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

S. 6359 A. 8559

S E N A T E - A S S E M B L Y

January 21, 2014

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, the general municipal law, the urban development corporation act, the business corporation law, the general associations law, and the administrative code of the city of New York, in relation to reforming taxation of business corporations; and to repeal various provisions of the tax law relating thereto (Part A); to amend the real property tax law, in relation to the STAR registration program (Part B); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effective date of such chapter (Part C); to amend the racing, pari-mutuel wagering and breeding law, in relation to increasing racing regulatory fees (Part D); to amend the tax law, in relation to modifying the signature requirement on e-filed returns prepared by tax professionals (Part E); to amend the real property tax law, in relation to cost of living adjustments for Enhanced STAR (Part F); to amend part I of chapter 58 of the laws of 2006, relating to providing an enhanced earned income tax credit, in relation to the effectiveness thereof (Part G); to amend the general obligations law and the tax law, in relation to authorizing electronic tax clearances for professional and business licenses (Part H); to amend the tax law and the administrative code of the city of New York, in relation to taxing residents who are grantors of exempt resident trusts that qualify as non-grantor incomplete gift trusts on the income from such trusts and taxing residents who are beneficiaries of all other exempt resident trusts or nonresident trusts on the distributions of accumulated income that they receive from such trusts (Part I); to amend the tax law and the administrative code of the city of New York, in relation to eliminating the personal income tax add-on minimum tax; and to repeal certain provisions of such laws relating thereto (Part J); to amend the tax law, in relation to adding an enhanced real property tax circuit breaker; and to repeal paragraph 14 of subsection (e) of

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

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section 606 of the tax law, relating to certain reports (Part K); to amend the tax law, in relation to providing a credit for renters against the personal income tax (Part L); to amend the tax law, in relation to the prepayment element of the family tax relief credit (Part M); to amend the tax law, in relation to eliminating the personal income tax filing requirement for residents having no liability because income does not exceed the New York standard deduction if they do not file a federal income tax return (Part N); to amend the tax law, in relation to extending the empire state commercial production tax credit (Part O); to amend the public housing law, in relation to extending the credit against income tax for persons or entities investing in low-income housing (Part P); to amend the environmental conservation law, the tax law and the general municipal law, in relation to eligibility for participation in the brownfield cleanup program, and assignment of the brownfield redevelopment tax credits; to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to tax credits for certain sites; to amend the environmental conservation law, in relation to hazardous waste generator fees and taxes; to amend the environmental conservation law, the public authorities law and the state finance law, in relation to the environmental restoration program; and to repeal certain provisions of the environmental conservation law and the tax law relating thereto (Part Q); to amend the tax law, in relation to reforming the investment tax credit, reducing the tax rate for upstate manufacturers and providing a tax credit for real property taxes to New York manufacturers; to amend the economic development law, in relation to the excelsior investment tax credit; and to repeal certain provisions of the tax law relating to the financial services investment tax credit (Part R); to amend the economic development law, the tax law, the transportation law, the administrative code of the city of New York and the New York state urban development corporation act, in relation to repealing the franchise tax on farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis; and to repeal section 185 of the tax law relating to franchise tax on farmers', fruit growers', and other like agricultural corporations organized and operated on a co-operative basis; to repeal sections 187-j, 187-k, 187-l, 187-m, 187-q, 187-r and 187-s of the tax law relating to certain tax credits; to repeal paragraph 1 of subdivision (h) of section 15, paragraph 1 of subdivision (g) of section 31, and certain other provisions of the tax law, in relation to making conforming changes (Part S); to amend the tax law, in relation to providing a credit for excise tax on telecommunication services for businesses located in tax-free NY areas (Part T); to amend the tax law, in relation to reducing the number of hours of part-time work needed by employees for employer qualification for the New York youth works tax credit; and to amend the labor law, in relation to the New York youth works tax credit (Part U); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for two years (Part V); to amend chapter 63 of the laws of 2000, amending the tax law and other laws relating to modifying the distribution of funds from the motor vehicle fuel excise tax and the vehicle and traffic law, in relation to

simplifying the methodology for distribution of motor vehicle receipts (Part W); to amend the tax law, in relation to the estate tax; to repeal section 2 of chapter 1013 of the laws of 1962, amending the tax law relating to imposing a tax on the transfer of estates of decedents dying on or after April first, nineteen hundred sixty-three, relating to an appendix of applicable internal revenue code provisions, and to repeal article 26-B of the tax law, relating to the generation skipping transfer tax (Part X); to amend the tax law and chapter 912 of the laws of 1920 relating to the regulation of boxing, sparring and wrestling matches, in relation to making technical corrections thereto; to repeal article 19 of the tax law relating to boxing and wrestling exhibitions tax; and to repeal section 1820 of the tax law relating to establishing misdemeanors for certain violations of article 19 of such law (Part Y); to amend the tax law, in relation to vendor fees paid to vendor tracks (Part Z); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part AA); to amend the tax law, in relation to capital awards to vendor tracks (Part BB); to amend the tax law, the banking law, the public authorities law, and the administrative code of the city of New York, in relation to the stock transfer tax, and to repeal certain provisions of the tax law, the state finance law and the administrative code of the city of New York relating thereto (Part CC); to amend the tax law, in relation to conforming the due dates for the metropolitan commuter transportation mobility tax for taxpayers with income from self-employment with the due dates for the personal income tax (Part DD); to amend the state finance law, the upstate New York gaming economic development act of 2013 and the tax law, in relation to moneys appropriated or transferred from the commercial gaming revenue fund (Part EE); and to amend the tax law, the education law, the general municipal law, and the real property tax law, in relation to a real property tax freeze (Part FF)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2014-2015
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through FF. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the

Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Article 32 of the tax law is REPEALED.

S 2. Section 180 of the tax law is REPEALED.

S 3. Section 181 of the tax law is REPEALED.

S 4. Section 208 of the tax law, as added by chapter 415 of the laws of 1944, subdivision 1 as amended by chapter 576 of the laws of 1994, subdivision 1-A as amended by chapter 166 of the laws of 1991, subdivision 1-B as added by section 45 of part A and paragraph (k) of subdivision 9 as added by section 46 of part A of chapter 389 of the laws of 1997, subdivision 3, the opening paragraph, subparagraphs 6 and 11 of paragraph (b), and the opening paragraph of paragraph (g) of subdivision 9 as amended and subdivision 8-B and subparagraph 3-a of paragraph (b) of subdivision 9 as added by chapter 817 of the laws of 1987, subdivision 4 as amended by section 1, subdivision 6 as amended by section 2 and subparagraph 2 of paragraph (a) of subdivision 9 as amended by section 7 of part M of chapter 407 of the laws of 1999, subdivisions 5 and 7, paragraph (a) of subdivision 8-B, subparagraph 10 of paragraph (b) and paragraph (j) of subdivision 9 as amended, paragraph (d) of subdivision 8-B and paragraph (c-1) of subdivision 9 as added and paragraphs (e) and (f) of subdivision 8-B as relettered by chapter 170 of the laws of 1994, subdivisions 8 and 10 as amended by chapter 133 of the laws of 1945, subdivision 8-A as added and subparagraph 1 of paragraph (a) of subdivision 9 as amended by chapter 778 of the laws of 1972, paragraph (b) of subdivision 8-A and paragraph (i) of subdivision 9 as amended by chapter 779 of the laws of 1972, subdivision 9 as amended by chapter 713 of the laws of 1961, paragraph (a) of subdivision 9 as amended by chapter 203 of the laws of 1962, subparagraphs 5, 9 and 10 of paragraph (a) and subparagraphs 8 and 9 of paragraph (b) of subdivision 9 as amended by chapter 61 of the laws of 1989 and paragraph (f) of subdivision 9 as separately amended by sections 278 and 347 of chapter 61 of the laws of 1989, clause (i) of subparagraph 5 of paragraph (a) of subdivision 9 as amended by section 2 and subparagraph 20 of paragraph (b) of subdivision 9 as added by section 3 of part C of chapter 25 of the laws of 2009, subparagraph 6 of paragraph (a) of subdivision 9 as added by chapter 895 of the laws of 1975 and as renumbered by chapter 613 of the laws of 1976, subparagraph 7 of paragraph (a) of subdivision 9 as added by chapter 33 of the laws of 1978, subparagraph 8 of paragraph (a) and subparagraph 7 of paragraph (b) of subdivision 9 as amended by chapter 639 of the laws of 1986, subparagraph 11 of paragraph (a) of subdivision 9 as added by chapter 15 of the laws of 1983, subparagraph 12 of paragraph (a), subparagraph 4-a of paragraph (b) and subparagraph 2 of paragraph (h) of subdivision 9 as amended and subparagraph 13 of paragraph (a) of subdivision 9 as added by chapter 760 of the laws of 1992, subparagraph 14 of paragraph (a) of subdivision 9 as added by section 101 and paragraphs (l) and (m) of subdivision 9 as added by section 102 of part A of chapter 56 of the laws of 1998, subparagraph 15 of paragraph (a) of subdivision 9 as amended by section 1 of part ZZ of chapter 63 of the laws of 2003, subparagraph 16 of paragraph (a) of subdivision 9 as added by section 1 of part K3, subparagraph 16 of paragraph (b) of subdivision 9 as added by section 2 of part K3, subparagraph 17 of paragraph (b) of subdivision 9 as added by section 2 of part O3, and paragraphs (o), (p) and (q) of subdivision 9

as added by section 3 of part O3 of chapter 62 of the laws of 2003, subparagraph 18 of paragraph (a) of subdivision 9 as added by section 3 of part C and paragraph (o) of subdivision 9 as amended by section 2 of part E of chapter 59 of the laws of 2013, subparagraph 3 of paragraph (b) of subdivision 9 as amended by chapter 895 of the laws of 1975, subparagraph 4 of paragraph (b) and subparagraph 4 of paragraph (f) of subdivision 9 as amended by chapter 190 of the laws of 1990, subparagraph 15 of paragraph (b) of subdivision 9 as added by chapter 309 of the laws of 1996, subparagraph 18 of paragraph (b) of subdivision 9 as added by section 21 of part H of chapter 1 of the laws of 2003, subparagraph 19 of paragraph (b) of subdivision 9 as added by section 1 of part HH1 of chapter 57 of the laws of 2008, paragraphs (c-2) and (c-3) of subdivision 9 as added by section 10 of part Y of chapter 63 of the laws of 2000, paragraph (g) of subdivision 9 as added by chapter 178 of the laws of 1965, subparagraph 1 and clauses (B) and (C) of subparagraph 3 of paragraph (g) of subdivision 9 as amended by chapter 613 of the laws of 1976, clause (A) of subparagraph 1 of paragraph (g) of subdivision 9 as separately amended by chapters 675 and 836 of the laws of 1977, clause (B) of subparagraph 1, clause (A) of subparagraph 2 and clause (A) of subparagraph 3 of paragraph (g) of subdivision 9 as amended by chapter 675 of the laws of 1977, item 1 of clause (B) of subparagraph 1 of paragraph (g) of subdivision 9 as amended by chapter 972 of the laws of 1984, clause (B) of subparagraph 2 of paragraph (g) of subdivision 9 as amended by chapter 365 of the laws of 1979, clause (C) of subparagraph 2 of paragraph (g) of subdivision 9 as amended by chapter 1005 of the laws of 1970, paragraph (h) of subdivision 9 as amended by chapter 606 of the laws of 1984, paragraph (n) of subdivision 9 as added by section 1 of part O of chapter 85 of the laws of 2002, subdivision 12 as added by chapter 828 of the laws of 1977, subdivisions 13, 14, and 15 as added by section 1 of LBD number 74021-03-4 and subdivision 19 as added by chapter 681 of the laws of 1997, is amended to read as follows:

S 208. Definitions. As used in this article:

1. The term "corporation" includes (a) an association within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), (b) a joint-stock company or association, (c) a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof and (d) any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificate or other written instrument. "DISC" and "former DISC" mean any corporation which meets the requirements of subsection (a) of section nine hundred ninety-two of the internal revenue code[;].

1-A. 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.

1-B. The term "QSSS" means a corporation which is a qualified subchapter S subsidiary as defined in subparagraph (B) of paragraph three of subsection (b) of section thirteen hundred sixty-one of the internal revenue code. The term "exempt QSSS" means a QSSS exempt from tax under this article as provided in paragraph (k) of subdivision nine of this section, or a QSSS described in subclause (i) of clause (B) of subparagraph two of paragraph (k) of subdivision nine of this section, wherein the parent corporation of the QSSS is subject to tax under this article, and the assets, liabilities, income and deductions of the QSSS are treated as the assets, liabilities, income and deductions of the parent corporation. Where a QSSS is an exempt QSSS, then for all purposes under this article:

(a) the assets, liabilities, income, deductions, property, payroll, receipts, capital, credits, and all other tax attributes and elements of economic activity of the QSSS shall be deemed to be those of the parent corporation,

(b) the stocks, bonds and other securities issued by, and any indebtedness from, the QSSS shall not be [subsidiary,] investment or business capital of the parent corporation,

(c) transactions between the parent corporation and the QSSS, including the payment of interest and dividends, shall not be taken into account, and

(d) general executive officers of the QSSS shall be deemed to be general executive officers of the parent corporation.

2. The term "taxpayer" means any corporation subject to tax under this article[;].

3. The term "subsidiary" means a corporation of which over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned by the taxpayer[;].

4. 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, that, in the discretion of the commissioner, there shall be deducted from subsidiary capital any liabilities which are directly or indirectly attributable to subsidiary capital] "STOCK" MEANS A DIRECT INTEREST IN A CORPORATION THAT IS TREATED AS EQUITY FOR FEDERAL INCOME TAX PURPOSES.

5. (A) The term "investment capital" means investments in stocks[, bonds and other securities, corporate and governmental,] THAT ARE HELD BY THE TAXPAYER FOR MORE THAN SIX CONSECUTIVE MONTHS BUT ARE not held for sale to customers in the regular course of business, [exclusive of subsidiary capital] OR, IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, ARE NOT QUALIFIED FINANCIAL INSTRUMENTS AS DESCRIBED IN SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE. STOCK IN A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER, STOCK IN A CORPORATION THAT IS INCLUDED IN A COMBINED

REPORT WITH THE TAXPAYER PURSUANT TO THE COMMONLY OWNED GROUP ELECTION IN SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, and stock issued by the taxpayer[, provided, however, that, in the discretion of the commissioner, there] SHALL NOT CONSTITUTE INVESTMENT CAPITAL. FOR PURPOSES OF THIS SUBDIVISION, IF THE TAXPAYER OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, LESS THAN TWENTY PERCENT OF THE STOCK OF A CORPORATION THAT ENTITLES THE HOLDERS THEREOF TO VOTE FOR THE ELECTION OF TRUSTEES OR DIRECTORS, THAT CORPORATION WILL BE PRESUMED TO BE CONDUCTING A BUSINESS THAT IS NOT UNITARY WITH THE BUSINESS OF THE TAXPAYER.

(B) THERE shall be deducted from investment capital any liabilities which are directly or indirectly attributable to investment capital[; and provided, further, that investment]. IF THE AMOUNT OF THOSE LIABILITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPITAL, THE AMOUNT OF INVESTMENT CAPITAL WILL BE ZERO.

(C) INVESTMENT capital shall not include any such investments the income from which is excluded from entire net income pursuant to the provisions of paragraph (c-1) of subdivision nine of this section, and that investment capital shall be computed without regard to liabilities directly or indirectly attributable to such investments, but only if air carriers organized in the United States and operating in the foreign country or countries in which the taxpayer has its major base of operations and in which it is organized, resident or headquartered (if not in the same country as its major base of operations) are not subject to any tax based on or measured by capital imposed by such foreign country or countries or any political subdivision thereof, or if taxed, are provided an exemption, equivalent to that provided for herein, from any tax based on or measured by capital imposed by such foreign country or countries and from any such tax imposed by any political subdivision thereof[;].

(D) IF A TAXPAYER ACQUIRES STOCK DURING THE SECOND HALF OF ITS TAXABLE YEAR AND OWNS THAT STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE PRESUMED THAT THE TAXPAYER HELD THAT STOCK FOR MORE THAN SIX CONSECUTIVE MONTHS DURING THE TAXABLE YEAR. HOWEVER, IF THE TAXPAYER DOES NOT IN FACT HOLD THAT STOCK FOR MORE THAN SIX CONSECUTIVE MONTHS, THE TAXPAYER MUST INCREASE ITS TOTAL BUSINESS CAPITAL IN THE IMMEDIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT INCLUDED IN INVESTMENT CAPITAL FOR THAT STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE TO THAT STOCK COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

(E) WHEN INCOME OR GAIN FROM A DEBT OBLIGATION OR OTHER SECURITY CANNOT BE APPORTIONED TO THE STATE USING THE BUSINESS ALLOCATION PERCENTAGE AS A RESULT OF UNITED STATES CONSTITUTIONAL PRINCIPLES, THE DEBT OBLIGATION OR OTHER SECURITY WILL BE INCLUDED IN INVESTMENT CAPITAL.

6. (A) The term "investment income" means income, including capital gains in excess of capital losses, from investment capital, to the extent included in computing entire net income, less, [(a)] in the discretion of the commissioner, any INTEREST deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income[, and (b) such portion of any net operating loss deduction allowable in computing entire net income, as the investment income, before such deduction, bears to entire net income, before such deduction,] provided, however, that in no case shall investment income exceed entire net income[;]. IF THE TAXPAYER ATTRIBUTES INTEREST DEDUCTIONS TO INVESTMENT INCOME AND THE AMOUNT SUBTRACTED EXCEEDS INVESTMENT INCOME, THE EXCESS OF THE INTEREST

DEDUCTIONS OVER INVESTMENT INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME.

(B) IN LIEU OF SUBTRACTING FROM INVESTMENT INCOME THE AMOUNT OF THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT TO REDUCE ITS TOTAL INVESTMENT INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND (C) OF SUBDIVISION SIX-A OF THIS SECTION. A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO INVESTMENT CAPITAL WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

6-A. (A) THE TERM "OTHER EXEMPT INCOME" MEANS THE SUM OF EXEMPT SUBPART F INCOME AND EXEMPT UNITARY CORPORATION DIVIDENDS.

(B) "EXEMPT SUBPART F INCOME" MEANS THE INCOME, AS DEFINED IN SECTION 952 OF THE INTERNAL REVENUE CODE, RECEIVED FROM A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE DISCRETION OF THE COMMISSIONER, ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT INCOME. IN LIEU OF SUBTRACTING FROM ITS EXEMPT SUBPART F INCOME THE AMOUNT OF THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT TO REDUCE ITS TOTAL EXEMPT SUBPART F INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF THIS SECTION AND PARAGRAPH (C) OF THIS SUBDIVISION. A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO EXEMPT SUBPART F INCOME WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

(C) "EXEMPT UNITARY CORPORATION DIVIDENDS" MEANS THOSE DIVIDENDS FROM A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE DISCRETION OF THE COMMISSIONER, ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. IN LIEU OF SUBTRACTING FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT TO REDUCE THE TOTAL AMOUNT OF THIS DIVIDEND INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED ANY EXEMPT UNITARY CORPORATION DIVIDENDS WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

(D) IF THE TAXPAYER ATTRIBUTES INTEREST DEDUCTIONS TO OTHER EXEMPT INCOME AND THE AMOUNT SUBTRACTED EXCEEDS OTHER EXEMPT INCOME, THE EXCESS OF THE INTEREST DEDUCTIONS OVER OTHER EXEMPT INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME. IN NO CASE SHALL OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME.

7. (a) The term "business capital" means all assets, other than [subsidiary capital,] investment capital and stock issued by the taxpayer, less liabilities not deducted from [subsidiary or] investment capital [except that cash on hand and on deposit shall be treated as investment capital or as business capital as the taxpayer may elect]. BUSINESS CAPITAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME OR EXPENSE OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED OR DEPRECIATED OR EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF ENTIRE NET INCOME FOR THE TAXABLE YEAR.

(b) Provided, however, "business capital" shall not include assets to the extent employed for the purpose of generating income which is excluded from entire net income pursuant to the provisions of paragraph (c-1) of subdivision nine of this section and shall be computed without

regard to liabilities directly or indirectly attributable to such assets, but only if air carriers organized in the United States and operating in the foreign country or countries in which the taxpayer has its major base of operations and in which it is organized, resident or headquartered (if not in the same country as its major base of operations) are not subject to any tax based on or measured by capital imposed by such foreign country or countries or any political subdivision thereof, or if taxed, are provided an exemption, equivalent to that provided for herein, from any tax based on or measured by capital imposed by such foreign country or countries and from any such tax imposed by any political subdivision thereof[;].

8. The term "business income" means entire net income minus investment income[;] AND OTHER EXEMPT INCOME. IN NO EVENT SHALL THE SUM OF INVESTMENT INCOME AND OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME. IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, THEN ALL INCOME FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL CONSTITUTE BUSINESS INCOME.

8-A. Provided, however, that with respect to a DISC or a former DISC, the following provisions shall apply:

(a) investments in the stocks, bonds or other securities of a DISC or any indebtedness from a DISC shall not be treated as [either subsidiary capital or] investment capital under [subdivisions four or] SUBDIVISION five of this section,

(b) any amounts deemed distributed from a DISC or a former DISC which are taxable as dividends pursuant to subsection (b) of section nine hundred ninety-five of the internal revenue code of nineteen hundred fifty-four shall be treated as business income, except any such amounts from a former DISC attributable to amounts includible in a taxpayer's entire net income for a prior taxable year under subparagraph (B) of paragraph (i) of subdivision nine of this section shall be excluded from entire net income,

(c) any gain recognized for federal income tax purposes on the disposition of stock in a DISC, and any gain recognized on the disposition of stock in a former DISC, includible in gross income as a dividend pursuant to subsection (c) of section nine hundred ninety-five of the internal revenue code of nineteen hundred fifty-four, shall be treated as business income, and

(d) except as provided in paragraph (i) of subdivision nine of this section, any actual distribution from a DISC or a former DISC shall be treated as business income except an actual distribution which for federal income tax purposes is treated as made out of "other earnings and profits" under section nine hundred ninety-six of the internal revenue code of nineteen hundred fifty-four, in which case such actual distribution shall be treated as [either subsidiary income or] investment income under this article.

[8-B. (a) The term "minimum taxable income" shall mean the entire net income of the taxpayer for the taxable year:

(1) increased by the amount of the federal items of tax preference set forth in section fifty-seven of the internal revenue code (with the modifications set forth in paragraph (b) of this subdivision), which items of tax preference shall have the same meaning and be computed in the same manner as under section fifty-seven of the internal revenue code,

(2) determined with the federal adjustments described in paragraph (c) of this subdivision, which adjustments shall have the same meaning and

be computed in the same manner as under sections fifty-six and fifty-eight of the internal revenue code,

(3) increased by the net operating loss deduction otherwise allowed under paragraph (f) of subdivision nine of this section, and

(4) reduced, for taxable years beginning after nineteen hundred ninety-three, by the alternative net operating loss deduction, as defined in paragraph (d) of this subdivision.

(b) The federal items of tax preference referred to hereinabove shall be modified by deducting "tax-exempt interest" and "accelerated depreciation or amortization on certain property placed in service before January 1, 1987", as determined under paragraphs five and seven of subsection (a) of section fifty-seven of the internal revenue code.

(c) The adjustments referred to hereinabove shall be:

(1) "Depreciation" as determined under paragraph one of subsection (a) of section fifty-six of the internal revenue code. For purposes of this subparagraph, the depreciation item of adjustment provided for here shall not include any amount attributable to property for which the tax benefits of the accelerated cost recovery system are not available under this article by reason of subparagraph ten of paragraph (b) of subdivision nine of this section;

(2) "Mining exploration and development costs" as determined under paragraph two of subsection (a) of section fifty-six of the internal revenue code;

(3) "Treatment of certain long-term contracts" as determined under paragraph three of subsection (a) of section fifty-six of the internal revenue code;

(4) "Installment sales of certain property" as determined under paragraph six of subsection (a) of section fifty-six of the internal revenue code;

(5) "Circulation expenditures of personal holding companies" as determined under subparagraph (C) of paragraph two of subsection (b) of section fifty-six of the internal revenue code;

(6) "Merchant marine capital construction funds" as determined under paragraph two of subsection (c) of section fifty-six of the internal revenue code;

(7) "Disallowance of passive activity loss" as determined under subsection (b) of section fifty-eight of the internal revenue code; and

(8) "Adjusted basis", as it appears in paragraph seven of subsection (a) of section fifty-six of the internal revenue code, but without taking into account the references therein to paragraph five of subsection (a) of section fifty-six of the internal revenue code.

(d) The term "alternative net operating loss deduction" means the net operating loss deduction allowed for the taxable year under paragraph (f) of subdivision nine of this section, except as provided herein.

(1)(A) The net operating loss for any year beginning after nineteen hundred eighty-nine which is included in determining such deduction shall be determined with the adjustments provided in subparagraph two of paragraph (a) of this subdivision, and shall be reduced by the items of tax preference determined under subparagraph one of paragraph (a) of this subdivision, attributable to such year. An item of tax preference shall be taken into account only to the extent such item increased the amount of the net operating loss for the taxable year under paragraph (f) of subdivision nine of this section.

(B) In the case of loss years beginning before nineteen hundred ninety, the amount of the net operating loss which may be carried over to taxable years beginning after nineteen hundred eighty-nine shall be

equal to an amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after nineteen hundred eighty-nine.

(2) In determining the amount of such deduction, loss carryforwards and carrybacks shall, subject to the provisions of subparagraph five of paragraph (f) of subdivision nine of this section, be computed in the manner set forth in paragraph two of subsection (b) of section one hundred seventy-two of the internal revenue code, except that, for the reference therein to taxable income, there shall be substituted the phrase "ninety percent of minimum taxable income determined without regard to the alternative net operating loss deduction".

(3) The amount of such deduction shall not exceed ninety percent of minimum taxable income determined without regard to such deduction, provided, however, the term "ninety percent" shall be read as "forty-five percent" with respect to taxable years beginning in nineteen hundred ninety-four.

(e) The tax commission may, whenever necessary in order to properly reflect the minimum taxable income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without regard to the method of accounting employed by the taxpayer.

(f) If the period covered by a report under this article is other than the period covered by the report to the United States treasury department, the minimum taxable income shall be appropriately modified pursuant to regulations promulgated by the tax commission.]

9. The term "entire net income" means total net income from all sources, which shall be presumably the same as the entire taxable income [(but not alternative minimum taxable income)], WHICH, EXCEPT AS HEREINAFTER PROVIDED IN THIS SUBDIVISION,

(i) [which] the taxpayer is required to report to the United States treasury department, or

(ii) [which] the taxpayer would have been required to report to the United States treasury department if it had not made an election under subchapter s of chapter one of the internal revenue code, or

(iii) [which] the taxpayer, in the case of a corporation which is exempt from federal income tax (other than the tax on unrelated business taxable income imposed under section 511 of the internal revenue code) but which is subject to tax under this article, would have been required to report to the United States treasury department but for such exemption, [except as hereinafter provided, and subject to any modification required by paragraphs (d) and (e) of subdivision three of section two hundred ten of this article] OR

(IV) IN THE CASE OF A CORPORATION ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES, IS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE UNITED STATES AS DETERMINED UNDER SECTION 882 OF THE INTERNAL REVENUE CODE,

(a) Entire net income shall not include:

[(1) income, gains and losses from subsidiary capital which do not include the amount of a recovery in respect of any war loss except for such amounts from a former DISC which are treated as business income under subdivision eight-A of this section,

(2) fifty percent of dividends (A) other than from subsidiaries, and (B) other than amounts treated as business income under subdivision eight-A of this section, on shares of stock which conform to the requirements of subsection (c) of section two hundred forty-six of the internal revenue code.]

(3) bona fide gifts,

(4) income and deductions with respect to amounts received from school districts and from corporations and associations, organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, for the operation of school buses,

(5) (i) any refund or credit of a tax imposed under this article, article twenty-three, or FORMER article thirty-two of this chapter, for which tax no exclusion or deduction was allowed in determining the taxpayer's entire net income under this article, article twenty-three, or FORMER article thirty-two of this chapter for any prior year, (ii) a refund or credit of general corporation tax allowed by subdivision eleven of section 11-604 of the administrative code of the city of New York, or (iii) any refund or credit of a tax imposed under sections one hundred eighty-three, one hundred eighty-three-a, one hundred eighty-four or one hundred eighty-four-a of this chapter, and

(6) any amount treated as dividends pursuant to section seventy-eight of the internal revenue code and not [otherwise deductible under subparagraphs one and two of this paragraph] TREATED AS OTHER EXEMPT INCOME UNDER SUBDIVISION SIX-A OF THIS SECTION;

(7) that portion of wages and salaries paid or incurred for the taxable year for which a deduction is not allowed pursuant to the provisions of section two hundred eighty-C of the internal revenue code.

[(8) in the case of a taxpayer who is separately or as a partner of a partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law, any item of income, gain, loss or deduction of such business which is the taxpayer's distributive or pro rata share for federal income tax purposes or which the taxpayer is required to take into account separately for federal income tax purposes.]

(9) for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which is placed in service before taxable years beginning in nineteen hundred eighty-nine, any amount which is included in the taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(10) for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which is placed in service before taxable years beginning in nineteen hundred eighty-nine, any amount which the taxpayer could have excluded from federal taxable income had it not made the election provided for in such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(11) the amount deductible pursuant to paragraph (j) of this subdivision; and

(12) upon the disposition of property to which paragraph (j) of this subdivision applies, the amount, if any, by which the aggregate of the amounts described in subparagraph ten of paragraph (b) of this subdivision attributable to such property exceeds the aggregate of the amounts described in paragraph (j) of this subdivision attributable to such property; and

[(13) if the added tax provided for in either (i) former subdivision two of section one hundred eighty-two of this chapter (relating to real estate corporations) or (ii) former subdivision one-a of section two hundred nine of this chapter (relating to real estate corporations) has been imposed upon the taxpayer, any income which has been used in computing such tax.]

(14) The amount deductible pursuant to paragraph [(l)] (I) of this subsection.

[(15) In the case of an attorney-in-fact, with respect to which a mutual insurance company, which is an interinsurer or a reciprocal insurer and is subject to tax under subdivision (a) of section fifteen hundred ten of this chapter, has made the election provided for under section eight hundred thirty-five of the Internal Revenue Code, an amount equal to the excess, if any, of the amounts paid or incurred by such interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to such interinsurer or reciprocal insurer with respect to amounts paid or incurred in the taxable year to the attorney-in-fact under subsection (b) of such section eight hundred thirty-five of the Internal Revenue Code.]

(16) In the case of a taxpayer subject to the modification provided by subparagraph sixteen of paragraph (b) of this subdivision, the amount required to be recaptured pursuant to subsection (d) of section 179 of the internal revenue code with respect to property upon which such modification was based.

(17) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND TWO, THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (N-1) OF THIS SUBDIVISION.

(18) the amount of income or gain included in federal taxable income of a taxpayer that is a partner in a qualified entity or is a qualified entity that is located both within and without a New York state innovation hot spot, to the extent that the income or gain is attributable to the operations of a qualified entity at or as part of the New York state innovation hot spot as provided in section thirty-eight of this chapter.

(19) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (R) OR (S) OF THIS SUBDIVISION, BUT NOT BOTH SUCH AMOUNTS.

(b) Entire net income shall be determined without the exclusion, deduction or credit of:

(1) [the amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations,] IN THE CASE OF A CORPORATION ORGANIZED UNDER THE LAW OF A COUNTRY OTHER THAN THE UNITED STATES, EXCEPT AS TREATED AS OTHER EXEMPT INCOME UNDER SUBDIVISION SIX-A OF THIS SECTION, (I) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK, SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED STATES PURSUANT TO SECTION 864 OF THE INTERNAL REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME WOULD BE TREATED AS EFFECTIVELY CONNECTED IN ABSENCE OF SUCH EXEMPTION PROVIDED THAT SUCH TREATY OBLI-

GATION DOES NOT PRECLUDE THE TAXATION OF SUCH INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE TREATED AS EFFECTIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION 103 OF THE INTERNAL REVENUE CODE;

(2) any part of any income from dividends or interest on any kind of stock, securities or indebtedness, [except as provided in clauses (1) and (2) of paragraph (a) hereof] TREATED AS OTHER EXEMPT INCOME UNDER SUBDIVISION SIX-A OF THIS SECTION,

(3) taxes on or measured by profits or income paid or accrued to the United States, any of its possessions or to any foreign country, including taxes in lieu of any of the foregoing taxes otherwise generally imposed by any foreign country or by any possession of the United States,

(3-a) taxes on or measured by profits or income, or which include profits or income as a measure, paid or accrued to any other state of the United States, or any political subdivision thereof, or to the District of Columbia, including taxes expressly in lieu of any of the foregoing taxes otherwise generally imposed by any other state of the United States, or any political subdivision thereof, or the District of Columbia;

(4) taxes imposed under this article and article thirty-two AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN and sections one hundred eighty-three, one hundred eighty-three-a, one hundred eighty-four and one hundred eighty-four-a of this chapter,

(4-a)(A) [the entire amount allowable as an exclusion or deduction for stock transfer taxes imposed by article twelve of this chapter in determining the entire taxable income which the taxpayer is required to report to the United States treasury department but only to the extent that such taxes are incurred and paid in market making transactions, (B)] in those instances where a credit for the special additional mortgage recording tax credit is allowed under [paragraph (a) of] subdivision [seventeen] NINE of section two hundred [ten] TEN-B of this article, the amount allowed as an exclusion or deduction for the special additional mortgage recording tax imposed by subdivision one-a of section two hundred fifty-three of this chapter in determining the entire taxable income which the taxpayer is required to report to the United States treasury department, and [(C)] (B) unless the credit allowed pursuant to subdivision [seventeen] NINE of section two hundred [ten] TEN-B of this article is reflected in the computation of the gain or loss so as to result in an increase in such gain or decrease of such loss, for federal income tax purposes, from the sale or other disposition of the property with respect to which the special additional mortgage recording tax imposed pursuant to subdivision one-a of section two hundred fifty-three of this chapter was paid, the amount of the special additional mortgage recording tax imposed by subdivision one-a of section two hundred fifty-three of this chapter which was paid and which is reflected in the computation of the basis of the property so as to result in a decrease in such gain or increase in such loss for federal income tax purposes from the sale or other disposition of the property with respect to which such tax was paid.

(6) [in the discretion of the tax commission, any amount of interest directly or indirectly and any other amount directly or indirectly attributable as a carrying charge or otherwise to subsidiary capital or to income, gains or losses from subsidiary capital] ANY AMOUNT ALLOWED AS A DEDUCTION FOR THE TAXABLE YEAR UNDER SECTION 172 OF THE INTERNAL

REVENUE CODE, INCLUDING CARRYOVERS OF DEDUCTIONS FROM PRIOR TAXABLE YEARS.

[(7) in the case of a taxpayer who is separately or as a partner of a partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law, such taxpayer's distributive or pro rata share of the allocated entire net income of such business as determined under sections fifteen hundred three and fifteen hundred four of this chapter, provided however, in the event such allocated entire net income is a loss, such taxpayer's distributive or pro rata share of such loss shall not be subtracted from federal taxable income in computing entire net income under this subdivision.]

(8) for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which is placed in service before taxable years beginning in nineteen hundred eighty-nine, any amount which the taxpayer claimed as a deduction in computing its federal taxable income solely as a result of an election made pursuant to the provisions of such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(9) for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property which is a qualified mass commuting vehicle described in subparagraph (D) of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code (relating to qualified mass commuting vehicles) and property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which is placed in service before taxable years beginning in nineteen hundred eighty-nine, any amount which the taxpayer would have been required to include in the computation of its federal taxable income had it not made the election permitted pursuant to such paragraph eight as it was in effect for agreements entered into prior to January first, nineteen hundred eighty-four;

(10) in the case of property placed in service in taxable years beginning before nineteen hundred ninety-four, for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property subject to the provisions of section two hundred eighty-F of the internal revenue code, property subject to the provisions of section one hundred sixty-eight of the internal revenue code which is placed in service in this state in taxable years beginning after December thirty-first, nineteen hundred eighty-four and property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which is placed in service before taxable years beginning in nineteen hundred [eight-nine] EIGHTY-NINE, the amount allowable as a deduction determined under section one hundred sixty-eight of the internal revenue code;

(11) upon the disposition of property to which paragraph (j) of this subdivision applies, the amount, if any, by which the aggregate of the amounts described in such paragraph (j) attributable to such property

exceeds the aggregate of the amounts described in subparagraph ten of this paragraph attributable to such property.

(15) Real property taxes paid on qualified agricultural property and deducted in determining federal taxable income, to the extent of the amount of the agricultural property tax credit allowed under subdivision [twenty-two] ELEVEN of section two hundred [ten] TEN-B of this article.

(16) In the case of a taxpayer which is not an eligible farmer as defined in paragraph (b) of subdivision [twenty-two] ELEVEN of section two hundred [ten] TEN-B of this article, the amount of any deduction claimed pursuant to section 179 of the internal revenue code with respect to a sport utility vehicle which is not a passenger automobile as defined in paragraph 5 of subsection (d) of section 280F of the internal revenue code.

(17) for taxable years beginning after December thirty-first, two thousand two, in the case of qualified property described in paragraph two of subsection k of section 168 of the internal revenue code, other than qualified resurgence zone property described in paragraph (q) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section 1400L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), which was placed in service on or after June first, two thousand three, the amount allowable as a deduction under section 167 of the internal revenue code.

(18) Premiums paid for environmental remediation insurance, as defined in section twenty-three of this chapter, and deducted in determining federal taxable income, to the extent of the amount of the environmental remediation insurance credit allowed under such section twenty-three and subdivision [thirty-five] NINETEEN of section two hundred [ten] TEN-B of this article.

(19) The amount of any deduction allowed pursuant to section one hundred ninety-nine of the internal revenue code.

(20) The amount of any federal deduction for taxes imposed under article twenty-three of this chapter.

[(c) Entire net income shall include income within and without the United States;]

(c-1)(1) Notwithstanding any other provision of this article, in the case of a taxpayer which is a foreign air carrier holding a foreign air carrier permit issued by the United States department of transportation pursuant to section four hundred two of the federal aviation act of nineteen hundred fifty-eight, as amended, and which is qualified under subparagraph two of this paragraph, entire net income shall not include, and shall be computed without the deduction of, amounts directly or indirectly attributable to, (i) any income derived from the international operation of aircraft as described in and subject to the provisions of section eight hundred eighty-three of the internal revenue code, (ii) income without the United States which is derived from the operation of aircraft, and (iii) income without the United States which is of a type described in subdivision (a) of section eight hundred eighty-one of the internal revenue code except that it is derived from sources without the United States. Entire net income shall include income described in clauses (i), (ii) and (iii) of this subparagraph in the case of taxpayers not described in the previous sentence.

(2) A taxpayer is qualified under this subparagraph if air carriers organized in the United States and operating in the foreign country or countries in which the taxpayer has its major base of operations and in which it is organized, resident or headquartered (if not in the same

country as its major base of operations) are not subject to any income tax or other tax based on or measured by income or receipts imposed by such foreign country or countries or any political subdivision thereof, or if so subject to such tax, are provided an exemption from such tax equivalent to that provided for herein.

(c-2) Adjustments by qualified public utilities. (1) In the case of a taxpayer which is a qualified public utility, entire net income shall be computed with the adjustments set forth in this paragraph.

(2) Definitions. (A) Qualified public utility. The term "qualified public utility" means a taxpayer which: (i) on December thirty-first, nineteen hundred ninety-nine, was subject to the ratemaking supervision of the state department of public service, and (ii) for the year ending on December thirty-first, nineteen hundred ninety-nine, was subject to tax under former section one hundred eighty-six of this chapter.

(B) Transition property. The term "transition property" means property placed in service by the taxpayer before January first, two thousand, for which a depreciation deduction is allowed under section one hundred sixty-seven of the internal revenue code.

(3) Federal depreciation disallowed. With respect to transition property, the deduction for federal income tax purposes for depreciation shall not be allowed.

(4) New York depreciation. With respect to transition property, a deduction shall be allowed for the depreciation expense shown on the books and records of the taxpayer for the taxable year and determined in accordance with generally accepted accounting principles.

(5) Regulatory assets. A deduction shall be allowed for amounts recognized as expense on the books and records of the taxpayer for the taxable year, which amounts were recognized as expense for federal income tax purposes in a taxable year ending on or before December thirty-first, nineteen hundred ninety-nine, where: (A) such amounts represent expenditures which, when made, were charged to a deferred debit account or similar asset account on the books and records of the taxpayer, and where (B) the recognition of expense on the books and records of the taxpayer is matched by revenue stemming from a procedure or adjustment allowing the recovery of such expenditures, and where (C) such revenue is recognized for federal income tax purposes in the taxable year.

(6) Basis for gain or loss. (A) Recognition transactions. (i) General rule - book basis. Except as provided in subclause (ii) of this clause, where transition property is sold or otherwise disposed of in the taxable year in a transaction of the type requiring recognition of gain or loss for federal income tax purposes, the basis for determining the amount of such gain or loss under this article shall be the cost of the property less the accumulated depreciation on the property determined on the books and records of the taxpayer in accordance with generally accepted accounting principles.

(ii) Qualified gain - New York basis. Where a sale or disposition described in subclause (i) of this clause results in recognition of gain for federal income tax purposes, and where either (I) such recognition occurs in a taxable year ending after nineteen hundred ninety-nine and before two thousand ten, or (II) such recognition is with respect to a nuclear electric generating facility, the basis for determining the amount of such gain under this article shall be the cost of the property less the aggregate of the New York depreciation deductions on the property determined under subparagraph four of this paragraph.

(iii) No conversion of gain to loss. In the event that the basis determined under subclause (ii) of this clause results in determination

of a loss on the sale or disposition of the property, no gain or loss shall be recognized under this article with respect to such sale or disposition.

(B) Nonrecognition transactions. (i) Carryover basis. (I) where transition property is disposed of ("original disposition") in a transaction of a type requiring deferral of recognition of gain or loss for federal income tax purposes, and where (II) there is a subsequent recognition of gain or loss for federal income tax purposes ("clause B gain or loss"), the amount of which is determined by reference, in whole or in part, to the basis of such transition property ("underlying transition property"), then (III) the amount of such clause B gain or loss under this article shall be adjusted as provided in subclause (ii) or (iii) of this clause.

(ii) General rule - book basis adjustment. Except as provided in subclause (iii) of this clause, the amount of clause B gain shall be reduced, or the amount of clause B loss increased, by the amount by which the book basis of the underlying transition property on the date of original disposition (determined using the provisions of subclause (i) of clause (A) of this subparagraph) exceeds the federal income tax basis of such property on such date.

(iii) Qualified gain - New York basis adjustment. Where clause B gain either (I) occurs in a taxable year ending after nineteen hundred ninety-nine and before two thousand ten, or (II) is with respect to a nuclear electric generating facility, the amount of such gain under this article shall be reduced, but not below zero, by the amount by which the New York basis of the underlying transition property on the date of original disposition (determined using the provisions of subclause (ii) of clause (A) of this subparagraph) exceeds the federal income tax basis of such property on such date.

(iv) Application to replacement property and transferee taxpayers. This clause shall apply whether the clause B gain or loss: (I) is with respect to either transition property or depreciable property the basis of which is determined by reference to transition property, or (II) is recognized by either a qualified public utility or by a taxpayer which is a transferee of transition property (whether or not such transferee is a qualified public utility, notwithstanding subparagraph one of this paragraph).

(c-3) Depreciation adjustments by qualified power producers and pipeline companies. (1) In the case of a qualified taxpayer, entire net income shall be computed with the depreciation adjustments set forth in this paragraph.

(2) Definitions. (A) Qualified taxpayer. The term "qualified taxpayer" means a qualified power producer or a qualified pipeline.

(B) Qualified power producer. The term "qualified power producer" means a taxpayer which: (i) on December thirty-first, nineteen hundred ninety-nine, was not subject to the ratemaking supervision of the state department of public service, and (ii) for the year ending on December thirty-first, nineteen hundred ninety-nine, was subject to tax under former section one hundred eighty-six of this chapter on account of its being principally engaged in the business of supplying electricity.

(C) Qualified pipeline. The term "qualified pipeline" means a taxpayer which: (i) on December thirty-first, nineteen hundred ninety-nine, was subject to the ratemaking supervision of either the federal energy regulatory commission or the state department of public service, and (ii) for the year ending on December thirty-first, nineteen hundred ninety-nine, was subject to tax under sections one hundred eighty-three and one

hundred eighty-four of this chapter on account of its being principally engaged in the business of pipeline transmission.

(D) Transition property. The term "transition property" means property placed in service by a qualified taxpayer before January first, two thousand, for which a depreciation deduction is allowed under section one hundred sixty-seven of the internal revenue code.

(3) Federal depreciation disallowed. With respect to transition property, the deduction for federal income tax purposes for depreciation shall not be allowed.

(4) New York depreciation. With respect to transition property, a deduction shall be allowed for the depreciation expense computed as provided in this subparagraph. (A) All transition property shown on the books and records of the taxpayer on January first, two thousand shall be treated as a single asset placed in service on such date. The New York basis for purposes of computing the depreciation deduction on such single asset shall be the net book value of such transition property determined on the first day of the federal taxable year ending in two thousand (or on the date any such property is placed in service, if later) adjusted as provided in clause (B) of this subparagraph.

(B) If transition property is sold or otherwise disposed of, the New York basis of the single asset shall be reduced on the date of such sale or disposition by the amount of the adjusted federal tax basis of such property on such date.

(C) The New York depreciation deduction allowed for any taxable year with respect to such single asset shall be computed using the straight-line method, a twenty-year life, and a salvage value of zero.

(D) For purposes of this subparagraph, the term "net book value" means cost reduced by accumulated depreciation shown on the books and records of the taxpayer and determined, in the case of a qualified power producer, in accordance with generally accepted accounting principles; and in the case of a qualified pipeline, in accordance with the taxpayer's regulatory reports filed with the federal energy regulatory commission or state department of public service.

(d) The [tax commission] COMMISSIONER may, whenever necessary in order properly to reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without regard to the method of accounting employed by the taxpayer[;].

(e) The entire net income of any bridge commission created by act of congress to construct a bridge across an international boundary means its gross income less the expense of maintaining and operating its properties, the annual interest upon its bonds and other obligations, and the annual charge for the retirement of such bonds or obligations at maturity[;].

[(f) A net operating loss deduction shall be allowed which shall be presumably the same as the net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code, or which would have been allowed if the taxpayer had not made an election under subchapter s of chapter one of the internal revenue code, except that in every instance where such deduction is allowed under this article:

(1) any net operating loss included in determining such deduction shall be adjusted to reflect the inclusions and exclusions from entire net income required by paragraphs (a), (b) and (g) hereof,

(2) such deduction shall not include any net operating loss sustained during any taxable year beginning prior to January first, nineteen

hundred sixty-one, or during any taxable year in which the taxpayer was not subject to the tax imposed by this article,

(3) such deduction shall not exceed the deduction for the taxable year allowed under section one hundred seventy-two of the internal revenue code, or the deduction for the taxable year which would have been allowed if the taxpayer had not made an election under subchapter s of chapter one of the internal revenue code,

(4) in the case of a New York S corporation, such deduction shall not include any net operating loss sustained during a New York C year or during a New York S year beginning prior to nineteen hundred ninety, and in the case of a New York C corporation, such deduction shall not include any net operating loss sustained during a New York S year, provided, however, a New York S year shall be treated as a taxable year for purposes of determining the number of taxable years to which a net operating loss may be carried back or carried forward, and

(5) the net operating loss deduction allowed under section one hundred seventy-two of the internal revenue code shall for purposes of this paragraph be determined as if the taxpayer had elected under such section to relinquish the entire carryback period with respect to net operating losses, except with respect to the first ten thousand dollars of each of such losses, sustained during taxable years ending after June thirtieth, nineteen hundred eighty-nine.

