULES ESTABLISHED BY THE NEW YORK
48 CITY DEPARTMENT OF FINANCE, UP TO A MAXIMUM ALLOWED CREDIT OF TWENTY
49 THOUSAND DOLLARS PER TAXABLE YEAR. THE TOTAL AMOUNT OF CREDIT ALLOWABLE
50 TO A TAXPAYER UNDER THIS SUBSECTION FOR ALL YEARS, TAKEN IN THE AGGRE-
51 GATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. IF THE TAXPAYER IS
52 A PARTNER IN A PARTNERSHIP OR MEMBER IN AN UNINCORPORATED BUSINESS, THEN
53 THE LIMIT IMPOSED BY THE PRECEDING SENTENCE SHALL BE APPLIED AT THE
54 ENTITY LEVEL, SO THAT THE AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS
55 IN SUCH PARTNERSHIP OR MEMBERS IN SUCH UNINCORPORATED BUSINESS IN ANY
56 TAXABLE YEAR DOES NOT EXCEED TWENTY THOUSAND DOLLARS, AND THE TOTAL

1 AMOUNT OF CREDIT ALLOWABLE TO ALL THE PARTNERS IN SUCH PARTNERSHIP OR
2 MEMBERS IN SUCH UNINCORPORATED BUSINESS FOR ALL YEARS, TAKEN IN THE
3 AGGREGATE, SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. THE CREDIT
4 ALLOWED UNDER THIS SUBSECTION SHALL NOT BE ALLOWED TO A TAXPAYER WITH
5 RESPECT TO ANY CITY PERSONAL INCOME TAX IMPOSED UNDER THIS ARTICLE PAID
6 FOR ANY TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND THIR-
7 TEEN.

8 (B) IF, AT ANY TIME DURING THE FIVE YEAR PERIOD BEGINNING ON THE DATE
9 THAT THE QUALIFIED INVESTMENT IS MADE BY THE TAXPAYER THERE IS A RECAP-
10 TURE EVENT WITH RESPECT TO SUCH INVESTMENT, THEN THE CITY PERSONAL
11 INCOME TAX OWED BY SUCH TAXPAYER FOR THE TAXABLE YEAR IN WHICH SUCH
12 EVENT OCCURS SHALL BE INCREASED BY THE CREDIT RECAPTURE AMOUNT. FOR
13 PURPOSES OF THIS SUBPARAGRAPH, THE CREDIT RECAPTURE AMOUNT IS AN AMOUNT
14 EQUAL TO THE SUM OF: (I) THE AGGREGATE DECREASE IN THE CREDITS ALLOWED
15 TO THE TAXPAYER UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WHICH
16 WOULD HAVE RESULTED IF NO CREDIT HAD BEEN DETERMINED UNDER THIS
17 SUBSECTION WITH RESPECT TO SUCH QUALIFIED INVESTMENT, PLUS (II) INTEREST
18 AT THE UNDERPAYMENT RATE ESTABLISHED BY THE NEW YORK CITY DEPARTMENT OF
19 FINANCE FOR EACH PRIOR TAXABLE YEAR FOR THE PERIOD BEGINNING ON THE DUE
20 DATE FOR FILING THE RETURN FOR THE PRIOR TAXABLE YEAR INVOLVED. FOR
21 PURPOSES OF THIS SUBPARAGRAPH, A "RECAPTURE EVENT" SHALL MEAN IF AT THE
22 CLOSE OF ANY TAXABLE YEAR IN THE FIVE-YEAR PERIOD: (I) THE QUALIFIED
23 EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY NO LONGER
24 QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY OR A MEDICAL TECH-
25 NOLOGY COMPANY; (II) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR THE
26 MEDICAL TECHNOLOGY COMPANY HAS BEEN SOLD BY THE TAXPAYER INVESTING IN
27 SUCH COMPANY; OR (III) THE TAXPAYER HAS WITHDRAWN THE TAXPAYER'S INVEST-
28 MENT WHOLLY OR PARTIALLY FROM THE QUALIFIED EMERGING TECHNOLOGY COMPANY
29 OR THE MEDICAL TECHNOLOGY COMPANY.

