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

10711

I N A S S E M B L Y

June 15, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Scarborough) -- read once and referred to the Committee on Ways and Means

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:

Section 1. Section 1201-a of the tax law is amended by adding a new subdivision (e) to read as follows:

(E) ANGEL INVESTOR CREDIT. 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 AN ANGEL INVESTOR CREDIT AGAINST THE UNINCORPORATED BUSINESS TAX IMPOSED PURSUANT TO THE AUTHORITY OF CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE LAWS OF NINETEEN HUNDRED SIXTY-SIX TO AN ELIGIBLE TAXPAYER THAT: (A) IS AN ACCREDITED INVESTOR AS DEFINED IN RULE 501 OF REGULATION D OF THE SECURITIES EXCHANGE COMMISSION OF THE UNITED STATES PURSUANT TO THE SECURITIES EXCHANGE ACT OF 1933, AS AMENDED; (B) MAKES A QUALIFIED INVESTMENT IN A QUALIFIED EMERGING TECHNOLOGY COMPANY, AS DEFINED IN 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, THAT ENGAGES IN THE ACTIVITIES REFERENCED IN SUBPARAGRAPH FIVE OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, OR MAKES A QUALIFIED INVESTMENT IN A COMPANY THAT ENGAGES IN MEDICAL TECHNOLOGY, AS DEFINED IN PARTS 3345 AND 3394 OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM; (C) HAS NO MORE THAN ONE HUNDRED FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED IN SUCH CITY, HAS A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING ITS TAXABLE YEAR, AND HAS GROSS 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,

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

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

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

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

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

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

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

(G) ANGEL INVESTOR CREDIT. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE, ACTING THROUGH ITS LOCAL LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS GRANTING IN ANY SUCH CITY, AN ANGEL INVESTOR CREDIT AGAINST THE TAXES AUTHORIZED IN THIS ARTICLE TO AN ELIGIBLE TAXPAYER THAT: (A) IS AN ACCREDITED INVESTOR AS DEFINED IN RULE 501 OF REGULATION D OF THE SECURITIES EXCHANGE COMMISSION OF THE UNITED STATES PURSUANT TO THE SECURITIES EXCHANGE ACT OF 1933, AS AMENDED; (B) MAKES A QUALIFIED INVESTMENT IN A QUALIFIED EMERGING TECHNOLOGY COMPANY, AS DEFINED IN 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, THAT ENGAGES IN THE ACTIVITIES REFERENCED IN SUBPARAGRAPH FIVE OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, OR MAKES A QUALIFIED INVESTMENT IN A COMPANY THAT

ENGAGES IN MEDICAL TECHNOLOGY, AS DEFINED IN PARTS 3345 AND 3394 OF THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM; (C) HAS NO MORE THAN ONE HUNDRED FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED IN SUCH CITY, HAS A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING ITS TAXABLE YEAR, AND HAS GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF ITS AFFILIATES AND RELATED MEMBERS, NOT EXCEEDING TWENTY MILLION DOLLARS FOR THE TAXABLE YEAR IMMEDIATELY PRECEDING THE YEAR THE TAXPAYER IS ALLOWED A CREDIT UNDER THIS SUBSECTION; AND (D) OWNS LESS THAN FIFTY PERCENT OF THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY AFTER THEIR QUALIFIED INVESTMENT; PROVIDED, HOWEVER, NO CREDIT AUTHORIZED BY THIS SUBSECTION FOR A QUALIFIED INVESTMENT SHALL BE GRANTED TO A TAXPAYER IF SUCH TAXPAYER IS GRANTED AN ANGEL INVESTOR CREDIT AGAINST THE UNINCORPORATED BUSINESS TAX IMPOSED PURSUANT TO THE AUTHORITY OF CHAPTER SEVEN HUNDRED SEVENTY-TWO OF THE LAWS OF NINETEEN HUNDRED SIXTY-SIX FOR SUCH QUALIFIED INVESTMENT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN PARAGRAPH TWO OF THIS SUBSECTION SUBJECT TO THE LIMITATIONS IN PARAGRAPHS THREE AND FOUR OF THIS SUBSECTION. FOR PURPOSES OF THIS SUBSECTION, 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 SUBSECTION A "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 SUBSECTION, "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 SUBSECTION 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 SUBSECTION 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 SUBSECTION SHALL NOT BE ALLOWED TO A TAXPAYER WITH RESPECT TO ANY CITY PERSONAL INCOME TAX IMPOSED UNDER THIS ARTICLE PAID FOR ANY TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN.

(B) IF, AT ANY TIME DURING THE FIVE YEAR PERIOD BEGINNING ON THE DATE THAT THE QUALIFIED INVESTMENT IS MADE BY THE TAXPAYER THERE IS A RECAPTURE EVENT WITH RESPECT TO SUCH INVESTMENT, THEN THE CITY PERSONAL INCOME TAX OWED BY SUCH TAXPAYER FOR THE TAXABLE YEAR IN WHICH SUCH EVENT OCCURS SHALL BE INCREASED BY THE CREDIT RECAPTURE AMOUNT. FOR PURPOSES OF THIS SUBPARAGRAPH, THE CREDIT RECAPTURE AMOUNT IS AN AMOUNT EQUAL TO THE SUM OF: (I) THE AGGREGATE DECREASE IN THE CREDITS ALLOWED TO THE TAXPAYER UNDER THIS SUBSECTION FOR ALL PRIOR TAXABLE YEARS WHICH WOULD HAVE RESULTED IF NO CREDIT HAD BEEN DETERMINED UNDER THIS SUBSECTION WITH RESPECT TO SUCH QUALIFIED INVESTMENT, PLUS (II) INTEREST AT THE UNDERPAYMENT RATE ESTABLISHED BY THE NEW YORK CITY DEPARTMENT OF FINANCE FOR EACH PRIOR TAXABLE YEAR FOR THE PERIOD BEGINNING ON THE DUE DATE FOR FILING THE RETURN FOR THE PRIOR TAXABLE YEAR INVOLVED. FOR PURPOSES OF THIS SUBPARAGRAPH, A "RECAPTURE EVENT" SHALL MEAN IF AT THE CLOSE OF ANY TAXABLE YEAR IN THE FIVE-YEAR PERIOD: (I) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY NO LONGER QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY OR A MEDICAL TECHNOLOGY COMPANY; (II) THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR THE MEDICAL TECHNOLOGY COMPANY HAS BEEN SOLD BY THE TAXPAYER INVESTING IN SUCH COMPANY; OR (III) THE TAXPAYER HAS WITHDRAWN THE TAXPAYER'S INVESTMENT WHOLLY OR PARTIALLY FROM THE QUALIFIED EMERGING TECHNOLOGY COMPANY OR THE MEDICAL TECHNOLOGY COMPANY.

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

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

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

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

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

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

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

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

S 5. This act shall take effect immediately.