(g) For taxable years commencing prior to January first, nineteen hundred eighty-seven, at the election of the taxpayer, a deduction shall be allowed for expenditures paid or incurred during the taxable year for the construction, reconstruction, erection or improvement of either industrial waste treatment facilities or air pollution control facilities, or, with respect to taxable years beginning on or after January first, nineteen hundred seventy-seven and before January first, nineteen hundred eighty-one, industrial waste treatment controlled process facilities or air pollution controlled process facilities.

(1) (A) (1) The term "industrial waste treatment facilities" shall mean facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms "industrial waste" and "other wastes" are defined in section 17-0105 of the environmental conservation law) from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities.

(2) The term "industrial waste treatment controlled process facility" shall mean such portion of the cost of an industrial production facility designed for the purpose of obviating the need for industrial waste treatment facilities as defined in item one of this clause as shall exceed the cost of an industrial production facility of equal production capacity which if constructed would require industrial waste treatment facilities to meet emission standards in compliance with the provisions of the environmental conservation law and the codes, rules, regulations, permits or orders issued pursuant thereto but only to the extent of the cost of such industrial waste treatment facilities.

(B) (1) The term "air pollution control facilities" shall mean facilities which remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms "air contaminant" and "air contamination source" are defined in section 19-0107 of the environmental conservation law) from a point immediately preceding the point of such removal, reduction or rendering to the point of discharge of air, meeting emission standards as established by the department of environmental conservation, but excluding such facilities installed for

the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable and excluding those facilities which rely for their efficacy on dilution, dispersion or assimilation of air contaminants in the ambient air after emission. Such term shall further include flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities that conform with this subdivision and which comply with the provisions of the state acid deposition control act set forth in title nine of article nineteen of the environmental conservation law.

(2) The term "air pollution controlled process facility" shall mean such portion of the cost of an industrial production facility designed for the purpose of obviating the need for air pollution control facilities as defined in item one of this clause as shall exceed the cost of an industrial production facility of equal productive capacity which if constructed would require air pollution control facilities to inert emission standards as established pursuant to title three of article nineteen of the environmental conservation law but only to the extent of the cost of such air pollution control facilities.

(2) However, such deduction shall be allowed only

(A) with respect to tangible property which is depreciable, pursuant to section one hundred sixty-seven of the internal revenue code, having a situs in this state and used in the taxpayer's trade or business, the construction, reconstruction, erection or improvement of which, in the case of industrial waste treatment facilities, is initiated on or after January first, nineteen hundred sixty-five or which, in the case of air pollution control facilities, is initiated on or after January first, nineteen hundred sixty-six, or which in the case of industrial waste treatment controlled process facilities or air pollution controlled process facilities is initiated on and after January first, nineteen hundred seventy-seven, and

(B) on condition that such facilities have been certified by the state commissioner of environmental conservation or his designated representative, pursuant to section 19-0309 of the environmental conservation law, as complying with applicable provisions of the environmental conservation law, the public health law, the state sanitary code and codes, rules, regulations, permits or orders issued pursuant thereto, and

(C) on condition that entire net income for the taxable year and all succeeding taxable years be computed without any deductions for such expenditures or for depreciation or amortization of the same property other than the deductions allowed by this paragraph (g), except to the extent that the basis of the property may be attributable to factors other than such expenditures, or in case a deduction is allowable pursuant to this paragraph for only a part of such expenditures, on condition that any deduction allowed for federal income tax purposes for such expenditures or for depreciation or amortization of the same property be proportionately reduced in computing entire net income for the taxable year and all succeeding taxable years, and

(D) where the election provided for in paragraph (d) of subdivision three of section two hundred ten of this chapter has not been exercised in respect to the same property.

(3) (A) If expenditures in respect to an industrial waste treatment facility, an air pollution control facility, an industrial waste treatment controlled process facility or an air pollution controlled process facility have been deducted as provided herein and if within ten years

from the end of the taxable year in which such deduction was allowed such property or any part thereof is used for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable, the taxpayer shall report such change of use in its report for the first taxable year during which it occurs, and the tax commission may recompute the tax for the year or years for which such deduction was allowed and any carryback or carryover year, and may assess any additional tax resulting from such recomputation within the time fixed by paragraph nine of subsection (c) of section ten hundred eighty-three of this chapter.

(B) If a deduction is allowed as herein provided for expenditures paid or incurred during any taxable year on the basis of a temporary certificate of compliance issued pursuant to the environmental conservation law and if the taxpayer fails to obtain a permanent certificate of compliance upon completion of the facilities with respect to which such temporary certificate was issued, the taxpayer shall report such failure in its report for the taxable year during which such facilities are completed, and the tax commission may recompute the tax for the year or years for which such deduction was allowed and any carryback or carryover year, and may assess any additional tax resulting from in such recomputation within the time fixed by paragraph nine of subsection (c) of section ten hundred eighty-three.

(C) If a deduction is allowed as herein provided for expenditures paid or incurred during any taxable year in respect to an air pollution control facility on the basis of a certificate of compliance issued pursuant to the environmental conservation law and the certificate is revoked pursuant to subdivision three of section 19-0309 of the environmental conservation law, the tax commission may recompute the tax for the year or years for which the facility is not or was not in compliance with the applicable provisions of the environmental conservation law, the state sanitary code or codes, rules, regulations, permits or orders promulgated pursuant thereto, and for which a deduction was allowed, as well as for any carryback or carryover year to which such deduction was carried, and may assess any additional tax resulting from such recomputation within the time fixed by paragraph nine of subsection (c) of section ten hundred eighty-three.

(4) In any taxable year when property is sold or otherwise disposed of, with respect to which a deduction has been allowed pursuant to this paragraph, such deduction shall be disregarded in computing gain or loss, and the gain or loss on the sale or other disposition of such property shall be the gain or loss entering into the computation of entire taxable income which the taxpayer is required to report to the United States treasury department for such taxable year.]

(h) If the period covered by a report under this article is other than the period covered by the report to the United States treasury department,

(1) except as provided in subparagraph two hereof, entire net income shall be determined by multiplying the taxable income reported to such department (as adjusted pursuant to the provisions of this article) by the number of calendar months or major parts thereof covered by the report under this article and dividing by the number of calendar months or major parts thereof covered by the report to such department. If it shall appear that such method of determining entire net income does not properly reflect the taxpayer's income during the period covered by the report under this article, the [tax commission] COMMISSIONER shall be authorized in its discretion to determine such entire net income solely

on the basis of the taxpayer's income during the period covered by its report under this article[;].

(2) [in] IN the case of a New York S termination year, an equal portion of entire net income shall be assigned to each day of such year. The portion of such entire net income thereby assigned to the S short year and the C short year shall be included in the respective reports for the S short year and the C short year under this article. However, where paragraph three of subsection (s) of section six hundred twelve of this chapter applies, the portion of such entire net income assigned to the S short year and the C short year shall be determined under normal tax accounting rules.

(i) With respect to a DISC which during any taxable year or reporting year (1) received more than five percent of its gross sales from the sale of inventory or other property which it purchased from its stockholders, (2) received more than five percent of its gross rentals from the rental of property which it purchased or rented from its stockholders or (3) received more than five percent of its total receipts other than sales and rentals from its stockholders, the following provisions shall apply.

(A) For any taxable year in which sub-paragraph (B) of this paragraph is in effect and not rendered invalid, a DISC meeting the above test shall be exempt from all taxes imposed by this article.

(B) Supplemental to the provisions of subdivision five of section two hundred eleven of this article, any taxpayer required to compute a tax under this article, which during the taxable year being reported was a stockholder in any DISC meeting the test prescribed in this paragraph, shall for any taxable year ending after December thirty-first, nineteen hundred seventy-one adjust each item of its receipts, expenses, assets and liabilities, as otherwise computed under this article, by adding thereto its attributable share of each such DISC's receipts, expenses, assets and liabilities as reportable by each such DISC to the United States Treasury Department for its annual reporting period ending during the current taxable year of such taxpayer; provided, however, (1) that all transactions between the taxpayer and each such DISC shall be eliminated from the taxpayer's adjusted receipts, expenses, assets and liabilities; (2) that the taxpayer's entire net income as otherwise computed under this section, shall be reduced by subtracting the amount of the deemed distribution of current income, if any, from each such DISC already included in the entire net income of such taxpayer by virtue of having been included in its entire taxable income for that taxable year as reported to the United States Treasury Department; and (3) that in the event this paragraph should be rendered invalid, all DISC's and their stockholders taxable hereunder shall be taxed instead under the remaining portions of this article.

(j) in the case of property placed in service in taxable years beginning before nineteen hundred ninety-four, for taxable years beginning after December thirty-first, nineteen hundred eighty-one, except with respect to property subject to the provisions of section two hundred eighty-F of the internal revenue code and property subject to the provisions of section one hundred sixty-eight of the internal revenue code which is placed in service in this state in taxable years beginning after December thirty-first, nineteen hundred eighty-four, and provided a deduction has not been excluded from entire net income pursuant to subparagraph eight of paragraph (b) of this subdivision, a taxpayer shall be allowed with respect to property which is subject to the provisions of section one hundred sixty-eight of the internal revenue

code the depreciation deduction allowable under section one hundred sixty-seven of the internal revenue code as such section would have applied to property placed in service on December thirty-first, nineteen hundred eighty. This paragraph shall not apply to property of a taxpayer principally engaged in the conduct of aviation (other than air freight forwarders acting as principal and like indirect air carriers) which is placed in service before taxable years beginning in nineteen hundred eighty-nine.

(k) QSSS. (1) New York S corporation. In the case of a New York S corporation which is the parent of a qualified subchapter S subsidiary (QSSS) with respect to a taxable year:

(A) where the QSSS is not an excluded corporation,

(i) in determining the entire net income of such parent corporation, all assets, liabilities, income and deductions of the QSSS shall be treated as assets, liabilities, income and deductions of the parent corporation, and

(ii) the QSSS shall be exempt from all taxes imposed by this article, and

(B) where the QSSS is an excluded corporation, the entire net income of the parent corporation shall be determined as if the federal QSSS election had not been made.

(2) New York C corporation. In the case of a New York C corporation which is the parent of a QSSS with respect to a taxable year:

(A) where the QSSS is a taxpayer,

(i) in determining the entire net income of such parent corporation, all assets, liabilities, income and deductions of the QSSS shall be treated as assets, liabilities, income and deductions of the parent corporation, and

(ii) the QSSS shall be exempt from all taxes imposed by this article, and

(B) where the QSSS is not a taxpayer,

(i) if the QSSS is not an excluded corporation, the parent corporation may make a QSSS inclusion election to include all assets, liabilities, income and deductions of the QSSS as assets, liabilities, income and deductions of the parent corporation, and

(ii) in the absence of such election, or where the QSSS is an excluded corporation, the entire net income of the parent corporation shall be determined as if the federal QSSS election had not been made.

(3) Non-New York S corporation not excluded. In the case of an S corporation which is not a taxpayer and not an excluded corporation, and which is the parent of a QSSS which is a taxpayer, the shareholders of the parent corporation shall be entitled to make the New York S election under subsection (a) of section six hundred sixty of this chapter.

(A) For any taxable year for which such election is in effect, the parent corporation shall be subject to tax under this article as a New York S corporation, and the provisions of clause (A) of subparagraph one of this paragraph shall apply.

(B) For any taxable year for which such election is not in effect, the QSSS shall be a New York C corporation, and the entire net income of the QSSS shall be determined as if the federal QSSS election had not been made. For purposes of such determination, the taxable year of the parent corporation shall constitute the taxable year of the QSSS, excluding, however, any portion of such year during which the QSSS is not a taxpayer.

(4) S corporation excluded. In the case of an S corporation which is an excluded corporation and which is the parent of a QSSS which is a

taxpayer, the QSSS shall be a New York C corporation and the provisions of clause (B) of subparagraph three of this paragraph shall apply.

(5) Excluded corporation. The term "excluded corporation" means a corporation subject to tax under sections one hundred eighty-three through one hundred eighty-six, inclusive, or article [thirty-two or] thirty-three of this chapter, or a foreign corporation not taxable by this state which, if it were taxable, would be subject to tax under any of such sections or [articles] ARTICLE.

(6) Taxpayer. For purposes of this paragraph, the term "taxpayer" means a parent corporation or QSSS subject to tax under this article, determined without regard to the provisions of this paragraph.

(7) QSSS inclusion election. The election under subclause (i) of clause (B) of subparagraph two of this paragraph shall be effective for the taxable year for which made and for all succeeding taxable years of the corporation until such election is terminated. An election or termination shall be made on such form and in such manner as the commissioner may prescribe by regulation or instruction.

(l) Emerging technology investment deferral. In the case of any sale of a qualified emerging technologies investment held for more than thirty-six months and with respect to which the taxpayer elects the application of this paragraph, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost of any qualified emerging technologies investment purchased by the taxpayer during the three hundred sixty-five-day period beginning on the date of such sale, reduced by any portion of such cost previously taken into account under this paragraph. For purposes of this paragraph the following shall apply:

(1) A qualified investment is stock of a corporation or an interest, other than as a creditor, in a partnership or limited liability company that was acquired by the taxpayer as provided in Internal Revenue Code S 1202(c)(1)(B), except that the reference to the term "stock" in such section shall be read as "investment," or by the taxpayer from a person who had acquired such stock or interest in such a manner.

(2) A qualified emerging technology investment is a qualified investment, that was held by the taxpayer for at least thirty-six months, in a company defined in paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law or an investment in a partnership or limited liability company that is taxed as a partnership to the extent that such partnership or limited liability company invests in qualified emerging technology companies.

(3) For purposes of determining whether the nonrecognition of gain under this subsection applies to a qualified emerging technologies investment that is sold, the taxpayer's holding period for such investment and the qualified emerging technologies investment that is purchased shall be determined without regard to Internal Revenue Code S 1223.

(m) Amounts deferred. The amount deferred under paragraph (l) of this subdivision shall be added to entire net income when the reinvestment in the New York qualified emerging technology company which qualified a taxpayer for such deferral is sold.

[(n) Qualified gas transportation contracts.

(1) Any tax paid under this article allocable to receipts attributable to a "qualified gas transportation contract" shall be deemed to have been paid under article nine of this chapter for all purposes of law for taxable years commencing on or after January first, two thousand,

computed as hereinafter provided, if all of the following conditions are met:

(i) For periods ending prior to January first, two thousand, the taxpayer paid the franchise tax due under section one hundred eighty-four of this chapter.

(ii) For the taxable year, all of the receipts from the pipeline transportation of natural gas attributable to the taxpayer and included in the taxpayer's entire net income (without regard to this paragraph) are solely from the transportation of natural gas for wholesale customers and commercial retail customers.

(iii) The taxpayer's franchise tax liability under this article for the taxable year (computed without regard to this paragraph) is determined under paragraph (a) of subdivision one of section two hundred ten of this article, and such tax liability (without regard to this paragraph) is greater than the liability the taxpayer would have incurred under sections one hundred eighty-three and one hundred eighty-four of this chapter (as such sections existed on December thirty-first, nineteen hundred ninety-nine) based on the same taxable period.

(iv) The taxpayer is a party to a "qualified gas transportation contract," as defined herein.

(2) The provisions of this paragraph shall apply only for the taxable years during which such qualified gas transportation contract is in full force and effect, and shall apply only to the receipts of the taxpayer less any expenses of the taxpayer (but not less than zero), during the taxable year, to the extent included in entire net income, which are attributable to any such qualified gas transportation contracts. Provided, further, in any event, the characterization hereunder shall expire and be of no further force and effect for taxable years commencing on or after January first, two thousand fifteen.

(3) The term "qualified gas transportation contract" shall mean a service agreement for the transportation of natural gas for an end-user which is a qualified cogeneration facility with a rated capacity of one thousand megawatts or more, which (i) was entered into before January first, two thousand, and was in full force and effect and binding on the parties thereto as of such date, (ii) as originally executed, was for a term of at least twenty years, and (iii) the terms of which prohibit the pass-through to such customer of the franchise tax imposed under this article, while allowing the recovery of the gross earnings tax imposed under section one hundred eighty-four of this chapter. A contract shall not qualify as a qualified gas transportation contract if there is: (i) any renewal or extension of an otherwise qualified gas transportation contract occurring on or after January first, two thousand, or (ii) any material amendment to, or supplementation of, an otherwise qualified gas transportation contract on or after such date. Such renewal, extension, or material amendment or supplementation shall have the same force and effect of terminating the characterization hereunder as if the qualifying contract had expired by its own terms.

(o)] (N-1) For taxable years beginning after December thirty-first, two thousand two, in the case of qualified property described in paragraph two of subsection k of section 168 of the internal revenue code, other than qualified resurgence zone property described in paragraph (q) of this subdivision, and other than qualified New York Liberty Zone property described in paragraph two of subsection b of section 1400L of the internal revenue code (without regard to clause (i) of subparagraph (C) of such paragraph), which was placed in service on or after June first, two thousand three, a taxpayer shall be allowed with respect to

such property the depreciation deduction allowable under section 167 of the internal revenue code as such section would have applied to such property had it been acquired by the taxpayer on September tenth, two thousand one.

(o) Related members expense add back. (1) Definitions. (A) Related member. "Related member" means a related person as defined in subparagraph (c) of paragraph three of subsection (b) of section four hundred sixty-five of the internal revenue code, except that "fifty percent" shall be substituted for "ten percent".

(B) Effective rate of tax. "Effective rate of tax" means, as to any state or U.S. possession, the maximum statutory rate of tax imposed by the state or possession on or measured by a related member's net income multiplied by the apportionment percentage, if any, applicable to the related member under the laws of said jurisdiction. For purposes of this definition, the effective rate of tax as to any state or U.S. possession is zero where the related member's net income tax liability in said jurisdiction is reported on a combined or consolidated return including both the taxpayer and the related member where the reported transactions between the taxpayer and the related member are eliminated or offset. Also, for purposes of this definition, when computing the effective rate of tax for a jurisdiction in which a related member's net income is eliminated or offset by a credit or similar adjustment that is dependent upon the related member either maintaining or managing intangible property or collecting interest income in that jurisdiction, the maximum statutory rate of tax imposed by said jurisdiction shall be decreased to reflect the statutory rate of tax that applies to the related member as effectively reduced by such credit or similar adjustment.

(C) Royalty payments. Royalty payments are payments directly connected to the acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of licenses, trademarks, copyrights, trade names, trade dress, service marks, mask works, trade secrets, patents and any other similar types of intangible assets as determined by the commissioner, and include amounts allowable as interest deductions under section one hundred sixty-three of the internal revenue code to the extent such amounts are directly or indirectly for, related to or in connection with the acquisition, use, maintenance or management, ownership, sale, exchange or disposition of such intangible assets.

(D) Valid Business Purpose. A valid business purpose is one or more business purposes, other than the avoidance or reduction of taxation, which alone or in combination constitute the primary motivation for some business activity or transaction, which activity or transaction changes in a meaningful way, apart from tax effects, the economic position of the taxpayer. The economic position of the taxpayer includes an increase in the market share of the taxpayer, or the entry by the taxpayer into new business markets.

(2) Royalty expense add backs. (A) Except where a taxpayer is included in a combined report with a related member pursuant to subdivision four of section two hundred eleven of this article, for the purpose of computing entire net income or other applicable taxable basis, a taxpayer must add back royalty payments directly or indirectly paid, accrued, or incurred in connection with one or more direct or indirect transactions with one or more related members during the taxable year to the extent deductible in calculating federal taxable income.

(B) Exceptions. (i) The adjustment required in this paragraph shall not apply to the portion of the royalty payment that the taxpayer estab-

lishes, by clear and convincing evidence of the type and in the form specified by the commissioner, meets all of the following requirements: (I) the related member was subject to tax in this state or another state or possession of the United States or a foreign nation or some combination thereof on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (II) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person that is not a related member; and (III) the transaction giving rise to the royalty payment between the taxpayer and the related member was undertaken for a valid business purpose.

(ii) The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (I) the related member was subject to tax on or measured by its net income in this state or another state or possession of the United States or some combination thereof; (II) the tax base for said tax included the royalty payment paid, accrued or incurred by the taxpayer; and (III) the aggregate effective rate of tax applied to the related member in those jurisdictions is no less than eighty percent of the statutory rate of tax that applied to the taxpayer under section two hundred ten of this article for the taxable year.

(iii) [The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this state; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(iv)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

(p) For taxable years beginning after December thirty-first, two thousand two, upon the disposition of property to which paragraph [(o)] (N-1) of this subdivision applies, the amount of any gain or loss includible in entire net income shall be adjusted to reflect the inclusions and exclusions from entire net income pursuant to subparagraph seventeen of paragraph (a) and subparagraph seventeen of paragraph (b) of this subdivision attributable to such property.

(q) For purposes of paragraphs [(o)] (N-1) and (p) of this subdivision, qualified resurgence zone property shall mean qualified property described in paragraph two of subsection k of section 168 of the internal revenue code substantially all of the use of which is in the resurgence zone, as defined below, and is in the active conduct of a trade or business by the taxpayer in such zone, and the original use of which in the resurgence zone commences with the taxpayer after December thirty-

first, two thousand two. The resurgence zone shall mean the area of New York county bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, and running thence east to Canal Street, then running along the centerline of Canal Street to the intersection of the Bowery and Canal Street, running thence in a southeasterly direction diagonally across Manhattan Bridge Plaza, to the Manhattan Bridge and thence along the centerline of the Manhattan Bridge to the point where the centerline of the Manhattan Bridge would intersect with the easterly bank of the East River, and bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel and running thence north along West Avenue to the intersection of Clarkson Street then running east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street, then east along the centerline of West Houston Street, then at the intersection of the Avenue of the Americas continuing east along the centerline of East Houston Street to the easterly bank of the East River.

(R) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFOLIOS. (1)(A) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (S) OF THIS SUBDIVISION AND MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (I) THIRTY-TWO PERCENT OF ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH EXCEEDS (II) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS 166 AND 585 OF THE INTERNAL REVENUE CODE LESS ANY AMOUNTS INCLUDED IN FEDERAL TAXABLE INCOME AS A RESULT OF A RECOVERY OF A LOAN.

(B)(I) IF THE TAXPAYER IS IN A COMBINED REPORT, THIS DEDUCTION WILL BE COMPUTED ON A COMBINED BASIS. IN THAT INSTANCE, THE ENTIRE NET INCOME OF THE COMBINED GROUP FOR PURPOSES OF THIS PARAGRAPH SHALL BE MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE THRIFT INSTITUTIONS OR QUALIFIED COMMUNITY BANKS INCLUDED IN THE COMBINED REPORT AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE CORPORATIONS INCLUDED IN THE COMBINED REPORT.

(II) MEASUREMENT OF ASSETS FOR PURPOSES OF THIS CLAUSE. (I) TOTAL ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET, COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

(II) ASSETS WILL ONLY BE INCLUDED IF THE INCOME OR EXPENSES OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED, OR DEPRECIATED OR EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF THE COMBINED GROUP'S ENTIRE NET INCOME FOR THE TAXABLE YEAR. ASSETS WILL NOT INCLUDE DEFERRED TAX ASSETS AND INTANGIBLE ASSETS IDENTIFIED AS "GOODWILL".

(III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND, MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. INTANGIBLE PROPERTY, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE.

(IV) INTERCORPORATE STOCKHOLDINGS AND BILLS, NOTES AND ACCOUNTS RECEIVABLE, AND OTHER INTERCORPORATE INDEBTEDNESS BETWEEN THE CORPORATIONS INCLUDED IN THE COMBINED REPORT SHALL BE ELIMINATED.

(V) AVERAGE ASSETS ARE COMPUTED USING THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR, AND ON THE LAST DAY OF EACH SUBSEQUENT QUARTER OF THE TAXABLE YEAR.

(2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (A) A TAXPAYER MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS DESCRIBED IN ITEMS (I) THROUGH (XII) OF THIS CLAUSE, WITH THE APPLICATION OF THE RULE IN ITEM (XIII). IF THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS OR QUALIFIED COMMUNITY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP.

ASSETS:

(I) CASH;

(II) OBLIGATIONS OF THE UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERNMENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF;

(III) LOANS SECURED BY A DEPOSIT OR SHARE OF A MEMBER;

(IV) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS ITEM, RESIDENTIAL REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS, FACILITIES IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROPERTY USED ON A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED ON A TRANSIENT BASIS;

(V) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF DEFAULTED LOANS DESCRIBED IN ITEM (IV) OF THIS CLAUSE;

(VI) ANY REGULAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS DEFINED IN SECTION 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE PROPORTION WHICH THE ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED IN ANY OF THE PRECEDING ITEMS OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE PERCENT OR MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN ITEMS (I) THROUGH (V) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC SHALL QUALIFY;

(VII) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN, WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN ITEM (IV) OF THIS CLAUSE AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR WHICH CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE TYPE OF PROPERTY DESCRIBED IN ITEM (IV) OF THIS CLAUSE;

(VIII) CERTIFICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION ORGANIZED UNDER A STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPORATION TO INSURE THE DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS;

(IX) LOANS SECURED BY AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE INSTITUTIONS OR FACILITIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMARILY FOR RESIDENTIAL PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDER CARE, EMPLOYEES, OR MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILITIES;

(X) LOANS MADE FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY EDUCATION OR VOCATIONAL TRAINING;

(XI) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSINESS WHICH CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC AND INVESTING IN LOANS; AND

(XII) LOANS FOR WHICH THE TAXPAYER IS THE CREDITOR AND WHICH ARE WHOLLY SECURED BY LOANS DESCRIBED IN ITEM (IV) OF THIS CLAUSE.

(XIII) THE VALUE OF ACCRUED INTEREST RECEIVABLE AND ANY LOSS-SHARING COMMITMENT OR OTHER LOAN GUARANTY BY A GOVERNMENTAL AGENCY WILL BE CONSIDERED PART OF THE BASIS IN THE LOANS TO WHICH THE ACCRUED INTEREST OR LOSS PROTECTION APPLIES.

(B) AT THE ELECTION OF THE TAXPAYER, THE PERCENTAGE SPECIFIED IN CLAUSE (A) OF THIS SUBPARAGRAPH SHALL BE APPLIED ON THE BASIS OF THE AVERAGE ASSETS OUTSTANDING DURING THE TAXABLE YEAR, IN LIEU OF THE CLOSE OF THE TAXABLE YEAR. THE TAXPAYER CAN ELECT TO COMPUTE AN AVERAGE USING THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR AND ON THE LAST DAY OF EACH SUBSEQUENT QUARTER, OR MONTH OR DAY DURING THE TAXABLE YEAR. THIS ELECTION MAY BE MADE ANNUALLY.

(C) FOR PURPOSES OF THIS COMPUTATION, THE DEFINITION OF ASSETS IN CLAUSE (B) OF SUBPARAGRAPH ONE OF THIS PARAGRAPH APPLIES.

(D) FOR PURPOSES OF ITEM (IV) OF CLAUSE (A) OF THIS SUBPARAGRAPH, IF A MULTIFAMILY STRUCTURE SECURING A LOAN IS USED IN PART FOR NONRESIDENTIAL USE PURPOSES, THE ENTIRE LOAN IS DEEMED A RESIDENTIAL REAL PROPERTY LOAN IF THE PLANNED RESIDENTIAL USE EXCEEDS EIGHTY PERCENT OF THE PROPERTY'S PLANNED USE (MEASURED, AT THE TAXPAYER'S ELECTION, BY USING SQUARE FOOTAGE OR GROSS RENTAL REVENUE, AND DETERMINED AS OF THE TIME THE LOAN IS MADE).

(E) FOR PURPOSES OF ITEM (IV) OF CLAUSE (A) OF THIS SUBPARAGRAPH, LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESIDENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY INTEREST IN A REMIC QUALIFIES UNDER ITEM (VI) OF CLAUSE (A) OF THIS SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING ITEM UNDER PRINCIPLES SIMILAR TO THE PRINCIPLE OF SUCH ITEM (VI), EXCEPT THAT IS SUCH REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS ONE REMIC FOR PURPOSES OF SUCH ITEM (VI).

(3) FOR PURPOSES OF THIS PARAGRAPH, A "THRIFT INSTITUTION" IS A SAVINGS BANK, A SAVINGS AND LOAN ASSOCIATION, OR OTHER SAVINGS INSTITUTION CHARTERED AND SUPERVISED AS SUCH UNDER FEDERAL OR STATE LAW.

(S) SUBTRACTION MODIFICATION FOR COMMUNITY BANKS. (1) A TAXPAYER THAT IS A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH OR A THRIFT INSTITUTION AS DEFINED IN SUBPARAGRAPH THREE OF PARAGRAPH (R) OF THIS SUBDIVISION SHALL BE ALLOWED A DEDUCTION IN COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

(2) TO BE A QUALIFIED COMMUNITY BANK, A TAXPAYER MUST SATISFY THE FOLLOWING CONDITIONS.

(A) IT IS A BANK OR TRUST COMPANY ORGANIZED UNDER OR SUBJECT TO THE PROVISIONS OF ARTICLE THREE OF THE BANKING LAW OR A COMPARABLE PROVISION OF THE LAWS OF ANOTHER STATE, OR A NATIONAL BANKING ASSOCIATION.

(B) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR THE ASSETS OF THE AFFILIATED GROUP OF THE TAXPAYER, MUST NOT EXCEED EIGHT BILLION DOLLARS. FOR PURPOSES OF THIS CLAUSE, THE AFFILIATED GROUP OF THE TAXPAYER INCLUDES ANY CORPORATION THAT MEETS THE OWNERSHIP REQUIREMENTS TO BE INCLUDED IN A COMBINED REPORT SPECIFIED IN

PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TEN-C OF THIS ARTICLE.

(3)(A) THE SUBTRACTION MODIFICATION SHALL BE COMPUTED AS FOLLOWS:

(I) MULTIPLY THE TAXPAYER'S NET INTEREST INCOME FROM LOANS DURING THE TAXABLE YEAR BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INTEREST INCOME DURING THE TAXABLE YEAR FROM QUALIFYING LOANS AND THE DENOMINATOR OF WHICH IS THE GROSS INTEREST INCOME DURING THE TAXABLE YEAR FROM ALL LOANS.

(II) MULTIPLY THE AMOUNT DETERMINED IN CLAUSE (I) BY FORTY PERCENT. THIS PRODUCT IS THE AMOUNT OF THE DEDUCTION ALLOWED UNDER THIS PARAGRAPH.

(B)(I) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST INCOME FROM LOANS LESS GROSS INTEREST EXPENSE FROM LOANS. GROSS INTEREST EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING GROSS INTEREST EXPENSE BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL VALUE OF LOANS OWNED BY THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR.

(II) MEASUREMENT OF ASSETS FOR PURPOSES OF THIS CLAUSE. (I) TOTAL ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET, COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

(II) ASSETS WILL ONLY BE INCLUDED IF THE INCOME OR EXPENSES OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED, OR DEPRECIATED OR EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF THE TAXPAYER'S ENTIRE NET INCOME FOR THE TAXABLE YEAR. ASSETS WILL NOT INCLUDE DEFERRED TAX ASSETS AND INTANGIBLE ASSETS IDENTIFIED AS "GOODWILL".

(III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND, MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. INTANGIBLE PROPERTY, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE.

(IV) AVERAGE ASSETS ARE COMPUTED USING THE ASSETS MEASURED ON THE FIRST DAY OF THE TAXABLE YEAR, AND ON THE LAST DAY OF EACH SUBSEQUENT QUARTER OF THE TAXABLE YEAR.

(C) A QUALIFYING LOAN IS A LOAN THAT MEETS THE CONDITIONS SPECIFIED IN SUBCLAUSE (I) OF THIS CLAUSE AND SUBCLAUSE (II) OF THIS CLAUSE.

(I) THE LOAN IS ORIGINATED OR PURCHASED BY THE QUALIFIED COMMUNITY BANK OR THRIFT INSTITUTION IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH A COMMITMENT TO PURCHASE MADE BY THE BANK PRIOR TO THE LOAN'S ORIGINATION.

(II) THE LOAN IS A SMALL BUSINESS LOAN, THE PRINCIPAL AMOUNT OF THE LOAN IS ONE MILLION DOLLARS OR LESS, WHERE EITHER THE BORROWER IS LOCATED IN THIS STATE AS DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTICLE AND THE LOAN IS NOT SECURED BY REAL PROPERTY LOCATED IN NEW YORK, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN NEW YORK.

10. The term "calendar year" means a period of twelve calendar months (or any shorter period beginning on the date the taxpayer becomes subject to the tax imposed by this article) ending on the thirty-first day of December, provided the taxpayer keeps its books on the basis of such period or on the basis of any period ending on any day other than the last day of a calendar month, or provided the taxpayer does not keep books, and includes, in case the taxpayer changes the period on the basis of which it keeps its books from a fiscal year to a calendar year, the period from the close of its last old fiscal year up to and including the following December thirty-first. The term "fiscal year" means a period of twelve calendar months (or any shorter period beginning on the

date the taxpayer becomes subject to the tax imposed by this article) ending on the last day of any month other than December, provided the taxpayer keeps its books on the basis of such period, and includes, in case the taxpayer changes the period on the basis of which it keeps it books from a calendar year to a fiscal year or from one fiscal year to another fiscal year, the period from the close of its last old calendar or fiscal year up to the date designated as the close of its new fiscal year.

11. The term "tangible personal property" means corporeal personal property, such as machinery, tools, implements, goods, wares and merchandise, and does not mean money, deposits in banks, shares of stock, bonds, notes, credits or evidences of an interest in property and evidences of debt.

12. The term elected or appointed officer shall include the chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller, and also any other officer, irrespective of his title, who is charged with and performs any of the regular functions of any such officer, unless the total compensation of such officer is derived exclusively from the receipt of commissions. A director shall be considered an elected or appointed officer only if he performs duties ordinarily performed by an officer.

13. The term "manufacturer" means a taxpayer or, in the case of a combined report, a combined group, that, during the taxable year, is principally engaged in manufacturing. A taxpayer or a combined group is principally engaged in manufacturing if more than fifty percent of the gross receipts of the taxpayer or the combined group, respectively, during the taxable year are derived from the sale of goods produced by manufacturing. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. In computing gross receipts for a taxpayer that is a partner in partnership, inter-entity receipts between the taxpayer and such partnership shall be eliminated.

14. (a) The term "manufacturing" means the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment.

(b) Notwithstanding the definition of manufacturing in paragraph (a) of this subdivision:

(i) The generation and distribution of electricity, the extraction and distribution of natural gas, and the production of steam associated with the generation of electricity does not constitute manufacturing.

(ii) The creation, production or reproduction of a film, television show or commercial does not constitute manufacturing.

(iii) The blending of two or more fuels does not constitute manufacturing.

(iv) The mass production of food products for wholesale commercial distribution and sale constitutes manufacturing.

15. The term "qualified New York manufacturer" means a manufacturer that has property in the state that is used in manufacturing and either the fair market value of that property at the close of the taxable year is at least ten million dollars or all of its real and personal property is located in New York. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the criteria in subdivision thirteen of this section may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the

taxpayer or the combined group has property in the state used in manufacturing, the adjusted basis of which for federal income tax purposes at the close of the taxable year is at least one hundred million dollars.

[19. The term "fulfillment services" shall mean any of the following services performed by an entity on its premises on behalf of a purchaser:

(a) the acceptance of orders electronically or by mail, telephone, telefax or internet;

(b) responses to consumer correspondence or inquiries electronically or by mail, telephone, telefax or internet;

(c) billing and collection activities; or

(d) the shipment of orders from an inventory of products offered for sale by the purchaser.]

S 5. Subdivisions 1, 2, 4, 5, 6, 7 and 8 of section 209 of the tax law, subdivisions 1 and 6 as amended by chapter 817 of the laws of 1987, subdivision 2 as amended by chapter 75 of the laws of 1998, subdivision 4 as amended by section 27 of LBD number 74024-03-4, subdivisions 5 and 7 as amended by section 2 of part FF-1 of chapter 57 of the laws of 2008, and subdivision 8 as added by section 1 of part O of chapter 61 of the laws of 2006, are amended to read as follows:

1. (A) For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity, or of maintaining an office in this state, OR OF DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, for all or any part of each of its fiscal or calendar years, every domestic or foreign corporation, except corporations specified in subdivision four of this section, shall annually pay a franchise tax, upon the basis of its [entire net] BUSINESS income base, or upon such other basis as may be applicable as hereinafter provided, for such fiscal or calendar year or part thereof, on a report which shall be filed, except as hereinafter provided, on or before the fifteenth day of March next succeeding the close of each such year, or, in the case of a corporation which reports on the basis of a fiscal year, within two and one-half months after the close of such fiscal year, and shall be paid as hereinafter provided.

(B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE IF IT HAS RECEIPTS WITHIN THIS STATE OF ONE MILLION DOLLARS OR MORE IN THE TAXABLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM "RECEIPTS" MEANS THE RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT RULES SET FORTH IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, AND THE TERM "RECEIPTS WITHIN THIS STATE" MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FACTOR DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTICLE.

(C) A CORPORATION IS DOING BUSINESS IN THIS STATE IF (I) IT HAS ISSUED CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING ADDRESS WITHIN THIS STATE AS OF THE LAST DAY OF ITS TAXABLE YEAR, (II) IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE LOCATIONS IN THIS STATE TO WHOM THE CORPORATION REMITTED PAYMENTS FOR CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (III) THE SUM OF THE NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH PLUS THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE

CORPORATION. AS USED IN THIS PARAGRAPH, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARDS.

(D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THIS STATE IN A TAXABLE YEAR THAT IS PART OF A COMBINED REPORTING GROUP IS DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE IF THE RECEIPTS WITHIN THIS STATE OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT HAVE AT LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THIS STATE IN THE AGGREGATE MEET THE THRESHOLD SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

(II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C) OF THIS SUBDIVISION, AND IS PART OF A COMBINED REPORTING GROUP IS DOING BUSINESS IN THIS STATE IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN THIS STATE OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT HAVE AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN THIS STATE IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION.

(E) AT THE END OF EACH YEAR, THE COMMISSIONER SHALL REVIEW THE CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE COMMISSIONER SHALL ADJUST THE RECEIPT THRESHOLDS SET FORTH IN THIS SUBDIVISION IF THE CONSUMER PRICE INDEX HAS CHANGED BY TEN PERCENT OR MORE SINCE JANUARY FIRST, TWO THOUSAND FIFTEEN, OR SINCE THE DATE THAT THE THRESHOLDS WERE LAST ADJUSTED UNDER THIS SUBDIVISION. THE THRESHOLDS SHALL BE ADJUSTED TO REFLECT THAT CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE ADJUSTED THRESHOLDS SHALL BE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS. AS USED IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) AVAILABLE FORM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR. ANY ADJUSTMENT SHALL APPLY TO TAX PERIODS THAT BEGIN AFTER THE ADJUSTMENT IS MADE.

2. A foreign corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office in this state, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, for the purposes of this article, by reason of (a) the maintenance of cash balances with banks or trust companies in this state, or (b) the ownership of shares of stock or securities kept in this state, if kept in a safe deposit box, safe, vault or other receptacle rented for the purpose, or if pledged as collateral security, or if deposited with one or more banks or trust companies, or brokers who are members of a recognized security exchange, in safekeeping or custody accounts, or (c) the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to such corporation, or (d) the maintenance of an office in this state by one or more officers or directors of the corporation who are not employees of the corporation if the corporation otherwise is not doing business in this state, and does not employ capital or own or lease property in this state, or (e) the keeping of books or records of a corporation in this state if such books or records are not kept by employees of such corporation and such corporation does not otherwise do business, employ capital, own or lease property or maintain an office in this state, or (f) [the use of fulfillment services of a person other than an affiliated person and the ownership of property stored on the premises of such person in conjunction with such services, or (g)] any combination of the foregoing activities. [For purposes of this subdivision, persons are affiliated persons with respect to each other where one of such

persons has an ownership interest of more than five percent, whether direct or indirect, in the other, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons which are affiliated persons with respect to each other. The term "person" in the preceding sentence and in paragraph (f) of this subdivision shall have the meaning ascribed thereto by subdivision (a) of section eleven hundred one of this chapter.]

4. Corporations liable to tax under sections one hundred eighty-three to one hundred eighty-four-a, inclusive, corporations taxable under [articles thirty-two and] ARTICLE thirty-three of this chapter, any trust company organized under a law of this state all of the stock of which is owned by not less than twenty savings banks organized under a law of this state, [bank holding companies filing a combined return in accordance with subsection (f) of section fourteen hundred sixty-two of this chapter,] a captive REIT or a captive RIC filing a combined return under [either subsection (f) of section fourteen hundred sixty-two or] subdivision (f) of section fifteen hundred fifteen of this chapter, and housing companies organized and operating pursuant to the provisions of article two or article five of the private housing finance law and housing development fund companies organized pursuant to the provisions of article eleven of the private housing finance law shall not be subject to tax under this article.

5. For any taxable year of a real estate investment trust as defined in section eight hundred fifty-six of the internal revenue code in which such trust is subject to federal income taxation under section eight hundred fifty-seven of such code, such trust shall be subject to a tax computed under either paragraph (a) [, (c)] or (d) of subdivision one of section two hundred ten of this chapter, whichever is [greatest] GREATER, and shall not be subject to any tax under article [thirty-two or article] thirty-three of this chapter except for a captive REIT required to file a combined return under [subdivision (f) of section fourteen hundred sixty-two or] subdivision (f) of section fifteen hundred fifteen of this chapter. In the case of such a real estate investment trust, including a captive REIT as defined in section two of this chapter, the term "entire net income" means "real estate investment trust taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-seven (as modified by section eight hundred fifty-eight) of the internal revenue code plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-seven of such code, subject to the [modification] MODIFICATIONS required by subdivision nine of section two hundred eight of this article [(other than the modification required by subparagraph two of paragraph (a) thereof) including the modifications required by paragraphs (d) and (e) of subdivision three of section two hundred ten of this article].

6. For any taxable year of a DISC, not exempt from tax under paragraph (i) of subdivision nine of section two hundred eight of this article, the taxes imposed by subdivision one of this section shall be computed only under either paragraph (b) or (d) of subdivision one of section two hundred ten of this chapter, whichever is greater[, and paragraph (e) of such subdivision].

7. For any taxable year, beginning on or after January first, nineteen hundred eighty of a regulated investment company, as defined in section eight hundred fifty-one of the internal revenue code, in which such company is subject to federal income taxation under section eight hundred fifty-two of such code, such company shall be subject to a tax

computed under either paragraph (a)[, (c)] or (d) of subdivision one of section two hundred ten of this chapter, whichever is [greatest] GREATER, and shall not be subject to any tax under article [thirty-two or article] thirty-three of this chapter except for a captive RIC required to file a combined return under [subdivision (f) of section fourteen hundred sixty-two or] subdivision (f) of section fifteen hundred fifteen of this chapter. In the case of such a regulated investment company, including a captive RIC as defined in section two of this chapter, the term "entire net income" means "investment company taxable income" as defined in paragraph two of subdivision (b) of section eight hundred fifty-two, as modified by section eight hundred fifty-five, of the internal revenue code plus the amount taxable under paragraph three of subdivision (b) of section eight hundred fifty-two of such code subject to the [modification] MODIFICATIONS required by subdivision nine of section two hundred eight of this chapter[, other than the modification required by subparagraph two of paragraph (a) and by paragraph (f) thereof, including the modification required by paragraphs (d) and (e) of subdivision three of section two hundred ten of this chapter].

8. For any taxable year beginning on or after January first, two thousand six, a corporation that is no longer doing business, employing capital, or owning or leasing property, OR DERIVING RECEIPTS FROM ACTIVITY in this state in a corporate or organized capacity that has filed a final tax return with the department for the last tax year it was doing business and has no outstanding tax liability for such final tax return or any tax return for prior tax years shall be exempt from all taxes imposed by paragraph (d) of subdivision one of section two hundred ten of this article for tax years following the last year such corporation was doing business.

S 6. Section 209-A of the tax law is REPEALED.

S 7. The section heading and subdivision 1 of section 209-B of the tax law, the section heading as amended by chapter 11 of the laws of 1983 and subdivision 1 as amended by section 4 of part A of chapter 59 of the laws of 2013, are amended to read as follows:

[Temporary metropolitan] METROPOLITAN transportation business tax surcharge. 1. (A) For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, OR OF DERIVING RECEIPTS FROM ACTIVITY in the metropolitan commuter transportation district, for all or any part of its taxable year, there is hereby imposed on every corporation, other than a New York S corporation, subject to tax under section two hundred nine of this article, or any receiver, referee, trustee, assignee or other fiduciary, or any officer or agent appointed by any court, who conducts the business of any such corporation, [for the taxable years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand eighteen,] a tax surcharge, in addition to the tax imposed under section two hundred nine of this article[, to be computed at the rate of eighteen]. SUCH SURCHARGE SHALL BE THE PRODUCT OF TWENTY-FOUR AND ONE-HALF percent of the tax imposed under such section two hundred nine for such taxable years or any part of such taxable years [ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three after] BEFORE the deduction of any credits otherwise allow-

able under this article; provided, however, that such [rates] RATE of tax surcharge shall be applied only to that portion of the tax imposed under section two hundred nine of this article [after] BEFORE the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district; and provided, further, [that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than four hundred thirty-two months. Provided however, that for taxable years commencing on or after July first, nineteen hundred ninety-eight, such surcharge shall be calculated as if the tax imposed under section two hundred ten of this article were imposed under the law in effect for taxable years commencing on or after July first, nineteen hundred ninety-seven and before July first, nineteen hundred ninety-eight. Provided however, that for taxable years commencing on or after January first, two thousand seven, such surcharge shall be calculated using the highest of the tax bases imposed pursuant to paragraphs (a), (b), (c) or (d) of subdivision one of section two hundred ten of this article and the amount imposed under paragraph (e) of subdivision one of such section two hundred ten, for the taxable year; and, provided further that, if such highest amount is the tax base imposed under paragraph (a), (b) or (c) of such subdivision, then the surcharge shall be computed as if the tax rates and limitations under such paragraph were the tax rates and limitations under such paragraph in effect for taxable years commencing on or after July first, nineteen hundred ninety-seven and before July first, nineteen hundred ninety-eight] THE SURCHARGE COMPUTED ON A COMBINED REPORT SHALL INCLUDE A SURCHARGE ON THE FIXED DOLLAR MINIMUM TAX FOR EACH MEMBER OF THE COMBINED GROUP SUBJECT TO THE SURCHARGE UNDER THIS SUBDIVISION.

(B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IF IT HAS RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT OF ONE MILLION DOLLARS OR MORE IN A TAXABLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM "RECEIPTS" MEANS THE RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT RULES SET FORTH IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, AND THE TERM "RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT" MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FACTOR DETERMINED UNDER SUBDIVISION TWO OF THIS SECTION.