30 (3) IN THE CASE OF A RESIDENT TAXPAYER, THE CREDIT PROVIDED BY LOCAL
31 LAW ADOPTED PURSUANT TO THIS SUBSECTION SHALL BE ALLOWED AGAINST THE
32 TAXES AUTHORIZED BY THIS ARTICLE FOR THE TAXABLE YEAR REDUCED BY THE
33 CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO
34 REDUCED, THE TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A
35 CERTIFICATE OF THE COMMISSIONER OF THE NEW YORK CITY DEPARTMENT OF
36 FINANCE, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, THE AMOUNT OF
37 SUCH EXCESS.

38 (4) IF A TAXPAYER CHANGES STATUS DURING THE TAXABLE YEAR FROM RESIDENT
39 TO NONRESIDENT, OR FROM NONRESIDENT TO RESIDENT, THE CREDIT SHALL BE
40 PRORATED ACCORDING TO THE NUMBER OF MONTHS IN THE PERIOD OF RESIDENCE.

41 (5) SUBJECT TO THE PROVISIONS OF PARAGRAPH THREE OF THIS SUBSECTION,
42 IN THE CASE OF A HUSBAND AND WIFE WHO FILE A JOINT RETURN, BUT WHO ARE
43 REQUIRED TO DETERMINE THEIR CITY PERSONAL INCOME TAXES SEPARATELY, THE
44 CREDIT AUTHORIZED PURSUANT TO THIS SUBSECTION MAY BE APPLIED AGAINST THE
45 TAX OF EITHER OR DIVIDED BETWEEN THEM AS THEY MAY ELECT. IN THE CASE OF
46 A HUSBAND AND WIFE WHO ARE NOT REQUIRED TO FILE A FEDERAL RETURN, THE
47 CREDIT UNDER THIS SUBSECTION SHALL BE ALLOWED ONLY IF SUCH TAXPAYERS
48 FILE A JOINT CITY PERSONAL INCOME TAX RETURN.

49 (6) THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY
50 OCTOBER THIRTY-FIRST, TWO THOUSAND TWELVE PROCEDURES FOR THE ALLOCATION
51 OF TAX CREDITS AS REQUIRED BY PARAGRAPHS TWO AND THREE OF THIS
52 SUBSECTION. SUCH RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICA-
53 TION PROCESS, THE DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT
54 SHALL BE USED TO EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL
55 BE PROVIDED TO TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLO-

1 CATED TO SUCH TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY
2 AND APPROPRIATE.

3 (7) ANY LOCAL LAW ADOPTED PURSUANT TO THIS SUBSECTION MAY PROVIDE FOR
4 A CREDIT AS AUTHORIZED BY THIS SUBSECTION FOR A MAXIMUM OF THREE CONSEC-
5 UTIVE CALENDAR YEARS, PROVIDED, HOWEVER, THAT ANY SUCH CREDIT MAY NOT
6 APPLY TO TAXABLE YEARS BEGINNING JANUARY FIRST, TWO THOUSAND THIRTEEN OR
7 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN.

8 S 3. The aggregate amount of tax credits allowed under this act in any
9 calendar year shall be up to three million dollars. Such aggregate
10 amount of credits shall be allocated by the New York city department of
11 finance among taxpayers in order of priority based upon the date of
12 filing an application for allocation of an angel investor credit with
13 such department. If the total amount of allocated credits applied for in
14 any particular year exceeds the aggregate amount of tax credits allowed
15 for such year, such excess shall be treated as having been applied for
16 on the first day of the subsequent year.

17 S 4. A certified copy of the local law enacted pursuant to this act
18 shall be mailed by registered mail to the state department of taxation
19 and finance at its office in Albany within fifteen days of its enact-
20 ment. However, the state department of taxation and finance may allow
21 additional time for such certified copy to be mailed if it deems such
22 action to be consistent with its duties under this act.

23 S 5. This act shall take effect immediately.