(C) A CORPORATION IS DOING BUSINESS IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IF (I) IT HAS ISSUED CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING ADDRESS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AS OF THE LAST DAY OF ITS TAXABLE YEAR, (II) IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE LOCATIONS IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT TO WHOM THE CORPORATION REMITTED PAYMENTS FOR CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (III) THE SUM OF THE NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH PLUS THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE CORPORATION. AS USED IN THIS PARAGRAPH, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARDS.

(D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN A TAXABLE YEAR THAT IS PART OF A COMBINED REPORT-

ING GROUP IS DERIVING RECEIPTS FROM ACTIVITY IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IF THE RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT OF THE MEMBERS OF THE UNITARY BUSINESS GROUP THAT HAVE AT LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN THE AGGREGATE MEET THE THRESHOLD SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

(II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C), AND IS PART OF A COMBINED REPORTING GROUP IS DOING BUSINESS IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT OF THE MEMBERS OF THE UNITARY BUSINESS GROUP THAT HAVE AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION.

(E) AT THE END OF EACH YEAR, THE COMMISSIONER SHALL REVIEW THE CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE COMMISSIONER SHALL ADJUST THE RECEIPT THRESHOLDS SET FORTH IN THIS SUBDIVISION IF THE CONSUMER PRICE INDEX HAS CHANGED BY TEN PERCENT OR MORE SINCE JANUARY FIRST, TWO THOUSAND FIFTEEN, OR SINCE THE DATE THAT THE THRESHOLDS WERE LAST ADJUSTED UNDER THIS SUBDIVISION. THE THRESHOLDS SHALL BE ADJUSTED TO REFLECT THAT CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE ADJUSTED THRESHOLDS SHALL BE ROUNDED TO THE NEAREST ONE THOUSAND DOLLARS. AS USED IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) AVAILABLE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR. ANY ADJUSTMENT SHALL APPLY TO TAX PERIODS THAT BEGIN AFTER THE ADJUSTMENT IS MADE.

S 8. The opening paragraph of subdivision 2 of section 209-B of the tax law, as amended by chapter 11 of the laws of 1983, is amended to read as follows:

The portion of the taxpayer's business activity carried on within the metropolitan commuter transportation district shall be determined [by multiplying the tax imposed under section two hundred nine of this article by a percentage to be determined as follows:] PURSUANT TO THE METHOD PRESCRIBED IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE EXCEPT THAT THE REFERENCES TO "WITHIN THE STATE" SHALL REFER TO WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AND REFERENCES TO "WITHIN AND WITHOUT THE STATE" SHALL REFER TO WITHIN THE STATE.

S 9. Paragraphs (a), (b), (c) and (d) of subdivision 2 of section 209-B of the tax law are REPEALED.

S 10. Subdivisions 2-a and 2-b of section 209-B of the tax law are REPEALED.

S 11. Subdivisions 3 and 5 of section 209-B of the tax law, subdivision 3 as amended by chapter 11 of the laws of 1983 and subdivision 5 as amended by chapter 166 of the laws of 1991, are amended to read as follows:

3. A corporation shall not be deemed to be doing business, employing capital, owning or leasing property, or maintaining an office, OR DERIVING RECEIPTS FROM ACTIVITY in the metropolitan commuter transportation district, for the purposes of this section, by reason of (a) the maintenance of cash balances with banks or trust companies in the metropolitan commuter transportation district, or (b) the ownership of shares of stock or securities kept in the metropolitan commuter transportation

district, if kept in a safe deposit box, safe, vault or other receptacle rented for the purpose, or if pledged as collateral security, or if deposited with one or more banks or trust companies, or brokers who are members of a recognized security exchange, in safekeeping or custody accounts, or (c) the taking of any action by any such bank or trust company or broker, which is incidental to the rendering of safekeeping or custodian service to such corporation, or (d) the maintenance of an office in the metropolitan commuter transportation district by one or more officers or directors of the corporation who are not employees of the corporation if the corporation otherwise is not doing business in the metropolitan commuter transportation district, and does not employ capital or own or lease property in the metropolitan commuter transportation district, or (e) the keeping of books or records of a corporation in the metropolitan commuter transportation district if such books or records are not kept by employees of such corporation and such corporation does not otherwise do business, employ capital, own or lease property or maintain an office in the metropolitan commuter transportation district, or (f) any combination of the foregoing activities.

5. The provisions concerning reports under [section] SECTIONS TWO HUNDRED TEN-C AND two hundred eleven shall be applicable to this section, except that for purposes of an automatic extension for six months for filing a report covering the tax surcharge imposed by this section, such automatic extension shall be allowed only if a taxpayer files with the commissioner an application for extension in such form as said commissioner may prescribe by regulation and pays on or before the date of such filing in addition to any other amounts required under this article, either ninety percent of the entire tax surcharge required to be paid under this section for the applicable period, or not less than the tax surcharge shown on the taxpayer's return for the preceding taxable year, if such preceding taxable year was a taxable year of twelve months; provided, however, that in no event shall such amount be less than the product of the following three amounts: (1) the tax surcharge rate in effect for the taxable year pursuant to subdivision one of this section, (2) the fixed dollar minimum applicable to such taxpayer as determined under paragraph (d) of subdivision one of section two hundred ten of this chapter for the taxable year, and (3) the percentage determined under subdivision two of this section for the preceding taxable year, unless the taxpayer was not subject to the tax surcharge imposed pursuant to this section with respect to such year, in which case such percentage shall be deemed to be one hundred percent. The tax surcharge imposed by this section shall be payable to the commissioner in full at the time the report is required to be filed, and such tax surcharge or the balance thereof, imposed on any taxpayer which ceases to exercise its franchise or be subject to the tax surcharge imposed by this section shall be payable to the commissioner at the time the report is required to be filed, provided such tax surcharge of a domestic corporation which continues to possess its franchise shall be subject to adjustment as the circumstances may require; all other tax surcharges of any such taxpayer, which pursuant to the foregoing provisions of this section would otherwise be payable subsequent to the time such report is required to be filed, shall nevertheless be payable at such time. All of the provisions of this article presently applicable are applicable to the tax surcharge imposed by this section.

S 12. Subdivision 1 of section 210 of the tax law, as added by chapter 817 of the laws of 1987, the opening paragraph as amended by section 1 of part D and paragraph (g) as amended by section 2 of part A of chapter

63 of the laws of 2000, paragraph (a) as amended by section 2 of part N of chapter 60 of the laws of 2007, subparagraphs 2 and 3 of paragraph (b) as amended by section 17 of LBD number 74021-03-4, subparagraph (ii) of paragraph (c) as amended by section 2 of part C and subparagraph 5 of paragraph (d) as added by section 3 of part C of chapter 56 of the laws of 2011, subparagraphs (vi) and (vii) of paragraph (a) as amended by section 16 of LBD number 74021-03-4, subparagraph (iii) of paragraph (c) as added by section 3 of part Z, and subparagraph 6 of paragraph (d) as added by section 4 of part Z of chapter 59 of the laws of 2013, paragraph (b) as amended by section 1 of part GG1, subparagraph 3 of paragraph (d) as amended by section 3 of part AA1, subparagraph 4 of paragraph (d) as added by section 2 of part AA1 and subparagraph 1 of paragraph (g) as amended by section 4 of part AA1 of chapter 57 of the laws of 2008, paragraph (c) as amended by section 10 of part A and subparagraph 1 of paragraph (d) as amended by section 12 of part A of chapter 56 of the laws of 1998, paragraph (d) as amended by chapter 760 of the laws of 1992, paragraph (e) as amended by section 1 of part P of chapter 407 of the laws of 1999, paragraph (f) as amended by section 2 of part E of chapter 61 of the laws of 2005 and paragraph (h) as added by section 20 of LBD number 74021-03-4, is amended to read as follows:

1. The tax imposed by subdivision one of section two hundred nine of this chapter shall be: (A) in the case of each taxpayer other than a New York S corporation or a qualified homeowners association, the [sum of (1) the] highest of the amounts prescribed in paragraphs (a), (b), [(c)] and (d) of this subdivision [and (2) the amount prescribed in paragraph (e) of this subdivision], (B) in the case of each New York S corporation, the amount prescribed in paragraph [(g)] (D) of this subdivision, and (C) in the case of a qualified homeowners association, the [sum of (1) the] highest of the amounts prescribed in paragraphs (a)[,] AND (b) [and (c)] of this subdivision [and (2) the amount prescribed in paragraph (e) of this subdivision]. For purposes of this paragraph, the term "qualified homeowners association" means a homeowners association, as such term is defined in subsection (c) of section five hundred twenty-eight of the internal revenue code without regard to subparagraph (E) of paragraph one of such subsection (relating to elections to be taxed pursuant to such section), which has no homeowners association taxable income, as such term is defined in subsection (d) of such section. Provided, however, that in the case of a small business taxpayer (other than a New York S corporation) as defined in paragraph (f) of this subdivision, FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, if the amount prescribed in such paragraph (b) is higher than the amount prescribed in such paragraph (a) solely by reason of the application of the rate applicable to small business taxpayers, then with respect to such taxpayer the tax referred to in the previous sentence shall be [the sum of (1) the highest] HIGHER of the amounts prescribed in paragraphs (a)[, (c)] and (d) of this subdivision [and (2) the amount prescribed in paragraph (e) of this subdivision].

(a) [Entire net] BUSINESS income base. [For taxable years beginning before July first, nineteen hundred ninety-nine, the amount prescribed by this paragraph shall be computed at the rate of nine percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand, the amount prescribed by this paragraph shall be computed at the rate of eight and one-half percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, two thousand and before July first, two thousand one, the amount prescribed by

this paragraph shall be computed at the rate of eight percent of the taxpayer's entire net income base. For taxable years beginning after June thirtieth, two thousand one and before January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of seven and one-half percent of the taxpayer's entire net income base.] For taxable years beginning [on or after] BEFORE January first, two thousand [seven] SIXTEEN, the amount prescribed by this paragraph shall be computed at the rate of seven and one-tenth percent of the taxpayer's [entire net] BUSINESS income base. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE SIX AND ONE-HALF PERCENT OF THE TAXPAYER'S BUSINESS INCOME BASE. The taxpayer's [entire net] BUSINESS income base shall mean the portion of the taxpayer's [entire net] BUSINESS income allocated within the state as hereinafter provided[, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section]. However, in the case of a small business taxpayer, as defined in paragraph (f) of this subdivision, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (iv) of this paragraph and in the case of a manufacturer, as defined in subparagraph (vi) of this paragraph, the amount prescribed by this paragraph shall be computed pursuant to subparagraph (vi) of this paragraph.

[(i) if the entire net income base is not more than two hundred thousand dollars, (1) for taxable years beginning before July first, nineteen hundred ninety-nine, the amount shall be eight percent of the entire net income base; (2) for taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand three, the amount shall be seven and one-half percent of the entire net income base; and (3) for taxable years beginning after June thirtieth, two thousand three and before January first, two thousand five, the amount shall be 6.85 percent of the entire net income base;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, (1) for taxable years beginning before July first, nineteen hundred ninety-nine, the amount shall be the sum of (a) sixteen thousand dollars, (b) nine percent of the excess of the entire net income base over two hundred thousand dollars and (c) five percent of the excess of the entire net income base over two hundred fifty thousand dollars; (2) for taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand, the amount shall be the sum of (a) fifteen thousand dollars, (b) eight and one-half percent of the excess of the entire net income base over two hundred thousand dollars and (c) five percent of the excess of the entire net income base over two hundred fifty thousand dollars; (3) for taxable years beginning after June thirtieth, two thousand and before July first, two thousand one, the amount shall be the sum of (a) fifteen thousand dollars, (b) eight percent of the excess of the entire net income base over two hundred thousand dollars and (c) two and one-half percent of the excess of the entire net income base over two hundred fifty thousand dollars; (4) for taxable years beginning after June thirtieth, two thousand one and before July first, two thousand three, the amount shall be seven and one-half percent of the entire net income base; and (5) for taxable years beginning after June thirtieth, two thousand three and before January first, two thousand five, the amount shall be the sum of (a) thirteen thousand seven hundred dollars, (b) 7.5 percent of the excess of the entire net income base over two hundred thousand dollars and (c)

3.25 percent of the excess of the entire net income base over two hundred fifty thousand dollars;

(iii) for taxable years beginning on or after January first, two thousand five and ending before January first, two thousand seven, if the entire net income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the entire net income base; if the entire net income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-half percent of the excess of the entire net income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) seven and one-quarter percent of the excess of the entire net income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;]

(iv) for taxable years beginning [on or after] BEFORE January first, two thousand [seven] SIXTEEN, if the [entire net] BUSINESS income base is not more than two hundred ninety thousand dollars the amount shall be six and one-half percent of the [entire net] BUSINESS income base; if the [entire net] BUSINESS income base is more than two hundred ninety thousand dollars but not over three hundred ninety thousand dollars the amount shall be the sum of (1) eighteen thousand eight hundred fifty dollars, (2) seven and one-tenth percent of the excess of the [entire net] BUSINESS income base over two hundred ninety thousand dollars but not over three hundred ninety thousand dollars and (3) four and thirty-five hundredths percent of the excess of the [entire net] BUSINESS income base over three hundred fifty thousand dollars but not over three hundred ninety thousand dollars;

(v) if the taxable period to which [subparagraphs (i), (ii), (iii), and] SUBPARAGRAPH (iv) of this paragraph [apply] APPLIES is less than twelve months, the amount prescribed by this paragraph shall be computed as follows:

(A) Multiply the [entire net] BUSINESS income base for such taxpayer by twelve;

(B) Divide the result obtained in (A) by the number of months in the taxable year;

(C) Compute an amount pursuant to [subparagraphs (i) and (ii)] SUBPARAGRAPH (IV) as if the result obtained in (B) were the taxpayer's [entire net] BUSINESS income base;

(D) Multiply the result obtained in (C) by the number of months in the taxpayer's taxable year;

(E) Divide the result obtained in (D) by twelve.

(vi) except as otherwise provided in this subparagraph or subparagraph (vii) of this paragraph, for taxable years beginning on or after January thirty-first, two thousand seven, the amount prescribed by this paragraph for a taxpayer which is a qualified New York manufacturer, as defined in subdivision fifteen of section two hundred eight of this article, shall be computed at the rate of six and one-half (6.5) percent of the taxpayer's [entire net] BUSINESS income base. [For taxable years beginning on or after January first, two thousand twelve and before January first, two thousand fifteen, the amount prescribed by this paragraph for a taxpayer which is an eligible qualified New York manufacturer shall be computed at the rate of three and one-quarter (3.25) percent of the taxpayer's entire net income base. The commissioner shall establish guidelines and criteria that specify requirements by which a manufacturer may be classified as an eligible qualified New York

manufacturer. Criteria may include but not be limited to factors such as regional unemployment, the economic impact that manufacturing has on the surrounding community, population decline within the region and median income within the region in which the manufacturer is located. In establishing these guidelines and criteria, the commissioner shall endeavor that the total annual cost of the lower rates shall not exceed twenty-five million dollars.]

For a qualified New York manufacturer, as defined in subdivision fifteen of section two hundred eight of this article, the rate at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for qualified New York manufacturers shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

(vii) For a qualified New York manufacturer that has an apportionment factor for purposes of the metropolitan transportation business tax surcharge computed pursuant to subdivision two of section two hundred nine-B of this article equal to zero for the taxable year, the amount prescribed by this paragraph for taxable years beginning on or after January first, two thousand fourteen shall be computed at the rate of zero percent of the taxpayer's entire net income base.

(VIII) IN COMPUTING THE BUSINESS INCOME BASE, A NET OPERATING LOSS DEDUCTION SHALL BE ALLOWED. A NET OPERATING LOSS DEDUCTION IS THE AMOUNT OF NET OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD TO A PARTICULAR INCOME YEAR. A NET OPERATING LOSS IS THE AMOUNT OF A BUSINESS LOSS INCURRED IN A PARTICULAR TAX YEAR MULTIPLIED BY THE APPORTIONMENT FACTOR FOR THAT YEAR AS DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTICLE. THE MAXIMUM NET OPERATING DEDUCTION THAT IS ALLOWED IN A TAXABLE YEAR IS THE AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF THE TAX ON THE CAPITAL BASE OR THE FIXED DOLLAR MINIMUM. SUCH DEDUCTION AND LOSS ARE DETERMINED IN ACCORDANCE WITH THE FOLLOWING:

(1) SUCH NET OPERATING LOSS DEDUCTION IS NOT LIMITED TO THE AMOUNT ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE OR THE AMOUNT THAT WOULD HAVE BEEN ALLOWED IF THE TAXPAYER HAD NOT MADE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER ONE OF THE INTERNAL REVENUE CODE.

(2) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPERATING LOSS INCURRED DURING ANY TAXABLE YEAR BEGINNING PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN, OR DURING ANY TAXABLE YEAR IN WHICH THE TAXPAYER WAS NOT SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE.

(3) A TAXPAYER THAT FILES AS PART OF A FEDERAL CONSOLIDATED RETURN BUT ON A SEPARATE BASIS FOR PURPOSES OF THIS ARTICLE MUST COMPUTE ITS DEDUCTION AND LOSS AS IF IT WERE FILING ON A SEPARATE BASIS FOR FEDERAL INCOME TAX PURPOSES.

(4) A NET OPERATING LOSS MUST BE CARRIED FORWARD TO EACH OF THE TWENTY TAXABLE YEARS FOLLOWING THE TAXABLE YEAR OF THE LOSS. NO CARRYBACK OF THE NET OPERATING LOSS IS ALLOWED. A TAXPAYER MUST APPLY BOTH OF THESE LIMITATIONS IN COMPUTING SUCH NET OPERATING LOSS DEDUCTION.

(5) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPERATING LOSS INCURRED DURING A NEW YORK S YEAR; PROVIDED, HOWEVER, A NEW YORK S YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS MAY BE CARRIED FORWARD.

(6) WHERE THERE ARE TWO OR MORE ALLOCATED NET OPERATING LOSSES, OR PORTIONS THEREOF, CARRIED FORWARD TO BE DEDUCTED IN ONE PARTICULAR TAX YEAR FROM ALLOCATED BUSINESS INCOME, THE EARLIEST ALLOCATED LOSS INCURRED MUST BE APPLIED FIRST.

(b) Capital base. (1) The [amount prescribed by this paragraph for taxable years beginning before January first, two thousand eight shall be computed at .178 percent for each dollar of the taxpayer's total business and investment capital, or the portion thereof allocated within the state as hereinafter provided. For taxable years beginning on or after January first, two thousand eight, the] amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business [and investment] capital, or the portion thereof allocated within the state as hereinafter provided. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent. In no event shall the amount prescribed by this paragraph exceed three hundred fifty thousand dollars for qualified New York manufacturers and for all other taxpayers [ten] FIVE million dollars [for taxable years beginning on or after January first, two thousand eight but before January first, two thousand eleven and one million dollars for taxable years beginning on or after January first, two thousand eleven].

(2) For a qualified New York manufacturer, as defined in subdivision fifteen of section two hundred eight of this article, the rate at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

[(c) Minimum taxable income bases. (i) For taxable years beginning after nineteen hundred eighty-six and before nineteen hundred eighty-nine, the amount prescribed by this paragraph shall be computed at the rate of three and one-half percent of the taxpayer's pre-nineteen hundred ninety minimum taxable income base. For taxable years beginning in nineteen hundred eighty-nine, the amount prescribed by this paragraph shall be computed at the rate of five percent of the taxpayer's pre-nineteen hundred ninety minimum taxable income base. A "taxpayer's pre-nineteen hundred ninety minimum taxable income base" shall mean the portion of the taxpayer's entire net income allocated within the state as hereinafter provided, subject to any modification required by paragraphs (d) and (e) of subdivision three of this section;

(ii) (A) For taxable years beginning on or after January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of one and one-half percent of the taxpayer's minimum taxable income base. The "taxpayer's minimum taxable income base" shall mean the portion of the taxpayer's minimum taxable income allo-

cated within the state as hereinafter provided, subject to any modifications required by paragraphs (d) and (e) of subdivision three of this section.

(B) For taxable years beginning on or after January first, two thousand twelve and before January first, two thousand fifteen, the amount prescribed by this paragraph for an eligible qualified New York manufacturer shall be computed at the rate of seventy-five hundredths (.75) percent of the taxpayer's minimum taxable income base. For purposes of this clause, the term "eligible qualified New York manufacturer" shall have the same meaning as in subparagraph (vi) of paragraph (a) of this subdivision.

(iii) For a qualified New York manufacturer, as defined in subparagraph (vi) of paragraph (a) of this subdivision, the rate at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for qualified New York manufacturers shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.]

(d) Fixed dollar minimum. (1) The [amount prescribed by this paragraph shall be for a taxpayer which during the taxable year has:

(A) a gross payroll of six million two hundred fifty thousand dollars or more, one thousand five hundred dollars;

(B) a gross payroll of less than six million two hundred fifty thousand dollars but more than one million dollars, four hundred twenty-five dollars;

(C) a gross payroll of no more than one million dollars but more than five hundred thousand dollars, three hundred twenty-five dollars;

(D) a gross payroll of no more than five hundred thousand dollars but more than two hundred fifty thousand dollars, two hundred twenty-five dollars;

(E) a gross payroll of two hundred fifty thousand dollars or less (except as prescribed in clause (F) of this subparagraph), one hundred dollars;

(F) a gross payroll of one thousand dollars or less, with total receipts within and without this state of one thousand dollars or less, and the average value of the assets of which are one thousand dollars or less, eight hundred dollars.

(2) For purposes of this paragraph:

(A) gross payroll shall be the same as the total wages, salaries and other personal service compensation of all the taxpayer's employees, within and without this state, as defined in subparagraph three of paragraph (a) of subdivision three of this section, except that general executive officers shall not be excluded.

(B) total receipts shall be the same as receipts within and without this state as defined in subparagraph two of paragraph (a) of subdivision three of this section.

(C) average value of the assets shall be the same as prescribed by subdivision two of this section without reduction for liabilities.

(3) If the taxable year is less than twelve months, the amount prescribed by this paragraph shall be reduced by twenty-five percent if

the period for which the taxpayer is subject to tax is more than six months but not more than nine months and by fifty percent if the period for which the taxpayer is subject to tax is not more than six months. Provided, however, that in determining the amount of gross payroll and total receipts for purposes of subparagraph one of this paragraph, where the taxable year is less than twelve months, the amount of each shall be determined by dividing the amount of each with respect to the taxable year by the number of months in such taxable year and multiplying the result by twelve. If the taxable year is less than twelve months, the amount of New York receipts for purposes of subparagraph four of this paragraph is determined by dividing the amount of the receipts for the taxable year by the number of months in the taxable year and multiplying the result by twelve.

(4) Notwithstanding subparagraphs one and two of this paragraph, for taxable years beginning on or after January first, two thousand eight, the] amount prescribed by this paragraph for New York S corporations will be determined in accordance with the following table:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 25
more than $100,000 but not over $250,000	$ 50
more than $250,000 but not over $500,000	$ 175
more than $500,000 but not over $1,000,000	$ 300
more than $1,000,000 but not over $5,000,000	$1,000
more than $5,000,000 but not over $25,000,000	$3,000
Over $25,000,000	$4,500

Otherwise the amount prescribed by this paragraph will be determined in accordance with the following table:

PROVIDED FURTHER, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, WILL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES:

FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2014 AND BEFORE JANUARY 1, 2015:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$ 23
MORE THAN $100,000 BUT NOT OVER $250,000	$ 68
MORE THAN $250,000 BUT NOT OVER $500,000	$ 159
MORE THAN $500,000 BUT NOT OVER $1,000,000	$ 454
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,362
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$3,178
OVER $25,000,000	$4,500

FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2015 AND BEFORE JANUARY 1, 2016:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$ 22
MORE THAN $100,000 BUT NOT OVER $250,000	$ 66
MORE THAN $250,000 BUT NOT OVER $500,000	$ 153
MORE THAN $500,000 BUT NOT OVER $1,000,000	$ 439
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,316
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$3,070
OVER $25,000,000	$4,385

FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2016 AND BEFORE JANUARY 1, 2018:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$ 21
MORE THAN $100,000 BUT NOT OVER $250,000	$ 63
MORE THAN $250,000 BUT NOT OVER $500,000	$ 148
MORE THAN $500,000 BUT NOT OVER $1,000,000	$ 423
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,269
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$2,961
OVER $25,000,000	$4,230

FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2018:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN $100,000	$ 19
MORE THAN $100,000 BUT NOT OVER $250,000	$ 56
MORE THAN $250,000 BUT NOT OVER $500,000	$ 131
MORE THAN $500,000 BUT NOT OVER $1,000,000	$ 375
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,125
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$2,625
OVER $25,000,000	$3,750

OTHERWISE THE AMOUNT PRESCRIBED BY THIS PARAGRAPH WILL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

If New York receipts are:	The fixed dollar minimum tax is:
not more than $100,000	$ 25
more than $100,000 but not over $250,000	$ 75
more than $250,000 but not over $500,000	$ 175
more than $500,000 but not over $1,000,000	$ 500
more than $1,000,000 but not over $5,000,000	$1,500
more than $5,000,000 but not over $25,000,000	$3,500
[Over] $25,000,000 BUT NOT OVER $50,000,000	$5,000
MORE THAN $50,000,000 BUT NOT OVER $100,000,000	$10,000
MORE THAN $100,000,000 BUT NOT OVER $250,000,000	$20,000
MORE THAN $250,000,000 BUT NOT OVER $500,000,000	50,000
MORE THAN $500,000,000 BUT NOT OVER $1,000,000,000	$100,000
OVER $1,000,000,000	$200,000

For purposes of this paragraph, New York receipts are the receipts [computed in accordance with subparagraph two of paragraph (a) of subdivision three of this] INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FACTOR DETERMINED UNDER section TWO HUNDRED TEN-A for the taxable year.

(2) IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW YORK RECEIPTS IS DETERMINED BY DIVIDING THE AMOUNT OF THE RECEIPTS FOR THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN THE TAXABLE YEAR AND MULTIPLYING THE RESULT BY TWELVE. IN THE CASE OF A TERMINATION YEAR OF A NEW YORK S CORPORATION, THE SUM OF THE TAX COMPUTED UNDER THIS PARAGRAPH FOR THE S SHORT YEAR AND FOR THE C SHORT YEAR SHALL NOT BE LESS THAN THE AMOUNT COMPUTED UNDER THIS PARAGRAPH AS IF THE CORPORATION WERE A NEW YORK C CORPORATION FOR THE ENTIRE TAXABLE YEAR.

[(5) For taxable years beginning on or after January first, two thousand twelve and before January first, two thousand fifteen, the amounts prescribed in subparagraphs one and four of this paragraph as the fixed dollar minimum tax for an eligible qualified New York manufacturer shall

be one-half of the amounts stated in those subparagraphs. For purposes of this subparagraph, the term "eligible qualified New York manufacturer" shall have the same meaning as in subparagraph (vi) of paragraph (a) of this subdivision.

(6) For a qualified New York manufacturer, as defined in subparagraph (vi) of paragraph (a) of this subdivision, the amounts prescribed in subparagraphs one and four of this paragraph in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for qualified New York manufacturers shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

(e) Subsidiary capital base. (1) The amount prescribed by this paragraph shall be computed at the rate of nine-tenths of a mill for each dollar of the portion of the taxpayer's subsidiary capital allocated within the state as hereinafter provided.

(2) For purposes of this paragraph, the amount of such subsidiary capital, prior to allocation, shall be reduced by the applicable percentage of the taxpayer's (i) investments in the stock of, and any indebtedness from, subsidiaries subject to tax under section one hundred eighty-six of this chapter (but only to the extent such indebtedness is included in subsidiary capital), and (ii) investments in the stock of, and any indebtedness from, subsidiaries subject to tax under article thirty-two or thirty-three of this chapter (but only to the extent such indebtedness is included in subsidiary capital). For purposes of clause (i) of this subparagraph, the applicable percentage shall be thirty percent for taxable years beginning in two thousand, and one hundred percent for taxable years beginning after two thousand. For purposes of clause (ii) of this subparagraph, the applicable percentage shall be one hundred percent for taxable years beginning after nineteen hundred ninety-nine.]

(f) For purposes of this section, the term "small business taxpayer" shall mean a taxpayer (i) which has an entire net income of not more than three hundred ninety thousand dollars for the taxable year; (ii) [which constitutes a small business as defined in section 1244(c)(3) of internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of the taxable year] THE AGGREGATE AMOUNT OF MONEY AND OTHER PROPERTY RECEIVED BY THE CORPORATION FOR STOCK, AS A CONTRIBUTION TO CAPITAL, AND AS PAID-IN SURPLUS, DOES NOT EXCEED ONE MILLION DOLLARS; [and] (iii) which is not part of an affiliated group, as defined in section 1504 of the internal revenue code, unless such group, if it had filed a report under this article on a combined basis, would have itself qualified as a "small business taxpayer" pursuant to this subdivision; AND (IV) WHICH HAS AN AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS, EMPLOYED FULL-TIME IN THE STATE DURING THE TAXABLE YEAR OF ONE HUNDRED OR FEWER. If the taxable period to which subparagraph (i) of this paragraph applies is less than twelve months, entire net income under such subparagraph shall be placed on an annual basis by multiplying the entire net income by twelve and dividing the result by the number of months in the period.

FOR PURPOSES OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO ANY PROPERTY OTHER THAN MONEY SHALL BE THE AMOUNT EQUAL TO THE ADJUSTED BASIS TO THE CORPORATION OF SUCH PROPERTY FOR DETERMINING GAIN, REDUCED BY ANY LIABILITY TO WHICH THE PROPERTY WAS SUBJECT OR WHICH WAS ASSUMED BY THE CORPORATION. THE DETERMINATION UNDER THE PRECEDING SENTENCE SHALL BE MADE AS OF THE TIME THE PROPERTY WAS RECEIVED BY THE CORPORATION. FOR PURPOSES OF SUBPARAGRAPH (III) OF THIS SECTION, "AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS, EMPLOYED FULL-TIME" SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS 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 DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD. AN INDIVIDUAL EMPLOYED FULL-TIME MEANS AN EMPLOYEE IN A JOB CONSISTING OF AT LEAST THIRTY-FIVE HOURS PER WEEK, OR TWO OR MORE EMPLOYEES WHO ARE IN JOBS THAT TOGETHER CONSTITUTE THE EQUIVALENT OF A JOB AT LEAST THIRTY-FIVE HOURS PER WEEK (FULL-TIME EQUIVALENT). FULL-TIME EQUIVALENT EMPLOYEES IN THE STATE INCLUDES ALL EMPLOYEES REGULARLY CONNECTED WITH OR WORKING OUT OF AN OFFICE OR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THE STATE.

(g) New York S corporations. (1) General. The amount prescribed by this paragraph shall be, in the case of each New York S corporation, [(i) the higher of the amounts prescribed in paragraphs (a) and (d) of this subdivision (other than the amount prescribed in the final clause of subparagraph one of that paragraph (d)) (ii) reduced by the article twenty-two tax equivalent; provided, however, that the amount thus determined shall not be less than the lowest of the amounts prescribed in subparagraph one of that paragraph (d) (applying the provisions of subparagraph three of that paragraph as necessary). Provided, however, notwithstanding any provision of this paragraph, in taxable years beginning in two thousand three and before two thousand eight, the amount prescribed by this paragraph shall be the amount prescribed in subparagraph one of that paragraph (d) (applying the provisions of subparagraph three of that paragraph as necessary) and applying the calculation of that amount in the case of a termination year as set forth in subparagraph four of this paragraph as necessary. In taxable years beginning in two thousand eight and thereafter, the amount prescribed by this paragraph is] the amount prescribed in subparagraph four of that paragraph (d) [(applying the provisions of subparagraph three of that paragraph as necessary)] and applying the calculation of that amount in the case of a termination year as set forth in subparagraph four of this paragraph as necessary.

(2) [Article twenty-two tax equivalent. For taxable years beginning before July first, nineteen hundred ninety-nine, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.875 percent. For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.525 percent. For taxable years beginning after June thirtieth, two thousand and before July first, two thousand one, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.175 percent. For taxable years

beginning after June thirtieth, two thousand one and before July first, two thousand three, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 6.85 percent. For taxable years beginning after June thirtieth, two thousand three, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.1425 percent.

(3) Small business taxpayers. Notwithstanding the provisions of subparagraphs one and two of this paragraph, in the case of a New York S corporation which is a small business taxpayer, as defined in paragraph (f) of this subdivision, the following provisions shall apply:

(A) For taxable years beginning before July first, nineteen hundred ninety-nine, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.875 percent.

(B) For taxable years beginning after June thirtieth, nineteen hundred ninety-nine and before July first, two thousand three, the amount computed under paragraph (a) of this subdivision, as referred to in subparagraph one of this paragraph, shall be computed by substituting for the rate therein the rate of 7.5 percent, and the article twenty-two tax equivalent under paragraph (a) of this subdivision shall be computed as follows:

(i) if the entire net income base is not more than two hundred thousand dollars, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.45 percent;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, the article twenty-two tax equivalent shall be computed as the sum of (I) fourteen thousand nine hundred dollars, (II) six and eighty-five hundredths percent of the first fifty thousand dollars in excess of the entire net income base over two hundred thousand dollars, and (III) three and eighty-five hundredths percent of the excess, if any, of the entire net income base over two hundred fifty thousand dollars.

(C) For taxable years beginning after June thirtieth, two thousand three, the amount computed under paragraph (a) of this subdivision, as referred to in subparagraph one of this paragraph, shall be computed by substituting for the rate therein the rate of 7.5 percent, and the article twenty-two tax equivalent under paragraph (a) of this subdivision shall be computed as follows:

(i) if the entire net income base is not more than two hundred thousand dollars, the article twenty-two tax equivalent is the amount computed under paragraph (a) of this subdivision by substituting for the rate therein the rate of 7.4725 percent;

(ii) if the entire net income base is more than two hundred thousand dollars but not over two hundred ninety thousand dollars, the article twenty-two tax equivalent shall be computed as the sum of (I) fourteen thousand nine hundred forty-five dollars, (II) 7.1425 percent of the first fifty thousand dollars in excess of the entire net income base over two hundred thousand dollars, and (III) 5.4925 percent of the excess, if any, of the entire net income base over two hundred fifty thousand dollars.

(4)] Termination year. In the case of a termination year, [the tax for the S short year shall be computed under this paragraph without regard to the fixed dollar minimum tax prescribed in paragraph (d) of this subdivision, and the tax for the C short year shall be computed under

the opening paragraph of this subdivision without regard to the fixed dollar minimum tax prescribed under such paragraph (d), but in no event shall] the sum of the tax for the S short year and the tax for the C short year SHALL NOT be less than the fixed dollar minimum tax under paragraph (d) of this subdivision computed as if the corporation were a New York C corporation for the entire taxable year.

[(h) For purposes of determining whether a taxpayer is an eligible qualified New York manufacturer for purposes of the tax benefits provided in subparagraph (vi) of paragraph (a) of this subdivision, subparagraph (ii) of paragraph (c) of this subdivision, and subparagraph five of paragraph (d) of this subdivision, a taxpayer shall utilize the law, guidelines and criteria in effect on December thirty-first, two thousand thirteen.]

S 13. Subdivision 1-c of section 210 of the tax law, as amended by chapter 1043 of the laws of 1981, the opening paragraph and paragraph (a) as amended by chapter 817 of the laws of 1987, and paragraph (b) as amended by section 12 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

1-c. The computations specified in paragraph (b) of subdivision one of this section shall not apply to the first two taxable years of a taxpayer which, for one or both such years, is a small business [concern. A small business concern:

(a) is a taxpayer which is a small business corporation as defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of the taxable year,

(b) is not a corporation over fifty percent of the number of shares of stock of which entitling the holders thereof to vote for the election of directors or trustees is owned by a taxpayer which (1) is subject to tax under this article; section one hundred eighty-three, one hundred eighty-four or one hundred eighty-five of article nine; article thirty-two or thirty-three of this chapter, and (2) does not qualify as a small business corporation as defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of its taxable year ending within or with the taxable year of the taxpayer,

(c) is not a corporation which is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under this article; section one hundred eighty-three, one hundred eighty-four, one hundred eighty-five or one hundred eighty-six of article nine; 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, and

(d) at least ninety percent of the assets of such corporation (valued at original cost) were located and employed in this state during the taxable year and eighty percent of the employees of such corporation (as ascertained within the meaning and intent of subparagraph three of paragraph (a) of subdivision three of this section) were principally employed in this state during the taxable year] TAXPAYER AS DEFINED IN PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION.

S 14. Subdivision 2 of section 210 of the tax law, as amended by chapter 760 of the laws of 1992, is amended to read as follows:

2. The amount of [subsidiary capital,] investment capital and business capital shall each be determined by taking the average value of the assets included therein (less liabilities deductible therefrom pursuant to the provisions of subdivisions [four,] five and seven of section two hundred eight), and, if the period covered by the report is other than a period of twelve calendar months, by multiplying such value by the number of calendar months or major parts thereof included in such period, and dividing the product thus obtained by twelve. For purposes of this subdivision, real property and marketable securities shall be valued at fair market value and the value of personal property other than marketable securities shall be the value thereof shown on the books and records of the taxpayer in accordance with generally accepted accounting principles.

S 15. Subdivisions 3, 3-a, 4, 5, 6, 7, 8, 9, 10, 11, 12, 12-A, 12-B, 12-C, 12-D, 12-E, 12-F, 12-G, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21-a, 22, 23, 23-a, 24, 25, 25-a, 26, 26-a, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, subdivision 48 as added by section 3 of LBD number 74039-02-4 and subdivision 48 as added by section 2 of LBD number 74021-03-4 of section 210 of the tax law are REPEALED.

S 16. The tax law is amended by adding a new section 210-A to read as follows:

S 210-A. APPORTIONMENT. 1. GENERAL. BUSINESS INCOME AND CAPITAL SHALL BE APPORTIONED TO THE STATE BY THE APPORTIONMENT FACTOR DETERMINED PURSUANT TO THIS SECTION. THE APPORTIONMENT FACTOR IS A FRACTION, DETERMINED BY INCLUDING ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS DESCRIBED IN THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE TAXPAYER'S BUSINESS INCOME FOR THE TAXABLE YEAR. THE NUMERATOR OF THE APPORTIONMENT FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE PROVISIONS OF THIS SECTION AND THE DENOMINATOR OF THE APPORTIONMENT FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE DENOMINATOR PURSUANT TO THE PROVISIONS OF THIS SECTION.

2. SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY. (A) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIPMENTS ARE MADE TO POINTS WITHIN THE STATE OR THE DESTINATION OF THE PROPERTY IS A POINT IN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIPMENTS ARE MADE TO POINTS WITHIN AND WITHOUT THE STATE OR THE DESTINATION IS WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(C) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY THAT ARE TRADED AS COMMODITIES AS DESCRIBED IN SECTION 475 OF THE INTERNAL REVENUE CODE ARE INCLUDED IN THE APPORTIONMENT FRACTION IN ACCORDANCE WITH CLAUSE (I) OF SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION.

3. RENTALS AND ROYALTIES. (A) RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY LOCATED WITHIN THE STATE ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE STATE ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS AND SIMILAR INTANGIBLES WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(C) RECEIPTS FROM THE SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE TELEVISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A REGULARLY SCHEDULED BASIS) TAKING PLACE WITHIN THE STATE AS A RESULT OF THE RENDITION OF SERVICES BY EMPLOYEES OF THE CORPORATION, AS ATHLETES, ENTERTAINERS OR PERFORMING ARTISTS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION TO THE EXTENT THAT SUCH RECEIPTS ARE ATTRIBUTABLE TO SUCH TRANSMISSIONS RECEIVED OR EXHIBITED WITHIN THE STATE. RECEIPTS FROM ALL SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE TELEVISION TRANSMISSIONS OF AN EVENT ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

4. DIGITAL PRODUCTS. (A) FOR PURPOSES OF DETERMINING THE APPORTIONMENT FRACTION UNDER THIS SECTION, THE TERM "DIGITAL PRODUCT" MEANS ANY PROPERTY OR SERVICE, OR COMBINATION THEREOF, OF WHATEVER NATURE DELIVERED TO THE PURCHASER THROUGH THE USE OF WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR SIMILAR SUCCESSOR MEDIA, OR ANY COMBINATION THEREOF. DIGITAL PRODUCT INCLUDES, BUT IS NOT LIMITED TO, AN AUDIO WORK, AUDIOVISUAL WORK, VISUAL WORK, BOOK OR LITERARY WORK, GRAPHIC WORK, GAME, INFORMATION OR ENTERTAINMENT SERVICE, STORAGE OF DIGITAL PRODUCTS AND COMPUTER SOFTWARE BY WHATEVER MEANS DELIVERED. THE TERM "DELIVERED TO" INCLUDES FURNISHED OR PROVIDED TO OR ACCESSED BY. A DIGITAL PRODUCT DOES NOT INCLUDE LEGAL, MEDICAL, ACCOUNTING, ARCHITECTURAL, RESEARCH, ANALYTICAL, ENGINEERING OR CONSULTING SERVICES PROVIDED BY THE TAXPAYER.

(B) RECEIPTS FROM THE SALE OF, LICENCE TO USE, OR GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN THE STATE, DETERMINED ACCORDING TO THE HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. THE TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN PARAGRAPH (C) OF THIS SUBDIVISION BEFORE REJECTING IT AND PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY. IF THE RECEIPT FOR A DIGITAL PRODUCT IS COMPRISED OF A COMBINATION OF PROPERTY AND SERVICES, IT CANNOT BE DIVIDED INTO SEPARATE COMPONENTS AND IS CONSIDERED TO BE ONE RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

(C) HIERARCHY OF SOURCING METHODS. (1) DELIVERY DESTINATION OF THE DIGITAL PRODUCT. A DIGITAL PRODUCT IS DEEMED DELIVERED WITHIN THE STATE IF THE LOCATION FROM WHICH THE PURCHASER OR ITS AUTHORIZED USER ACCESSES OR USES THE DIGITAL PRODUCT IS IN THE STATE. DESTINATION MAY BE DEMONSTRATED BY INTERNET PROTOCOL ADDRESS OR OTHER SIMILAR OR SUCCESSOR INDICATOR, THE GEOGRAPHIC LOCATION OF THE EQUIPMENT TO WHICH THE DIGITAL PRODUCT IS DELIVERED OR FROM WHICH THE DIGITAL PRODUCT IS ACCESSED, OR THE DELIVERY DESTINATION INDICATED ON A BILL OF LADING OR PURCHASE INVOICE. A DIGITAL PRODUCT ACCESSED OR USED BY THE PURCHASER OR ITS AUTHORIZED USER DURING THE TAXPAYER'S TAXABLE YEAR IN MULTIPLE LOCATIONS IS DELIVERED WITHIN THE STATE TO THE EXTENT THAT THE DIGITAL PRODUCT IS ACCESSED OR USED IN THE STATE;

(2) BILLING ADDRESS OF THE PURCHASER;

(3) ZIP CODE OR OTHER GEOGRAPHIC INDICATOR OF THE PURCHASER'S LOCATION; OR

(4) THE APPORTIONMENT FRACTION DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR, OR, IF THE TAXPAYER WAS NOT SUBJECT TO TAX IN THE PRECEDING TAXABLE YEAR, THEN THE APPORTIONMENT FRACTION IN THE CURRENT TAXABLE YEAR FOR THOSE DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE THROUGH THREE OF THIS SUBDIVISION.

5. FINANCIAL TRANSACTIONS. (A) FINANCIAL INSTRUMENTS. A FINANCIAL INSTRUMENT IS A "QUALIFIED FINANCIAL INSTRUMENT" IF IT IS MARKED TO MARKET UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE, PROVIDED THAT LOANS SECURED BY REAL PROPERTY SHALL NOT BE QUALIFIED FINANCIAL INSTRUMENTS. A FINANCIAL INSTRUMENT IS A "NONQUALIFIED FINANCIAL INSTRUMENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRUMENT.

(1) FIXED PERCENTAGE METHOD FOR QUALIFIED FINANCIAL INSTRUMENTS. IN DETERMINING THE INCLUSION OF RECEIPTS AND NET GAINS FROM QUALIFIED FINANCIAL INSTRUMENTS IN THE APPORTIONMENT FRACTION, TAXPAYERS MAY ELECT TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN THIS SUBPARAGRAPH FOR QUALIFIED FINANCIAL INSTRUMENTS. THE ELECTION IS IRREVOCABLE, APPLIES TO ALL QUALIFIED FINANCIAL INSTRUMENTS, AND MUST BE MADE ON AN ANNUAL BASIS ON THE TAXPAYER'S ORIGINAL, TIMELY FILED RETURN. IF THE TAXPAYER ELECTS THE FIXED PERCENTAGE METHOD, THEN ALL INCOME, GAIN OR LOSS, FROM QUALIFIED FINANCIAL INSTRUMENTS CONSTITUTES BUSINESS INCOME, GAIN OR LOSS. IF THE TAXPAYER DOES NOT ELECT TO USE THE FIXED PERCENTAGE METHOD, THEN RECEIPTS AND NET GAINS ARE INCLUDED IN THE APPORTIONMENT FRACTION IN ACCORDANCE WITH THE CUSTOMER SOURCING METHOD DESCRIBED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH. UNDER THE FIXED PERCENTAGE METHOD, EIGHT PERCENT OF ALL NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. ALL NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(2) CUSTOMER SOURCING METHOD. RECEIPTS AND NET GAINS FROM QUALIFIED FINANCIAL INSTRUMENTS, IN CASES WHERE THE TAXPAYER DID NOT ELECT TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH, AND FROM NONQUALIFIED FINANCIAL INSTRUMENTS ARE INCLUDED IN THE APPORTIONMENT FRACTION IN ACCORDANCE WITH THIS SUBPARAGRAPH. FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL IS DEEMED TO BE LOCATED IN THE STATE IF HIS OR HER BILLING ADDRESS IS IN THE STATE. A BUSINESS ENTITY IS DEEMED TO BE LOCATED IN THE STATE IF ITS COMMERCIAL DOMICILE IS LOCATED IN THE STATE.

(A) LOANS. (I) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(II) RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IF THE BORROWER IS LOCATED IN THE STATE. RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY, WHETHER THE BORROWER IS LOCATED WITHIN OR WITHOUT THE STATE, SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(III) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY REAL PROPERTY ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE SALE OF LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET GAINS BY A

FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE GROSS PROCEEDS FROM SALES OF LOANS SECURED BY REAL PROPERTY WITHIN AND WITHOUT THE STATE. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY REAL PROPERTY WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(IV) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE SALE OF LOANS NOT SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET GAINS BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF GROSS RECEIPTS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED WITHIN AND WITHOUT THE STATE. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTEREST AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK OR ITS POLITICAL SUBDIVISIONS SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. FIFTY PERCENT OF THE RECEIPTS CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT INSTRUMENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(C) ASSET BACKED SECURITIES. EIGHT PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES, INCLUDING SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC), THE SMALL BUSINESS ADMINISTRATION OR OTHER GOVERNMENT AGENCY SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF ASSET BACKED SECURITIES ISSUED BY GNMA, FNMA, OR FHLMC, THE SMALL BUSINESS ADMINISTRATION OR OTHER GOVERNMENT AGENCY AND SALES OF OTHER ASSET BACKED SECURITIES THAT ARE SOLD THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED EXCHANGE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER ASSET BACKED SECURITIES INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED IN THE STATE AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE STATE. RECEIPTS CONSTITUTING INTEREST FROM ASSET BACKED SECURITIES AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF ASSET BACKED SECURITIES ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST TO ACQUIRE THE SECURITIES BUT SHALL NOT BE LESS THAN ZERO.

(D) CORPORATE BONDS. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IF THE COMMERCIAL DOMICILE OF THE ISSUING CORPORATION IS IN THE STATE. EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS SOLD THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED EXCHANGE IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES OF CORPORATE BONDS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED IN THE STATE AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE STATE. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS, WHETHER THE ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITHOUT THE STATE, AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS TO PURCHASERS WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT SHALL NOT BE LESS THAN ZERO.

(E) REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS. EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET INTEREST INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS IS DETERMINED FOR PURPOSES OF THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE FROM THE TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREEMENTS BUT CANNOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT OF SUCH INTEREST EXPENSE IS THE INTEREST EXPENSE ASSOCIATED WITH THE SUM OF THE VALUE OF THE TAXPAYER'S REPURCHASE AGREEMENTS WHERE IT IS THE SELLER/BORROWER PLUS THE VALUE OF THE TAXPAYER'S AND SECURITIES LENDING AGREEMENTS WHERE IT IS THE SECURITIES LENDER, PROVIDED SUCH SUM IS LIMITED TO THE SUM OF THE VALUE OF THE TAXPAYER'S REVERSE REPURCHASE AGREEMENTS WHERE IT IS THE SELLER/BORROWER AND THE VALUE OF THE TAXPAYER'S SECURITIES BORROWING AGREEMENTS.

(F) FEDERAL FUNDS. EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INTEREST FROM FEDERAL FUNDS IS DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE FROM FEDERAL FUNDS.

(G) DIVIDENDS AND NET GAINS FROM SALES OF STOCK OR PARTNERSHIP INTERESTS. DIVIDENDS FROM STOCK, NET GAINS (NOT LESS THAN ZERO) FROM SALES OF STOCK AND NET GAINS (NOT LESS THAN ZERO) FROM THE SALE OF PARTNERSHIP INTERESTS ARE NOT INCLUDED IN EITHER THE NUMERATOR OR DENOMINATOR OF THE APPORTIONMENT FRACTION UNLESS THE COMMISSIONER DETERMINES PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION THAT INCLUSION OF SUCH DIVIDENDS AND NET GAINS (NOT LESS THAN ZERO) IS NECESSARY TO PROPERLY REFLECT THE BUSINESS INCOME OR CAPITAL OF THE TAXPAYER.

(H) OTHER FINANCIAL INSTRUMENTS. (I) RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IF THE PAYOR IS LOCATED IN THE STATE. RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRUMENTS, WHETHER

THE PAYOR IS WITHIN OR WITHOUT THE STATE, ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(II) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL INSTRUMENTS WHERE THE PURCHASER OR PAYOR IS LOCATED IN THE STATE ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION, PROVIDED THAT, IF THE PURCHASER OR PAYOR IS A REGISTERED SECURITIES BROKER OR DEALER OR THE TRANSACTION IS MADE THROUGH A LICENSED EXCHANGE, THEN EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) OR OTHER INCOME (NOT LESS THAN ZERO) IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL INSTRUMENTS ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(I) PHYSICAL COMMODITIES. NET INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF NET INCOME FROM SALES OF PHYSICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET INCOME FROM SALES OF PHYSICAL COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN THE STATE OR, IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL COMMODITY, SOLD TO CUSTOMERS LOCATED IN THE STATE, AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE OR SOLD TO CUSTOMERS LOCATED WITHIN AND WITHOUT THE STATE. NET INCOME (NOT LESS THAT ZERO) FROM SALES OF PHYSICAL COMMODITIES IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES IS DETERMINED AFTER THE DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL COMMODITIES.

(B) OTHER RECEIPTS FROM BROKER OR DEALER ACTIVITIES. RECEIPTS FROM SECURITIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURITIES" SHALL HAVE THE SAME MEANING AS IN SECTION 475(C)(2) OF THE INTERNAL REVENUE CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN SECTION 475(E)(2) OF THE INTERNAL REVENUE CODE.

(1) RECEIPTS CONSTITUTING BROKERAGE COMMISSIONS DERIVED FROM THE EXECUTION OF SECURITIES OR COMMODITIES PURCHASE OR SALES ORDERS FOR THE ACCOUNTS OF CUSTOMERS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH COMMISSIONS IS WITHIN THE STATE.

(2) RECEIPTS CONSTITUTING MARGIN INTEREST EARNED ON BEHALF OF BROKERAGE ACCOUNTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH MARGIN INTEREST IS WITHIN THE STATE.

(3)(A) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY THAT IS CONTEMPLATING ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR MANAGING AN UNDERWRITING SHALL BE DEEMED TO BE GENERATED WITHIN THE

STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE STATE.

(B) RECEIPTS CONSTITUTING THE PRIMARY SPREAD OF SELLING CONCESSION FROM UNDERWRITTEN SECURITIES SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO THE EXTENT THE CUSTOMER IS LOCATED IN THE STATE.

(C) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETED AND THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURITIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPARATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE TAXPAYER IS NOT THE LEAD UNDERWRITER.

(4) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS IN THE RECORD OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH ACCOUNT MAINTENANCE FEES IS WITHIN THE STATE.

(5) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES, INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISITION ACTIVITIES, BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION, SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE STATE.

(6) RECEIPTS CONSTITUTING INTEREST EARNED BY THE TAXPAYER ON LOANS AND ADVANCES MADE BY THE TAXPAYER TO A CORPORATION AFFILIATED WITH THE TAXPAYER BUT WITH WHICH THE TAXPAYER IS NOT PERMITTED OR REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SECTION TWO HUNDRED TEN-C OF THIS ARTICLE SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE PRINCIPAL PLACE OF BUSINESS OF SUCH AFFILIATED CORPORATION.

(7) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS. THE AMOUNT OF SUCH RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS AS RESULT OF A SECURITIES CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO THE EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS.

(8) IF, FOR PURPOSES OF SUBPARAGRAPHS ONE, TWO, CLAUSE (A) OF SUBPARAGRAPH THREE, FOUR, OR FIVE OF THIS PARAGRAPH THE TAXPAYER IS UNABLE FROM ITS RECORDS TO DETERMINE THE MAILING ADDRESS OF THE CUSTOMER, EIGHT PERCENT OF THE RECEIPTS IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION.

(C) RECEIPTS FROM CREDIT CARD AND SIMILAR ACTIVITIES. RECEIPTS RELATING TO THE BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH THREE OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE STATE SHALL BE

INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(1) RECEIPTS CONSTITUTING INTEREST, AND FEES AND PENALTIES IN THE NATURE OF INTEREST, FROM BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD RECEIVABLES SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS OF THE CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS IN THE STATE;

(2) RECEIPTS FROM SERVICE CHARGES AND FEES FROM SUCH CARDS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MAILING ADDRESS OF THE CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS IN THE STATE; AND

(3) RECEIPTS FROM MERCHANT DISCOUNTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE IF THE MERCHANT IS LOCATED WITHIN THE STATE. IN THE CASE OF A MERCHANT WITH LOCATIONS BOTH WITHIN AND WITHOUT NEW YORK STATE, ONLY RECEIPTS FROM MERCHANT DISCOUNTS ATTRIBUTABLE TO SALES MADE FROM LOCATIONS WITHIN NEW YORK STATE ARE ALLOCATED TO NEW YORK STATE. IT SHALL BE PRESUMED THAT THE LOCATION OF THE MERCHANT IS THE ADDRESS OF THE MERCHANT SHOWN ON THE INVOICE SUBMITTED BY THE MERCHANT TO THE TAXPAYER.

(D) RECEIPTS FROM CERTAIN SERVICES TO INVESTMENT COMPANIES. RECEIPTS RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE OF MANAGEMENT, ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVESTMENT COMPANY ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. THE PORTION OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK PORTION) SHALL BE DETERMINED AS PROVIDED IN THIS PARAGRAPH.

(1) THE NEW YORK PORTION SHALL BE THE PRODUCT OF THE TOTAL OF SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERATOR OF THAT FRACTION IS THE SUM OF THE MONTHLY PERCENTAGES (AS DEFINED HEREINAFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPANY'S TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR ENDS WITHIN THE TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH DURING WHICH THE INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE MONTHLY PERCENTAGE FOR EACH SUCH MONTH IS DETERMINED BY DIVIDING THE NUMBER OF SHARES IN THE INVESTMENT COMPANY THAT ARE OWNED ON THE LAST DAY OF THE MONTH BY SHAREHOLDERS THAT ARE DOMICILED IN THE STATE BY THE TOTAL NUMBER OF SHARES IN THE INVESTMENT COMPANY OUTSTANDING ON THAT DATE. THE DENOMINATOR OF THE FRACTION IS THE NUMBER OF SUCH MONTHLY PERCENTAGES.

(2)(A) FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL, ESTATE OR TRUST IS DEEMED TO BE LOCATED IN THE STATE IF HIS, HER OR ITS MAILING ADDRESS ON THE RECORDS OF THE INVESTMENT COMPANY IS IN THE STATE. A BUSINESS ENTITY IS DEEMED TO BE LOCATED IN THE STATE IF ITS COMMERCIAL DOMICILE IS LOCATED IN THE STATE.

(B) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INVESTMENT COMPANY" MEANS A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION 851 OF THE INTERNAL REVENUE CODE, AND A PARTNERSHIP TO WHICH SECTION 7704(A) OF THE INTERNAL REVENUE CODE APPLIES (BY VIRTUE OF SECTION 7704(C)(3) OF SUCH CODE) AND THAT MEETS THE REQUIREMENTS OF SECTION 851(B) OF SUCH CODE. THE PRECEDING SENTENCE SHALL BE APPLIED TO THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES OF THE BUSINESS ENTITY THAT IS ASSERTED TO CONSTITUTE AN INVESTMENT COMPANY THAT ENDS WITHIN THE TAXABLE YEAR OF THE TAXPAYER.

(C) FOR PURPOSES OF THIS PARAGRAPH THE TERM "RECEIPTS FROM AN INVESTMENT COMPANY" INCLUDES AMOUNTS RECEIVED DIRECTLY FROM AN INVESTMENT COMPANY AS WELL AS AMOUNTS RECEIVED FROM THE SHAREHOLDERS IN SUCH INVESTMENT COMPANY, IN THEIR CAPACITY AS SUCH.

(D) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "MANAGEMENT SERVICES" MEANS THE RENDERING OF INVESTMENT ADVICE TO AN INVESTMENT COMPANY, MAKING DETERMINATIONS AS TO WHEN SALES AND PURCHASES OF SECURITIES ARE TO BE MADE ON BEHALF OF AN INVESTMENT COMPANY, OR THE SELLING OR PURCHASING OF SECURITIES CONSTITUTING ASSETS OF AN INVESTMENT COMPANY, AND RELATED ACTIVITIES, BUT ONLY WHERE SUCH ACTIVITY OR ACTIVITIES ARE PERFORMED PURSUANT TO A CONTRACT WITH THE INVESTMENT COMPANY ENTERED INTO PURSUANT TO SECTION 15(A) OF THE FEDERAL INVESTMENT COMPANY ACT OF NINETEEN HUNDRED FORTY, AS AMENDED.

(E) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DISTRIBUTION SERVICES" MEANS THE SERVICES OF ADVERTISING, SERVICING INVESTOR ACCOUNTS (INCLUDING REDEMPTIONS), MARKETING SHARES OR SELLING SHARES OF AN INVESTMENT COMPANY, BUT, IN THE CASE OF ADVERTISING, SERVICING INVESTOR ACCOUNTS (INCLUDING REDEMPTIONS) OR MARKETING SHARES, ONLY WHERE SUCH SERVICE IS PERFORMED BY A PERSON WHO IS (OR WAS, IN THE CASE OF A CLOSED END COMPANY) ALSO ENGAGED IN THE SERVICE OF SELLING SUCH SHARES. IN THE CASE OF AN OPEN END COMPANY, SUCH SERVICE OF SELLING SHARES MUST BE PERFORMED PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO SECTION 15(B) OF THE FEDERAL INVESTMENT COMPANY ACT OF NINETEEN HUNDRED FORTY, AS AMENDED.

(F) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ADMINISTRATION SERVICES" INCLUDES CLERICAL, ACCOUNTING, BOOKKEEPING, DATA PROCESSING, INTERNAL AUDITING, LEGAL AND TAX SERVICES PERFORMED FOR AN INVESTMENT COMPANY BUT ONLY IF THE PROVIDER OF SUCH SERVICE OR SERVICES DURING THE TAXABLE YEAR IN WHICH SUCH SERVICE OR SERVICES ARE SOLD ALSO SELLS MANAGEMENT OR DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH INVESTMENT COMPANY.

(E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOWING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY, BASED ON THE INFORMATION KNOWN TO THE TAXPAYER: (I) THE LOCATION OF THE TREASURY FUNCTION OF THE BUSINESS ENTITY; (II) THE SEAT OF MANAGEMENT AND CONTROL OF THE BUSINESS ENTITY; AND (III) THE BILLING ADDRESS OF THE BUSINESS ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILIGENCE BEFORE REJECTING A METHOD IN THIS HIERARCHY AND PROCEEDING TO THE NEXT METHOD.

(F) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "REGISTERED SECURITIES BROKER OR DEALER" MEANS A BROKER OR DEALER REGISTERED AS SUCH BY THE SECURITIES AND EXCHANGE COMMISSION OR THE COMMODITIES FUTURES TRADING COMMISSION, AND SHALL INCLUDE AN OTC DERIVATIVES DEALER AS DEFINED UNDER REGULATIONS OF THE SECURITIES AND EXCHANGE COMMISSION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE OF FEDERAL REGULATIONS (17 CFR 240.3B-12).

6. RECEIPTS FROM RAILROAD AND TRUCKING BUSINESS. RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE RAILROAD, WHETHER OR NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED RAILROAD, PALACE CAR OR SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS OR A TRUCKING BUSINESS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE AMOUNT OF RECEIPTS FROM SUCH BUSINESS BY A FRACTION, THE NUMERATOR OF WHICH IS THE MILES IN SUCH BUSINESS WITHIN THE STATE DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH IS THE MILES IN SUCH BUSINESS WITHIN AND WITHOUT THE STATE DURING SUCH PERIOD. RECEIPTS FROM THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

7. RECEIPTS FROM AVIATION SERVICES. (A) AIR FREIGHT FORWARDING. RECEIPTS OF A TAXPAYER FROM THE ACTIVITY OF AIR FREIGHT FORWARDING ACTING AS PRINCIPAL AND LIKE INDIRECT AIR CARRIER RECEIPTS ARISING FROM SUCH ACTIVITY SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS: ONE HUNDRED PERCENT OF SUCH RECEIPTS IF BOTH THE PICKUP AND DELIVERY ASSOCIATED WITH SUCH RECEIPTS ARE MADE IN THE STATE AND FIFTY PERCENT OF SUCH RECEIPTS IF EITHER THE PICKUP OR DELIVERY ASSOCIATED WITH SUCH RECEIPTS IS MADE IN THIS STATE. SUCH RECEIPTS, WHETHER THE PICKUP OR DELIVERY ASSOCIATED WITH THE RECEIPTS IS WITHIN OR WITHOUT THE STATE, SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) OTHER AVIATION SERVICES. (1)(A) THE PORTION OF RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES (OTHER THAN SERVICES DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION) TO BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION SHALL BE DETERMINED BY MULTIPLYING ITS RECEIPTS FROM SUCH AVIATION SERVICES BY A PERCENTAGE WHICH IS EQUAL TO THE ARITHMETIC AVERAGE OF THE FOLLOWING THREE PERCENTAGES:

(I) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE AIRCRAFT ARRIVALS AND DEPARTURES WITHIN THIS STATE BY THE TAXPAYER DURING THE PERIOD COVERED BY ITS REPORT BY THE TOTAL AIRCRAFT ARRIVALS AND DEPARTURES WITHIN AND WITHOUT THIS STATE DURING SUCH PERIOD; PROVIDED, HOWEVER, ARRIVALS AND DEPARTURES SOLELY FOR MAINTENANCE OR REPAIR, REFUELING (WHERE NO DEBARKATION OR EMBARKATION OF TRAFFIC OCCURS), ARRIVALS AND DEPARTURES OF FERRY AND PERSONNEL TRAINING FLIGHTS OR ARRIVALS AND DEPARTURES IN THE EVENT OF EMERGENCY SITUATIONS SHALL NOT BE INCLUDED IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE; PROVIDED, FURTHER, THE COMMISSIONER MAY ALSO EXEMPT FROM SUCH PERCENTAGE AIRCRAFT ARRIVALS AND DEPARTURES OF ALL NON-REVENUE FLIGHTS INCLUDING FLIGHTS INVOLVING THE TRANSPORTATION OF OFFICERS OR EMPLOYEES RECEIVING AIR TRANSPORTATION TO PERFORM MAINTENANCE OR REPAIR SERVICES OR WHERE SUCH OFFICERS OR EMPLOYEES ARE TRANSPORTED IN CONJUNCTION WITH AN EMERGENCY SITUATION OR THE INVESTIGATION OF AN AIR DISASTER (OTHER THAN ON A SCHEDULED FLIGHT); PROVIDED, HOWEVER, THAT ARRIVALS AND DEPARTURES OF FLIGHTS TRANSPORTING OFFICERS AND EMPLOYEES RECEIVING AIR TRANSPORTATION FOR PURPOSES OTHER THAN SPECIFIED ABOVE (WITHOUT REGARD TO REMUNERATION) SHALL BE INCLUDED IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE;

(II) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE REVENUE TONS HANDLED BY THE TAXPAYER AT AIRPORTS WITHIN THIS STATE DURING SUCH PERIOD BY THE TOTAL REVENUE TONS HANDLED BY IT AT AIRPORTS WITHIN AND WITHOUT THIS STATE DURING SUCH PERIOD; AND

(III) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE TAXPAYER'S ORIGINATING REVENUE WITHIN THIS STATE FOR SUCH PERIOD BY ITS TOTAL ORIGINATING REVENUE WITHIN AND WITHOUT THIS STATE FOR SUCH PERIOD.

(B) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAYER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM THE TRANSPORTATION OR REVENUE PASSENGERS AND REVENUE PROPERTY FIRST RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT AIRPORTS; AND THE TERM "REVENUE TONS HANDLED" BY THE TAXPAYER AT AIRPORTS MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGINATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT AIRPORTS;

(2) ALL SUCH RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES DESCRIBED IN THIS PARAGRAPH ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

8. RECEIPTS FROM SALES OF ADVERTISING. (A) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR RADIO INCLUDED IN THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION AND RADIO IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

(C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING DESCRIBED IN THIS PARAGRAPH IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

9. RECEIPTS FROM TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES. RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE TAXPAYER'S TRANSPORTATION UNITS WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE TAXPAYER'S TRANSPORTATION UNITS WITHIN AND WITHOUT THE STATE. A TRANSPORTATION UNIT IS THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A DISTANCE OF ONE MILE. THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

10. (A) RECEIPTS FROM OTHER SERVICES AND OTHER BUSINESS RECEIPTS. RECEIPTS FROM SERVICES NOT ADDRESSED IN SUBDIVISIONS ONE THROUGH NINE OF THIS SECTION AND OTHER BUSINESS RECEIPTS NOT ADDRESSED IN SUCH SUBDIVISIONS SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IF THE LOCATION OF THE CUSTOMER IS WITHIN THE STATE. SUCH RECEIPTS FROM CUSTOMERS WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. WHETHER THE RECEIPTS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED ACCORDING TO THE HIERARCHY OF METHOD SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION. THE TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN

PARAGRAPH (B) BEFORE REJECTING IT AND PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY.

(B) HIERARCHY OF METHODS. (1) DELIVERY DESTINATION. RECEIPTS FOR SERVICES PERFORMED FOR A CUSTOMER'S PARTICULAR LOCATION, SUCH AS WHERE A DELIVERY IS MADE TO THAT LOCATION, AS MAY BE INDICATED ON A BILL OF LADING OR PURCHASE INVOICE, ARE SOURCED TO THAT LOCATION.

(2) BILLING ADDRESS OF THE CUSTOMER.

(3) ZIP CODE OR OTHER GEOGRAPHIC INDICATOR OF THE CUSTOMER'S LOCATION.

(4) PERCENTAGE OF THE TAXPAYER'S RECEIPTS WITHIN THE STATE DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR OR, IF THE TAXPAYER WAS NOT SUBJECT TO TAX IN THE PRECEDING TAXABLE YEAR, THEN THE PERCENTAGE OF THE TAXPAYER'S RECEIPTS WITHIN THE STATE IN THE CURRENT TAXABLE YEAR DETERMINED PURSUANT TO THIS SUBDIVISION.

11. IF IT SHALL APPEAR TO THE COMMISSIONER THAT THE APPORTIONMENT FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN THE STATE, THE COMMISSIONER IS AUTHORIZED IN HIS OR HER DISCRETION TO ADJUST IT BY (A) EXCLUDING ONE OR MORE ITEMS IN SUCH DETERMINATION, (B) INCLUDING ONE OR MORE OTHER ITEMS IN SUCH DETERMINATION, OR (C) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO EFFECT A FAIR AND PROPER APPORTIONMENT OF THE BUSINESS INCOME AND CAPITAL REASONABLY ATTRIBUTED TO THE STATE.

S 17. The tax law is amended by adding a new section 210-B to read as follows:

S 210-B. CREDITS. 1. INVESTMENT TAX CREDIT (ITC). (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE THE PERCENT PROVIDED FOR HEREINBELOW OF THE INVESTMENT CREDIT BASE. THE INVESTMENT CREDIT BASE IS THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION, LESS THE AMOUNT OF THE NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO SUCH PROPERTY TO THE EXTENT SUCH FINANCING WOULD BE EXCLUDIBLE FROM THE CREDIT BASE PURSUANT TO SECTION 46(C)(8) OF THE INTERNAL REVENUE CODE (TREATING SUCH PROPERTY AS SECTION THIRTY-EIGHT PROPERTY IRRESPECTIVE OF WHETHER OR NOT IT IN FACT CONSTITUTES SECTION THIRTY-EIGHT PROPERTY). IF, AT THE CLOSE OF A TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH SUCH PROPERTY WAS PLACED IN SERVICE, THERE IS A NET DECREASE IN THE AMOUNT OF NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO SUCH PROPERTY, SUCH NET DECREASE SHALL BE TREATED AS IF IT WERE THE COST OR OTHER BASIS OF PROPERTY DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION ACQUIRED, CONSTRUCTED, RECONSTRUCTED OR ERECTED DURING THE YEAR OF THE DECREASE IN THE AMOUNT OF NONQUALIFIED NONRECOURSE FINANCING. IN THE CASE OF A COMBINED REPORT THE TERM INVESTMENT CREDIT BASE SHALL MEAN THE SUM OF THE INVESTMENT CREDIT BASE OF EACH CORPORATION INCLUDED ON SUCH REPORT. THE PERCENTAGE TO BE USED TO COMPUTE THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE FIVE PERCENT WITH RESPECT TO THE FIRST THREE HUNDRED FIFTY MILLION DOLLARS OF THE INVESTMENT CREDIT BASE, AND FOUR PERCENT WITH RESPECT TO THE INVESTMENT CREDIT BASE IN EXCESS OF THREE HUNDRED FIFTY MILLION DOLLARS, EXCEPT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY AT THE OPTION OF THE TAXPAYER THE APPLICABLE PERCENTAGE SHALL BE NINE.

(B) QUALIFYING PROPERTY. (I) A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO A QUALIFIED NEW YORK MANUFACTURER, A QUALIFIED NEW YORK AGRICULTURAL BUSINESS OR A QUALIFIED NEW YORK MINING BUSINESS WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY

INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH (A) ARE DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, (B) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, (C) ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE, (D) HAVE NOT BEEN PREVIOUSLY THE SUBJECT OF AN INVESTMENT TAX CREDIT OR EMPIRE ZONE INVESTMENT CREDIT ALLOWED TO ANOTHER TAXPAYER, (E) HAVE A SITUS IN THIS STATE AND (F) ARE PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS FOR SALE OR ARE RESEARCH AND DEVELOPMENT PROPERTY.

(II) FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) PROPERTY USED IN THE PRODUCTION OF GOODS FOR SALE SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS FOR SALE AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE PRODUCED.

(B) RESEARCH AND DEVELOPMENT PROPERTY SHALL MEAN PROPERTY WHICH IS USED FOR PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR LABORATORY SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDINARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL, EFFICIENCY SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING, PROMOTIONS, OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMILAR PROJECTS.

(C) A QUALIFIED NEW YORK AGRICULTURAL BUSINESS SHALL MEAN A TAXPAYER OR COMBINED GROUP PRINCIPALLY ENGAGED IN FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING IN THE STATE. A TAXPAYER OR A COMBINED GROUP IS PRINCIPALLY ENGAGED IN FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING IN THE STATE IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR THE COMBINED GROUP, RESPECTIVELY, DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY ANY OF THE ACTIVITIES SPECIFIED IN THIS SENTENCE THAT ARE CONDUCTED IN NEW YORK. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

(D) A QUALIFIED NEW YORK MINING BUSINESS SHALL MEAN A TAXPAYER OR COMBINED GROUP PRINCIPALLY ENGAGED IN MINING IN THE STATE. A TAXPAYER OR COMBINED GROUP IS PRINCIPALLY ENGAGED IN MINING IN THE STATE IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR THE COMBINED GROUP, RESPECTIVELY, DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY MINING ACTIVITIES THAT ARE CONDUCTED IN THE STATE. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

(III) IN ORDER TO PROPERLY ADMINISTER THE CREDIT AUTHORIZED BY THIS SUBDIVISION, THE DEPARTMENT MAY DISCLOSE INFORMATION ABOUT THE ALLOWANCE TO ANOTHER TAXPAYER OF AN INVESTMENT TAX CREDIT OR AN EMPIRE ZONE INVESTMENT TAX CREDIT UNDER THIS CHAPTER WITH RESPECT TO THE SAME PROPERTY.

(C) NONQUALIFYING PROPERTY. A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS

OF BUILDINGS, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION. FOR PURPOSES OF THE PRECEDING SENTENCE, ANY CONTRACT OR AGREEMENT TO LEASE OR RENT OR FOR A LICENSE TO USE SUCH PROPERTY SHALL BE CONSIDERED A LEASE. PROVIDED, HOWEVER, IN DETERMINING WHETHER A TAXPAYER SHALL BE ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH PROPERTY, ANY ELECTION MADE WITH RESPECT TO SUCH PROPERTY PURSUANT TO THE PROVISIONS OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, AS SUCH PARAGRAPH WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR, SHALL BE DISREGARDED.

(D) CARRYOVER. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT ALLOWED FOR A TAXABLE YEAR AND NOT DEDUCTIBLE IN SUCH YEAR MAY BE CARRIED OVER TO THE FIFTEEN TAXABLE YEARS NEXT FOLLOWING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER WHICH QUALIFIES AS A NEW BUSINESS UNDER PARAGRAPH (F) OF THIS SUBDIVISION MAY ELECT TO TREAT THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(E) RECAPTURE. (I) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. FOR PURPOSES OF THIS PARAGRAPH, USEFUL LIFE OF PROPERTY SHALL BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUTING HIS FEDERAL INCOME TAX LIABILITY.

(II) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH PARAGRAPH (IV) OF THIS SUBDIVISION APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS DEFINED IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT ALLOWED SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT

TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX.

(III) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH PARAGRAPH (IV) OF THIS SUBDIVISION APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

(IV) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE.

(V) FOR PURPOSES OF THIS PARAGRAPH, PROPERTY (I) WHICH IS DESCRIBED IN SUBPARAGRAPH (II), (III) OR (IV) OF THIS PARAGRAPH, AND (II) WHICH IS SUBJECT TO SUBPARAGRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION NINE AND SUBPARAGRAPH TEN OF PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, SHALL BE TREATED AS PROPERTY WHICH IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT SUBJECT TO SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH CODE.

(VI) FOR EACH TAXABLE YEAR, THE AMOUNT REQUIRED TO BE ADDED BACK PURSUANT TO THIS PARAGRAPH 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, IN EFFECT ON THE LAST DAY OF THE TAXABLE YEAR.

(VII) IF, AS OF THE CLOSE OF THE TAXABLE YEAR, THERE IS A NET INCREASE WITH RESPECT TO THE TAXPAYER IN THE AMOUNT OF NONQUALIFIED NONRECOURSE

FINANCING (WITHIN THE MEANING OF SECTION 46(C)(8) OF THE INTERNAL REVENUE CODE) WITH RESPECT TO ANY PROPERTY WITH RESPECT TO WHICH THE CREDIT UNDER THIS SUBDIVISION WAS LIMITED BASED ON ATTRIBUTABLE NONQUALIFIED NONRECOURSE FINANCING, THEN AN AMOUNT EQUAL TO THE DECREASE IN SUCH CREDIT WHICH WOULD HAVE RESULTED FROM REDUCING, BY THE AMOUNT OF SUCH NET INCREASE, THE COST OR OTHER BASIS TAKEN INTO ACCOUNT WITH RESPECT TO SUCH PROPERTY MUST BE ADDED BACK IN SUCH TAXABLE YEAR. THE AMOUNT OF NONQUALIFIED NONRECOURSE FINANCING SHALL NOT BE TREATED AS INCREASED BY REASON OF A TRANSFER OF (OR AGREEMENT TO TRANSFER) ANY EVIDENCE OF AN INDEBTEDNESS IF SUCH TRANSFER OCCURS (OR SUCH AGREEMENT IS ENTERED INTO) MORE THAN ONE YEAR AFTER THE DATE SUCH INDEBTEDNESS WAS INCURRED.

(VIII)(A) WHERE PROPERTY WITH RESPECT TO WHICH CREDIT HAS BEEN ALLOWED UNDER THIS SUBDIVISION IS DISPOSED OF BY TRANSFER TO THE TAXPAYER IN A QUALIFIED TRANSACTION, AND SUCH DISPOSITION REQUIRES, PURSUANT TO THIS PARAGRAPH (WITHOUT REGARD TO THIS SUBPARAGRAPH) THAT SUCH CREDIT BE DECREASED (WHERE THE DISPOSITION OCCURS IN THE TAXABLE YEAR IN WHICH THE PROPERTY IS PLACED IN SERVICE BY THE TRANSFEROR) OR THAT A PORTION OF SUCH CREDIT BE ADDED BACK BY THE TRANSFEROR, THEN CLAUSE (B) OR CLAUSE (C) OF THIS SUBPARAGRAPH SHALL APPLY.

(B) IF THE TAXPAYER AND THE TRANSFEROR JOINTLY ELECT, AT SUCH TIME AND IN SUCH MANNER AS THE COMMISSIONER MAY PRESCRIBE, THE FOLLOWING SHALL APPLY:

(I) SUCH PORTION SHALL NOT BE REQUIRED TO BE ADDED BACK BY THE TRANSFEROR,

(II) THE AMOUNT OF UNUSED CREDIT SHALL NOT BE DEDUCTED FROM TAX OTHERWISE DUE BY THE TRANSFEROR ON ANY RETURN (INCLUDING AN AMENDED RETURN), AND SHALL NOT BE SO DEDUCTED AS PART OF ANY AUDIT ADJUSTMENT OR ANY OTHER DETERMINATION, AND

(III) THE AMOUNT OF UNUSED CREDIT SHALL BE TREATED AS AN AMOUNT OF CREDIT OF THE TAXPAYER UNDER THIS SUBDIVISION CARRIED FORWARD BY THE TAXPAYER TO ITS TAXABLE YEAR IN WHICH SUCH TRANSFER OCCURRED, AS IF THE CREDIT ALLOWED TO THE TRANSFEROR WITH RESPECT TO SUCH PROPERTY HAD ORIGINALLY BEEN ALLOWED TO THE TAXPAYER BOTH AS TO AMOUNT AND FIRST DATE OF QUALIFIED USE, AND AS IF THE PERIOD OF QUALIFIED USE BY THE TRANSFEROR PRIOR TO THE TRANSFER HAD BEEN A PERIOD OF SUCH USE BY THE TAXPAYER. ANY AMOUNT OF CREDIT TREATED AS CARRIED FORWARD TO THE TAXABLE YEAR PURSUANT TO THIS SUBPARAGRAPH SHALL BE APPLIED AS PROVIDED IN CLAUSE (H) OF THIS SUBPARAGRAPH.

(C) IF THE TAXPAYER AND THE TRANSFEROR DO NOT MAKE THE ELECTION DESCRIBED IN CLAUSE (B) OF THIS SUBPARAGRAPH, THEN THE AMOUNT OF CREDIT REQUIRED PURSUANT TO THIS PARAGRAPH TO BE ADDED BACK BY THE TRANSFEROR SHALL BE TREATED AS AN AMOUNT OF CREDIT OF THE TAXPAYER UNDER THIS SUBDIVISION TO BE CARRIED FORWARD BY THE TAXPAYER TO ITS TAXABLE YEAR IN WHICH SUCH TRANSFER OCCURRED, AS IF THE CREDIT ALLOWED TO THE TRANSFEROR WITH RESPECT TO SUCH PROPERTY HAD ORIGINALLY BEEN ALLOWED TO THE TAXPAYER BOTH AS TO AMOUNT AND FIRST DATE OF QUALIFIED USE, AND AS IF THE PERIOD OF QUALIFIED USE BY THE TRANSFEROR PRIOR TO THE TRANSFER HAD BEEN A PERIOD OF SUCH USE BY THE TAXPAYER. ANY AMOUNT OF CREDIT TREATED AS CARRIED FORWARD TO THE TAXABLE YEAR PURSUANT TO THIS SUBPARAGRAPH SHALL BE APPLIED AS PROVIDED IN CLAUSE (H) OF THIS SUBPARAGRAPH.

(D) THE TERM "QUALIFIED TRANSACTION" SHALL MEAN A TRANSACTION WHICH IS A REORGANIZATION DESCRIBED IN SECTION 368(A)(1)(D) OF THE INTERNAL REVENUE CODE, WHEREIN (I) SUBSTANTIALLY ALL OF THE ASSETS OF THE TRANSFEROR NECESSARY TO CONTINUE THE OPERATION OF A DIVISION OR DIVISIONS OF THE TRANSFEROR ARE TRANSFERRED TO THE TAXPAYER IN A TRANSACTION TO WHICH SECTION 351 OF SUCH CODE APPLIES, AND (II) STOCK OR SECURITIES

OF THE TAXPAYER HELD BY THE TRANSFEROR ARE DISTRIBUTED PURSUANT TO SECTION 355 OF SUCH CODE.

(E) THE TERM "UNUSED CREDIT" SHALL MEAN THE AMOUNT OF CREDIT SHOWN AS CARRIED FORWARD TO THE TRANSACTION YEAR ON THE TRANSFEROR'S TAX RETURN FOR ITS TAXABLE YEAR IMMEDIATELY PRECEDING THE TRANSACTION YEAR WITH RESPECT TO THE PROPERTY DESCRIBED IN CLAUSE (A) OF THIS SUBPARAGRAPH.

(F) THE TERM "TRANSACTION YEAR" MEANS THE TAXABLE YEAR IN WHICH THE QUALIFIED TRANSACTION OCCURS.

(G) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN THE CASE OF ALLOWANCE OF CREDIT PURSUANT TO THIS SUBPARAGRAPH TO A TAXPAYER THE COMMISSIONER SHALL HAVE THE AUTHORITY TO REVEAL TO THE TAXPAYER ANY INFORMATION, WITH RESPECT TO THE CREDIT OF THE TRANSFEROR, WHICH IS THE BASIS FOR THE DENIAL IN WHOLE OR IN PART OF THE CREDIT CLAIMED BY SUCH TAXPAYER.

(H) WHERE A CREDIT IS ALLOWED TO A TAXPAYER PURSUANT TO THIS SUBPARAGRAPH, THE TAXPAYER MAY TREAT THE AMOUNT OF SUCH CREDIT AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. SUCH CREDIT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS ARTICLE WITH RESPECT TO THE SECOND SUCCEEDING TAXABLE YEAR NEXT FOLLOWING THE TRANSACTION YEAR, PROVIDED THAT NOT MORE THAN ONE-FOURTH OF THE AMOUNT OF SUCH CREDIT MAY BE APPLIED BY THE TAXPAYER, WHETHER TO REDUCE TAX OTHERWISE DUE OR TO BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED, WITH RESPECT TO SUCH SECOND SUCCEEDING TAXABLE YEAR AND EACH OF THE NEXT THREE TAXABLE YEARS FOLLOWING SUCH SECOND SUCCEEDING TAXABLE YEAR.

(F) NEW BUSINESS. FOR PURPOSES OF PARAGRAPH (D) OF THIS SUBDIVISION, A NEW BUSINESS SHALL INCLUDE ANY CORPORATION, EXCEPT A CORPORATION WHICH:

(I) OVER FIFTY PERCENT OF THE NUMBER OF SHARES OF STOCK ENTITLING THE HOLDERS THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES IS OWNED OR CONTROLLED, EITHER DIRECTLY OR INDIRECTLY, BY A TAXPAYER SUBJECT TO TAX UNDER THIS ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE OR ONE HUNDRED EIGHTY-FOUR OF ARTICLE NINE; OR ARTICLE THIRTY-THREE OF THIS CHAPTER; OR

(II) IS SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSINESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY TAXABLE, UNDER THIS ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, FORMER SECTION ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE; ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN); ARTICLE 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 (D) OF THIS SUBDIVISION WITH RESPECT TO REFUNDING OF CREDIT TO NEW BUSINESS WOULD BE EVADED; OR

(III) HAS BEEN SUBJECT TO TAX UNDER THIS ARTICLE OR UNDER FORMER ARTICLE THIRTY-TWO OF THIS CHAPTER FOR MORE THAN FIVE TAXABLE YEARS (EXCLUDING SHORT TAXABLE YEARS).

2. EMPLOYMENT INCENTIVE CREDIT (EIC). (A)(I) APPLICATION OF CREDIT. WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION ONE OF THIS SECTION, OTHER THAN AT THE OPTIONAL RATE APPLICABLE TO RESEARCH AND DEVELOPMENT PROPERTY, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE TWO YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT

UNDER SUCH SUBDIVISION ONE IS ALLOWED WITH RESPECT TO SUCH PROPERTY, WHETHER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS PURSUANT TO PARAGRAPH (D) OF SUCH SUBDIVISION ONE. PROVIDED, HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE ALLOWED ONLY IF THE AVERAGE NUMBER OF EMPLOYEES DURING SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES DURING THE EMPLOYMENT BASE YEAR. THE EMPLOYMENT BASE YEAR SHALL BE THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE IS ALLOWED EXCEPT THAT IF THE TAXPAYER WAS NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE OF THIS SECTION IS ALLOWED, THE EMPLOYMENT BASE YEAR SHALL BE THE TAXABLE YEAR IN WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE IS ALLOWED.

(II) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL BE AS SET FORTH IN THE FOLLOWING TABLE:

AVERAGE NUMBER OF EMPLOYEES DURING THE TAXABLE YEAR EXPRESSED AS A PERCENTAGE OF AVERAGE EMPLOYEES IN EMPLOYMENT BASE YEARS	CREDIT ALLOWED UNDER THIS SUBDIVISION EXPRESSED AS A PERCENTAGE OF THE APPLICABLE INVESTMENT CREDIT BASIS
LESS THAN 102%	1.5%
AT LEAST 102% AND LESS THAN 103%	2%
AT LEAST 103%	2.5%

(B) AVERAGE NUMBER OF EMPLOYEES. THE AVERAGE NUMBER OF EMPLOYEES IN A TAXABLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF EMPLOYEES WITHIN THE STATE, 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. HOWEVER, WITH RESPECT TO THE EMPLOYMENT BASE YEAR, THERE SHALL BE EXCLUDED THEREFROM ANY EMPLOYEE WITH RESPECT TO WHOM A CREDIT PROVIDED FOR UNDER SUBDIVISION SIX OF THIS SECTION IS CLAIMED, FOR THE TAXABLE YEAR, BASED ON EMPLOYMENT WITHIN A ZONE EQUIVALENT AREA DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW.

(C) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FIFTEEN TAXABLE YEARS IMMEDIATELY FOLLOWING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

3. EMPIRE ZONE INVESTMENT TAX CREDIT (EZ-ITC). (A) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREIN PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE IF THE TAXPAYER HAS BEEN CERTIFIED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION, WHICH IS LOCATED WITHIN AN EMPIRE ZONE DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF SUCH LAW, BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION OF SUCH PROPERTY OCCURRED OR WAS COMMENCED ON OR AFTER THE DATE OF SUCH

DESIGNATION AND PRIOR TO THE EXPIRATION THEREOF. PROVIDED, HOWEVER, THAT IN THE CASE OF AN ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS COMMENCED DURING SUCH PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY, SUCH CREDIT SHALL BE TEN PERCENT OF THE PORTION OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH PORTION SHALL BE ASCERTAINED BY MULTIPLYING SUCH COST OR BASIS BY A FRACTION THE NUMERATOR OF WHICH SHALL BE THE EXPENDITURES PAID OR INCURRED DURING SUCH PERIOD FOR SUCH PURPOSES AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL OF ALL EXPENDITURES PAID OR INCURRED FOR SUCH ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION.

(B) QUALIFIED PROPERTY. A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH

(I) ARE DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE,

(II) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE,

(III) ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE,

(IV) HAVE A SITUS IN AN EMPIRE ZONE DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, AND

(V) ARE (A) PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING,

(B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION CONTROL FACILITIES USED IN THE TAXPAYER'S TRADE OR BUSINESS,

(C) RESEARCH AND DEVELOPMENT PROPERTY,

(D) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR BUSINESS AS A BROKER OR DEALER IN CONNECTION WITH THE PURCHASE OR SALE (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION, OR TRANSFER) OF STOCKS, BONDS OR OTHER SECURITIES AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE, OR OF COMMODITIES AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (E) OF THE INTERNAL REVENUE CODE,

(E) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES FOR A REGULATED INVESTMENT COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, OR LENDING, LOAN ARRANGEMENT, OR LOAN ORIGINATION SERVICES TO CUSTOMERS IN CONNECTION WITH THE PURCHASE OR SALE (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION OR TRANSFER) OF SECURITIES AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE,

(E-1) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES OR THE SERVICE OF MANAGING INVESTMENT PORTFOLIOS TO ACHIEVE SPECIFIC INVESTMENT OBJECTIVES FOR ACCOUNTS OVER ONE MILLION DOLLARS OF ACCREDITED INVESTORS (AS THAT TERM IS DEFINED IN RULE 501 OF REGULATION D OF THE SECURITIES ACT OF 1933), IF THE TAXPAYER SATISFIES THE FOLLOWING CRITERIA:

(I) THE TAXPAYER IS A REGULATED BROKER OR DEALER OR AN AFFILIATE OF A REGULATED BROKER OR DEALER,

(II) THE TAXPAYER IS REGISTERED AS AN INVESTMENT ADVISER UNDER SECTION TWO HUNDRED THREE OF THE INVESTMENT ADVISERS ACT OF 1940, AS AMENDED, AND

(III) AT LEAST ONE CLIENT OF THE TAXPAYER IS A REGULATED INVESTMENT COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE THAT HAS ASSETS OF ONE HUNDRED MILLION DOLLARS, OR

(F) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS AS AN EXCHANGE REGISTERED AS A NATIONAL SECURITIES EXCHANGE WITHIN THE MEANING OF SECTIONS 3(A)(1) AND 6(A) OF THE SECURITIES EXCHANGE ACT OF 1934 OR A BOARD OF TRADE AS DEFINED IN SUBDIVISION ONE OF PARAGRAPH (A) OF SECTION FOURTEEN HUNDRED TEN OF THE NOT-FOR-PROFIT CORPORATION LAW OR AS AN ENTITY THAT IS WHOLLY OWNED BY ONE OR MORE SUCH NATIONAL SECURITIES EXCHANGES OR BOARDS OR TRADE AND THAT PROVIDES AUTOMATION OR TECHNICAL SERVICES THERETO.

(VI) FOR PURPOSES OF CLAUSES (D), (E), (E-1) AND (F) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH, PROPERTY PURCHASED BY A TAXPAYER AFFILIATED WITH A REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISER, NATIONAL SECURITIES EXCHANGE OR BOARD OF TRADE IS ALLOWED A CREDIT UNDER THIS SUBDIVISION IF THE PROPERTY IS USED BY ITS AFFILIATED REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISER OR NATIONAL SECURITIES EXCHANGE OR BOARD OF TRADE IN ACCORDANCE WITH THIS SUBDIVISION. FOR PURPOSES OF DETERMINING IF THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THE USES BY THE TAXPAYER DESCRIBED IN CLAUSES (D), (E) AND (E-1) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH MAY BE AGGREGATED. IN ADDITION, THE USES BY THE TAXPAYER, ITS AFFILIATED REGULATED BROKER, DEALER AND REGISTERED INVESTMENT ADVISER UNDER ANY OF THOSE CLAUSES MAY BE AGGREGATED. PROVIDED, HOWEVER, A TAXPAYER SHALL NOT BE ALLOWED THE CREDIT PROVIDED BY CLAUSES (D), (E), (E-1) AND (F) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH UNLESS

(I) EIGHTY PERCENT OR MORE OF THE EMPLOYEES PERFORMING THE ADMINISTRATIVE AND SUPPORT FUNCTIONS RESULTING FROM OR RELATED TO THE QUALIFYING USES OF SUCH EQUIPMENT ARE LOCATED IN THIS STATE, OR

(II) THE AVERAGE NUMBER OF EMPLOYEES THAT PERFORM THE ADMINISTRATIVE AND SUPPORT FUNCTIONS RESULTING FROM OR RELATED TO THE QUALIFYING USES OF SUCH EQUIPMENT AND ARE LOCATED IN THIS STATE DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR GREATER THAN NINETY-FIVE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES THAT PERFORM THESE FUNCTIONS AND ARE LOCATED IN THIS STATE DURING THE THIRTY-SIX MONTHS IMMEDIATELY PRECEDING THE YEAR FOR WHICH THE CREDIT IS CLAIMED, OR

(III) THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR GREATER THAN NINETY PERCENT OF THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT OR, IF THE TAXPAYER WAS NOT A CALENDAR YEAR TAXPAYER IN NINETEEN HUNDRED NINETY-EIGHT, THE LAST DAY OF ITS FIRST TAXABLE YEAR ENDING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT. IF THE TAXPAYER BECOMES SUBJECT TO TAX IN THIS STATE AFTER THE TAXABLE YEAR BEGINNING IN NINETEEN HUNDRED NINETY-EIGHT, THEN THE TAXPAYER IS NOT REQUIRED TO SATISFY THE EMPLOYMENT TEST PROVIDED IN THE PRECEDING SENTENCE OF THIS SUBPARAGRAPH FOR ITS FIRST TAXABLE YEAR.

(VII) FOR THE PURPOSES OF CLAUSE (III) OF SUBPARAGRAPH (VI) OF THIS PARAGRAPH THE EMPLOYMENT TEST WILL BE BASED ON THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE ON THE LAST DAY OF THE FIRST TAXABLE YEAR THE TAXPAYER IS SUBJECT TO TAX IN THIS STATE. IF THE USES OF THE PROPERTY MUST BE AGGREGATED TO DETERMINE WHETHER THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THEN EITHER EACH AFFILIATE USING THE PROPERTY MUST SATISFY THIS EMPLOYMENT TEST OR THIS EMPLOYMENT TEST MUST BE SATISFIED THROUGH THE AGGREGATION OF THE EMPLOYEES OF THE TAXPAYER, ITS AFFILIATED

REGULATED BROKER, DEALER, AND REGISTERED INVESTMENT ADVISER USING THE PROPERTY.

(VIII) FOR THE PURPOSE OF THIS SUBDIVISION, THE TERM "GOODS" SHALL NOT INCLUDE ELECTRICITY.

(IX) FOR PURPOSES OF THIS SUBDIVISION, "MANUFACTURING" SHALL MEAN THE PROCESS OF WORKING RAW MATERIALS INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE PRODUCED. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS "RESEARCH AND DEVELOPMENT PROPERTY", "INDUSTRIAL WASTE TREATMENT FACILITIES", AND "AIR POLLUTION CONTROL FACILITIES" SHALL HAVE THE MEANINGS ASCRIBED THERETO BY CLAUSES (B), (C) AND (D), RESPECTIVELY, OF SUBPARAGRAPH (IV) OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, AND THE PROVISIONS OF SUBPARAGRAPH (V) OF SUCH PARAGRAPH (B) SHALL APPLY.

(C) NONQUALIFIED PROPERTY. A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION EXCEPT WHERE A TAXPAYER LEASES PROPERTY TO AN AFFILIATED REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISER, NATIONAL SECURITIES EXCHANGE OR BOARD OF TRADE OR OTHER ENTITY DESCRIBED IN CLAUSE (F) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION THAT USES SUCH PROPERTY IN ACCORDANCE WITH CLAUSE (D), (E), (E-1) OR (F) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION. FOR PURPOSES OF THE PRECEDING SENTENCE, ANY CONTRACT OR AGREEMENT TO LEASE OR RENT OR FOR A LICENSE TO USE SUCH PROPERTY SHALL BE CONSIDERED A LEASE. PROVIDED, HOWEVER, IN DETERMINING WHETHER A TAXPAYER SHALL BE ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH PROPERTY, ANY ELECTION MADE WITH RESPECT TO SUCH PROPERTY PURSUANT TO THE PROVISIONS OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, AS SUCH PARAGRAPH WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR, SHALL BE DISREGARDED.

(D) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER WHICH QUALIFIES AS A NEW BUSINESS UNDER PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION MAY ELECT, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. IN ADDITION, ANY TAXPAYER WHICH IS APPROVED AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIFICANT CAPITAL INVESTMENT PROJECT PURSUANT TO

SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, IN LIEU OF SUCH CARRYOVER, MAY ELECT TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER WHICH IS ATTRIBUTABLE TO THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR PROPERTY WHICH IS PART OF SUCH PROJECT AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, SUCH OWNER SHALL BE ALLOWED SUCH REFUND FOR A MAXIMUM OF TEN TAXABLE YEARS WITH RESPECT TO SUCH QUALIFIED INVESTMENT PROJECT AND EACH SIGNIFICANT CAPITAL INVESTMENT PROJECT, STARTING WITH THE FIRST TAXABLE YEAR IN WHICH PROPERTY COMPRISING SUCH PROJECT IS PLACED IN SERVICE. PROVIDED, FURTHER, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(D-1) ANY CARRYOVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

(E) AT THE OPTION OF THE TAXPAYER, THE TAXPAYER MAY CHOOSE TO CLAIM THE CREDIT DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION FOR PROPERTY WHICH ALSO QUALIFIES FOR THE CREDIT PROVIDED UNDER SUBDIVISION ONE OF THIS SECTION. A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO ANY PROPERTY DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION IF A CREDIT IS TAKEN PURSUANT TO SUBDIVISION ONE OF THIS SECTION.

(F) RECAPTURE. (I) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL LIFE. FOR PURPOSES OF THIS SUBPARAGRAPH, USEFUL LIFE OF PROPERTY SHALL BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUTING HIS FEDERAL INCOME TAX LIABILITY.

(II) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH (IV) OF THIS PARAGRAPH APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS DEFINED IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN

AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX.

(III) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH (IV) OF THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

(IV) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL REVENUE CODE.

(V) FOR PURPOSES OF THIS PARAGRAPH, DISPOSAL OR CESSATION OF QUALIFIED USE SHALL NOT BE DEEMED TO HAVE OCCURRED SOLELY BY REASON OF THE TERMINATION OR EXPIRATION OF AN EMPIRE ZONE'S DESIGNATION AS SUCH.

(VI)(A) FOR PURPOSES OF THIS PARAGRAPH, THE DECERTIFICATION OF A BUSINESS ENTERPRISE WITH RESPECT TO AN EMPIRE ZONE SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE OF THE PROPERTY ON WHICH THE CREDIT WAS TAKEN WHICH IS LOCATED IN THE ZONE TO WHICH THE DECERTIFICATION APPLIES, ON THE EFFECTIVE DATE OF SUCH DECERTIFICATION.

(B) WHERE A BUSINESS ENTERPRISE HAS BEEN DECERTIFIED BASED ON A FINDING PURSUANT TO CLAUSE ONE, TWO, OR FIVE OF SUBDIVISION (A) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, THE AMOUNT REQUIRED TO BE ADDED BACK BY REASON OF THIS PARAGRAPH SHALL BE (I) THE AMOUNT OF CREDIT, WITH RESPECT TO THE PROPERTY WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE, WHICH WAS DEDUCTED FROM THE TAXPAYER'S TAX OTHERWISE DUE UNDER THIS ARTICLE FOR ALL PRIOR TAXABLE YEARS, REDUCED (BUT NOT BELOW ZERO) BY (II) THE CREDIT ALLOWED FOR ACTUAL USE.

FOR PURPOSES OF THIS SUBPARAGRAPH, THE ATTRIBUTION TO SPECIFIC PROPERTY OF CREDIT AMOUNTS DEDUCTED FROM TAX SHALL BE ESTABLISHED IN ACCORDANCE WITH THE DATE OF PLACEMENT IN SERVICE OF SUCH PROPERTY IN THE EMPIRE ZONE.

(C) IN NO EVENT SHALL THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION BE RENDERED, SOLELY BY REASON OF CLAUSE (A) OF THIS SUBPARAGRAPH, LESS THAN THE AMOUNT OF THE CREDIT TO WHICH THE TAXPAYER WOULD OTHERWISE BE ENTITLED UNDER SUBDIVISION ONE OF THIS SECTION.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION, IN THE CASE OF A BUSINESS ENTERPRISE WHICH HAS BEEN DECERTIFIED, ANY AMOUNT OF CREDIT ALLOWED WITH RESPECT TO THE PROPERTY OF SUCH BUSINESS ENTERPRISE LOCATED IN THE ZONE TO WHICH THE DECERTIFICATION APPLIES WHICH IS CARRIED OVER PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION SHALL NOT BE CARRIED OVER BEYOND THE SEVENTH TAXABLE YEAR NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WAS ALLOWED.

(VII) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY WHICH IS DESCRIBED IN CLAUSE (A), (B), OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION OTHER THAN AS PART OF OR COMPRISING AN AIR POLLUTION CONTROL FACILITY. ALSO FOR PURPOSES OF THIS PARAGRAPH, THE USE OF AN AIR POLLUTION CONTROL FACILITY OR AN INDUSTRIAL WASTE TREATMENT FACILITY FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE SHALL CONSTITUTE A CESSATION OF QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY WHICH IS DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION.

(VIII) EXCEPT AS PROVIDED IN THIS SUBPARAGRAPH, THIS PARAGRAPH SHALL NOT APPLY TO A CREDIT ALLOWED BY THIS SUBDIVISION TO A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP IN THE CASE OF MANUFACTURING PROPERTY; PROVIDED, AT THE TIME SUCH PROPERTY WAS PLACED IN SERVICE BY SUCH PARTNERSHIP IN AN EMPIRE ZONE THE BASIS FOR FEDERAL INCOME TAX PURPOSES FOR SUCH PROPERTY (OR A PROJECT THAT INCLUDES SUCH PROPERTY) EQUALED OR EXCEEDED THREE HUNDRED MILLION DOLLARS AND SUCH PARTNER OWNED ITS PARTNERSHIP INTEREST FOR AT LEAST THREE YEARS FROM THE DATE SUCH PROPERTY WAS PLACED IN SERVICE. IF SUCH PROPERTY CEASES TO BE IN QUALIFIED USE AFTER IT IS PLACED IN SERVICE, THIS PARAGRAPH SHALL APPLY TO SUCH PARTNER IN THE YEAR SUCH PROPERTY CEASES TO BE IN QUALIFYING USE.

(IX) IF A TAXPAYER, WHICH IS APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIFICANT CAPITAL INVESTMENT PROJECT PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, FAILS TO (A) CREATE AT LEAST THE MINIMUM NUMBER OF JOBS AT SUCH PROJECT AS REQUIRED BY THE PROVISIONS OF SUBDIVISION (S) OR (T) OF SECTION NINE HUNDRED FIFTY-SEVEN AND SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW OR (B) PLACE IN SERVICE PROPERTY COMPRISING SUCH QUALIFIED INVESTMENT PROJECT OR SIGNIFICANT CAPITAL INVESTMENT PROJECT WITH A BASIS FOR FEDERAL INCOME TAX PURPOSES EQUALING OR EXCEEDING THE APPLICABLE MINIMUM REQUIRED BASIS AS PROVIDED IN SUCH SUBDIVISION (S) OR (T), WHICHEVER IS RELEVANT, BY THE LAST DAY OF THE FIFTH TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH A CREDIT IS FIRST

ALLOWED UNDER THIS SUBDIVISION FOR THE PROPERTY WHICH COMPRISES SUCH QUALIFIED INVESTMENT PROJECT OR SUCH SIGNIFICANT CAPITAL INVESTMENT PROJECT, THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ALL TAXABLE YEARS WITH RESPECT TO THE PROPERTY WHICH COMPRISES SUCH PROJECT WHICH HAS BEEN REFUNDED TO SUCH TAXPAYER SHALL BE ADDED BACK IN SUCH TAXABLE YEAR.

(G) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE EIGHT-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

(H) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED IN PARAGRAPH (G) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONE PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISIONS UNTIL APRIL FIRST, TWO THOUSAND FOURTEEN.

4. EMPIRE ZONE EMPLOYMENT INCENTIVE CREDIT (EZ-EIC). (A) APPLICATION OF CREDIT. WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION THREE OF THIS SECTION, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION THREE IS ALLOWED, WITH RESPECT TO SUCH PROPERTY, WHETHER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS PURSUANT TO PARAGRAPH (D) OF SUCH SUBDIVISION THREE, OF THIRTY PERCENT OF THE CREDIT ALLOWABLE UNDER SUCH SUBDIVISION THREE; PROVIDED, HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL ONLY BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN THE EMPIRE ZONE, DESIGNATED PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, IN WHICH SUCH PROPERTY IS LOCATED DURING SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN SUCH EMPIRE ZONE, DURING THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION THREE IS ALLOWED AND PROVIDED, FURTHER, THAT IF THE TAXPAYER WAS NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION THREE OF THIS SECTION IS ALLOWED, THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN SUCH EMPIRE ZONE IN SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF SUCH EMPLOYEES DURING THE TAXABLE YEAR IN WHICH THE CREDIT UNDER SUCH SUBDIVISION THREE IS ALLOWED.

(B) AVERAGE NUMBER OF EMPLOYEES. THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN AN EMPIRE ZONE IN A TAXABLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH EMPLOYEES WITHIN 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.

(C) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER, WHICH IS APPROVED AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIFICANT CAPITAL INVESTMENT PROJECT PURSUANT TO SUBDIVISION (V) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, MAY ELECT, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, IN THE CASE OF SUCH OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIFICANT CAPITAL INVESTMENT PROJECT, ONLY FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER WHICH IS ATTRIBUTABLE TO THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO PROPERTY WHICH IS PART OF SUCH PROJECT SHALL BE ALLOWED TO BE CREDITED OR REFUNDED AND SUCH OWNER SHALL BE ALLOWED SUCH CREDIT OR REFUND ONLY FOR THOSE TAXABLE YEARS IN WHICH SUCH OWNER WOULD BE ALLOWED A CREDIT OR REFUND OF THE EMPIRE ZONE INVESTMENT TAX CREDIT PURSUANT TO PARAGRAPH (D) OF SUBDIVISION THREE OF THIS SECTION. PROVIDED, FURTHER, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(C-1) ANY CARRYOVER OF A CREDIT FROM PRIOR TAXABLE YEARS WILL NOT BE ALLOWED IF AN EMPIRE ZONE RETENTION CERTIFICATE IS NOT ISSUED PURSUANT TO SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW TO THE EMPIRE ZONE ENTERPRISE WHICH IS THE BASIS OF THE CREDIT.

(D) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, A TAXPAYER THAT IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED CERTIFIED UNDER SUCH ARTICLE EIGHTEEN-B FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS. IN ADDITION, THE AREAS DESIGNATED AS EMPIRE ZONES IN WHICH THE TAXPAYER IS CERTIFIED AS A QUALIFIED INVESTMENT PROJECT ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED EMPIRE ZONES FOR PURPOSES OF THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

(E) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED

IN PARAGRAPH (D) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE TAXPAYER WAS CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION THREE OF THIS SECTION IS ALLOWED.

5. QEZE CREDIT FOR REAL PROPERTY TAXES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A QUALIFIED EMPIRE ZONE ENTERPRISE SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SECTION FIFTEEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

6. QEZE TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A QUALIFIED EMPIRE ZONE ENTERPRISE SHALL BE ALLOWED A QEZE TAX REDUCTION CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION SIXTEEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THIS PARAGRAPH SHALL NOT APPLY TO A TAXPAYER WITH A ZONE ALLOCATION FACTOR OF ONE HUNDRED PERCENT.

7. QUALIFIED EMERGING TECHNOLOGY COMPANY EMPLOYMENT CREDIT. (A) APPLICATION OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, PROVIDED:

(I) THE TAXPAYER IS A QUALIFIED EMERGING TECHNOLOGY COMPANY PURSUANT TO THE PROVISIONS OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW; AND

(II) THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY THE TAXPAYER IN NEW YORK STATE DURING THE TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT. FOR THE PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN THE STATE DURING THE THREE TAXABLE YEARS IMMEDIATELY PRECEDING THE FIRST TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED. WHERE THE TAXPAYER PROVIDED FULL-TIME EMPLOYMENT WITHIN THE STATE DURING ONLY A PORTION OF SUCH THREE-YEAR PERIOD, THEN THE FIRST EFFECTIVE DATE FOR THE COMPANY TO TAKE ADVANTAGE OF THIS CREDIT SHALL BE THE NEXT YEAR FOLLOWING THE FIRST FULL TAXABLE YEAR THAT THE COMPANY HAD FULL-TIME EMPLOYMENT IN NEW YORK STATE. FOR THE PURPOSES OF THIS PARAGRAPH THE TERM "THREE YEARS" SHALL BE DEEMED TO REFER INSTEAD TO THE PRIOR YEAR'S FULL-TIME EMPLOYMENT AFTER THE FIRST YEAR AND THE AVERAGE OF THE FIRST EIGHT QUARTERS OF EMPLOYMENT AFTER THE FIRST TWO TAXABLE YEARS IN NEW YORK STATE.

(B) CREDIT LIMITATION. THE CREDIT SHALL BE ALLOWED ONLY IN THE FIRST TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED AND IN EACH OF THE NEXT TWO TAXABLE YEARS, PROVIDED THAT THE CONDITIONS OF PARAGRAPH (A) OF THIS SUBDIVISION ARE SATISFIED IN EACH TAXABLE YEAR.

(C) AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME. FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD; PROVIDED HOWEVER, EXCEPT THAT IN COMPUTING BASE YEAR EMPLOYMENT, THERE SHALL BE EXCLUDED THEREFROM ANY EMPLOYEE WITH RESPECT TO WHOM A CREDIT PROVIDED FOR UNDER SUBDIVISION SIX OF THIS SECTION IS CLAIMED FOR THE TAXABLE YEAR.

(D) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL EQUAL THE PRODUCT OF ONE THOUSAND DOLLARS TIMES THE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN THE TAXABLE YEAR THAT ARE IN EXCESS OF ONE HUNDRED PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT.

(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

8. QUALIFIED EMERGING TECHNOLOGY COMPANY CAPITAL TAX CREDIT. (A) AMOUNT OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO ONE OF THE FOLLOWING PERCENTAGES, PER EACH QUALIFIED INVESTMENT IN A QUALIFIED EMERGING TECHNOLOGY COMPANY AS DEFINED IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, MADE DURING THE TAXABLE YEAR, AND CERTIFIED BY THE COMMISSIONER, EITHER:

(1) TEN PERCENT OF QUALIFIED INVESTMENTS IN QUALIFIED EMERGING TECHNOLOGY COMPANIES, EXCEPT FOR 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, AND PROVIDED, HOWEVER, THAT THE TAXPAYER CERTIFIES TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE FOUR YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED; OR

(2) TWENTY PERCENT OF QUALIFIED INVESTMENTS IN QUALIFIED EMERGING TECHNOLOGY COMPANIES, EXCEPT FOR 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, AND PROVIDED, HOWEVER, THAT THE TAXPAYER CERTIFIES TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE NINE YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED.

(B) QUALIFIED INVESTMENT. "QUALIFIED INVESTMENT" MEANS THE CONTRIBUTION OF PROPERTY TO A CORPORATION IN EXCHANGE FOR ORIGINAL ISSUE CAPI-

TAL 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. THE TOTAL AMOUNT OF CREDIT ALLOWABLE TO A TAXPAYER UNDER THIS PROVISION FOR ALL YEARS, TAKEN IN THE AGGREGATE, SHALL NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS IN THE CASE OF INVESTMENTS MADE PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION AND SHALL NOT EXCEED THREE HUNDRED THOUSAND DOLLARS IN THE CASE OF INVESTMENTS MADE PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION.

(C) CARRYOVER. IN NO EVENT SHALL THE CREDIT AND CARRYOVER OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, OR IF ANY PART OF THE CREDIT OR CARRYOVERS OF SUCH CREDIT MAY NOT BE DEDUCTED FROM THE TAX OTHERWISE DUE BY REASON OF THE FINAL SENTENCE OF THIS PARAGRAPH, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION TWO HUNDRED NINE OF THIS ARTICLE COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY THIS SECTION.

(D) RECAPTURE. (1) WHERE A TAXPAYER SELLS, TRANSFERS OR OTHERWISE DISPOSES OF CORPORATE STOCK, A PARTNERSHIP INTEREST OR OTHER OWNERSHIP INTEREST ARISING FROM THE MAKING OF A QUALIFIED INVESTMENT WHICH WAS THE BASIS, IN WHOLE OR IN PART, FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, OR WHERE AN INVESTMENT WHICH WAS THE BASIS FOR SUCH ALLOWANCE IS, IN WHOLE OR IN PART, RECOVERED BY SUCH TAXPAYER, AND SUCH DISPOSITION OR RECOVERY OCCURS DURING THE TAXABLE YEAR OR WITHIN FORTY-EIGHT MONTHS FROM THE CLOSE OF THE TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, THE TAXPAYER SHALL ADD BACK, WITH RESPECT TO THE TAXABLE YEAR IN WHICH THE DISPOSITION OR RECOVERY DESCRIBED ABOVE OCCURRED, THE REQUIRED PORTION OF THE CREDIT ORIGINALLY ALLOWED.

(2) WHERE A TAXPAYER SELLS, TRANSFERS OR OTHERWISE DISPOSES OF CORPORATE STOCK, A PARTNERSHIP INTEREST OR OTHER OWNERSHIP INTEREST ARISING FROM THE MAKING OF A QUALIFIED INVESTMENT WHICH WAS THE BASIS, IN WHOLE OR IN PART, FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION, OR WHERE AN INVESTMENT WHICH WAS THE BASIS FOR SUCH ALLOWANCE IS IN ANY MANNER, IN WHOLE OR IN PART, RECOVERED BY SUCH TAXPAYER, AND SUCH DISPOSITION OR RECOVERY OCCURS DURING THE TAXABLE YEAR OR WITHIN ONE HUNDRED EIGHT MONTHS FROM THE CLOSE OF THE TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS ALLOWED, THE TAXPAYER SHALL ADD BACK, WITH RESPECT TO THE TAXABLE YEAR IN WHICH THE DISPOSITION OR RECOVERY DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH OCCURRED THE REQUIRED PORTION OF THE CREDIT ORIGINALLY ALLOWED.

(3) THE REQUIRED PORTION OF THE CREDIT ORIGINALLY ALLOWED SHALL BE THE PRODUCT OF (A) THE PORTION OF SUCH CREDIT ATTRIBUTABLE TO THE PROPERTY DISPOSED OF AND (B) THE APPLICABLE PERCENTAGE.

(4) THE APPLICABLE PERCENTAGE SHALL BE:

(A) FOR CREDITS ALLOWED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION:

(I) ONE HUNDRED PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS WITHIN THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED OR WITHIN TWELVE MONTHS OF THE END OF SUCH TAXABLE YEAR,

(II) SEVENTY-FIVE PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN TWELVE BUT NOT MORE THAN TWENTY-FOUR MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED,

(III) FIFTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN TWENTY-FOUR MONTHS BUT NOT MORE THAN THIRTY-SIX MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED, OR

(IV) TWENTY-FIVE PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN THIRTY-SIX MONTHS BUT NOT MORE THAN FORTY-EIGHT MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED; OR

(B) FOR CREDITS ALLOWED PURSUANT TO SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION:

(I) ONE HUNDRED PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS WITHIN THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED OR WITHIN TWELVE MONTHS OF THE END OF SUCH TAXABLE YEAR,

(II) EIGHTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN TWELVE BUT NOT MORE THAN FORTY-EIGHT MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED,

(III) SIXTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN FORTY-EIGHT MONTHS BUT NOT MORE THAN SEVENTY-TWO MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED,

(IV) FORTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN SEVENTY-TWO MONTHS BUT NOT MORE THAN NINETY-SIX MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED, OR

(V) TWENTY PERCENT, IF THE DISPOSITION OR RECOVERY OCCURS MORE THAN NINETY-SIX MONTHS BUT NOT MORE THAN ONE HUNDRED EIGHT MONTHS AFTER THE END OF THE TAXABLE YEAR WITH RESPECT TO WHICH THE CREDIT IS ALLOWED.

9. CREDIT FOR THE SPECIAL ADDITIONAL MORTGAGE RECORDING TAX. (A) APPLICATION OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE CREDITED AGAINST THE TAX IMPOSED BY THIS ARTICLE, EQUAL TO THE AMOUNT OF THE SPECIAL ADDITIONAL MORTGAGE RECORDING TAX PAID BY THE TAXPAYER PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE-A OF SECTION TWO HUNDRED FIFTY-THREE OF THIS CHAPTER OR MORTGAGES RECORDED. PROVIDED, HOWEVER, NO CREDIT SHALL BE ALLOWED WITH RESPECT TO A MORTGAGE OF REAL PROPERTY PRINCIPALLY IMPROVED OR TO BE IMPROVED BY ONE OR MORE STRUCTURES CONTAINING IN THE AGGREGATE NOT MORE THAN SIX RESIDENTIAL DWELLING UNITS, EACH DWELLING UNIT HAVING ITS OWN SEPARATE COOKING FACILITIES, WHERE THE REAL PROPERTY IS LOCATED IN ONE OR MORE OF THE COUNTIES COMPRISING THE METROPOLITAN COMMUTER TRANSPORTATION AREA. PROVIDED FURTHER, HOWEVER, NO CREDIT SHALL BE ALLOWED WITH RESPECT TO A MORTGAGE OF REAL PROPERTY PRINCIPALLY IMPROVED OR TO BE IMPROVED BY ONE OR MORE STRUCTURES CONTAINING IN THE AGGREGATE NOT MORE THAN SIX RESIDENTIAL DWELLING UNITS, EACH DWELLING UNIT HAVING ITS OWN SEPARATE COOKING FACILITIES, WHERE THE REAL PROPERTY IS LOCATED IN THE COUNTY OF ERIE.

(B) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR, INCLUDING ANY CREDIT CARRIED OVER FROM A PRIOR TAXABLE YEAR, REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR

MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

10. CREDIT FOR SERVICING CERTAIN MORTGAGES. (A) GENERAL. EVERY TAXPAYER MEETING THE REQUIREMENTS OF THE STATE OF NEW YORK MORTGAGE AGENCY APPLICABLE TO THE SERVICING OF MORTGAGES ACQUIRED BY SUCH AGENCY PURSUANT TO THE STATE OF NEW YORK MORTGAGE AGENCY ACT, WHICH SHALL HAVE ENTERED INTO A CONTRACT WITH THE STATE OF NEW YORK MORTGAGE AGENCY TO SERVICE MORTGAGES ACQUIRED BY SUCH AGENCY PURSUANT TO THE STATE OF NEW YORK MORTGAGE AGENCY ACT, SHALL HAVE CREDITED TO IT OR AN AMOUNT EQUAL TO TWO AND NINETY-THREE ONE HUNDREDTHS PER CENTUM OF THE TOTAL PRINCIPAL AND INTEREST COLLECTED BY THE TAXPAYER DURING ITS TAXABLE YEAR ON EACH SUCH MORTGAGE SECURED BY A LIEN ON REAL ESTATE IMPROVED BY A ONE-FAMILY TO FOUR-FAMILY RESIDENTIAL STRUCTURE AND AN AMOUNT EQUAL TO THE INTEREST COLLECTED BY THE TAXPAYER DURING ITS TAXABLE YEAR ON EACH SUCH MORTGAGE SECURED BY A LIEN ON REAL PROPERTY IMPROVED BY A STRUCTURE OCCUPIED AS THE RESIDENCE OF FIVE OR MORE FAMILIES LIVING INDEPENDENTLY OF EACH OTHER, MULTIPLIED BY A FRACTION THE DENOMINATOR OF WHICH SHALL BE THE INTEREST RATE PAYABLE ON THE MORTGAGE (COMPUTED TO FIVE DECIMAL PLACES) AND THE NUMERATOR OF WHICH SHALL BE .00125 IN THE CASE OF SUCH A MORTGAGE ACQUIRED BY SUCH AGENCY FOR LESS THAN ONE MILLION DOLLARS, AND .00100 IN THE CASE OF SUCH A MORTGAGE ACQUIRED BY SUCH AGENCY FOR ONE MILLION DOLLARS OR MORE. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION REDUCE THE TAX TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IN COMPUTING SUCH TAX CREDIT FOR THE SERVICING OF MORTGAGES ON ONE-FAMILY TO FOUR-FAMILY RESIDENTIAL STRUCTURES, THE TAXPAYER SHALL NOT BE ENTITLED TO CREDIT FOR THE COLLECTION OF CURTAILMENT OR PAYMENTS IN DISCHARGE OF ANY SUCH MORTGAGE. FOR THE PURPOSES OF THIS SUBDIVISION,

(B)(I) A "CURTAILMENT" SHALL MEAN AMOUNTS PAID BY MORTGAGORS

(A) IN EXCESS OF THE MONTHLY CONSTANT DUE DURING THE MONTH OF COLLECTION AND

(B) IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE MORTGAGE; IN THE ABSENCE OF CLEAR EVIDENCE TO THE CONTRARY, AMOUNTS PAID IN EXCESS OF THE MONTHLY CONSTANT DUE DURING THE MONTH OF COLLECTION SHALL BE DEEMED TO BE IN REDUCTION OF THE UNPAID PRINCIPAL BALANCE OF THE MORTGAGE; AND

(II) "MONTHLY CONSTANT" SHALL MEAN THE AMOUNT OF PRINCIPAL AND INTEREST WHICH IS DUE AND PAYABLE ACCORDING TO THE MORTGAGE DOCUMENTS ON EACH PERIODIC PAYMENT DATE.

11. AGRICULTURAL PROPERTY TAX CREDIT. (A) GENERAL. IN THE CASE OF A TAXPAYER WHICH IS AN ELIGIBLE FARMER OR AN ELIGIBLE FARMER WHO HAS PAID TAXES PURSUANT TO A LAND CONTRACT, THERE SHALL BE ALLOWED A CREDIT FOR THE ALLOWABLE SCHOOL DISTRICT PROPERTY TAXES. THE TERM "ALLOWABLE SCHOOL DISTRICT PROPERTY TAXES" MEANS THE SCHOOL DISTRICT PROPERTY TAXES PAID DURING THE TAXABLE YEAR ON QUALIFIED AGRICULTURAL PROPERTY, SUBJECT TO THE ACREAGE LIMITATION PROVIDED IN PARAGRAPH (E) OF THIS SUBDIVISION AND THE INCOME LIMITATION PROVIDED IN PARAGRAPH (F) OF THIS SUBDIVISION.

(B) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "ELIGIBLE FARMER" MEANS A TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME. THE TERM "ELIGIBLE FARMER" ALSO INCLUDES A CORPORATION OTHER THAN THE TAXPAYER OF RECORD FOR QUALIFIED AGRICULTURAL LAND WHICH HAS PAID THE SCHOOL DISTRICT PROPERTY TAXES ON SUCH LAND PURSUANT TO A CONTRACT FOR THE FUTURE PURCHASE OF SUCH LAND; PROVIDED THAT SUCH CORPORATION HAS A FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR WHICH IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME; AND

PROVIDED FURTHER THAT, IN DETERMINING SUCH INCOME ELIGIBILITY, A TAXPAYER MAY, FOR ANY TAXABLE YEAR, USE THE AVERAGE OF SUCH FEDERAL GROSS INCOME FROM FARMING FOR THAT TAXABLE YEAR AND SUCH INCOME FOR THE TWO CONSECUTIVE TAXABLE YEARS IMMEDIATELY PRECEDING SUCH TAXABLE YEAR. EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS INCOME FROM ALL SOURCES FOR THE TAXABLE YEAR IN EXCESS OF THIRTY THOUSAND DOLLARS. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING FOR OTHERWISE ELIGIBLE FARMERS.

(C) SCHOOL DISTRICT PROPERTY TAXES. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SCHOOL DISTRICT PROPERTY TAXES" MEANS ALL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENALTIES AND INTEREST, LEVIED FOR SCHOOL DISTRICT PURPOSES ON THE QUALIFIED AGRICULTURAL PROPERTY OWNED BY THE TAXPAYER.

(D) QUALIFIED AGRICULTURAL PROPERTY. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "QUALIFIED AGRICULTURAL PROPERTY" MEANS LAND LOCATED IN THIS STATE WHICH IS USED IN AGRICULTURAL PRODUCTION, AND LAND IMPROVEMENTS, STRUCTURES AND BUILDINGS (EXCLUDING BUILDINGS USED FOR THE TAXPAYER'S RESIDENTIAL PURPOSE) LOCATED ON SUCH LAND WHICH ARE USED OR OCCUPIED TO CARRY OUT SUCH PRODUCTION. QUALIFIED AGRICULTURAL PROPERTY ALSO INCLUDES LAND SET ASIDE OR RETIRED UNDER A FEDERAL SUPPLY MANAGEMENT OR SOIL CONSERVATION PROGRAM OR LAND THAT AT THE TIME IT BECOMES SUBJECT TO A CONSERVATION EASEMENT, AS DEFINED UNDER SUBDIVISION TWENTY-EIGHT OF THIS SECTION, MET THE REQUIREMENTS UNDER THIS PARAGRAPH.

(E) ACREAGE LIMITATION. (I) ELIGIBLE TAXES. IN THE EVENT THAT THE QUALIFIED AGRICULTURAL PROPERTY OWNED BY THE TAXPAYER INCLUDES LAND IN EXCESS OF THE BASE ACREAGE AS PROVIDED IN THIS PARAGRAPH, THE AMOUNT OF SCHOOL DISTRICT PROPERTY TAXES ELIGIBLE FOR CREDIT UNDER THIS SUBDIVISION SHALL BE THAT PORTION OF THE SCHOOL DISTRICT PROPERTY TAXES WHICH BEARS THE SAME RATIO TO THE TOTAL SCHOOL DISTRICT PROPERTY TAXES PAID DURING THE TAXABLE YEAR, AS THE ACREAGE ALLOWABLE UNDER THIS PARAGRAPH BEARS TO THE ENTIRE ACREAGE OF SUCH LAND.

(II) ALLOWABLE ACREAGE. THE ALLOWABLE ACREAGE IS THE SUM OF THE BASE ACREAGE SET FORTH BELOW AND FIFTY PERCENT OF THE INCREMENTAL ACREAGE. THE INCREMENTAL ACREAGE IS THE EXCESS OF THE ENTIRE ACREAGE OF QUALIFIED AGRICULTURAL LAND OWNED BY THE TAXPAYER OVER THE BASE ACREAGE. EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE BASE ACREAGE IS THREE HUNDRED FIFTY ACRES.

THE TOTAL BASE ACREAGE MAY BE INCREASED BY ANY ACREAGE ENROLLED OR PARTICIPATING DURING THE TAXABLE YEAR IN A FEDERAL ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM PURSUANT TO TITLE THREE OF THE FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF NINETEEN HUNDRED NINETY-SIX.

(III) BASE ACREAGE OF RELATED PERSONS. WHERE THE TAXPAYER AND ONE OR MORE RELATED PERSONS EACH OWN QUALIFIED AGRICULTURAL PROPERTY ON THE FIRST DAY OF MARCH OF ANY YEAR, THE BASE ACREAGE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE DIVIDED EQUALLY AND ALLOTTED AMONG THE TAXPAYER AND SUCH RELATED PERSONS, AND THE TAXPAYER'S BASE ACREAGE FOR THE TAXABLE YEAR WHICH INCLUDES SUCH MARCH FIRST SHALL BE LIMITED TO ITS ALLOTTED SHARE. PROVIDED, HOWEVER, IF THE TAXPAYER AND ALL SUCH RELATED PERSONS CONSENT (AT SUCH TIME AND IN SUCH MANNER AS THE COMMISSIONER MAY PRESCRIBE) TO AN UNEQUAL DIVISION, THE TAXPAYER'S BASE ACREAGE FOR SUCH TAXABLE YEAR SHALL BE LIMITED TO ITS ALLOTTED SHARE UNDER SUCH UNEQUAL DIVISION.

(IV) RELATED PERSONS. (A) FOR PURPOSES OF SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE TERM "RELATED PERSON" MEANS:

(I) A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE, WHERE THE TAXPAYER AND THE CORPORATION ARE MEMBERS OF THE SAME CONTROLLED GROUP, AS DEFINED IN SECTION 267(F) OF THE INTERNAL REVENUE CODE;

(II) AN INDIVIDUAL, PARTNERSHIP, ESTATE OR TRUST, WHERE MORE THAN FIFTY PERCENT IN VALUE OF THE OUTSTANDING STOCK OF THE TAXPAYER IS OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR SUCH INDIVIDUAL, PARTNERSHIP, ESTATE OR TRUST OR BY OR FOR THE GRANTOR OF SUCH TRUST;

(III) A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE, OR A PARTNERSHIP, ESTATE OR TRUST, IF THE SAME PERSON OWNS MORE THAN FIFTY PERCENT IN VALUE OF THE OUTSTANDING STOCK OF THE TAXPAYER AND MORE THAN FIFTY PERCENT IN VALUE OF THE OUTSTANDING STOCK OF THE CORPORATION, OR MORE THAN FIFTY PERCENT OF THE CAPITAL OR PROFITS INTEREST IN THE PARTNERSHIP, OR MORE THAN FIFTY PERCENT OF THE BENEFICIAL INTEREST IN THE ESTATE OR TRUST;

(IV) A PARTNERSHIP, ESTATE OR TRUST OF WHICH THE TAXPAYER OWNS, DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST.

(B) IN DETERMINING WHETHER A PERSON IS A RELATED PERSON WITHIN THE MEANING OF THIS SUBPARAGRAPH:

(I) STOCK OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR A CORPORATION, PARTNERSHIP, ESTATE OR TRUST SHALL BE CONSIDERED AS BEING OWNED PROPORTIONATELY BY OR FOR ITS SHAREHOLDERS, PARTNERS OR BENEFICIARIES;

(II) AN INDIVIDUAL SHALL BE CONSIDERED AS OWNING THE STOCK OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR HIS SPOUSE;

(III) STOCK CONSTRUCTIVELY OWNED BY A PERSON BY REASON OF THE APPLICATION OF ITEM (I) OF THIS CLAUSE SHALL, FOR THE PURPOSE OF APPLYING ITEM (I) OR (II) OF THIS CLAUSE, BE TREATED AS ACTUALLY OWNED BY SUCH PERSON.

(F) INCOME LIMITATION. (I) IN THE EVENT THAT THE MODIFIED ENTIRE NET INCOME OF THE TAXPAYER EXCEEDS TWO HUNDRED THOUSAND DOLLARS, THE ALLOWABLE SCHOOL DISTRICT PROPERTY TAXES UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE THE ELIGIBLE TAXES UNDER SUBPARAGRAPH (I) OF PARAGRAPH (E) OF THIS SUBDIVISION REDUCED BY THE PRODUCT OF THE AMOUNT OF SUCH ELIGIBLE TAXES AND A PERCENTAGE, SUCH PERCENTAGE TO BE DETERMINED BY MULTIPLYING ONE HUNDRED PERCENT BY A FRACTION, THE NUMERATOR OF WHICH IS THE LESSER OF ONE HUNDRED THOUSAND DOLLARS OR THE EXCESS OF THE TAXPAYER'S MODIFIED ENTIRE NET INCOME OVER TWO HUNDRED THOUSAND DOLLARS AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS. FOR PURPOSES OF THE PRECEDING SENTENCE, THE TERM "ELIGIBLE TAXES", WHERE THE ACREAGE LIMITATION OF PARAGRAPH (E) OF THIS SUBDIVISION DOES NOT APPLY, SHALL MEAN THE TOTAL SCHOOL DISTRICT PROPERTY TAXES PAID DURING THE TAXABLE YEAR.

(II) THE TERM "MODIFIED ENTIRE NET INCOME" MEANS THE ENTIRE NET INCOME FOR THE TAXABLE YEAR REDUCED BY THE AMOUNT OF PRINCIPAL PAID ON FARM INDEBTEDNESS DURING THE TAXABLE YEAR. THE TERM "FARM INDEBTEDNESS" MEANS DEBT INCURRED OR REFINANCED WHICH IS SECURED BY FARM PROPERTY, WHERE THE PROCEEDS OF THE DEBT ARE DISBURSED FOR EXPENDITURES INCURRED IN THE BUSINESS OF FARMING.

(G) CARRYOVER. IN NO EVENT SHALL THE CREDIT PROVIDED HEREIN BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. PROVIDED, HOWEVER, IN LIEU OF CARRYING OVER THE UNUSED PORTION OF SUCH CREDIT, THE

TAXPAYER MAY ELECT TO TREAT SUCH UNUSED PORTION AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER EXCEPT THAT NO INTEREST SHALL BE PAID ON SUCH OVERPAYMENT.

(H) NONQUALIFIED USE. (I) NO CREDIT IN CONVERSION YEAR. IN THE EVENT THAT QUALIFIED AGRICULTURAL PROPERTY IS CONVERTED BY THE TAXPAYER TO NONQUALIFIED USE, CREDIT UNDER THIS SUBDIVISION SHALL NOT BE ALLOWED WITH RESPECT TO SUCH PROPERTY FOR THE TAXABLE YEAR OF CONVERSION (THE CONVERSION YEAR).

(II) CREDIT RECAPTURE. IF THE CONVERSION BY THE TAXPAYER OF QUALIFIED AGRICULTURAL PROPERTY TO NONQUALIFIED USE OCCURS DURING THE PERIOD OF THE TWO TAXABLE YEARS FOLLOWING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER THIS SUBDIVISION WAS FIRST CLAIMED WITH RESPECT TO SUCH PROPERTY, THE CREDIT ALLOWED WITH RESPECT TO SUCH PROPERTY FOR THE TAXABLE YEARS PRIOR TO THE CONVERSION YEAR MUST BE ADDED BACK IN THE CONVERSION YEAR. WHERE THE PROPERTY CONVERTED INCLUDES LAND, AND WHERE THE CONVERSION IS OF ONLY A PORTION OF SUCH LAND, THE CREDIT ALLOWED WITH RESPECT TO THE PROPERTY CONVERTED SHALL BE DETERMINED BY MULTIPLYING THE ENTIRE CREDIT UNDER THIS SUBDIVISION FOR THE TAXABLE YEARS PRIOR TO THE CONVERSION YEAR BY A FRACTION, THE NUMERATOR OF WHICH IS THE ACREAGE CONVERTED AND THE DENOMINATOR OF WHICH IS THE ENTIRE ACREAGE OF SUCH LAND OWNED BY THE TAXPAYER IMMEDIATELY PRIOR TO THE CONVERSION.

(III) EXCEPTION TO RECAPTURE. SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL NOT APPLY TO THE CONVERSION OF PROPERTY WHERE THE CONVERSION IS BY REASON OF INVOLUNTARY CONVERSION, WITHIN THE MEANING OF SECTION ONE THOUSAND THIRTY-THREE OF THE INTERNAL REVENUE CODE.

(IV) CONVERSION TO NONQUALIFIED USE. FOR PURPOSES OF THIS PARAGRAPH, A SALE OR OTHER DISPOSITION OF QUALIFIED AGRICULTURAL PROPERTY ALONE SHALL NOT CONSTITUTE A CONVERSION TO A NONQUALIFIED USE.

(I) SPECIAL RULES. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "FEDERAL GROSS INCOME FROM FARMING" SHALL INCLUDE GROSS INCOME FROM THE PRODUCTION OF MAPLE SYRUP, CIDER, CHRISTMAS TREES DERIVED FROM A MANAGED CHRISTMAS TREE OPERATION WHETHER DUG FOR TRANSPLANTING OR CUT FROM THE STUMP, OR FROM A COMMERCIAL HORSE BOARDING OPERATION AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW, OR FROM THE SALE OF WINE FROM A LICENSED FARM WINERY AS PROVIDED FOR IN ARTICLE SIX OF THE ALCOHOLIC BEVERAGE CONTROL LAW, OR FROM THE SALE OF CIDER FROM A LICENSED FARM CIDERY AS PROVIDED FOR IN SECTION FIFTY-EIGHT-C OF THE ALCOHOLIC BEVERAGE CONTROL LAW.

(J) ELECTION TO DEEM GROSS INCOME OF NEW YORK C CORPORATION TO SHAREHOLDERS. FOR PURPOSES OF THIS SUBDIVISION, FEDERAL GROSS INCOME FROM FARMING SHALL BE ZERO FOR ANY TAXABLE YEAR OF A NEW YORK C CORPORATION FOR WHICH THE ELECTION UNDER PARAGRAPH NINE OF SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THIS CHAPTER IS IN EFFECT.

12. CREDIT FOR EMPLOYMENT OF PERSONS WITH DISABILITIES. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR EMPLOYING WITHIN THE STATE A QUALIFIED EMPLOYEE.

(B) QUALIFIED EMPLOYEE. A QUALIFIED EMPLOYEE IS AN INDIVIDUAL:

(1) WHO IS CERTIFIED BY THE EDUCATION DEPARTMENT, OR IN THE CASE OF AN INDIVIDUAL WHO IS BLIND OR VISUALLY HANDICAPPED, BY THE STATE AGENCY RESPONSIBLE FOR PROVISION OF VOCATIONAL REHABILITATION SERVICES TO THE BLIND AND VISUALLY HANDICAPPED: (I) AS A PERSON WITH A DISABILITY WHICH CONSTITUTES OR RESULTS IN A SUBSTANTIAL HANDICAP TO EMPLOYMENT AND (II) AS HAVING COMPLETED OR AS RECEIVING SERVICES UNDER AN INDIVIDUALIZED WRITTEN REHABILITATION PLAN APPROVED BY THE EDUCATION DEPARTMENT OR

OTHER STATE AGENCY RESPONSIBLE FOR PROVIDING VOCATIONAL REHABILITATION SERVICES TO SUCH INDIVIDUAL; AND

(2) WHO HAS WORKED ON A FULL-TIME BASIS FOR THE EMPLOYER WHO IS CLAIMING THE CREDIT FOR AT LEAST ONE HUNDRED EIGHTY DAYS OR FOUR HUNDRED HOURS.

(C) AMOUNT OF CREDIT. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, THE AMOUNT OF CREDIT SHALL BE THIRTY-FIVE PERCENT OF THE FIRST SIX THOUSAND DOLLARS IN QUALIFIED FIRST-YEAR WAGES EARNED BY EACH QUALIFIED EMPLOYEE. "QUALIFIED FIRST-YEAR WAGES" MEANS WAGES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO QUALIFIED EMPLOYEES WHICH ARE ATTRIBUTABLE, WITH RESPECT TO ANY SUCH EMPLOYEE, TO SERVICES RENDERED DURING THE ONE-YEAR PERIOD BEGINNING WITH THE DAY THE EMPLOYEE BEGINS WORK FOR THE TAXPAYER.

(D) CREDIT WHERE FEDERAL WORK OPPORTUNITY TAX CREDIT APPLIES. WITH RESPECT TO ANY QUALIFIED EMPLOYEE WHOSE QUALIFIED FIRST-YEAR WAGES UNDER PARAGRAPH (C) OF THIS SUBDIVISION ALSO CONSTITUTE QUALIFIED FIRST-YEAR WAGES FOR PURPOSES OF THE WORK OPPORTUNITY TAX CREDIT FOR VOCATIONAL REHABILITATION REFERRALS UNDER SECTION FIFTY-ONE OF THE INTERNAL REVENUE CODE, THE AMOUNT OF CREDIT UNDER THIS SUBDIVISION SHALL BE THIRTY-FIVE PERCENT OF THE FIRST SIX THOUSAND DOLLARS IN QUALIFIED SECOND-YEAR WAGES EARNED BY EACH SUCH EMPLOYEE. "QUALIFIED SECOND-YEAR WAGES" MEANS WAGES PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO QUALIFIED EMPLOYEES WHICH ARE ATTRIBUTABLE, WITH RESPECT TO ANY SUCH EMPLOYEE, TO SERVICES RENDERED DURING THE ONE-YEAR PERIOD BEGINNING ONE YEAR AFTER THE EMPLOYEE BEGINS WORK FOR THE TAXPAYER.

(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(F) COORDINATION WITH FEDERAL WORK OPPORTUNITY TAX CREDIT. THE PROVISIONS OF SECTION FIFTY-ONE AND FIFTY-TWO OF THE INTERNAL REVENUE CODE, AS SUCH SECTIONS APPLIED ON OCTOBER FIRST, NINETEEN HUNDRED NINETY-SIX, THAT APPLY TO THE FEDERAL WORK OPPORTUNITY TAX CREDIT FOR VOCATIONAL REHABILITATION REFERRALS SHALL APPLY TO THE CREDIT UNDER THIS SUBDIVISION TO THE EXTENT THAT SUCH SECTIONS ARE CONSISTENT WITH THE SPECIFIC PROVISIONS OF THIS SUBDIVISION, PROVIDED THAT IN THE EVENT OF A CONFLICT THE PROVISIONS OF THIS SUBDIVISION SHALL CONTROL.

13. CREDIT FOR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR THE PURCHASE, OTHER THAN FOR RESALE, OF AN AUTOMATED EXTERNAL DEFIBRILLATOR, AS SUCH TERM IS DEFINED IN SECTION THREE THOUSAND-B OF THE PUBLIC HEALTH LAW. THE AMOUNT OF CREDIT SHALL BE THE COST TO THE TAXPAYER OF AUTOMATED EXTERNAL DEFIBRILLATORS PURCHASED DURING THE TAXABLE YEAR, SUCH CREDIT NOT TO EXCEED FIVE HUNDRED DOLLARS WITH RESPECT TO EACH UNIT PURCHASED. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER.

14. CREDIT FOR PURCHASE OF LONG-TERM CARE INSURANCE. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR

FOR LONG-TERM CARE INSURANCE. IN ORDER TO QUALIFY FOR SUCH CREDIT, THE TAXPAYER'S PREMIUM PAYMENT MUST BE FOR THE PURCHASE OF OR FOR CONTINUING COVERAGE UNDER A LONG-TERM CARE INSURANCE POLICY THAT QUALIFIES FOR SUCH CREDIT PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED SEVENTEEN OF THE INSURANCE LAW.

(B) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

15. LOW-INCOME HOUSING CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE WITH RESPECT TO THE OWNERSHIP OF ELIGIBLE LOW-INCOME BUILDINGS, COMPUTED AS PROVIDED IN SECTION EIGHTEEN OF THIS CHAPTER.

(B) APPLICATION OF CREDIT. THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS.

(C) CREDIT RECAPTURE. FOR PROVISIONS REQUIRING RECAPTURE OF CREDIT, SEE SUBDIVISION (B) OF SECTION EIGHTEEN OF THIS CHAPTER.

16. GREEN BUILDING CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION NINETEEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) CARRYOVERS. THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS.

17. BROWNFIELD REDEVELOPMENT TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE

PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

18. REMEDIATED BROWNFIELD CREDIT FOR REAL PROPERTY TAXES FOR QUALIFIED SITES. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A DEVELOPER OF A QUALIFIED SITE SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE COMPUTED AS PROVIDED IN SUBDIVISION (B) OF SECTION TWENTY-TWO OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS "QUALIFIED SITE" AND "DEVELOPER" SHALL HAVE THE SAME MEANING AS SET FORTH IN PARAGRAPHS TWO AND THREE, RESPECTIVELY, OF SUBDIVISION (A) OF SECTION TWENTY-TWO OF THIS CHAPTER.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

19. ENVIRONMENTAL REMEDIATION INSURANCE CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-THREE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

20. EMPIRE STATE FILM PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION TWENTY-FOUR OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION TWENTY-FOUR AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

21. SECURITY TRAINING TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-SIX OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS

THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

22. CONSERVATION EASEMENT TAX CREDIT. (A) CREDIT ALLOWED. IN THE CASE OF A TAXPAYER WHO OWNS LAND THAT IS SUBJECT TO A CONSERVATION EASEMENT HELD BY A PUBLIC OR PRIVATE CONSERVATION AGENCY, THERE SHALL BE ALLOWED A CREDIT FOR TWENTY-FIVE PERCENT OF THE ALLOWABLE SCHOOL DISTRICT, COUNTY AND TOWN REAL PROPERTY TAXES ON SUCH LAND. IN NO SUCH CASE SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION IN COMBINATION WITH ANY OTHER CREDIT FOR SUCH SCHOOL DISTRICT, COUNTY AND TOWN REAL PROPERTY TAXES UNDER THIS SECTION EXCEED SUCH TAXES.

(B) CONSERVATION EASEMENT. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "CONSERVATION EASEMENT" MEANS A PERPETUAL AND PERMANENT CONSERVATION EASEMENT AS DEFINED IN ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW THAT SERVES TO PROTECT OPEN SPACE, SCENIC, NATURAL RESOURCES, BIODIVERSITY, AGRICULTURAL, WATERSHED AND/OR HISTORIC PRESERVATION RESOURCES. ANY CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED UNDER THIS SUBDIVISION SHALL BE FILED WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, AS PROVIDED FOR IN ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVATION LAW AND SUCH CONSERVATION EASEMENT SHALL COMPLY WITH THE PROVISIONS OF TITLE THREE OF SUCH ARTICLE, AND THE PROVISIONS OF SUBDIVISION (H) OF SECTION 170 OF THE INTERNAL REVENUE CODE. DEDICATIONS OF LAND FOR OPEN SPACE THROUGH THE EXECUTION OF CONSERVATION EASEMENTS FOR THE PURPOSE OF FULFILLING DENSITY REQUIREMENTS TO OBTAIN SUBDIVISION OR BUILDING PERMITS SHALL NOT BE CONSIDERED A CONSERVATION EASEMENT UNDER THIS SUBDIVISION.

(C) LAND. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "LAND" MEANS A FEE SIMPLE TITLE TO REAL PROPERTY LOCATED IN THIS STATE, WITH OR WITHOUT IMPROVEMENTS THEREON; RIGHTS OF WAY; WATER AND RIPARIAN RIGHTS; EASEMENTS; PRIVILEGES AND ALL OTHER RIGHTS OR INTERESTS OF ANY LAND OR DESCRIPTION IN, RELATING TO OR CONNECTED WITH REAL PROPERTY, EXCLUDING BUILDINGS, STRUCTURES, OR IMPROVEMENTS.

(D) PUBLIC OR PRIVATE CONSERVATION AGENCY. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "PUBLIC OR PRIVATE CONSERVATION AGENCY" MEANS ANY STATE, LOCAL, OR FEDERAL GOVERNMENTAL BODY; OR ANY PRIVATE NOT-FOR-PROFIT CHARITABLE CORPORATION OR TRUST WHICH IS AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK, IS ORGANIZED AND OPERATED TO PROTECT LAND FOR NATURAL RESOURCES, CONSERVATION OR HISTORIC PRESERVATION PURPOSES, IS EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, AND HAS THE POWER TO ACQUIRE, HOLD AND MAINTAIN LAND AND/OR INTERESTS IN LAND FOR SUCH PURPOSES.

(E) CREDIT LIMITATION. THE AMOUNT OF THE CREDIT THAT MAY BE CLAIMED BY A TAXPAYER PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED FIVE THOUSAND DOLLARS IN ANY GIVEN YEAR.

(F) APPLICATION OF THE CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF THE CREDIT THUS NOT

DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER, EXCEPT THAT, NO INTEREST SHALL BE PAID THEREON.

23. EMPIRE STATE COMMERCIAL PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER THAT IS ELIGIBLE PURSUANT TO PROVISIONS OF SECTION TWENTY-EIGHT OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(C) EXPIRATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE APPLICABLE TO TAXABLE YEARS BEGINNING ON OR AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN.

24. BIOFUEL PRODUCTION CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT OF THIS CHAPTER ADDED AS PART X OF CHAPTER SIXTY-TWO OF THE LAWS OF TWO THOUSAND SIX, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE TAX CREDIT ALLOWED PURSUANT TO THIS SECTION SHALL APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND TWENTY.

25. CLEAN HEATING FUEL CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. SUCH CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, SHALL BE ALLOWED FOR BIOHEAT, USED FOR SPACE HEATING OR HOT WATER PRODUCTION FOR RESIDENTIAL PURPOSES WITHIN THIS STATE PURCHASED BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN. SUCH CREDIT SHALL BE $0.01 PER PERCENT OF BIODIESEL PER GALLON OF BIOHEAT, NOT TO EXCEED TWENTY CENTS PER GALLON, PURCHASED BY SUCH TAXPAYER.

(B) DEFINITIONS. FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(I) "BIODIESEL" SHALL MEAN A FUEL COMPRISED EXCLUSIVELY OF MONO-ALKYL ESTERS OF LONG CHAIN FATTY ACIDS DERIVED FROM VEGETABLE OILS OR ANIMAL FATS, DESIGNATED B100, WHICH MEETS THE SPECIFICATIONS OF AMERICAN SOCIETY OF TESTING AND MATERIALS DESIGNATION D 6751.

(II) "BIOHEAT" SHALL MEAN A FUEL COMPRISED OF BIODIESEL BLENDED WITH CONVENTIONAL HOME HEATING OIL, WHICH MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY OF TESTING AND MATERIALS DESIGNATION D 396 OR D 975.

(C) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

26. CREDIT FOR REHABILITATION OF HISTORIC PROPERTIES. (A) APPLICATION OF CREDIT. (I) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER FOR THE SAME TAXABLE YEAR WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION (C)(2) OF SECTION 47 OF THE INTERNAL REVENUE CODE WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE STATE. PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED FIVE MILLION DOLLARS.

(II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER FOR THE SAME TAXABLE YEAR WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER SUBSECTION (C)(3) OF SECTION 47 OF THE INTERNAL REVENUE CODE WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE STATE. PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

(B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A NEW YORK S CORPORATION, THEN THE CREDIT CAPS IMPOSED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH 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 THE CREDIT CAP THAT IS APPLICABLE IN THAT TAXABLE YEAR.

(B) TAX CREDITS ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE ALLOWED IN THE TAXABLE YEAR THAT THE QUALIFIED REHABILITATION IS PLACED IN SERVICE UNDER SECTION 167 OF THE FEDERAL INTERNAL REVENUE CODE.

(C) IF THE CREDIT ALLOWED THE TAXPAYER PURSUANT TO SECTION 47 OF THE INTERNAL REVENUE CODE WITH RESPECT TO A QUALIFIED REHABILITATION IS RECAPTURED PURSUANT TO SUBSECTION (A) OF SECTION 50 OF THE INTERNAL REVENUE CODE, A PORTION OF THE CREDIT ALLOWED UNDER THIS SUBSECTION MUST BE ADDED BACK IN THE SAME TAXABLE YEAR AND IN THE SAME PROPORTION AS THE FEDERAL CREDIT.

(D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT

PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE RECREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

(E) TO BE ELIGIBLE FOR THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION, THE REHABILITATION PROJECT SHALL BE IN WHOLE OR IN PART LOCATED WITHIN A CENSUS TRACT WHICH IS IDENTIFIED AS BEING AT OR BELOW ONE HUNDRED PERCENT OF THE STATE MEDIAN FAMILY INCOME AS CALCULATED AS OF JANUARY FIRST OF EACH YEAR USING THE MOST RECENT FIVE YEAR ESTIMATE FROM THE AMERICAN COMMUNITY SURVEY PUBLISHED BY THE UNITED STATES CENSUS BUREAU.

27. CREDITS OF NEW YORK S CORPORATIONS. (A) GENERAL. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, NO CARRYOVER OF CREDIT ALLOWABLE IN A NEW YORK C YEAR SHALL BE DEDUCTED FROM THE TAX OTHERWISE DUE UNDER THIS ARTICLE IN A NEW YORK S YEAR, AND NO CREDIT ALLOWABLE IN A NEW YORK S YEAR, OR CARRYOVER OF SUCH CREDIT, SHALL BE DEDUCTED FROM THE TAX IMPOSED BY THIS ARTICLE. HOWEVER, A NEW YORK S YEAR SHALL BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE NUMBER OF TAXABLE YEARS TO WHICH A CREDIT MAY BE CARRIED OVER UNDER THIS SECTION. NOTWITHSTANDING THE FIRST SENTENCE OF THIS SUBDIVISION, HOWEVER, THE CREDIT FOR THE SPECIAL ADDITIONAL MORTGAGE RECORDING TAX SHALL BE ALLOWED AS PROVIDED IN SUBDIVISION FIFTEEN OF THIS SECTION, AND THE CARRYOVER OF ANY SUCH CREDIT SHALL BE DETERMINED WITHOUT REGARD TO WHETHER THE CREDIT IS CARRIED FROM A NEW YORK C YEAR TO A NEW YORK S YEAR OR VICE-VERSA.

28. NET OPERATING LOSS CONVERSION CREDIT. (A) BASE YEAR DESIGNATION. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "BASE YEAR" MEANS THE LAST TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN.

(B) ALLOWANCE OF CREDIT. A TAXPAYER WHICH HAS ANY UNABSORBED NET OPERATING LOSS CARRYOVER, REFERRED TO IN THIS SUBDIVISION AS A "NOL", AFTER CALCULATING ITS ENTIRE NET INCOME UNDER ARTICLE NINE-A OR ARTICLE THIRTY-TWO FOR THE BASE YEAR SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

(C) CALCULATION OF CREDIT. THE TOTAL AMOUNT OF THE NOL CONVERSION CREDIT SHALL BE THE PRODUCT OF:

(I) ANY UNABSORBED PORTION OF NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE OR SUBSECTION (K-1) OF SECTION FOURTEEN HUNDRED FIFTY-THREE OF ARTICLE THIRTY-TWO, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS NOT DEDUCTIBLE IN PREVIOUS TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER ON THE LAST DAY OF THE BASE YEAR, INCLUDING ANY NET OPERATING LOSS SUSTAINED BY THE TAXPAYER DURING THE BASE YEAR;

(II) THE TAXPAYER'S BUSINESS ALLOCATION PERCENTAGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION PERCENTAGE AS CALCULATED UNDER SECTION FOURTEEN HUNDRED FIFTY-FOUR OF ARTICLE THIRTY-TWO FOR PURPOSES OF ALLOCATING ENTIRE NET INCOME FOR THE BASE YEAR (SUCH ALLOCATION PERCENTAGES REFERRED TO IN THIS SUBDIVISION AS "BAP"), AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN; AND

(III) THE TAXPAYER'S TAX RATE FOR THE BASE YEAR AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE OR SUBSECTION (A) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF ARTICLE THIRTY-TWO, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(D) APPLICATION OF CREDIT. A TAXPAYER, OTHER THAN A SMALL BUSINESS CORPORATION AS DEFINED IN PARAGRAPH (E) OF THIS SUBDIVISION, IS ALLOWED AN ANNUAL NOL CONVERSION CREDIT THAT IS EQUAL TO ONE-TENTH OF THE TOTAL NOL CONVERSION CREDIT AS CALCULATED IN PARAGRAPH (C) OF THIS SUBDIVISION. SUCH CREDIT SHALL NOT BE ALLOWED AGAINST THE TAX COMPUTED UNDER PARAGRAPH (B) OR (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

(E) SMALL BUSINESS PROVISIONS. (I) FOR PURPOSES OF THIS SUBDIVISION, A SMALL BUSINESS CORPORATION IS A CORPORATION DEFINED IN PARAGRAPH THREE OF SUBSECTION (C) OF SECTION TWELVE HUNDRED FORTY-FOUR OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO THE SECOND SENTENCE OF SUBPARAGRAPH (A) THEREOF) AS OF THE LAST DAY OF THE BASE YEAR.

(II) APPLICATION OF CREDIT. A SMALL BUSINESS CORPORATION IS ALLOWED TO CLAIM THE TOTAL NOL CONVERSION CREDIT AS CALCULATED IN PARAGRAPH (C) OF THIS SUBDIVISION IN A TAXABLE YEAR. SUCH CREDIT SHALL NOT BE ALLOWED AGAINST THE TAX COMPUTED UNDER PARAGRAPH (B) OR (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

(F) CARRYOVER. (I) THE CREDIT ALLOWED BY THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY ONLY REDUCE THE TAX DUE FOR SUCH YEAR TO THE HIGHER OF THE AMOUNT PRESCRIBED IN PARAGRAPH (B) OR (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

(II) HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, OR, IF THE TAXPAYER IS REQUIRED TO PAY A TAX UNDER PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, ANY REMAINING AMOUNT OF CREDIT ALLOWED FOR THAT TAXABLE YEAR MAY BE CARRIED OVER TO THE NEXT TAXABLE YEAR OR YEARS FOLLOWING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(G) COMBINED GROUPS. (I) WHERE A TAXPAYER WAS PROPERLY INCLUDED OR REQUIRED TO BE INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR PURSUANT TO SUBDIVISION FOUR OF SECTION TWO HUNDRED ELEVEN OF THIS ARTICLE, THE COMBINED GROUP SHALL CALCULATE ITS CREDIT USING THE COMBINED GROUP'S TOTAL NOL, BAP, AND TAX RATE ACCORDING TO PARAGRAPH (C) OF THIS SUBDIVISION.

(II) IF THE MEMBERS OF THE COMBINED GROUP IN A COMBINED REPORT FOR THE BASE YEAR ARE THE SAME AS THE MEMBERS OF THE COMBINED GROUP IN A COMBINED REPORT FOR THE TAXABLE YEAR IMMEDIATELY SUCCEEDING THE BASE YEAR, THE CREDIT SHALL BE CALCULATED USING THE COMBINED GROUP'S NOL, BAP AND APPLICABLE TAX RATE ACCORDING TO PARAGRAPH (C) OF THIS SUBDIVISION. IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR AND FILES A SEPARATE REPORT IN A SUBSEQUENT TAXABLE YEAR, THEN THE AMOUNT OF REMAINING NOL CONVERSION CREDIT ALLOWED TO THE SEPARATE FILER SHALL BE PROPORTIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE ORIGINAL NOL CONVERSION CREDIT ON A COMBINED BASIS, AND THE REMAINING NOL CONVERSION CREDIT ALLOWED TO THE REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED BY THE AMOUNT OF PROPORTIONATE NOL CONVERSION CREDIT ALLOWED TO THE TAXPAYER OR TAXPAYERS FILING SEPARATELY. IF A COMBINED GROUP INCLUDES ADDITIONAL MEMBERS IN THE TAXABLE YEAR IMMEDIATELY SUCCEEDING THE BASE YEAR WHO WERE NOT INCLUDED IN THE COMBINED GROUP DURING THE BASE YEAR, EACH INDIVIDUAL COMBINED GROUP AND SEPARATELY FILING TAXPAYER SHALL CALCULATE ITS CREDIT FOR THE BASE YEAR

AND THE SUM OF THE CREDITS SHALL BE THE COMBINED NOL CONVERSION CREDIT OF THE COMBINED GROUP.

(H) EXPIRATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE APPLICABLE TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTY-FIVE.

29. HIRE A VET CREDIT. (A) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBDIVISION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER THIS ARTICLE.

(B) QUALIFIED VETERAN. A QUALIFIED VETERAN IS AN INDIVIDUAL:

(1) WHO SERVED ON ACTIVE DUTY IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD OR THE RESERVES THEREOF, OR WHO SERVED IN ACTIVE MILITARY SERVICE OF THE UNITED STATES AS A MEMBER OF THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;

(2) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN; AND

(3) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE TAXPAYER.

(C) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR THIS CREDIT.

(D) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A DISABLED VETERAN.

(E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

30. ALTERNATIVE FUELS AND ELECTRIC VEHICLE RECHARGING PROPERTY CREDIT. (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ALTER-

NATIVE FUEL VEHICLE REFUELING AND ELECTRIC VEHICLE RECHARGING PROPERTY PLACED IN SERVICE DURING THE TAXABLE YEAR.

(B) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE RECHARGING PROPERTY. THE CREDIT UNDER THIS SUBDIVISION FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE RECHARGING PROPERTY SHALL EQUAL FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOUSAND DOLLARS OR FIFTY PERCENT OF THE COST OF ANY SUCH PROPERTY:

(I) WHICH IS LOCATED IN THIS STATE;

(II) WHICH CONSTITUTES ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; AND

(III) FOR WHICH NONE OF THE COST HAS BEEN PAID FOR FROM THE PROCEEDS OF GRANTS, INCLUDING GRANTS FROM THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OR THE NEW YORK POWER AUTHORITY.

(C) DEFINITIONS. (I) THE TERM "ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY" MEANS ALL OF THE EQUIPMENT NEEDED TO DISPENSE ANY FUEL AT LEAST EIGHTY-FIVE PERCENT OF THE VOLUME OF WHICH CONSISTS OF ONE OR MORE OF THE FOLLOWING: NATURAL GAS, LIQUIFIED NATURAL GAS, LIQUIFIED PETROLEUM, OR HYDROGEN.

(II) THE TERM "ELECTRIC VEHICLE RECHARGING PROPERTY" MEANS ALL OF THE EQUIPMENT NEEDED TO CONVEY ELECTRIC POWER FROM THE ELECTRIC GRID OR ANOTHER POWER SOURCE TO AN ONBOARD VEHICLE ENERGY STORAGE SYSTEM.

(D) CARRYOVERS. IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(E) CREDIT RECAPTURE. IF, AT ANY TIME BEFORE THE END OF ITS RECOVERY PERIOD, ALTERNATIVE FUEL VEHICLE REFUELING OR ELECTRIC VEHICLE RECHARGING PROPERTY CEASES TO BE QUALIFIED, A RECAPTURE AMOUNT MUST BE ADDED BACK IN THE YEAR IN WHICH SUCH CESSATION OCCURS.

(I) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY CEASES TO BE QUALIFIED IF:

(I) THE PROPERTY NO LONGER QUALIFIES AS ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; OR

(II) FIFTY PERCENT OR MORE OF THE USE OF THE PROPERTY IN A TAXABLE YEAR IS OTHER THAN IN A TRADE OR BUSINESS IN THIS STATE; OR

(III) THE TAXPAYER RECEIVING THE CREDIT UNDER THIS SUBDIVISION SELLS OR DISPOSES OF THE PROPERTY AND KNOWS OR HAS REASON TO KNOW THAT THE PROPERTY WILL BE USED IN A MANNER DESCRIBED IN CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH.

(II) RECAPTURE AMOUNT. THE RECAPTURE AMOUNT IS EQUAL TO THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE TOTAL RECOVERY PERIOD FOR THE PROPERTY MINUS THE NUMBER OF RECOVERY YEARS PRIOR TO, BUT NOT INCLUDING, THE RECAPTURE YEAR, AND THE DENOMINATOR OF WHICH IS THE TOTAL RECOVERY PERIOD.

(F) TERMINATION. THE CREDIT ALLOWED BY PARAGRAPH (B) OF THIS SUBDIVISION SHALL NOT APPLY IN TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN.

31. EXCELSIOR JOBS PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-ONE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS

THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

32. EMPIRE STATE FILM POST PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION THIRTY-ONE OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION THIRTY-ONE AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE A CARRYOVER TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

33. TEMPORARY DEFERRAL NONREFUNDABLE PAYOUT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION ONE OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

34. TEMPORARY DEFERRAL REFUNDABLE PAYOUT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SUBDIVISION TWO OF SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN ACCORD-

ANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

35. ECONOMIC TRANSFORMATION AND FACILITY REDEVELOPMENT PROGRAM TAX CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

36. NEW YORK YOUTH WORKS TAX CREDIT. (A) A TAXPAYER THAT HAS BEEN CERTIFIED BY THE COMMISSIONER OF LABOR AS A QUALIFIED EMPLOYER PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO (I) FIVE HUNDRED DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A FULL-TIME JOB OR TWO HUNDRED FIFTY DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER EMPLOYS IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, (II) ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, AND (III) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "QUALIFIED EMPLOYEE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-A OF THE LABOR LAW. THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE WAGES ARE PAID TO THE QUALIFIED EMPLOYEE, AND THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ADDITIONAL SIX MONTH PERIOD ENDS.

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO THAT AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

(C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION TWENTY-FIVE-A OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED, HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY THE TAXPAYER MAY BE RELEASED.

37. EMPIRE STATE JOBS RETENTION PROGRAM CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WILL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SIX OF THIS CHAPTER, AGAINST THE TAXES IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

38. CREDIT FOR COMPANIES WHO PROVIDE TRANSPORTATION TO INDIVIDUALS WITH DISABILITIES. (A) ALLOWANCE AND AMOUNT OF CREDIT. A TAXPAYER, WHO PROVIDES A TAXICAB SERVICE AS DEFINED IN SECTION ONE HUNDRED FORTY-EIGHT-A OF THE VEHICLE AND TRAFFIC LAW, OR A LIVERY SERVICE AS DEFINED IN SECTION ONE HUNDRED TWENTY-ONE-E OF THE VEHICLE AND TRAFFIC LAW, SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE INCREMENTAL COST ASSOCIATED WITH UPGRADING A VEHICLE SO THAT IT IS ACCESSIBLE BY INDIVIDUALS WITH DISABILITIES AS DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION. PROVIDED, HOWEVER, THAT SUCH CREDIT SHALL NOT EXCEED TEN THOUSAND DOLLARS PER VEHICLE. FOR PURPOSES OF THIS SUBDIVISION, PURCHASES OF NEW VEHICLES THAT ARE INITIALLY MANUFACTURED TO BE ACCESSIBLE FOR INDIVIDUALS WITH DISABILITIES AND FOR WHICH THERE IS NO COMPARABLE MAKE AND MODEL THAT DOES NOT INCLUDE THE EQUIPMENT NECESSARY TO PROVIDE ACCESSIBILITY TO INDIVIDUALS WITH DISABILITIES, THE CREDIT SHALL BE TEN THOUSAND DOLLARS PER VEHICLE.

(B) DEFINITION. THE TERM "ACCESSIBLE BY INDIVIDUALS WITH DISABILITIES" SHALL, FOR THE PURPOSES OF THIS SUBDIVISION, REFER TO A VEHICLE THAT COMPLIES WITH FEDERAL REGULATIONS PROMULGATED PURSUANT TO THE AMERICANS WITH DISABILITIES ACT APPLICABLE TO VANS UNDER TWENTY-TWO FEET IN LENGTH, BY THE FEDERAL DEPARTMENT OF TRANSPORTATION, IN CODE OF FEDERAL REGULATIONS, TITLE 49, PARTS 37 AND 38, AND BY THE FEDERAL ARCHITECTURE AND TRANSPORTATION BARRIERS COMPLIANCE BOARD, IN CODE OF FEDERAL REGULATIONS, TITLE 36, SECTION 1192.23, AND THE FEDERAL MOTOR VEHICLE SAFETY STANDARDS, CODE OF FEDERAL REGULATIONS, TITLE 49, PART 57.

(C) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF

CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

39. BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

40. MINIMUM WAGE REIMBURSEMENT CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-EIGHT OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

41. THE TAX-FREE NY AREA TAX ELIMINATION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SECTION FORTY OF THIS CHAPTER, AGAINST THE TAX IMPOSED BY THIS ARTICLE. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

42. ALTERNATIVE BASE CREDIT. (A) IF THE TAX IMPOSED ON A TAXPAYER BY SUBDIVISION ONE OF SECTION TWO HUNDRED NINE OF THIS ARTICLE IS THE AMOUNT PRESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED UNDER THIS ARTICLE EQUAL TO THE AMOUNT OF TAX PAID TO ANOTHER STATE COMPUTED ON A TAX BASE IDENTICAL TO THE TAX BASE PRESCRIBED IN SUCH PARAGRAPH (B). IF THE TAX IMPOSED ON A TAXPAYER BY SUBDIVISION ONE OF SECTION TWO HUNDRED NINE OF THIS ARTICLE IS THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED UNDER THIS ARTICLE EQUAL TO THE AMOUNT OF TAX

PAID TO ANOTHER STATE COMPUTED ON A TAX BASE IDENTICAL TO THE TAX BASE PRESCRIBED IN SUCH PARAGRAPH (D).

(B) IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

43. REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (A) A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, WILL BE ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT DEDUCTED IN DETERMINING ENTIRE NET INCOME. THIS CREDIT WILL NOT BE ALLOWED IF THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT ARE INCLUDED IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAYER.

(B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM REAL PROPERTY TAX MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUTABLE TO MAINTENANCE OR INTEREST, WHEN (1) THE PROPERTY SUBJECT TO THE CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (2) THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY ASSESSED, OR (3) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED TENDS TO INCREASE THE PROPERTY VALUE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT IN LIEU OF TAXES MADE BY THE QUALIFIED NEW YORK MANUFACTURER.

(C) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROPERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (1) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (2) THE AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH YEAR BASED ON SUCH REDUCTION.

(D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN

SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

44. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING TAX UNDER THIS ARTICLE. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES AND PAID BY SUCH BUSINESS DURING THE TAXABLE YEAR. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

45. ORDER OF CREDITS. (A) CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH CANNOT BE CARRIED OVER AND WHICH ARE NOT REFUNDABLE SHALL BE DEDUCTED FIRST. THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION SHALL BE DEDUCTED IMMEDIATELY AFTER THE DEDUCTION OF ALL CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH CANNOT BE CARRIED OVER AND WHICH ARE NOT REFUNDABLE, WHETHER OR NOT A PORTION OF SUCH CREDIT IS REFUNDABLE. CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH CAN BE CARRIED OVER, AND CARRYOVERS OF SUCH CREDITS, SHALL BE DEDUCTED NEXT AFTER THE DEDUCTION OF THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION, AND AMONG SUCH CREDITS, THOSE WHOSE CARRYOVER IS OF LIMITED DURATION SHALL BE DEDUCTED BEFORE THOSE WHOSE CARRYOVER IS OF UNLIMITED DURATION. CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH ARE REFUNDABLE (OTHER THAN THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION) SHALL BE DEDUCTED LAST.

46. NOTWITHSTANDING THE REPEAL OF THE CREDIT PROVISIONS CONTAINED IN SECTION TWO HUNDRED TEN OF THIS ARTICLE AND THE ENACTMENT OF THIS SECTION BY A CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN:

(A) A TAXPAYER SHALL BE ALLOWED TO UTILIZE ANY CARRYFORWARD AMOUNTS OF CREDITS TO WHICH THE TAXPAYER WAS ENTITLED AS OF THE CLOSE OF THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, OTHER THAN THE CARRYFORWARD AMOUNT OF THE MINIMUM TAX CREDIT PROVIDED UNDER SUBDIVISION THIRTEEN OF SECTION TWO HUNDRED TEN, AS THAT SUBDIVISION WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(B) A TAXPAYER SHALL BE REQUIRED IN A TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, TO RECAPTURE ALL OR A PORTION OF A CREDIT ALLOWED UNDER A CREDIT PROVISION IN SECTION TWO HUNDRED TEN FOR A TAXABLE YEAR BEGINNING PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN IF RECAPTURE WOULD HAVE BEEN REQUIRED UNDER SUCH CREDIT PROVISION.

47. IN ANY TAXABLE YEAR, A TAXPAYER MUST FIRST CLAIM ANY OF THE CREDITS SPECIFIED IN THIS SECTION ON ITS ORIGINALLY FILED REPORT FOR SUCH TAXABLE YEAR. A TAXPAYER SHALL NOT FIRST CLAIM A CREDIT ON AN AMENDED REPORT.

S 18. The tax law is amended by adding a new section 210-C to read as follows:

S 210-C. COMBINED REPORTS. 1. TAX. THE TAX ON A COMBINED REPORT SHALL BE THE HIGHEST OF THE PRODUCTS OF (I) THE COMBINED BUSINESS INCOME BASE MULTIPLIED BY THE TAX RATE SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE; (II) THE COMBINED CAPITAL BASE MULTIPLIED BY THE TAX RATE SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, BUT NOT EXCEEDING THE LIMITATION PROVIDED FOR IN THAT PARAGRAPH (B); OR (III) THE FIXED DOLLAR MINIMUM THAT IS ATTRIBUTABLE TO THE DESIGNATED AGENT OF THE COMBINED GROUP. IN ADDITION, THE TAX ON A COMBINED REPORT SHALL INCLUDE THE FIXED DOLLAR MINIMUM TAX SPECIFIED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE FOR EACH MEMBER OF THE COMBINED GROUP, OTHER THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

(B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED BUSINESS INCOME OF THE COMBINED GROUP THAT IS APPORTIONED TO THE STATE, REDUCED BY ANY NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE COMBINED CAPITAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE COMBINED GROUP THAT IS APPORTIONED TO THE STATE.

2. COMBINED REPORTS REQUIRED. (A) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, ANY TAXPAYER (I) WHICH OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, OR (II) MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF WHICH IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY ONE OR MORE OTHER CORPORATIONS, OR (III) MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF WHICH AND THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME INTERESTS, AND (IV) THAT IS ENGAGED IN A UNITARY BUSINESS WITH THOSE CORPORATIONS, SHALL MAKE A COMBINED REPORT WITH THOSE OTHER CORPORATIONS.

(B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEANING OF THIS SECTION SHALL ALSO INCLUDE (I) A CAPTIVE REIT AND A CAPTIVE RIC IF THE CAPTIVE REIT OR CAPTIVE RIC IS NOT REQUIRED TO BE INCLUDED IN A COMBINED REPORT UNDER ARTICLE THIRTY-THREE OF THIS CHAPTER; (II) A COMBINABLE CAPTIVE INSURANCE COMPANY; AND (III) AN ALIEN CORPORATION THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION IF (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT CORPORATION IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II) IT HAS EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE.

(C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT UNDER THIS SECTION DOES NOT INCLUDE (I) A CORPORATION THAT IS TAXABLE UNDER ARTICLE NINE OR THIRTY-THREE OF THIS CHAPTER; (II) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE RIC; (III) A NEW YORK S CORPORATION; (IV) A CORPORATION THAT IS SUBJECT TO TAX UNDER THIS ARTICLE SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, MAINTAINING AN OFFICE IN THIS STATE, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, PROVIDED THAT THE CORPORATION IS NOT OTHERWISE REQUIRED TO FILE A COMBINED REPORT PURSUANT TO

THIS SECTION; OR (V) AN ALIEN CORPORATION THAT HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE.

(D) A COMBINED REPORT SHALL BE FILED BY THE DESIGNATED AGENT OF THE COMBINED GROUP AS DETERMINED UNDER SUBDIVISION SEVEN OF THIS SECTION.

3. COMMONLY OWNED GROUP ELECTION. (A) SUBJECT TO THE PROVISIONS OF PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION, A TAXPAYER MAY ELECT TO TREAT AS ITS COMBINED GROUP ALL CORPORATIONS THAT MEET THE OWNERSHIP REQUIREMENTS DESCRIBED IN PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION (SUCH CORPORATIONS COLLECTIVELY REFERRED TO IN THIS SUBDIVISION AS THE "COMMONLY OWNED GROUP"). IF THAT ELECTION IS MADE, THE COMMONLY OWNED GROUP SHALL CALCULATE THE COMBINED BUSINESS INCOME, COMBINED CAPITAL, AND FIXED DOLLAR MINIMUM BASES OF ALL MEMBERS OF THE GROUP IN ACCORDANCE WITH PARAGRAPH FOUR OF THIS SUBDIVISION, WHETHER OR NOT THAT BUSINESS INCOME OR BUSINESS CAPITAL IS FROM A SINGLE UNITARY BUSINESS.

(B) THE ELECTION UNDER THIS SUBDIVISION SHALL BE MADE ON AN ORIGINAL, TIMELY FILED RETURN OF THE COMBINED GROUP. ANY CORPORATION ENTERING A COMMONLY OWNED GROUP SUBSEQUENT TO THE YEAR OF ELECTION SHALL BE INCLUDED IN THE COMBINED GROUP AND IS CONSIDERED TO HAVE WAIVED ANY OBJECTION TO ITS INCLUSION IN THE COMBINED GROUP.

(C) THE ELECTION SHALL BE IRREVOCABLE, AND BINDING FOR AND APPLICABLE TO THE TAXABLE YEAR FOR WHICH IT IS MADE AND FOR THE NEXT SIX TAXABLE YEARS. THE ELECTION WILL AUTOMATICALLY BE RENEWED FOR ANOTHER SEVEN TAXABLE YEARS AFTER IT HAS BEEN IN EFFECT FOR SEVEN TAXABLE YEARS UNLESS IT IS AFFIRMATIVELY REVOKED. THE REVOCATION SHALL BE MADE ON AN ORIGINAL, TIMELY FILED RETURN FOR THE FIRST TAXABLE YEAR AFTER THE COMPLETION OF A SEVEN YEAR PERIOD FOR WHICH AN ELECTION UNDER THIS SUBDIVISION WAS IN PLACE. IN THE CASE OF A REVOCATION, A NEW ELECTION UNDER THIS SUBDIVISION SHALL NOT BE PERMITTED IN ANY OF THE IMMEDIATELY FOLLOWING THREE TAXABLE YEARS. IN DETERMINING THE SEVEN AND THREE YEAR PERIODS DESCRIBED IN THIS PARAGRAPH, SHORT TAXABLE YEARS SHALL NOT BE CONSIDERED OR COUNTED.

4. COMPUTATION OF TAX BASES ON A COMBINED REPORT. (A) IN COMPUTING THE TAX BASES FOR A COMBINED REPORT, THE COMBINED GROUP SHALL GENERALLY BE TREATED AS A SINGLE CORPORATION, EXCEPT AS OTHERWISE PROVIDED, AND SUBJECT TO ANY REGULATIONS OR GUIDANCE ISSUED BY THE COMMISSIONER OR THE DEPARTMENT.

(B)(I) IN COMPUTING COMBINED BUSINESS INCOME, ALL INTERCORPORATE DIVIDENDS SHALL BE ELIMINATED, AND ALL OTHER INTERCORPORATE TRANSACTIONS SHALL BE DEFERRED IN A MANNER SIMILAR TO THE RULES RELATING TO INTERCOMPANY TRANSACTIONS UNDER SECTION FIFTEEN HUNDRED TWO OF THE INTERNAL REVENUE CODE.

(II) IN COMPUTING COMBINED CAPITAL, ALL INTERCORPORATE STOCKHOLDINGS, INTERCORPORATE BILLS, INTERCORPORATE NOTES RECEIVABLE AND PAYABLE, INTERCORPORATE ACCOUNTS RECEIVABLE AND PAYABLE, AND OTHER INTERCORPORATE INDEBTEDNESS, SHALL BE ELIMINATED.

(C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON, SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE COMBINED TAX OF THE GROUP.

(D)(I) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED CAPITAL BASE OR THE FIXED DOLLAR MINIMUM. A COMBINED NET OPERATING LOSS

DEDUCTION IS EQUAL TO THE AMOUNT OF COMBINED NET OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD TO A PARTICULAR INCOME YEAR. A COMBINED NET OPERATING LOSS IS THE COMBINED BUSINESS LOSS INCURRED IN A PARTICULAR TAXABLE YEAR MULTIPLIED BY THE COMBINED APPORTIONMENT FRACTION FOR THAT YEAR DETERMINED AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

(II) THE COMBINED NET OPERATING LOSS DEDUCTION AND COMBINED NET OPERATING LOSS ARE ALSO SUBJECT TO THE PROVISIONS CONTAINED IN CLAUSES ONE THROUGH SIX OF SUBPARAGRAPH (VIII) OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

(III) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT, EITHER IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN WHICH A DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET OPERATING LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A SINGLE CORPORATION AND IS SUBJECT TO THE SAME LIMITATIONS THAT WOULD APPLY FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE AND THE CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD FILED FOR SUCH TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN WITH THE SAME CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPORATION FILES A COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPARATE RETURN OR CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP MUST BE COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED RETURN FOR THE SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

(IV) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPARATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT IN COMPUTING THE COMBINED NET OPERATING LOSS.

(E) ANY ELECTION MADE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SIX, AND PARAGRAPHS (B) AND (C) OF SUBDIVISION SIX-A OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

(F)(I) IN THE CASE OF A CAPTIVE REIT OR CAPTIVE RIC REQUIRED UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME SHALL BE COMPUTED AS REQUIRED UNDER SUBDIVISION FIVE (IN THE CASE OF A CAPTIVE REIT) OR SUBDIVISION SEVEN (IN THE CASE OF A CAPTIVE RIC) OF SECTION TWO HUNDRED NINE OF THIS ARTICLE. HOWEVER, THE DEDUCTION UNDER THE INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR CAPTIVE RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE CORPORATION THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL NOT BE ALLOWED. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "AFFILIATED GROUP" MEANS "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR IN SUBSECTION (B) OF THAT SECTION.

(II) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE.

5. APPORTIONMENT ON A COMBINED REPORT. (A) IN DETERMINING THE APPORTIONMENT FACTOR FOR A COMBINED REPORT, THE RECEIPTS, NET INCOME, NET GAINS AND OTHER ITEMS OF ALL MEMBERS OF THE COMBINED GROUP, WHETHER OR

NOT THEY ARE A TAXPAYER, ARE INCLUDED AND INTERCORPORATE RECEIPTS, INCOME AND GAINS ARE ELIMINATED. RECEIPTS, NET INCOME, NET GAINS AND OTHER ITEMS ARE SOURCED AS PROVIDED IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE.

(B) AN ELECTION MADE TO APPORTION INCOME AND GAINS FROM QUALIFYING FINANCIAL INSTRUMENTS PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

6. LIABILITY OF COMBINED GROUP MEMBERS. EVERY MEMBER OF THE COMBINED GROUP THAT IS SUBJECT TO TAX UNDER THIS ARTICLE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR THE TAX DUE PURSUANT TO A COMBINED REPORT.

7. DESIGNATED AGENT. EACH COMBINED GROUP SHALL HAVE ONE DESIGNATED AGENT, WHICH SHALL BE A TAXPAYER. THE DESIGNATED AGENT IS THE PARENT CORPORATION OF THE COMBINED GROUP. IF THERE IS NO SUCH PARENT CORPORATION, OR THE PARENT CORPORATION IS NOT A TAXPAYER, THEN ANOTHER MEMBER OF THE COMBINED GROUP THAT IS A TAXPAYER MAY BE APPOINTED AS THE DESIGNATED AGENT. ONLY THE DESIGNATED AGENT MAY ACT ON BEHALF OF THE MEMBERS OF THE COMBINED GROUP FOR MATTERS RELATING TO THE COMBINED REPORT.

S 19. Subdivisions 2-a, 3, 4 and 5 of section 211 of the tax law, subdivision 2-a as added and subdivision 5 as amended by chapter 817 of the laws of 1987, subdivision 3 as amended by chapter 770 of the laws of 1992, subdivision 4 as amended by section 2 of part T of chapter 407 of the laws of 1999, the opening paragraph and the second undesignated paragraph of paragraph (a) of subdivision 4 as amended by section 1, subparagraph 4 of paragraph (a) of subdivision 4 as amended by section 2, and subparagraph 5 of paragraph (a) of subdivision 4 as amended by section 3 of part J of chapter 60 of the laws of 2007, subparagraph 6 of paragraph (a) of subdivision 4 as added by section 3 of part FF1 of chapter 57 of the laws of 2008, subparagraph 7 of paragraph (a) of subdivision 4 as added by section 2 and subparagraph 1 of paragraph (b) of subdivision 4 as amended by section 3 of part E1 of chapter 57 of the laws of 2009, are amended to read as follows:

2-a. The [tax commission] COMMISSIONER may prescribe regulations and instructions requiring returns of information to be made and filed in conjunction with the reports required to be filed pursuant to [section two hundred eleven] THIS ARTICLE, relating to payments made to shareholders owning, directly or indirectly, individually or in the aggregate, more than fifty percent of the issued capital stock of the taxpayer, where such payments are treated as payments of interest in the computation of entire net income [or minimum taxable income] reported on such reports.

3. If the amount of taxable income [or alternative minimum taxable income] for any year of any taxpayer (including any taxpayer which has elected to be taxed under subchapter s of chapter one of the internal revenue code), as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in taxable income [or alternative minimum taxable income], such taxpayer shall report such changed or corrected taxable income [or alternative minimum taxable income], or the results of such renegotiation, within ninety days (or one hundred twenty days, in the case of a taxpayer making a combined report under this article for such year) after the final determination of such change or correction or renegotiation, or as required by the commissioner, and shall concede the accuracy of such determination or state wherein it is erroneous. The

allowance of a tentative carryback adjustment based upon a net operating loss carryback or net capital loss carryback pursuant to section sixty-four hundred eleven of the internal revenue code, as amended, shall be treated as a final determination for purposes of this subdivision. Any taxpayer filing an amended return with such department shall also file within ninety days (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF A TAXPAYER MAKING A COMBINED REPORT UNDER THIS ARTICLE FOR SUCH YEAR) thereafter an amended report with the commissioner.

4. [(a) Combined reports permitted or required. Any taxpayer, which owns or controls either directly or indirectly substantially all the capital stock of one or more other corporations, or substantially all the capital stock of which is owned or controlled either directly or indirectly by one or more other corporations or by interests which own or control either directly or indirectly substantially all the capital stock of one or more other corporations, (hereinafter referred to in this paragraph as "related corporations"), shall make a combined report covering any related corporations if there are substantial intercorporate transactions among the related corporations, regardless of the transfer price for such intercorporate transactions. It is not necessary that there be substantial intercorporate transactions between any one corporation and every other related corporation. It is necessary, however, that there be substantial intercorporate transactions between the taxpayer and a related corporation or collectively, a group of such related corporations. The report shall set forth such information as the commissioner may require, subject to the provisions of subparagraphs one through five of this paragraph.

In determining whether there are substantial intercorporate transactions, the commissioner shall consider and evaluate all activities and transactions of the taxpayer and its related corporations. Activities and transactions that will be considered include, but are not limited to: (i) manufacturing, acquiring goods or property, or performing services, for related corporations; (ii) selling goods acquired from related corporations; (iii) financing sales of related corporations; (iv) performing related customer services using common facilities and employees for related corporations; (v) incurring expenses that benefit, directly or indirectly, one or more related corporations, and (vi) transferring assets, including such assets as accounts receivable, patents or trademarks from one or more related corporations.

(1) Any corporation which owns or controls either directly or indirectly substantially all the capital stock of a DISC not exempt from tax under paragraph (i) of subdivision nine of section two hundred eight of this article shall be allowed, at the election of such corporation, to make a report on a combined basis covering such DISC, but the failure of such corporation to make such election shall not prohibit the commissioner from requiring a combined report covering such corporation and such DISC.

(2)(i) No taxpayer may be permitted to make a report on a combined basis covering any such other corporations where such taxpayer or any such other corporation allocates in accordance with clause (A) of subparagraph seven of paragraph (a) of subdivision three of section two hundred ten of this article (relating to aviation corporations) and such taxpayer or any such other corporation does not so allocate, unless such taxpayer or such other corporation is a qualified air freight forwarder with respect to such other corporation or such taxpayer, respectively, and all taxpayers included on such combined report elect, by filing such

combined report, to have such qualified air freight forwarder so included.

(ii) A corporation is a qualified air freight forwarder with respect to another corporation:

(A) if it owns or controls either directly or indirectly all of the capital stock of such other corporation, or if all of its capital stock is owned or controlled either directly or indirectly by such other corporation, or if all of the capital stock of both corporations is owned or controlled either directly or indirectly by the same interests,

(B) if it is principally engaged in the business of air freight forwarding, and

(C) if its air freight forwarding business is carried on principally with the airline or airlines operated by such other corporation.

(3) No taxpayer may be permitted to make a report on a combined basis covering any such other corporations where such taxpayer or any such other corporation allocates in accordance with subparagraph eight of paragraph (a) of subdivision three of section two hundred ten of this article (relating to railroad and trucking corporations) and such taxpayer or any such other corporation does not so allocate.

(4) Except as provided in the first undesignated paragraph of this paragraph, no combined report covering any corporation shall be required unless the commissioner deems such a report necessary, because of inter-company transactions or some agreement, understanding, arrangement or transaction referred to in subdivision five of this section, in order properly to reflect the tax liability under this article.

(5) A corporation organized under the laws of a country other than the United States shall not be required or permitted to make a report on a combined basis.

(6) (i) For purposes of this subparagraph, the term "closest controlling stockholder" means the corporation that indirectly owns or controls over fifty percent of the voting stock of a captive REIT or captive RIC, is subject to tax under this article, article thirty-two or thirty-three of this chapter or otherwise required to be included in a combined return or report under this article, article thirty-two or thirty-three of this chapter, and is the fewest tiers of corporations away in the ownership structure from the captive REIT or captive RIC. The commissioner is authorized to prescribe by regulation or published guidance the criteria for determining the closest controlling stockholder.

(ii) A captive REIT or a captive RIC must be included in a combined report with the corporation that directly owns or controls over fifty percent of the voting stock of the captive REIT or captive RIC if that corporation is subject to tax or required to be included in a combined report under this article.

(iii) If over fifty percent of the voting stock of a captive REIT or captive RIC is not directly owned or controlled by a corporation that is subject to tax or required to be included in a combined report under this article, then the captive REIT or captive RIC must be included in a combined return or report with the corporation that is the closest controlling stockholder of the captive REIT or captive RIC. If the closest controlling stockholder of the captive REIT or captive RIC is subject to tax or otherwise required to be included in a combined report under this article, then the captive REIT or captive RIC must be included in a combined report under this article.

(iv) If the corporation that directly owns or controls the voting stock of the captive REIT or captive RIC is described in subparagraph two, three or five of this paragraph as a corporation not permitted to

make a combined report, then the provisions in clause (iii) of this subparagraph must be applied to determine the corporation in whose combined return or report the captive REIT or captive RIC should be included. If, under clause (iii) of this subparagraph, the corporation that is the closest controlling stockholder of the captive REIT or captive RIC is described in subparagraph two, three or five of this paragraph as a corporation not permitted to make a combined return, then that corporation is deemed to not be in the ownership structure of the captive REIT or captive RIC, and the closest controlling stockholder will be determined without regard to that corporation.

(v) If a captive REIT owns the stock of a qualified REIT subsidiary (as defined in paragraph two of subsection (i) of section eight hundred fifty-six of the internal revenue code), then the qualified REIT subsidiary must be included in a combined report with the captive REIT.

(vi) If a captive REIT or a captive RIC is required under this subparagraph to be included in a combined report with another corporation, and that other corporation is also required to be included in a combined report with another related corporation or corporations under this paragraph, then the captive REIT or the captive RIC must be included in that combined report with those corporations.

(vii) If a captive REIT or a captive RIC is not required to be included in a combined report with another corporation under clause (ii) or (iii) of this subparagraph, or in a combined return under the provisions of either subparagraph (v) of paragraph two of subsection (f) of section fourteen hundred sixty-two or paragraph four of subdivision (f) of section fifteen hundred fifteen of this chapter, then the captive REIT or captive RIC is subject to the opening provisions of this paragraph and the provisions of subparagraph four of this paragraph. The captive REIT or captive RIC must be included in a combined report under this article with another corporation if either the substantial intercorporate transactions requirement in the opening provisions of this paragraph or the inter-company transactions or agreement, understanding, arrangement or transaction requirement of subparagraph four of this paragraph is satisfied and more than fifty percent of the voting stock of the captive REIT or the captive RIC and substantially all of the capital stock of that other corporation are owned and controlled, directly or indirectly, by the same corporation.

(7) (i) For purposes of this subparagraph, the term "closest controlling stockholder" means the corporation that indirectly owns or controls over fifty percent of the voting stock of an overcapitalized captive insurance company; is subject to tax under this article or article thirty-two of this chapter, or is otherwise required to be included in a combined return or report under this article or article thirty-two of this chapter; and is the fewest tiers of corporations away in the ownership structure from the overcapitalized captive insurance company. The commissioner is authorized to prescribe by regulation or published guidance the criteria for determining the closest controlling stockholder.

(ii) An overcapitalized captive insurance company must be included in a combined report with the corporation that directly owns or controls over fifty percent of the voting stock of the overcapitalized captive insurance company if that corporation is subject to tax or required to be included in a combined report under this article.

(iii) If over fifty percent of the voting stock of an overcapitalized captive insurance company is not directly owned or controlled by a corporation that is subject to tax or required to be included in a combined report under this article, then the overcapitalized captive

insurance company must be included in a combined return or report with the corporation that is the closest controlling stockholder of the overcapitalized captive insurance company. If the closest controlling stockholder of the overcapitalized captive insurance company is subject to tax or otherwise required to be included in a combined report under this article, then the overcapitalized captive insurance company must be included in a combined report under this article.

(iv) If the corporation that directly owns or controls the voting stock of the overcapitalized captive insurance company is described in subparagraph two, three, or five of this paragraph as a corporation not permitted to make a combined report, then the provisions in clause (iii) of this subparagraph must be applied to determine the corporation in whose combined return or report the overcapitalized captive insurance company should be included. If, under clause (iii) of this subparagraph, the corporation that is the closest controlling stockholder of the overcapitalized captive insurance company is described in subparagraph two, three or five of this paragraph as a corporation not permitted to make a combined return, then that corporation is deemed not to be in the ownership structure of the overcapitalized captive insurance company, and the closest controlling stockholder will be determined without regard to that corporation.

(v) If an overcapitalized captive insurance company is required under this subparagraph to be included in a combined report with another corporation, and that other corporation is also required to be included in a combined report with another related corporation or corporations under this paragraph, then the overcapitalized captive insurance company must be included in that combined report with those corporations.

(vi) If an overcapitalized captive insurance company is not required to be included in a combined report with another corporation under clause (ii) or (iii) of this subparagraph, or in a combined return under the provisions of subparagraph (v) of paragraph two of subsection (f) of section fourteen hundred sixty-two of this chapter, then the overcapitalized captive insurance company is subject to the opening provisions of this paragraph and the provisions of subparagraph four of this paragraph. The overcapitalized captive insurance company must be included in a combined report under this article with another corporation if either the substantial intercorporate transactions requirement in the opening provisions of this paragraph or the inter-company transactions or agreement, understanding, arrangement or transaction requirement of subparagraph four of this paragraph is satisfied, and both more than fifty percent of the voting stock of the overcapitalized captive insurance company and substantially all of the capital stock of that other corporation are owned and controlled, directly or indirectly, by the same corporation.

(b) Computation. (1) Tax. (i) In the case of a combined report the tax shall be measured by the combined entire net income, combined minimum taxable income, combined pre-nineteen hundred ninety minimum taxable income or combined capital, of all the corporations included in the report, including any captive REIT, captive RIC or overcapitalized captive insurance company; provided, however, in no event shall the tax measured by combined capital exceed the limitation provided for in paragraph (b) of subdivision one of section two hundred ten of this article.

(ii) In the case of a captive REIT or captive RIC required under this subdivision to be included in a combined report, entire net income must be computed as required under subdivision five (in the case of a captive REIT) or subdivision seven (in the case of a captive RIC) of section two

hundred nine of this article. However, the deduction under the internal revenue code for dividends paid by the captive REIT or captive RIC to any member of the affiliated group that includes the corporation that directly or indirectly owns over fifty percent of the voting stock of the captive REIT or captive RIC shall not be allowed for taxable years beginning on or after January first, two thousand eight. The term "affiliated group" means "affiliated group" as defined in section fifteen hundred four of the internal revenue code, but without regard to the exceptions provided for in subsection (b) of that section.

(iii) In the case of an overcapitalized captive insurance company required under this subdivision to be included in a combined report, entire net income must be computed as required by subdivision nine of section two hundred eight of this article.

(2) Tax bases. In computing combined entire net income, combined minimum taxable income or combined pre-nineteen hundred ninety minimum taxable income intercorporate dividends shall be eliminated, in computing combined business and investment capital intercorporate stockholdings and intercorporate bills, notes and accounts receivable and payable and other intercorporate indebtedness shall be eliminated and in computing combined subsidiary capital intercorporate stockholdings shall be eliminated, provided, however, that intercorporate dividends from a DISC or a former DISC not exempt from tax under paragraph (i) of subdivision nine of section two hundred eight of this article which are taxable as business income under this article shall not be eliminated.

(3) Air freight forwarders: allocation. Notwithstanding any provision of law to the contrary, where a combined report includes a qualified air freight forwarder and a corporation described in subparagraph seven of paragraph (a) of subdivision three of section two hundred ten of this chapter (relating to aviation corporations), in computing the combined business allocation percentage such subparagraph seven shall be applied with respect to such qualified air freight forwarder] FOR PROVISIONS RELATING TO COMBINED REPORTS, SEE SECTION TWO HUNDRED TEN-C OF THIS ARTICLE.

5. In case it shall appear to the [tax commission] COMMISSIONER that any agreement, understanding or arrangement exists between the taxpayer and any other corporation or any person or firm, whereby the activity, business, income or capital of the taxpayer within the state is improperly or inaccurately reflected, the [tax commission] COMMISSIONER is authorized and empowered, in [its] THE COMMISSIONER'S discretion and in such manner as [it] THE COMMISSIONER may determine, to adjust items of income, deductions and capital, and to eliminate assets in computing any [allocation] APPORTIONMENT percentage provided only that any income directly traceable thereto be also excluded from entire net income, [minimum taxable income or pre-nineteen hundred ninety minimum taxable income,] so as equitably to determine the tax. Where (a) any taxpayer conducts its activity or business under any agreement, arrangement or understanding in such manner as either directly or indirectly to benefit its members or stockholders, or any of them, or any person or persons directly or indirectly interested in such activity or business, by entering into any transaction at more or less than a fair price which, but for such agreement, arrangement or understanding, might have been paid or received therefor, or (b) any taxpayer, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, enters into any transaction with such other corporation on such terms as to create an improper loss or net income, the [tax commission] COMMISSIONER may include in the entire net income[, minimum taxa-

ble income or pre-nineteen hundred ninety minimum taxable income] of the taxpayer the fair profits which, but for such agreement, arrangement or understanding, the taxpayer might have derived from such transaction. WHERE ANY TAXPAYER OWNS, DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION FIFTEEN HUNDRED TWO-A OF THIS CHAPTER AND FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSIONER MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED DISTRIBUTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT IS IN EXCESS OF ITS NET PREMIUM INCOME.

S 19-a. Subdivision 13 of section 211 of the tax law is REPEALED.

S 20. Subdivision 11 of section 2 of the tax law, as added by section 1 of part E-1 of chapter 57 of the laws of 2009, is amended to read as follows:

11. The term "[overcapitalized] COMBINABLE captive insurance company" means an entity that is treated as an association taxable as a corporation under the internal revenue code (a) more than fifty percent of the voting stock of which is owned or controlled, directly or indirectly, by a single entity that is treated as an association taxable as a corporation under the internal revenue code and not exempt from federal income tax; (b) that is licensed as a captive insurance company under the laws of this state or another jurisdiction; AND (c) whose business includes providing, directly and indirectly, insurance or reinsurance covering the risks of its parent and/or members of its affiliated group[; and (d) fifty percent or less of whose gross receipts for the taxable year consist of premiums]. For purposes of this subdivision, "affiliated group" has the same meaning as that term is given in section 1504 of the internal revenue code, except that the term "common parent corporation" in that section is deemed to mean any person, as defined in section 7701 of the internal revenue code[;] AND references to "at least eighty percent" in section 1504 of the internal revenue code are to be read as "fifty percent or more;" section 1504 of the internal revenue code is to be read without regard to the exclusions provided for in subsection (b) of that section[; "premiums" has the same meaning as that term is given in paragraph one of subdivision (c) of section fifteen hundred ten of this chapter, except that it includes consideration for annuity contracts and excludes any part of the consideration for insurance, reinsurance or annuity contracts that do not provide bona fide insurance, reinsurance or annuity benefits; and "gross receipts" includes the amounts included in gross receipts for purposes of section 501(c) (15) of the internal revenue code, except that those amounts also include all premiums as defined in this subdivision].

S 21. Subdivision (a) of section 1500 of the tax law, as separately amended by section 1 of part B-1 and section 8 of part E-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(a) The term "insurance corporation" includes a corporation, association, joint stock company or association, person, society, aggregation or partnership, by whatever name known, doing an insurance business, and, notwithstanding the provisions of section fifteen hundred twelve of this article, shall include (1) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, (2) the state insurance fund and (3) a corporation, association, joint stock company or association, person, society, aggregation or partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law. The definition of the "state insurance fund"

contained in this subdivision shall be limited in its effect to the provisions of this article and the related provisions of this chapter and shall have no force and effect other than with respect to such provisions. The term "insurance corporation" shall also include a captive insurance company doing a captive insurance business, as defined in subsections (c) and (b), respectively, of section seven thousand two of the insurance law; provided, however, "insurance corporation" shall not include the metropolitan transportation authority, or a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments, whether state or local; and provided further "insurance corporation" does not include any [overcapitalized] COMBINABLE captive insurance company. The term "insurance corporation" shall also include an unauthorized insurer operating from an office within the state, pursuant to paragraph five of subsection (b) of section one thousand one hundred one and subsection (i) of section two thousand one hundred seventeen of the insurance law. The term "insurance corporation" also includes a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law.

S 22. Subdivision (a) of section 1502-b of the tax law, as amended by section 9 of part E-1 of chapter 57 of the laws of 2009 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(a) In lieu of the taxes and tax surcharge imposed by sections fifteen hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen hundred ten of this article, every captive insurance company licensed by the superintendent of financial services pursuant to the provisions of article seventy of the insurance law, other than the metropolitan transportation authority and a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments whether state or local, and other than [an overcapitalized] COMBINABLE captive insurance company, shall, for the privilege of exercising its corporate franchise, pay a tax on (1) all gross direct premiums, less return premiums thereon, written on risks located or resident in this state and (2) all assumed reinsurance premiums, less return premiums thereon, written on risks located or resident in this state. The rate of the tax imposed on gross direct premiums shall be four-tenths of one percent on all or any part of the first twenty million dollars of premiums, three-tenths of one percent on all or any part of the second twenty million dollars of premiums, two-tenths of one percent on all or any part of the third twenty million dollars of premiums, and seventy-five thousandths of one percent on each dollar of premiums thereafter. The rate of the tax on assumed reinsurance premiums shall be two hundred twenty-five thousandths of one percent on all or any part of the first twenty million dollars of premiums, one hundred and fifty thousandths of one percent on all or any part of the second twenty million dollars of premiums, fifty thousandths of one percent on all or any part of the third twenty million dollars of premiums and twenty-five thousandths of one percent on each dollar of premiums thereafter. The tax imposed by this section shall be equal to the greater of (i) the sum of the tax imposed on gross direct premiums and the tax imposed on assumed reinsurance premiums or (ii) five thousand dollars.

S 23. Paragraph 4 of subdivision (f) of section 1515 of the tax law, as amended by section 16 of part FF-1 of chapter 57 of the laws of 2008, is amended to read as follows:

(4)(i) For purposes of this paragraph, the term "closest controlling stockholder" means the corporation that indirectly owns or controls over fifty percent of the voting stock of a captive REIT or captive RIC, is subject to tax under section fifteen hundred one of this article[,] OR article nine-A [or article thirty-two] of this chapter or required to be included in a combined return or report under this article[,] OR article nine-A [or article thirty-two] of this chapter, and is the fewest tiers of corporations away in the ownership structure from the captive REIT or captive RIC. The commissioner is authorized to prescribe by regulation or published guidance the criteria for determining the closest controlling stockholder.

(ii) A captive REIT or a captive RIC must be included in a combined return with the corporation that directly owns or controls over fifty percent of the voting stock of the captive REIT or captive RIC if that corporation is a life insurance corporation and is subject to tax or required to be included in a combined return under this article.

(iii) If over fifty percent of the voting stock of a captive REIT or captive RIC is not directly owned or controlled by a life insurance corporation that is subject to tax or required to be included in a combined return under this article, [then the captive REIT or captive RIC must be included in a combined report or return with the corporation that is the closest controlling stockholder of the captive REIT or captive RIC. If] AND the closest controlling stockholder of the captive REIT or captive RIC is a life insurance corporation that is subject to tax or required to be included in a combined return under this article, then the captive REIT or captive RIC must be included in a combined return WITH THE CLOSEST CONTROLLING STOCKHOLDER under this article.

(iv) If a captive REIT owns the stock of a qualified REIT subsidiary (as defined in paragraph two of subsection (i) of section eight hundred fifty-six of the internal revenue code) AND THE CAPTIVE REIT IS REQUIRED TO BE INCLUDED IN A COMBINED RETURN UNDER SUBPARAGRAPHS (II) OR (III) OF THIS PARAGRAPH, then the qualified REIT subsidiary must be included in any combined return required to be made by the captive REIT that owns the stock of the qualified REIT subsidiary.

(v) If a captive REIT or a captive RIC is required under this paragraph to be included in a combined return with another corporation, and that other corporation is required to be included in a combined return with another [related] corporation under this subdivision, then the captive REIT or the captive RIC must be included in that combined return with the other [related] corporation.

S 24. Subdivisions (a), (b) and (c) of section 12 of the tax law, as added by chapter 615 of the laws of 1998, are amended to read as follows:

(a) For purposes of subdivision (b) of this section, the term "person" shall mean a corporation, joint stock company or association, insurance corporation, or banking corporation, as such terms are defined in section one hundred eighty-three, one hundred eighty-four, or one hundred eighty-six, or in article nine-A[, thirty-two] or thirty-three of this chapter, imposing tax on such entities.

(b) No person shall be subject to the taxes imposed under section one hundred eighty-three, one hundred eighty-four or one hundred eighty-six, or article nine-A[, thirty-two] or thirty-three of this chapter, solely by reason of (1) having its advertising stored on a server or other

computer equipment located in this state (other than a server or other computer equipment owned or leased by such person), or (2) having its advertising disseminated or displayed on the Internet by an individual or entity subject to tax under section one hundred eighty-three, one hundred eighty-four or one hundred eighty-six, or article nine-A, twenty-two[, thirty-two] or thirty-three of this chapter.

(c) A person, as such term is defined in subdivision (a) of section eleven hundred one of this chapter, shall not be deemed to be a vendor, for purposes of article twenty-eight of this chapter, solely by reason of (1) having its advertising stored on a server or other computer equipment located in this state (other than a server or other computer equipment owned or leased by such person), or (2) having its advertising disseminated or displayed on the Internet by an individual or entity subject to tax under section one hundred eighty-three, one hundred eighty-four or one hundred eighty-six, or article nine-A, twenty-two[, thirty-two] or thirty-three of this chapter.

S 25. Paragraph 1 of subdivision (a) of section 14 of the tax law, as amended by section 3 of part V1 of chapter 109 of the laws of 2006, is 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,

S 26. Subdivision (f) of section 14 of the tax law, as amended by section 10 of part CC of chapter 85 of the laws of 2002, is amended to read as follows:

(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.

S 27. Paragraph 1 of subdivision (i) of section 14 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:

(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. Paragraphs 1 and 2 of subdivision (j) of section 14 of the tax law, as amended by section 10 of part CC of chapter 85 of the laws of 2002, 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, 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), ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN) 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, one hundred eighty-five or one hundred eighty-six of article nine; article nine-A[, thirty-two] or ARTICLE 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); ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND TEN or the income (or losses) of which is (or was) includable under article twenty-two.

S 29. Clauses (i) and (ii) of subparagraph (A) of paragraph 4 of subdivision (j) of section 14 of the tax law, as added by section 5 of part A of chapter 63 of the laws of 2005, are amended to read as follows:

(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, 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, 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 30. Subparagraph (B) of paragraph 4 of subdivision (j) of section 14 of the tax law, as amended by chapter 161 of the laws of 2005, is amended to read as follows:

(B) Notwithstanding any provisions of this subdivision to the contrary and notwithstanding subdivision c of section eighteen of part CC of chapter eighty-five of the laws of two thousand two, a corporation or partnership, which was first certified under article eighteen-B of the general municipal law before August first, two thousand two, has a base period of zero years or zero employment for its base period, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under sections specified in paragraph one or two of this subdivision 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 WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN) or the income or losses of which is or was includable under article twenty-two of this chapter shall not be deemed a new business 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 zone benefits.

S 31. Subdivision (k) of section 14 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:

(k) If the designation of an area as an empire zone is no longer in effect because section nine hundred sixty-nine of the general municipal law was not amended to extend the effective date of such designation so that the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, a business enterprise that was certified pursuant to article eighteen-B of the general municipal law on the day immediately preceding the day on which such designation expired shall be deemed to continue to be certified under such article eighteen-B for purposes of this section, and sections fifteen, sixteen, section one hundred eighty-seven-j, subdivisions [twenty-seven] FIVE and [twenty-eight] SIX of section two hundred [ten] TEN-B, subsections (bb) and (cc) of section six hundred six, subdivision (z) of section eleven hundred fifteen[, subsections (o) and (p) of section fourteen hundred fifty-six,] and subdivisions (r) and (s) of section fifteen hundred eleven of this chapter. In addition, if the designation of an area as an empire zone is no longer in effect because section nine hundred sixty-nine of the general municipal law was not amended to extend the effective date of such designation so that the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, all references to empire zones in the provisions of this chapter listed in the previous sentence shall be read as meaning areas designated as empire zones on the day immediately preceding the day on which such designation expired.

S 32. Subdivisions (a) and (h) of section 15 of the tax law, as amended by section 5 of part A of chapter 63 of the laws of 2005, 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 (h) of this section, for eligible real property taxes.

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

(1) Article 9: Section 187-j.

(2) Article 9-A: Section [210] 210-B: subdivision [27] 5.

(3) Article 22: Section 606: subsections (i) and (bb).

(4) [Article 32: Section 1456: subsection (o).

(5)] Article 33: Section 1511: subdivision (r).

S 33. Subdivision (a) of section 16 of the tax law, as added by section 2 of part GG of chapter 63 of the laws of 2000, 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 (g) of this section, to be computed as hereinafter provided.

S 34. Paragraph 1, clause (ii) of subparagraph (B) of paragraph 2, and subparagraph (A) of paragraph 3 of subdivision (f) of section 16 of the tax law, as amended by section 14 of part CC of chapter 85 of the laws of 2002, are amended to read as follows:

(1) General. The tax factor shall be, in the case of article nine-A of this chapter, the [larger of the amounts] AMOUNT of tax determined for the taxable year under [paragraphs] PARAGRAPH (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.

(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] BUSINESS income[, minimum taxable income, alternative entire net income or entire net income plus compensation] and the term "partner's entire income" means [entire net] BUSINESS income[, minimum taxable income, alternative entire net income or entire net income plus compensation,] allocated within the state. FOR PURPOSES OF ARTICLE 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 OR ENTIRE NET INCOME PLUS COMPENSATION AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS 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.

(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 ARTICLE 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.

S 35. Subdivision (g) of section 16 of the tax law, as added by section 2 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(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] 210-B: subdivision [28]6.

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

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

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

S 36. Paragraph 1 of subdivision (b) of section 17 of the tax law, as added by section 43 of part S1 of chapter 57 of the laws of 2009, is amended to read as follows:

(1) The empire zones tax benefits report must contain the following information about the empire zone tax credits claimed under articles nine, nine-A, twenty-two[, thirty-two] and thirty-three of this chapter during the previous calendar year:

(A) the name of each taxpayer claiming a credit; and

(B) the amount of each credit earned by each taxpayer.

S 37. 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] 210-B: subdivision [30] 15,

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

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

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

S 38. 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] SIXTEEN of section two hundred [ten] TEN-B;

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

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

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

S 39. Paragraphs 1 and 5 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, 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.

S 39-a. Subdivisions (c) and (f) of section 21 of the tax law, as added by section 1 of part H of chapter 1 of the laws of 2003, are amended to read as follows:

(c) Qualifying property. Property which qualifies for the credit provided for under this section and also for a credit provided for (1) under either subdivision [twelve] ONE or subdivision [twelve-B] THREE of section two hundred [ten] TEN-B of this chapter, or both, OR (2) subsection (a) or subsection (j) of section six hundred six of this chapter, or both[, (3) the credit provided for under subsection (i) of section fourteen hundred fifty-six of this chapter, or (4) the credit provided under subdivision (q) of section fifteen hundred eleven of this chapter] may be the basis for either the credit provided for under this section or one of the credits enumerated in paragraph one[,] OR two[, three or four] of this subdivision, but not both.

(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] 210-B, subdivision [33] 17

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

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

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

S 40. 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] 210-B: subdivision [34] 18.

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

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

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

S 41. Subdivision (a) of section 23 of the tax law, as amended by section 10 of part H chapter 577 of the laws of 2004, is 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 environmental conservation law by the taxpayer for environmental remediation insurance issued with respect to a qualified site.

S 42. Subdivision (e) of section 23 of the tax law, as added by section 19 of part H of chapter 1 of the laws of 2003, is amended to read as follows:

(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] 210-B, subdivision [35] 19

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

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

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

S 43. Paragraphs 1 and 2 of subdivision (a) and clause (i) of subparagraph (D) of paragraph 1 of subdivision (b) of section 25 of the tax law, as added by section 1 of part N of chapter 61 of the laws of 2005, are amended to read as follows:

(1) Every taxpayer, or person as defined in section seven thousand seven hundred one of the internal revenue code, required to file a disclosure statement with the internal revenue service pursuant to section six thousand eleven of the internal revenue code, or the regulations promulgated thereunder, related to a reportable transaction or a listed transaction, as those terms are defined in such section or regulations, must attach a duplicate of such disclosure statement to the return or report required to be filed by such taxpayer or person for the taxable year under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter, and provide such other information related to such disclosure as prescribed by the commissioner. Such disclosure shall be made notwithstanding that one member of an affiliated group, as defined by section fifteen hundred four of the internal revenue code, may file such disclosure statement with the internal revenue service on behalf of its affiliates including such taxpayer or person.

(2) Every taxpayer or such person who participates in a New York reportable transaction for a taxable year must disclose such participation with its return or report required to be filed under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter for the taxable year in a form prescribed by the commissioner, and

provide such other information related to such transaction as prescribed by the commissioner. A New York reportable transaction is a transaction that has the potential to be a tax avoidance transaction as determined by the commissioner.

(i) the list required to be maintained by such person pursuant to section six thousand one hundred twelve of the internal revenue code identifies or is required to identify a taxpayer subject to tax under article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter, and

S 44. Subdivisions (a) and (f) of section 26 of the tax law, 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] 210-B: subdivision [37] 21.

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

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

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

S 45. Paragraph 3 of subdivision (a) and 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, are amended to read as follows:

(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, 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 WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN) 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.

(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] 210-B: subdivision [38] 23.
(2) article 22: section 606: subsection (jj).
S 46. Subdivision (d) of section 28 of the tax law, as added by section 1 of part X of chapter 62 of the laws of 2006, is amended to read as follows:
(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] 210-B, subdivision [38] 24.
(3) Article 22: Section 606, subsections (i) and (jj).
S 47. The opening paragraph of subdivision (a) and subdivisions (c) and (g) of section 31 of the tax law, the opening paragraph of subdivision (a) and subdivision (g) as amended by section 7 of part G of chapter 61 of the laws of 2011, subdivision (c) as added by section 2 of part MM of chapter 59 of the laws of 2010, are amended to read as follows:
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:
(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] ONE of section two hundred [ten,] TEN-B OR 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] 210-B: subdivision [41] 31.
(3) article 22: section 606: subsection (qq).
(4) [article 32: section 1456: subsection (u).
(5)] article 33: section 1511: subdivision (y).
S 48. 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, is amended to read as follows:
(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] 210-B: subdivision [41] 32.
(2) article 22: section 606: subsection (qq).

S 49. 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)] 210-B(33)

(3) Article 22: section 606(qq)

(4) [Article 32: section 1456(v)

(5)] 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)] 210-B(34)

(3) Article 22: section 606(rr)

(4) [Article 32: section 1456(w)

(5)] Article 33: section 1511(z)

S 50. The opening paragraph of subdivision (a), subparagraph (C) of paragraph 2 of subdivision (e), and subdivision (f) of section 35 of the tax law, as added by section 3 of part V of chapter 61 of the laws of 2011, are amended to read as follows:

A taxpayer which is a participant or the owner of a participant in the economic transformation and facility redevelopment program under article eighteen of the economic development law that is subject to tax under section one hundred eighty-five of article nine, or article nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall be allowed the sum of following components against such tax, pursuant to the provisions referenced in subdivision (f) of this section.

(C) the business entity must not be substantially similar in ownership and operation to another taxpayer taxable or previously taxable under section one hundred eighty-three, one hundred eighty-four or one hundred eighty-five of article nine, former section one hundred eighty-six of this chapter or article nine-A, twenty-two[, thirty-two] or thirty-three of this chapter OR FORMER ARTICLE THIRTY-TWO OF THIS CHAPTER or the income or losses of which is or was includable under article twenty-two of this chapter;

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

(1) section 185: section 187-r.

(2) article 9-A: section [210(43)] 210-B(35).

(3) article 22: section 606 (ss).

(4) [article 32: section 1456(x).

(5)] article 33: section 1511 (aa).

S 51. Subdivisions (a) and (e) of section 36 of the tax law, as added by section 2 of part E of chapter 56 of the laws of 2011, 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 (e) of this section. The amount of the credit, allowable for ten consecutive tax years, is equal to the amount determined pursuant to section four hundred twenty-five of the economic development law.

(e) 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] 210-B, subdivision [44] 37;

(2) article 22: section 606, subsection (tt);
(3) [article 32: section 1456, subsection (y);
(4)] article 33, section 1511, subdivision (bb).
S 52. Subdivision (c) of section 37 of the tax law, as added by chapter 109 of the laws of 2012, is amended to read as follows:
(c) 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] 210-B, subdivision [45] 39.
(2) Article 22: Section 606, subsections (i) and (uu).
S 52-a. Subdivision (c) of section 39 of the tax law is REPEALED.
S 53. Paragraphs 2, 3 and 4 of subdivision (k) of section 39 of the tax law, paragraphs 2 and 3 as added by section 2 of part A of chapter 68 of the laws of 2013, paragraph 4 as amended by section 2 of LBD number 74039-02-4, are amended to read as follows:
[(2) Article 9: section 180, subdivision 3.
(3) Article 9: section 181, subdivision 3.]
(4) Article 9-A: section [210] 210-B, subdivision [47] 41 and subdivision [48] 44.
S 54. 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 revenue 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] ARTICLE, (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] ARTICLE, (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 55. Subdivision 2 of section 171-a of the tax law, as amended by chapter 57 of the laws of 1993, is amended to read as follows:

2. Notwithstanding subdivision one of this section or any other provision of law to the contrary, the taxes imposed pursuant to sections one hundred eighty-three-a, one hundred eighty-four-a, [one hundred eighty-six-b,] one hundred eighty-six-c, [one hundred eighty-nine-a,] two hundred nine-B[, fourteen hundred fifty-five-b] and fifteen hundred five-a of this chapter, reduced by an amount for administrative costs, shall be deposited to the credit of the metropolitan mass transportation operating assistance account in the mass transportation operating assistance fund, created pursuant to section eighty-eight-a of the state finance law, as such taxes are received. The amount for administrative costs shall be determined by the commissioner to represent reasonable costs of the department of taxation and finance in administering, collecting, determining and distributing such taxes. Of the total revenue collected or received under such sections of this chapter, the comptroller shall retain in his hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such sections of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under provisions of such sections. The tax commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such sections.

S 56. Paragraphs (b) and (c) of subdivision 1 of section 171-f of the tax law, as amended by chapter 81 of the laws of 1995, are amended to read as follows:

(b) "taxpayer" shall mean a corporation, association, company, partnership, estate, trust, liquidator, fiduciary or other entity or individual who or which is liable for any tax or other imposition imposed by or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of this chapter or article two-E of the general city law, which tax or other imposition is administered by the commissioner of taxation and finance, or who or which is under a duty to perform an act under or pursuant to such tax or imposition, excluding a state agency, a municipal corporation or a district corporation; and (c) "overpayment" shall mean an overpayment which has been requested or determined to be refunded, a refund or a reimbursement, of a tax or other imposition imposed by or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of this chapter or article two-E of the general city law, which is administered by the commissioner of taxation and finance.

S 57. Subdivision 2 of section 171-f of the tax law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

(2) The commissioner of taxation and finance, upon agreement with the state comptroller and acting as an agent for the state comptroller, shall set forth the procedures for crediting any overpayment by a taxpayer of any tax or other imposition imposed by or authorized to be imposed pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of this chapter or article two-E of the general city law, which is administered by the commissioner of taxation and finance, and the interest on any such overpayments, against the amount of a past-due legally enforceable debt owed by such taxpayer to a state agency. An implementation plan shall be developed by the division of the budget and the department of taxation and finance which shall provide, but not be limited to, guidance with respect to coordination of debt collection pursuant to this section and subdivision twenty-seventh of section one hundred seventy-one of this article. This section shall not be deemed to abrogate or limit in any way the powers

and authority of the state comptroller to set off debts owed the state against payments from the state, under the constitution of the state or any other law.

S 58. Paragraphs (a) and (b) of subdivision 1 of section 171-l of the tax law, as added by section 6 of part R of chapter 60 of the laws of 2004, are amended to read as follows:

(a) "taxpayer" shall mean a corporation, association, company, partnership, estate, trust, liquidator, fiduciary or other entity or individual who or which is liable for any tax or other imposition imposed by or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of this chapter, which tax or other imposition is administered by the commissioner of taxation and finance, or who or which is under a duty to perform an act under or pursuant to such tax or imposition, excluding a state agency, a municipal corporation or a district corporation;

(b) "overpayment" shall mean an overpayment which has been requested or determined to be refunded, a refund or a reimbursement, of a tax or other imposition imposed by or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of this chapter, which is administered by the commissioner of taxation and finance; and

S 59. Paragraph (b) of subdivision 1 of section 183 of the tax law, as amended by section 1 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

(b) For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity, or of maintaining an office in this state, every domestic corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph, or telephone business, or formed for or principally engaged in the conduct of two or more of such businesses, and every domestic corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has made an election pursuant to subdivision ten of this section, and every other domestic corporation, joint-stock company or association principally engaged in the conduct of a transportation or transmission business, except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has not made the election provided for in subdivision ten of this section, and except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil

aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation [and except a corporation, joint-stock company or association subject to taxation under article thirty-two of this chapter,] shall pay, in advance, an annual tax to be computed upon the basis of the amount of its capital stock within this state during the preceding year, and upon each dollar of such amount. Provided, however, a corporation, joint-stock company or association formed for or principally engaged in the transportation, transmission or distribution of gas, electricity or steam shall not be subject to tax under this section or section one hundred eighty-four of this article.

S 60. Subdivision 10 of section 183 of the tax law, as added by chapter 309 of the laws of 1996, is amended to read as follows:

10. Election. [With respect to taxable years beginning after nineteen hundred ninety-seven, every] EVERY corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad (including surface railroad, whether or not operated by steam, subway railroad or elevated railroad), palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses, which would be subject to article nine-A [or thirty-two] of this chapter if the election provided for under this subdivision were not made, may elect to be subject to the provisions of this section and, as applicable, section one hundred eighty-four of this article, rather than the provisions of such article nine-A [or thirty-two]. [In the case of such a corporation, joint-stock company or association subject to the tax imposed under this section and, as applicable, section one hundred eighty-four of this article, for the taxable year ending December thirty-first, nineteen hundred ninety-seven, such corporation, joint-stock company or association must make such election on or before March fifteenth, nineteen hundred ninety-eight, and such election shall apply to the taxable year ending on December thirty-first, nineteen hundred ninety-eight and to succeeding taxable years, until revoked. In the case of such a corporation, joint-stock company or association which is not subject to the tax imposed under this section and, as applicable, section one hundred eighty-four of this article for the taxable year ending December thirty-first, nineteen hundred ninety-seven, but thereafter would be subject to article nine-A or thirty-two of this chapter if the election provided for under this subdivision were not made, such] SUCH corporation, joint-stock company or association must make such election by the first day on which such corporation, joint-stock company or association would be required to file a return or report (without regard to extensions) under this section or section one hundred eighty-four of this article, or section one hundred eighty-three-a or one hundred[-]eighty-four-a of this article, or article nine-A [or thirty-two] of this chapter. An election made pursuant to this subdivision shall continue to be in effect until revoked by the taxpayer. A revocation of the election to be subject to this section and, as applicable, section one hundred eighty-four of this article, shall be irrevocable. Such election, and a revocation thereof, shall be made in the manner prescribed by the commissioner, whether by regulation or otherwise. Such revocation shall apply as of the first day of January next following the end of a taxable year with respect to which the taxpayer had been subject to this section and, as applicable, section

one hundred eighty-four of this article, by reason of an election made pursuant to this subdivision.

S 61. The section heading and subdivisions 1 and 5 of section 183-a of the tax law, the section heading as added by chapter 931 of the laws of 1982, subdivision 1 as amended by section 1 of part A of chapter 59 of the laws of 2013 and subdivision 5 as amended by chapter 945 of the laws of 1990, are amended to read as follows:

[Temporary metropolitan] METROPOLITAN transportation business tax surcharge on transportation and transmission corporations and associations. 1. The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificates or other written instruments. Every corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph, or telephone business, or formed for or principally engaged in the conduct of two or more such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, and every other corporation, joint-stock company or association principally engaged in the conduct of a transportation or transmission business, except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty-three of this article, and except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation [and except a corporation, joint-stock company or association which is liable to taxation under article thirty-two of this chapter], shall pay for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metropolitan commuter transportation district in such corporate or organized capacity, or of maintaining an office in such district, a tax

surcharge [for all or any part of its years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand eighteen], which tax surcharge, in addition to the tax imposed by section one hundred eighty-three of this article, shall be computed at the rate of [eighteen percent of the tax imposed under such section one hundred eighty-three for such years or any part of such years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of] seventeen percent of the tax imposed under such section for such years or any part of such years [ending on or after December thirty-first, nineteen hundred eighty-three] after the deduction of any credits otherwise allowable under this article; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eighty-three of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district as so determined in the manner prescribed by the rules and regulations promulgated by the commissioner[; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than four hundred thirty-two months].

5. [The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-two under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-three. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-three under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-four. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-four under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-five. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-five under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-six. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-six under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-seven. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-seven under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-eight. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-eight under section one hundred eighty-three of this article shall be filed on or before March fifteenth, nineteen hundred eighty-nine. The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth, nineteen hundred eighty-nine under section one hundred eighty-three of

this article shall be filed on or before March fifteenth, nineteen hundred ninety.] The report covering the tax surcharge which must be calculated pursuant to this section based upon the tax reportable on the report due by March fifteenth of any year [subsequent to nineteen hundred eighty-nine] under section one hundred eighty-three of this article shall be filed on or before March fifteenth of the year next succeeding such year. An extension pursuant to section one hundred ninety-three OF THIS ARTICLE shall be allowed only if a taxpayer files with the commissioner an application for extension in such form as said commissioner may prescribe by regulation and pays on or before the date of such filing in addition to any other amounts required under this article, either ninety percent of the entire tax surcharge required to be paid under this section for the applicable period, or not less than the tax surcharge shown on the taxpayer's report for the preceding year, if such preceding year consisted of twelve months. The tax surcharge imposed by this section shall be payable to the commissioner in full at the time the report is required to be filed, and such tax surcharge or the balance thereof, imposed on any taxpayer which ceases to exercise its franchise or be subject to the tax surcharge imposed by this section shall be payable to the commissioner at the time the report is required to be filed, provided such tax surcharge of a domestic corporation which continues to possess its franchise shall be subject to adjustment as the circumstances may require; all other tax surcharges of any such taxpayer, which pursuant to the foregoing provisions of this section would otherwise be payable subsequent to the time such report is required to be filed, shall nevertheless be payable at such time. All of the provisions of this article presently applicable to section one hundred eighty-three of this article are applicable to the tax surcharge imposed by this section except for section one hundred ninety-two of this article.

S 62. Subdivision 1 of section 184 of the tax law, as amended by section 2 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

1. The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof.

Every corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph or local telephone business, or formed for or principally engaged in the conduct of two or more of such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, and every other corporation, joint-stock company or association formed for or principally engaged in the conduct of a transportation or transmission business (other than a telephone business), except a corporation, joint-stock company or association formed for or principally engaged in the conduct

of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty-three of this article, and, except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation and [except a corporation, joint-stock company or association which is liable to taxation under article thirty-two of this chapter,] for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity, or maintaining an office in this state, shall pay a franchise tax which shall be equal to [(i) three-quarters of one percent for taxable years ending before two thousand one, provided that for a taxable year ending in two thousand the rate shall be reduced to three-eighths of one percent effective July first, two thousand with the result that for purposes of implementation of such change in rate the applicable rate for such a year shall be nine-sixteenths of one percent, and (ii)] three-eighths of one percent for taxable years commencing after two thousand, upon its gross earnings from all sources within this state; except that, [for taxable years commencing on or after January first, nineteen hundred eighty-five and ending on or before December thirty-first, nineteen hundred eighty-nine, every corporation, joint-stock company or association formed for or principally engaged in the conduct of telephone or telegraph business shall pay a franchise tax which shall be equal to three-tenths of one per centum upon its gross earnings from all sources within this state and,] for taxable years commencing on or after January first, nineteen hundred ninety, every corporation, joint-stock company or association formed for or principally engaged in the conduct of local telephone business, or telegraph business shall pay a franchise tax which shall be equal to [(i) three-quarters of one percent for taxable years ending before two thousand one, provided that for a taxable year ending in two thousand the rate shall be reduced to three-eighths of one percent effective July first, two thousand with the result that for purposes of implementation of such change in rate the applicable rate for such a year shall be nine-sixteenths of one percent, and (ii)] three-eighths of one percent for taxable years commencing after two thousand, upon its gross earnings from all sources within this state, except that a corporation, joint-stock company or association formed for or principally engaged in the conduct of a local telephone business shall exclude the following earnings (but not in any event earnings derived by such taxpayer from the provision of carrier access services) derived by such taxpayer from sales for ultimate consumption of telecom-

munications service to its customers (i) thirty percent of separately charged intra-LATA toll service (which shall also include interregion regional calling plan service) and (ii) one hundred percent of separately charged inter-LATA, interstate or international telecommunications service; and except that [corporations, joint-stock companies or associations formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car or sleeping car, business or any other corporation formed for or principally engaged in the conduct of a railroad business, for taxable years prior to nineteen hundred ninety-seven, and] corporations, joint-stock companies or associations formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), navigation or any corporation formed for or principally engaged in the operation of vessels, shall pay a franchise tax which shall be equal to three-quarters of one per centum upon its gross earnings from all sources within this state, excluding earnings derived from business of an interstate or foreign character; except that for taxable years beginning in nineteen hundred ninety-seven or thereafter, in the case of a corporation, joint-stock company or association which, with respect to taxable years beginning after nineteen hundred ninety-seven, has made an election pursuant to subdivision ten of section one hundred eighty-three of this article and which is formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or formed for or principally engaged in the conduct of two or more of such businesses, such corporation, joint-stock company or association shall pay a franchise tax which shall be equal to [(i) six-tenths of one percent for taxable years ending before two thousand one, provided that for a taxable year ending in two thousand the rate shall be reduced to three-eighths of one percent effective July first, two thousand with the result that for purposes of implementation of such change in rate the applicable rate for such a year shall be thirty-nine eightieths of one percent, and (ii)] three-eighths of one percent for taxable years commencing after two thousand, upon its gross earnings from all sources within this state, provided that in the case of a corporation, joint-stock company or association formed for or principally engaged in the conduct of surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car or sleeping car business, or formed for or principally engaged in the conduct of two or more of such businesses, such gross earnings shall not include earnings derived from business of an interstate or foreign character.

Provided, however, with respect to railroad, elevated railroad, palace car or sleeping car business or any other corporation formed for or principally engaged in the conduct of a railroad business and canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), navigation or any corporation formed for or principally engaged in the operation of vessels where the gross earnings from such transportation business both originating and terminating within this state and traversing both this state and another state or states or country shall be subject to the franchise tax imposed by this section (except where such corporation, joint-stock company or association is formed for or principally engaged in the conduct of a railroad (including surface railroad, whether or not operated by steam, subway railroad or elevated railroad),

palace car or sleeping car business or formed for or principally engaged in the conduct of two or more of such businesses, and has not made the election provided for under subdivision ten of section one hundred eighty-three of this article) and such earnings shall be allocated to this state in the same ratio that the mileage within the state bears to the total mileage of such business. Provided, further, a corporation, joint-stock company or association formed for or principally engaged in the transportation, transmission or distribution of gas, electricity or steam shall not be subject to tax under this section or section one hundred eighty-three of this article.

The term "local telephone business" means the provision or furnishing of telecommunication services for hire wherein the service furnished by the provider thereof consists of carrier access service or the service originates and terminates within the same local access and transport area ("LATA"), a local access and transport area being that geographic area as established and approved, and as so set and in existence on July first, nineteen hundred ninety-four, pursuant to the modification of final judgment in United States v. Western Electric Company (civil action no. 82-0192) in the United States district court for the District of Columbia or within the LATA-like Rochester non-associated independent area.

The term "telecommunication services" shall have the meaning ascribed to such term in section one hundred eighty-six-e of this article.

S 63. The section heading and the opening paragraph of subdivision 1 of section 184-a of the tax law, the section heading as added by chapter 931 of the laws of 1982 and the opening paragraph of subdivision 1 as amended by section 2 of part A of chapter 59 of the laws of 2013, are amended to read as follows:

Additional [temporary] metropolitan transportation business tax surcharge on transportation and transmission corporations and associations services.

The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), and a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof. Every corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of the city of New York under a lease granted by the city), express, navigation, pipe line, transfer, baggage express, omnibus, taxicab, telegraph or local telephone business, or formed for or principally engaged in the conduct of two or more such businesses, and every corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or principally engaged in the conduct of two or more such businesses and which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, and every other corporation, joint-stock company or association formed for or principally engaged in the conduct of a transportation or transmission business (other than a telephone business) except a corporation, joint-stock company or association formed for or principally engaged in the conduct of a surface railroad, whether or not operated by steam, subway railroad, elevated railroad, palace car, sleeping car or trucking business or principally engaged in the

conduct of two or more such businesses and which has not made the election provided for in subdivision ten of section one hundred eighty-three of this article, and except a corporation, joint-stock company or association principally engaged in the conduct of aviation (including air freight forwarders acting as principal and like indirect air carriers) and except a corporation principally engaged in providing telecommunication services between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing), at least ninety percent of the voting stock of which corporation is owned, directly or indirectly, by air carriers and which corporation's principal function is to fulfill the requirements of (i) the federal aviation administration (or the successor thereto) or (ii) the international civil aviation organization (or the successor thereto), relating to the existence of a communication system between aircraft and dispatcher, aircraft and air traffic control or ground station and ground station (or any combination of the foregoing) for the purposes of air safety and navigation [and except a corporation, joint-stock company or association which is liable to taxation under article thirty-two of this chapter], shall pay for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metropolitan commuter transportation district in such corporate or organized capacity, or of maintaining an office in such district, a tax surcharge [for all or any part of its taxable years commencing on or after January first, nineteen hundred eighty-two, but ending before December thirty-first, two thousand eighteen], which tax surcharge, in addition to the tax imposed by section one hundred eighty-four of this article, shall be computed at the rate of [eighteen percent of the tax imposed under such section one hundred eighty-four for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and at the rate of] seventeen percent of the tax imposed under such section for such taxable years or any part of such taxable years [ending on or after December thirty-first, nineteen hundred eighty-three] after the deduction of any credits otherwise allowable under this article; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eighty-four of this article after the deduction of any credits otherwise allowable under this article which is attributable to the taxpayer's business activity carried on within the metropolitan commuter transportation district[; and provided, further, that the tax surcharge imposed by this section on corporations, joint-stock companies and associations formed for or principally engaged in the conduct of telephone or telegraph business shall be computed in accordance with this subdivision and paragraph (c) of subdivision two of this section as if the three-quarters of one percent rate of tax provided for in subdivision one of section one hundred eighty-four of this article were applicable to such telephone and telegraph businesses for taxable years commencing on or after January first, nineteen hundred eighty-five and ending on or before December thirty-first, nineteen hundred eighty-nine; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than four hundred thirty-two months]. Provided, however, that for taxable years beginning in two thousand and thereafter, for purposes of this subdivision the tax imposed under section one hundred eighty-four of this article shall be deemed to have been imposed at the rate of three-quarters of one

percent, except that in the case of a corporation, joint-stock company or association which has made an election pursuant to subdivision ten of section one hundred eighty-three of this article, for purposes of this subdivision the tax imposed under section one hundred eighty-four of this article shall be deemed to have been imposed at the rate of six-tenths of one percent.

S 64. Subdivision 8 of section 186-a of the tax law is REPEALED.

S 65. The section heading and subdivision 1 of section 186-c of the tax law, the section heading as amended by chapter 2 of the laws of 1995, subdivision 1 as amended by section 3 of part II-1 of chapter 57 of the laws of 2008, subparagraph 1 of paragraph (a) of subdivision 1 as amended by section 3 of part A of chapter 59 f the laws of 2013, are amended to read as follows:

[Temporary metropolitan] METROPOLITAN transportation business tax surcharge on utility services and excise tax on sale of telecommunication services. 1. (a) (1) Every utility doing business in the metropolitan commuter transportation district shall pay a tax surcharge, in addition to the tax imposed by section one hundred eighty-six-a of this article[, for all or any parts of its taxable years commencing on or after January first, nineteen hundred eighty-two but ending before December thirty-first, two thousand eighteen], to be computed [at the rate of eighteen percent of the tax imposed under section one hundred eighty-six-a of this article for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, and] at the rate of seventeen percent of the tax imposed under such section [for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three] after the deduction of credits otherwise allowable under this article except any utility credit provided for by article thirteen-A of this chapter; provided, however, that such rates of tax surcharge shall be applied only to that portion of the tax imposed under section one hundred eighty-six-a of this article after the deduction of credits otherwise allowable under this article, except any utility credit provided for by article thirteen-A of this chapter, which is attributable to the taxpayer's gross income or gross operating income from business activity carried on within the metropolitan commuter transportation district[; and provided, further, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than four hundred thirty-two months].

(2) Provided however, that [commencing January first, two thousand,] in the case of the tax imposed under paragraph (a) of subdivision one of section one hundred eighty-six-a of this article (relating to providers of telecommunications services) such tax surcharge shall be calculated as if the tax imposed under section one hundred eighty-six-a of this article were imposed at a rate of three and one-half percent.

(b) In addition to the surcharge imposed by paragraph (a) of this subdivision, there is hereby imposed a surcharge on the gross receipts from telecommunication services relating to the metropolitan commuter transportation district at the rate of seventeen percent of the state tax rate under section one hundred eighty-six-e of this article [for all or part of taxable years commencing on and after January first, nineteen hundred ninety-five but ending before December thirty-first, two thousand thirteen]. All the definitions and other provisions of section one hundred eighty-six-e of this article shall apply to the tax imposed by this paragraph with such modification and limitation as may be necessary

(including substituting the words "metropolitan commuter transportation district" for "state" where appropriate) in order to adapt the language of such section one hundred eighty-six-e of this article to the surcharge imposed by this paragraph within such metropolitan commuter transportation district so as to include (1) any intra-district telecommunication services, except any telecommunication services the gross receipts from which are subject to tax under subparagraph four of this paragraph, (2) any inter-district telecommunication services which originate or terminate in such district and are charged to a service address therein regardless of where the amounts charged for such services are billed or ultimately paid, except any telecommunications services the gross receipts from which are subject to tax under subparagraph four of this paragraph, (3) as apportioned to such district, private telecommunication services, except any telecommunication services the gross receipts from which are subject to tax under subparagraph four of this paragraph, and (4) mobile telecommunications service provided by a home service provider where the place of primary use is within such metropolitan commuter transportation district. Provided however, [commencing October first, nineteen hundred ninety-eight] such tax surcharge shall be calculated as if the tax imposed under section one hundred eighty-six-e of this article were imposed at a rate of three and one-half percent.

S 66. Clause (iii) of subparagraph (D) of paragraph 3 of subsection (b) of section 605 of the tax law, as added by chapter 658 of the laws of 2003, is amended to read as follows:

(iii) Provided further, that for the purposes of item (I) of clause (i) of this subparagraph, a trustee which is a banking corporation as defined in subsection (a) of section fourteen hundred fifty-two of this chapter, AS SUCH SECTION WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, and which is domiciled outside the state of New York at the time it becomes a trustee of the trust shall be deemed to continue to be a trustee domiciled outside the state of New York notwithstanding that it thereafter otherwise becomes a trustee domiciled in the state of New York by virtue of being acquired by, or becoming an office or branch of, a corporate trustee domiciled within the state of New York.

S 67. Subparagraph (A) of paragraph 10 of subsection (a) of section 606 of the tax law, as amended by section 3 of part CC of chapter 85 of the laws of 2002, is 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), ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN) 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

S 68. 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 (ix) as amended by section 4 of part G of chapter

59 of the laws of 2013, 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, clause (xxxii) as added by section 6 of part V of chapter 61 of the laws of 2011, clause (xxxiii) as added by section 4 of part D of chapter 56 of the laws of 2011, clause (xxxiii) as added by section 5 of part E of chapter 56 of the laws of 2011, clause (xxxiii) as added by chapter 604 of the laws of 2011, clause (xxxiv) as added by chapter 109 of the laws of 2012, clause (xxxv) as added by section 2 of part AA of chapter 59 of the laws of 2013, clause (xxxv) as added by section 4 of part EE of chapter 59 of the laws of 2013 and clause (xxxvi) as added by section 8 of part A of chapter 68 of the laws of 2013, clause (xxxvii) as added by section 3 of LBD number 74021-03-4, and clause (xxxvii) as added by section 5 of LBD number 74039-02-4, 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)] (F) of subdivision [twelve] ONE of section two hundred [ten] TEN-B 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] TEN-B of this chapter is:
(i) Investment tax credit under subsection (a)	Investment credit base or qualified rehabilitation expenditures under subdivision [twelve] ONE of section two hundred [ten] TEN-B
(ii) Empire zone investment tax credit under subsection (j)	Cost or other basis under subdivision [twelve-B] THREE of section two hundred [ten] TEN-B
[(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) 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] ELEVEN of section two hundred [ten] TEN-B
(vi) Credit for employment of persons with disabilities under subsection (o)	Qualified first-year wages or qualified second-year wages under subdivision [twenty-three] TWELVE of section two hundred [ten or subsection (f) of section fourteen hundred fifty-six] TEN-B

(vii) Employment incentive credit under subsection (a-1)	Applicable investment credit base under subdivision [twelve-D] TWO of section two hundred [ten] TEN-B
(viii) Empire zone employment incentive credit under subsection (j-1)	Applicable investment credit under subdivision [twelve-C] FOUR of section two hundred [ten] TEN-B
(ix) Alternative fuels and electric vehicle recharging property credit under subsection (p)	Amount of credit under subdivision [twenty-four] THIRTY of section two hundred [ten] TEN-B
(x) Qualified emerging technology company employment credit under subsection (q)	Applicable credit base under subdivision [twelve-E] SEVEN of section two hundred [ten] TEN-B
(xi) Qualified emerging technology company capital tax credit under subsection (r)	Qualified investments under subdivision [twelve-F] EIGHT of section two hundred [ten] TEN-B
(xii) Credit for purchase of an automated external defibrillator under subsection (s)	Cost of an automated external defibrillator under subdivision [twenty-five] THIRTEEN of section two hundred [ten or subsection (j) of section fourteen hundred fifty-six] TEN-B
(xiii) Low-income housing credit under subsection (x)	Credit amount under subdivision [thirty] FIFTEEN of section two hundred [ten or subsection (l) of section fourteen hundred fifty-six] TEN-B
[(xiv) 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) QEZE credit for real property taxes under subsection (bb)	Amount of credit under subdivision [twenty-seven] FIVE of section two hundred [ten or subsection (o) of section fourteen hundred fifty-six] TEN-B
(xvi) 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] SIX of

	section two hundred [ten or subsection (p) of section fourteen hundred fifty-six] TEN-B and amount of tax factor as determined under subdivision (f) of section sixteen
(xvii) Green building credit under subsection (y)	Amount of green building credit under subdivision [thirty-one] SIXTEEN of section two hundred [ten or subsection (m) of section fourteen hundred fifty-six] TEN-B
(xviii) Credit for long-term care insurance premiums under subsection (aa)	Qualified costs under subdivision [twenty-five-a] FOURTEEN of section two hundred [ten or subsection (k) of section fourteen hundred fifty-six] TEN-B
(xix) Brownfield redevelopment credit under subsection (dd)	Amount of credit under subdivision [thirty-three] SEVENTEEN of section two hundred [ten or subsection (q) of section fourteen hundred fifty-six] TEN-B
(xx) Remediated brownfield credit for real property taxes for qualified sites under subsection (ee)	Amount of credit under subdivision [thirty-four] EIGHTEEN of section two hundred [ten of subsection (r) of section fourteen hundred fifty-six] TEN-B
(xxi) Environmental remediation insurance credit under subsection (ff)	Amount of credit under subdivision [thirty-five] NINETEEN of section two hundred [ten or subsection (s) of section fourteen hundred fifty-six] TEN-B
(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] TWENTY of section two hundred [ten] TEN-B
[(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) Security training tax credit under subsection (ii)	Amount of credit under subdivision [thirty-seven] TWENTY-ONE of section two hundred

	[ten or under subsection (t) of section fourteen hundred fifty-six] TEN-B
[(xxv) 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] TWENTY-THREE of section two hundred [ten] TEN-B
(xxvii) Biofuel production tax credit under subsection (jj)	Amount of credit under subdivision [thirty-eight] TWENTY-FOUR of section two hundred [ten] TEN-B
(xxviii) Clean heating fuel credit under subsection (mm)	Amount of credit under subdivision [thirty-nine] TWENTY-FIVE of section two hundred [ten] TEN-B
(xxix) Credit for rehabilitation of historic properties under subsection (oo)	Amount of credit under subdivision [forty] TWENTY-SIX of section two hundred [ten] TEN-B
(xxxi) Excelsior jobs program tax credit under subsection (qq)	Amount of credit under subdivision [forty-one] THIRTY-ONE of section two hundred [ten or under subdivision (u) of section fourteen hundred fifty-six] TEN-B
(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] THIRTY-TWO of section two hundred [ten] TEN-B
(xxxii) Economic transformation and facility redevelopment credit	Amount of credit under subdivision [forty-three] THIRTY-FIVE of section [210 or under subsection (x) of section fourteen hundred fifty-six] TWO HUNDRED TEN-B
(xxxiii) New York youth works	Amount of credit under

tax credit	subdivision [forty-four] THIRTY-SIX of section two hundred [ten] TEN-B
(xxxiii) Empire state jobs retention program credit	Amount of credit under subdivision [forty-four] THIRTY-SEVEN of section two hundred [ten or under subsection (y) of section fourteen hundred fifty-six] TEN-B
(xxxiii) Credit for companies who provide transportation to individuals with disabilities under subsection (tt)	Amount of credit under subdivision [forty-four] THIRTY-EIGHT of section two hundred [ten] TEN-B
(xxxiv) Beer production credit under subsection (uu)	Amount of credit under [subdivision] subdivision [forty-five] THIRTY-NINE of section two hundred [ten] TEN-B
(xxxv) Hire a vet credit under subsection (a-2)	Amount of credit under subdivision [twenty-three-a] TWENTY-NINE of section two hundred [ten or subsection (e-1) of of section fourteen hundred fifty-six] TEN-B
(xxxv) Minimum wage reimbursement credit under subsection (aaa)	Amount of credit under subdivision [forty-six] FORTY of section two hundred [ten or subsection (z) of section fourteen hundred fifty-six] TEN-B
(xxxvi) Tax-free NY area tax elimination credit	Amount of credit under subdivision [forty-seven] FORTY-ONE of section two hundred [ten] TEN-B
(xxxvii) Real property tax credit for manufacturers under subsection (xx)	Amount of credit under subdivision [forty-eight] FORTY-THREE of section two hundred [ten] TEN-B
(xxxvii) Tax-free NY area excise tax on telecommunications services credit under subsection (xx)	Amount of credit under subdivision [forty-eight] FORTY-FOUR of section two hundred [ten] TEN-B

S 69. Subparagraphs (A) and (B) of paragraph 3 of subsection (i) of section 606 of the tax law, as added by chapter 170 of the laws of 1994, are amended to read as follows:

(A) Credit carryover. Any excess credit under subparagraph (A) of paragraph one of this subsection, as it was in effect for taxable years beginning before nineteen hundred ninety-four, may be carried over to the shareholder's following year or years and may be deducted from such shareholder's tax for such year or years, except that any excess credit attributable to subdivision [twelve] ONE of section two hundred [ten] TEN-B of this chapter shall in no event be carried over beyond the ten taxable years next following the taxable year of origin.

(B) Credit recapture. Any redetermination of credit required by this subsection as it was in effect for taxable years beginning before nineteen hundred ninety-four, upon disposition or cessation of qualified use of property pursuant to paragraph [(g)] (E) of subdivision [twelve] ONE, OR paragraph (f) of subdivision [twelve-B or paragraph (f) of subdivision eighteen] THREE of section two hundred [ten] TEN-B of this chapter shall be attributed in pro rata shares to the shareholders who were allowed credit under this subsection with respect to such property, and the reduction of a shareholder's proportionate stock interest shall be treated as a disposition of property for which a redetermination of credit under such paragraphs is required with respect to such shareholder.

S 70. Subparagraph (B) of paragraph 3 and paragraph 21 of subsection (b) and paragraph 21 of subsection (c) of section 612 of the tax law, subparagraph (B) of paragraph 3 of subsection (b) as amended by section 57, paragraph 21 of subsection (b) as amended by section 59 and paragraph 21 of subsection (c) as amended by section 60 of part A of chapter 389 of the laws of 1997, are amended to read as follows:

(B) Shareholders of S corporations. In the case of a shareholder of an S corporation, with respect to taxes imposed upon or payable by the corporation, the term "income taxes" in subparagraph (A) of this paragraph shall also include the taxes imposed under [articles] ARTICLE nine-A [and thirty-two] of this chapter, regardless of the measure of such tax, but shall not otherwise include taxes imposed by this or any other state of the United States, or any political subdivision of this or any other state, or the District of Columbia.

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

S 71. Paragraph 2 of subsection (a) of section 632 of the tax law, as amended by section 2 of part C of chapter 57 of the laws of 2010, is amended to read as follows:

(2) In determining New York source income of a nonresident shareholder of an S corporation where the election provided for in subsection (a) of section six hundred sixty of this article is in effect, there shall be included only the portion derived from or connected with New York sources of such shareholder's pro rata share of items of S corporation income, loss and deduction entering into his federal adjusted gross income, increased by reductions for taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code, as such portion shall be determined under regulations of the commissioner consistent with the applicable methods and rules for allocation under article nine-A [or thirty-two] of this chapter, regardless of whether or not such item or reduction is included in entire net income under article nine-A [or thirty-two] for the tax year. If a nonresident is a shareholder in an S corporation where the election provided for in subsection (a) of section six hundred sixty of this article is in effect, and the S corporation has distributed an installment obligation under section 453(h)(1)(A) of the Internal Revenue Code, then any gain recognized on the receipt of payments from the installment obligation for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A [or thirty-two] of this chapter in the year that the assets were sold. In addition, if the shareholders of the S corporation have made an election under section 338(h)(10) of the Internal Revenue Code, then any gain recognized on the deemed asset sale for federal income tax purposes will be treated as New York source income allocated in a manner consistent with the applicable methods and rules for allocation under article nine-A [or thirty-two] of this chapter in the year that the shareholder made the section 338(h)(10) election. For purposes of a section 338(h)(10) election, when a nonresident shareholder exchanges his or her S corporation stock as part of the deemed liquidation, any gain or loss recognized shall be treated as the disposition of an intangible asset and will not increase or offset any gain recognized on the deemed assets sale as a result of the section 338(h)(10) election.

S 72. 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] PART 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 73. Subsections (a) and (h) of section 660 of the tax law, subsection (a) as amended by section 50 and subsection (h) as amended by section 66 of part A of chapter 389 of the laws of 1997, are 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, OR (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].

(h) Cross reference. For definitions relating to S corporations, see subdivision one-A of section two hundred eight [and subsections (f) and (g) of section fourteen hundred fifty] of this chapter.

S 74. Paragraph 1 of subsection (i) of section 660 of the tax law, as added by section 1 of part L of chapter 60 of the laws of 2007, is amended to read as follows:

(1) Notwithstanding the provisions in subsection (a) of this section, in the case of an eligible S corporation for which the election under subsection (a) of this section is not in effect for the current taxable year, the shareholders of an eligible S corporation are deemed to have made that election effective for the eligible S corporation's entire current taxable year, if the eligible S corporation's investment income for the current taxable year is more than fifty percent of its federal gross income for such year [provided that this subsection shall not apply to an eligible S corporation that is subject to tax under article thirty-two of this chapter]. IN DETERMINING AN ELIGIBLE S CORPORATION'S INVESTMENT INCOME, THE INVESTMENT INCOME OF A QUALIFIED SUBCHAPTER S SUBSIDIARY OWNED DIRECTLY OR INDIRECTLY BY THE ELIGIBLE S CORPORATION SHALL BE INCLUDED.

S 75. Paragraph 3 of subsection (c) of section 1085 of the tax law, as amended by section 15 of part Y of chapter 63 of the laws of 2000, is amended to read as follows:

(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.

S 76. The opening paragraph of subparagraph (A) of paragraph 3 of subsection (d) of section 1085 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

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--

S 77. Clause (i) of subparagraph (A) of paragraph 4 of subsection (d) of section 1085 of the tax law, as amended by chapter 57 of the laws of 1993, is amended to read as follows:

(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,

S 78. Paragraph 5 of subsection (d) of section 1085 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(5) In the case of any declaration installment, any reduction in such installment resulting from the application of paragraph three or four of this subsection shall be recaptured by increasing the amount of the next installment determined under paragraph one or two of this subsection or paragraph one of subsection (c) of this section by the amount of such reduction (and by increasing subsequent installments to the extent that the reduction has not previously been recaptured under this paragraph). For purposes of the preceding sentence, a declaration installment means any installment of estimated tax other than the mandatory first installment required under paragraph (a) of subdivision one of section one hundred ninety-seven-b, subdivision (a) of section two hundred thirteen-b[, subsection (a) of section fourteen hundred sixty-one] or subdivision (a) of section fifteen hundred fourteen of this chapter.

S 79. Paragraph 1 of subsection (e) of section 1085 of the tax law, as amended by section 28-p of part H-3 of chapter 62 of the laws of 2003, is amended to read as follows:

(1) Paragraphs (1) and (2) of subsection (d) of this section shall not apply in the case of any corporation (or any predecessor corporation) which had [entire net] BUSINESS income, or the portion thereof allocated within the state, of one million dollars or more for any taxable year during the three taxable years immediately preceding the taxable year involved; provided, however, that in the case of a corporation subject to tax under section fifteen hundred two-a of this chapter, paragraphs (1) and (2) of subsection (d) of this section shall not apply if such corporation had entire net income, or the portion thereof allocated within the state, of one million dollars or more for any of the three taxable years immediately preceding the taxable year involved, or if the direct premiums subject to tax under section fifteen hundred two-a of this chapter of the corporation for any of such three preceding taxable years beginning on or after January first, two thousand three equals or exceeds three million seven hundred fifty thousand dollars.

S 80. Subsections (m) and (o) of section 1085 of the tax law are REPEALED.

S 81. Clause (ii) of subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of subsection (s) and the closing paragraph of paragraph 1 of subsection (t) of section 1085 of the tax law, as added by section 10 of part N of chapter 61 of the laws of 2005, are amended to read as follows:

(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.

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 82. The opening paragraph of subsection (c) of section 1087 of the tax law, as separately amended by chapters 760 and 770 of the laws of 1992, is amended to read as follows:

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 OF THIS CHAPTER, to file a report or amended return in respect of (i) a decrease or increase in federal taxable income or federal alternative minimum taxable income or federal tax, or (ii) a federal change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were an overpayment for federal income tax purposes, claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the time such report or amended return was required to be filed with the commissioner [of taxation and finance]. If the report or amended return required by any such provision of law is not filed within the period therein specified, no interest shall be payable on any claim for credit or refund of the overpayment attributable to the federal change or correction. The amount of such credit or refund--

S 83. Subsection (g) of section 1088 of the tax law, as amended by chapter 61 of the laws of 1989 and relettered by chapter 55 of the laws of 1992, is amended to read as follows:

(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 84. Paragraph 2 of subsection (b) of section 1096 of the tax law, as amended by chapter 411 of the laws of 1986, is amended to read as follows:

(2) The [tax commission] COMMISSIONER 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] NINE-A, thirteen, [thirteen-a, thirty-two,] THIRTEEN-A 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] COMMISSIONER to the attorney general, a district attorney or any other prosecutorial agency is in effect. Provided, however, the [tax commission] COMMISSIONER 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.

S 85. Paragraph 1 of subsection (e) of section 1096 of the tax law, as amended by section 8 of subpart D of part V1 of chapter 57 of the laws of 2009, is amended to read as follows:

(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[,] AND 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 86. Subdivision (b) of section 1201-a of the tax law, as amended by section 5 of part Y of chapter 62 of the laws of 2006, is 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] TWENTY of section two hundred [ten] TEN-B of this chapter except as may be necessary to take into account differences between the general corporation tax and the unincorporated business tax.

S 87. Subdivision (c) of section 1201-a of the tax law, as amended by chapter 300 of the laws of 2007, is amended to read as follows:

(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] TWENTY-THREE of section two hundred [ten] TEN-B of this chapter except as may be necessary to take into account differences between the general corporation tax and unincorporated business tax.

S 88. The section heading and paragraphs 1 and 3 of subdivision (a) of section 1505-a of the tax law, the section heading as added by chapter 11 of the laws of 1983 and paragraphs 1 and 3 of subdivision (a) as amended by section 6 of part A of chapter 59 of the laws of 2013, are amended to read as follows:

[Temporary metropolitan] METROPOLITAN transportation business tax surcharge on insurance corporations.

(1) Every domestic insurance corporation and every foreign or alien insurance corporation, and every life insurance corporation described in subdivision (b) of section fifteen hundred one of this article, for the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in the metropolitan commuter transportation district in a corporate or organized capacity, or of maintaining an office in the metropolitan commuter transportation district, [for all or any part of its taxable years commencing on or after January first, nineteen hundred eighty-two, but ending before December thirty-first, two thousand eighteen,] except corporations specified in subdivision (c) of section fifteen hundred twelve of this article, shall annually pay, in addition to the taxes otherwise imposed by this article, a tax surcharge on the taxes imposed under this article after the deduction of any credits otherwise allowable under this article as allocated to such district. Such taxes shall be allocated to such district for purposes of computing such tax surcharge upon taxpayers subject to tax under subdivision (b) of section fifteen hundred ten of this article by applying the methodology, procedures and computations set forth in subdivisions (a) and (b) of section fifteen hundred four of this article, except that references to terms denoting New York premiums, and total wages, salaries, personal service compensation and commissions within New York shall be read as denoting within the metropolitan commuter transportation district and terms denoting total premiums and total wages, salaries, personal service compensation and commissions shall be read as denoting within the state. If it shall appear to the commissioner that the application of the methodology, procedures and computations set forth in such subdivisions (a) and (b) does not properly reflect the activity, business or income of a taxpayer within the metropolitan commuter transportation district, then the commissioner shall be authorized, in the commissioner's discretion, to adjust such methodology, procedures and computations for the purpose of allocating such taxes by:

(A) excluding one or more factors therein;

(B) including one or more other factors therein, such as expenses, purchases, receipts other than premiums, real property or tangible personal property; or

(C) any other similar or different method which allocates such taxes by attributing a fair and proper portion of such taxes to the metropolitan commuter transportation district. The commissioner from time to time shall publish all rulings of general public interest with respect to any application of the provisions of the preceding sentence. The commissioner may promulgate rules and regulations to further implement the provisions of this section.

(3) Such tax surcharge shall be computed at the rate of [eighteen percent of the taxes imposed under sections fifteen hundred one and fifteen hundred ten of this article as limited by section fifteen hundred five of this article, as allocated to such district, for such taxable years or any part of such taxable years ending before December thirty-first, nineteen hundred eighty-three after the deduction of any credits otherwise allowable under this article, at the rate of seventeen percent of the taxes imposed under such sections as limited by section fifteen hundred five of this article, as allocated to such district, for such taxable years or any part of such taxable years ending on or after December thirty-first, nineteen hundred eighty-three and before January

first, two thousand three after the deduction of any credits otherwise allowable under this article, and at the rate of] seventeen percent of the taxes imposed under sections fifteen hundred one, fifteen hundred two-a, and fifteen hundred ten of this article, as limited or otherwise determined by subdivision (a) or (b) of section fifteen hundred five of this article, as allocated to such district, [for such taxable years or any part of such taxable years ending after December thirty-first, two thousand two] after the deduction of any credits otherwise allowable under this article[; provided, however, that the tax surcharge imposed by this section shall not be imposed upon any taxpayer for more than four hundred thirty-two months]. Provided however, that for taxable years commencing on or after July first, two thousand, and in the case of taxpayers subject to tax under section fifteen hundred two-a of this article, for taxable years of such taxpayers beginning on or after July first, two thousand and before January first, two thousand three, such surcharge shall be calculated as if (i) the rate of the tax computed under paragraph one of subdivision (a) of section fifteen hundred two of this article was nine percent and (ii) the rate of the limitation on tax set forth in section fifteen hundred five of this article for domestic, foreign and alien insurance corporations except life insurance corporations was two and six-tenths percent.

S 89. 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 90. Subdivisions (s) and (t) of section 957 of the general municipal law, as amended by section 1 of part S1 of chapter 57 of the laws of 2009, are amended to read as follows:

(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] THREE of section two hundred [ten] TEN-B 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] THREE of section two hundred [ten] TEN-B 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 91. Subclauses (III) and (IV) of clause (ii) of subparagraph (B) of paragraph 6 of subdivision (a) of section 292 of the tax law, as amended by section 3 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(III) [The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (a) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (b) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (c) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (d) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this state; and (e) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(IV)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 92. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of subsection (r) of section 612 of the tax law, as amended by section 5 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(iii) [The adjustment required in this subsection shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective tax rate at least equal to that imposed by this state; and (V) the royalty payment was paid, accrued or

incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(iv)] The adjustment required in this subsection shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 93. Intentionally omitted.

S 94. Subclauses (III) and (IV) of clause (ii) of subparagraph (B) of paragraph 14 of subdivision (b) of section 1503 of the tax law, as amended by section 8 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(III) [The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner, that: (a) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (b) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (c) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (d) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this state; and (e) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(IV)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner agree in writing to the application or use of alternative adjustments or computations. The commissioner may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 95. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of subdivision (e) of section 11-506 of the administrative code of the city of New York, as amended by section 9 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(iii) [The adjustment required in this subdivision shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(iv)] The adjustment required in this subdivision shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The

commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 96. Subclauses (iii) and (iv) of clause (B) of subparagraph 2 of paragraph (n) of subdivision 8 of section 11-602 of the administrative code of the city of New York, as amended by section 10 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(iii) [The adjustment required in this paragraph shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(iv)] The adjustment required in this paragraph shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 97. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of subdivision (q) of section 11-641 of the administrative code of the city of New York, as amended by section 11 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(iii) [The adjustment required in this subdivision shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(iv)] The adjustment required in this subdivision shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 98. Clauses (iii) and (iv) of subparagraph (B) of paragraph 2 of subdivision (t) of section 11-1712 of the administrative code of the

city of New York, as amended by section 12 of part E of chapter 59 of the laws of 2013, are amended to read as follows:

(iii) [The adjustment required in this subdivision shall not apply if the taxpayer establishes, by clear and convincing evidence of the type and in the form specified by the commissioner of finance, that: (I) the royalty payment was paid, accrued or incurred to a related member organized under the laws of a country other than the United States; (II) the related member's income from the transaction was subject to a comprehensive income tax treaty between such country and the United States; (III) the related member was subject to tax in a foreign nation on a tax base that included the royalty payment paid, accrued or incurred by the taxpayer; (IV) the related member's income from the transaction was taxed in such country at an effective rate of tax at least equal to that imposed by this city; and (V) the royalty payment was paid, accrued or incurred pursuant to a transaction that was undertaken for a valid business purpose and using terms that reflect an arm's length relationship.

(iv)] The adjustment required in this subdivision shall not apply if the taxpayer and the commissioner of finance agree in writing to the application or use of alternative adjustments or computations. The commissioner of finance may, in his or her discretion, agree to the application or use of alternative adjustments or computations when he or she concludes that in the absence of such agreement the income of the taxpayer would not be properly reflected.

S 99. Notwithstanding any provisions of law to the contrary and notwithstanding the repeal of article 32 of the tax law by section one of this act, the repeal of section 180 of the tax law by section two of this act and the repeal of section 181 of the tax law by section three of this act, all provisions of such article and such sections, in respect to the imposition, exemption, assessment, payment, payment over, determination, collection, and credit or refund of tax, interest and penalty imposed thereunder, the filing of forms and returns, the preservation of records for the purposes of such tax, the secrecy of returns, the disposition of revenues, and the civil and criminal penalties applicable to the violation of the provisions of such article 32 and such sections 180 and 181, shall continue in full force and effect with respect to all such tax accrued for taxable years beginning before January 1, 2015; and all actions and proceedings, civil or criminal, commenced or authorized to be commenced under or by virtue of any provision of such article 32 or by virtue of any provision of such section 180 or 181 so repealed, and pending or able to be commenced immediately prior to the taking effect of such repeal, may be commenced, prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

S 100. Subdivision 1 of section 187 of the tax law, as amended by chapter 2 of the laws of 1995, is amended to read as follows:

1. A taxpayer shall be allowed a credit, to be credited against the taxes imposed by this article, other than the taxes and fees imposed by sections [one hundred eighty, one hundred eighty-one,] one hundred eighty-six-a and one hundred eighty-six-e of this chapter. The amount of the credit shall be the amount of the special additional mortgage recording tax paid by the taxpayer pursuant to the provisions of subdivision one-a of section two hundred fifty-three of this chapter on mortgages recorded on and after January first, nineteen hundred seventy-nine. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this chapter shall be the excess of the amount of such special additional mort-

gage recording tax paid over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this chapter. Provided further, however, no credit shall be allowed with respect to a mortgage of real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in one or more of the counties comprising the metropolitan commuter transportation district and where the mortgage is recorded on or after May first, nineteen hundred eighty-seven. Provided further, however, no credit shall be allowed with respect to a mortgage of real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each dwelling unit having its own separate cooking facilities, where the real property is located in the county of Erie and where the mortgage is recorded on or after May first, nineteen hundred eighty-seven.

S 101. Subdivision 1 of section 187-a of the tax law, as added by chapter 142 of the laws of 1997, is amended to read as follows:

1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the taxes imposed by this article, other than the taxes imposed by sections [one hundred eighty, one hundred eighty-one,] one hundred eighty-six-a, one hundred eighty-six-e and one hundred eighty-nine of this article, for employing within the state a qualified employee. Provided, however, the amount of credit allowed by this section against the tax imposed by section one hundred eighty-four of this article shall be the excess of the credit computed under this section over the amount of credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

S 102. Subdivision 1 of section 190 of the tax law, as amended by section 17 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

1. General. A taxpayer shall be allowed a credit against the tax imposed by this article[, other than the taxes and fees imposed by sections one hundred eighty and one hundred eighty-one of this article,] equal to twenty percent of the premium paid during the taxable year for long-term care insurance. In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

S 103. Subdivision 5 of section 192 of the tax law is REPEALED.

S 104. Clauses 1 and 2 of subparagraph (A) and subparagraph (B) of paragraph (iii) of subdivision 9 of section 16-v of section 1 of chapter 174 of the laws of 1968 constituting the urban development corporation act, as added by section 1 of part C of chapter 59 of the laws of 2013, is amended to read as follows:

(1) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under the following provisions of the tax law: article nine-A; section one hundred eighty-three, OR one hundred eighty-four [or one hundred eighty-five] of article nine; [article thirty-two] or article thirty-three; or

(2) is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under the

following provisions of the tax law: article nine-A; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine; FORMER article thirty-two; article thirty-three; article twenty-three, or 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; or

(B) a sole proprietorship, partnership, limited partnership, limited liability company, or New York subchapter S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under article nine-A of the tax law, section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine of the tax law, FORMER article thirty-two or ARTICLE thirty-three of the tax law, 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) includable under article twenty-two of the tax law; and

S 105. Section 206 of the tax law, as added by chapter 69 of the laws of 1978, is amended to read as follows:

S 206. Deposit and disposition of revenue. The [license fees,] taxes, percentage, interest and other charges imposed by this article shall be collected and deposited and receipts therefor issued by the [tax commission, except that such license fees, taxes, percentage, interest and other charges imposed by section one hundred eighty of this chapter shall be collected and deposited and receipts therefor issued by the proper state officer in accordance with the provisions of subdivision two of section one hundred eighty of this chapter,] COMMISSIONER and all revenues so collected or received shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

S 106. Subsection (a) of section 1080 of the tax law, as added by chapter 188 of the laws of 1964, is amended to read as follows:

(a) General.--- The provisions of this article shall apply to the administration of and the procedures with respect to the taxes imposed by articles nine [(except section one hundred eighty)], AND nine-a[, nine-b and nine-c] of this chapter for taxable years or periods ending on or after December thirty-first, nineteen hundred sixty-four.

S 107. Subdivisions (a) and (c) 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, are 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.

(c) As used in this section, the terms "return" and "report" shall mean a return or report required under section one hundred ninety-two, two hundred eleven, two hundred ninety-four, [fourteen hundred sixty-two,] fifteen hundred fifteen or fifteen hundred fifty-four of this chapter. It shall not include any return or report referred to in section one hundred ninety-seven-a, two hundred thirteen-a, [fourteen hundred sixty] or fifteen hundred thirteen of this chapter.

S 108. Paragraphs (d), (e), (g), (h) and (q) of section 104-A of the business corporation law, subdivisions (d), (e) and (q) as amended by chapter 166 of the laws of 1991, subdivision (g) as added by chapter 591 of the laws of 1982, and subdivision (h) as amended by chapter 117 of the laws of 1986, are amended to read as follows:

(d) For filing a certificate of incorporation pursuant to section four hundred two of this chapter, one hundred twenty-five dollars [plus the tax on shares prescribed by section one hundred eighty of the tax law].

(e) For filing a certificate of amendment pursuant to section eight hundred five of this chapter, sixty dollars [plus the tax on shares prescribed by section one hundred eighty of the tax law if such certificate shows a change of shares].

(g) For filing a restated certificate of incorporation pursuant to section eight hundred seven of this chapter, sixty dollars [plus the tax on shares prescribed by section one hundred eighty of the tax law if such certificate shows a change of shares].

(h) For filing a certificate of merger or consolidation pursuant to section nine hundred four of this chapter, or a certificate of exchange pursuant to section nine hundred thirteen (other than paragraph (g) of section nine hundred thirteen) of this chapter, sixty dollars [plus the tax on shares prescribed by section one hundred eighty of the tax law if such certificate shows a change of shares].

(q) For filing a certificate of incorporation by a professional service corporation pursuant to section fifteen hundred three of this chapter, one hundred twenty-five dollars [plus the tax on shares prescribed by section one hundred eighty of the tax law].

S 109. Subdivision 8 of section 7-a of the general associations law, as added by chapter 575 of the laws of 1964, is amended to read as follows:

8. The provisions of section ninety-six of the executive law prescribing the fee to be collected by the department of state for filing a certificate of incorporation under the business corporation law shall apply to the certificate of incorporation to be filed pursuant to this section[, and the organization tax payable under section one hundred eighty of the tax law in respect of a corporation formed under the business corporation law shall be paid before the department of state shall file such certificate of incorporation].

S 110. Severability. If any provision of this act shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this act, but shall be confined in its operation to the provision directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be in the intent of the legislature that this act would have been enacted even if such invalid provision had not been included in this act. Provided further, if a court of final, competent jurisdiction adjudges the tax rates imposed on qualified New York manufacturers to be invalid, qualified New York

manufacturers shall be subject to the same tax rates as all other taxpayers subject to tax under article 9-A of the tax law. Provided further, if a court of final, competent jurisdiction adjudges that any of the tax credits provided by this act to be invalid, such credit or credits shall be deemed repealed and shall be of no force and effect as to any taxpayers.

S 111. This act shall take effect January 1, 2015 and shall apply to taxable years commencing on or after such date; provided that the amendments to section 25 of the tax law made by section forty-three of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided, further, that the amendments to the opening paragraph of subdivision (a), subparagraph (C) of paragraph 2 of subdivision (e) and subdivision (f) of section 35 of the tax law made by section fifty of this act shall not affect the repeal of such provisions and shall be deemed repealed therewith; provided, further, that the amendments to clause (xxxii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law made by section sixty-eight of this act shall not affect the repeal of such clause and shall be deemed repealed therewith; provided, further, that the amendments to clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law made by section sixty-eight of this act shall not affect the repeal of such clause and shall be deemed repealed therewith; and provided, further, that the amendments to clause (ii) of subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of subsection (s) and the closing paragraph of paragraph 1 of subsection (t) of section 1085 of the tax law made by section eighty-one of this act shall not affect the repeal of such provisions and shall be deemed repealed therewith.

PART B

Section 1. Subparagraph (iii) of paragraph (a) of subdivision 14 of section 425 of the real property tax law, as added by section 1 of part J of chapter 57 of the laws of 2013, is amended to read as follows:

(iii) An owner who fails to register by the registration deadline so established shall be permitted to file a petition with the commissioner requesting that the commissioner excuse such failure and accept a late registration, provided that such petition shall explain why such failure occurred and shall be filed no later than one year after such deadline, AND PROVIDED FURTHER THAT IF THE COMMISSIONER ACCEPTS A LATE REGISTRATION AFTER HAVING DIRECTED THE REMOVAL OF THE BASIC STAR EXEMPTION FROM THE PROPERTY TO WHICH THE REGISTRATION PERTAINS, THEN IN LIEU OF DIRECTING THE EXEMPTION TO BE RESTORED, THE COMMISSIONER IS AUTHORIZED IN HIS OR HER DISCRETION TO REMIT DIRECTLY TO THE PROPERTY OWNER OR OWNERS THE TAX SAVINGS THAT THE EXEMPTION WOULD HAVE YIELDED HAD IT NOT BEEN REMOVED, AND TO FURTHER DIRECT THE ASSESSOR TO RESTORE THE EXEMPTION ON A PROSPECTIVE BASIS WITHOUT A NEW APPLICATION UNLESS THE ASSESSOR HAS REASON TO BELIEVE THAT THE PROPERTY OWNER IS NO LONGER ELIGIBLE FOR REASONS OTHER THAN A FAILURE TO REGISTER;

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

PART C

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by

section 1 of part A of chapter 59 of the laws of 2012, is amended to read as follows:

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, [2015] 2018, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

S 2. This act shall take effect immediately.

PART D

Section 1. Subdivision 1 of section 236 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

1. Every corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting on races run thereat, except as provided in section two hundred thirty-eight of this article with respect to the franchised corporation, shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, providing such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such racing corporation of between fourteen to twenty per centum of the total deposits in pools resulting from regular on-track bets and less sixteen to twenty-two per centum of the total deposits in pools resulting from multiple on-track bets and less twenty to thirty per centum of the total deposits in pools resulting from exotic on-track bets and less twenty to thirty-six per centum of the total pools resulting from super exotic on-track bets, plus the breaks. The retention rate to be established is subject to the prior approval of the [racing and wagering board] COMMISSION. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter and breaks are hereby defined as the odd cents over any multiple of ten, or for exotic bets over any multiple of fifty, or for super exotic bets, over any multiple of one hundred, calculated on the basis of one dollar, otherwise payable to a patron provided, however, that effective after October fifteenth, nineteen hundred ninety-four breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. Of the amount so retained there shall be paid by such corporation to the department of taxation and finance as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meeting held by such corporation, which tax is hereby levied, the following percentages of the total pool, plus fifty-five per centum of the breaks; the applicable rates for regular and multiple bets shall be one and one-half per centum; the applica-

ble rates for exotic bets shall be six and three-quarter per centum and the applicable rate for super exotic bets shall be seven and three-quarter per centum. Effective on and after September first, nineteen hundred ninety-four, the applicable tax rate shall be one per centum of all wagers, provided that, an amount equal to one-half the difference between the taxation rate for on-track regular, multiple and exotic bets as of December thirty-first, nineteen hundred ninety-three and the rates on such on-track wagers as herein provided shall be used exclusively for purses. Provided, however, that for any twelve-month period beginning on April first in nineteen hundred ninety and any year thereafter, each of the applicable rates set forth above shall be increased by one-quarter of one per centum on all on-track bets of any such racing corporation that did not expend an amount equal to at least one-half of one per centum of its on-track bets during the immediately preceding calendar year for enhancements consisting of capital improvements as defined by section two hundred thirty-seven of this article, repairs to its physical plant, structures, and equipment used in its racing or wagering operations as certified by the [state racing and wagering board] COMMISSION to the commissioner of taxation and finance no later than eighty days after the close of such calendar year, and five special events at each track in each calendar year, not otherwise conducted in the ordinary course of business, the purpose of which shall be to encourage, attract and promote track attendance and encourage new and continued patronage, which events shall be approved by the [racing and wagering board] COMMISSION for purposes of this subdivision. In the determination of the amounts expended for such enhancements, the [board] COMMISSION may consider the immediately preceding twelve month calendar period or the average of the two immediately preceding twelve month calendar periods. Provided further, however, that of the portion of the increased amounts retained by such corporation above those amounts retained in nineteen hundred eighty-four, an amount of such increase shall be distributed to purses in the same proportion as commissions and purses were distributed during nineteen hundred eighty-four as certified by the [board] COMMISSION. Such corporation in the second zone shall receive a credit against the daily tax imposed by this subdivision in an amount equal to one per centum of total daily pools resulting from the simulcast of such corporation's races to licensed facilities operated by regional off-track betting corporations in accordance with section one thousand eight of this chapter, provided however, that sixty per centum of the amount of such credit shall be used exclusively to increase purses for overnight races conducted by such corporation; and, provided further, that in no event shall such total daily credit exceed one per centum of the total daily pool of such corporation. Provided, however, that on and after September first, nineteen hundred ninety-four such credit shall be four-tenths percent of total daily pools resulting from such simulcasting and that in no event shall such total daily credit equal four-tenths percent of the total daily pool of such corporation.

Such corporation shall pay to the New York state thoroughbred breeding and development fund one-half of one per centum of the total daily on-track pari-mutuel pools from regular, multiple and exotic bets, and three per centum of super exotic bets. The corporation shall receive credit as a reduction of the tax by the state for the privilege of conducting pari-mutuel betting for the amounts, except amounts paid from super exotic betting pools, paid to the New York state thoroughbred breeding and development fund after January first, nineteen hundred seventy-eight.

Such corporation shall distribute to purses an amount equal to fifty per centum of any compensation it receives from simulcasting or from wagering conducted outside the United States. Such corporation shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one per centum of the total daily on-track pari-mutuel pools of such corporation.

S 2. Paragraph (d) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

(d) The pari-mutuel tax rate authorized by paragraph (a) of this subdivision shall be effective so long as a franchised corporation notifies the [racing and wagering board] COMMISSION by August fifteenth of each year that such pari-mutuel tax rate is effective of its intent to conduct a race meeting at Aqueduct racetrack during the months of December, January, February, March and April. For purposes of this paragraph such race meeting shall consist of not less than ninety-five days of racing. Not later than May first of each year that such pari-mutuel tax rate is effective, the [racing and wagering board] COMMISSION shall determine whether a race meeting at Aqueduct racetrack consisted of the number of days as required by this paragraph. In determining the number of race days, cancellation of a race day because of an act of God, which the [racing and wagering board] COMMISSION approves or because of weather conditions that are unsafe or hazardous which the [racing and wagering board] COMMISSION approves shall not be construed as a failure to conduct a race day. Additionally, cancellation of a race day because of circumstances beyond the control of such franchised corporation for which the [racing and wagering board] COMMISSION gives approval shall not be construed as a failure to conduct a race day. If the [racing and wagering board] COMMISSION determines that the number of days of racing as required by this paragraph have not occurred then the pari-mutuel tax rate in paragraph (a) of this subdivision shall revert to the pari-mutuel tax rates in effect prior to January first, nineteen hundred ninety-five. Such franchised corporation shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one per centum of the total daily on-track pari-mutuel pools of such franchised corporation.

S 3. Paragraph d of subdivision 1 of section 318 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part B of chapter 59 of the laws of 2005, is amended to read as follows:

d. Every harness racing association or corporation shall pay to the [board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily on-track pari-mutuel pools of such association or corporation.

S 4. The opening paragraph of subdivision 1 of section 527 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

The disposition of the retained commission from pools resulting from regular, multiple or exotic bets, as the case may be, whether placed on races run within a region or outside a region, conducted by racing corporations, harness racing associations or corporations, quarter horse racing associations or corporations or races run outside the state shall be governed by the tables in paragraphs a and b of this subdivision. The rate denominated "state tax" shall represent the rate of a reasonable tax imposed upon the retained commission for the privilege of conducting off-track pari-mutuel betting, which tax is hereby levied and shall be payable in the manner set forth in this section. Each off-track betting

corporation shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily pools of such corporation. Each corporation shall also pay twenty per centum of the breaks derived from bets on harness races and fifty per centum of the breaks derived from bets on all other races to the agriculture and New York State horse breeding and development fund and to the thoroughbred breeding and development fund, the total of such payments to be apportioned fifty per centum to each such fund. For the purposes of this section, the New York city, Suffolk, Nassau, and the Catskill regions shall constitute a single region and any thoroughbred track located within the Capital District region shall be deemed to be within such single region. A "regional meeting" shall refer to either harness or thoroughbred meetings, or both, except that a franchised corporation shall not be a regional track for the purpose of receiving distributions from bets on thoroughbred races conducted by a thoroughbred track in the Catskill region conducting a mixed meeting. With the exception of a harness racing association or corporation first licensed to conduct pari-mutuel wagering at a track located in Tioga county after January first, two thousand five, racing corporations first licensed to conduct pari-mutuel racing after January first, nineteen hundred eighty-six or a harness racing association or corporation first licensed to conduct pari-mutuel wagering at a track located in Genesee County after January first, two thousand five, and quarter horse tracks shall not be "regional tracks"; if there is more than one harness track within a region, such tracks shall evenly divide payments made pursuant to the tables in paragraphs a and b of this subdivision when neither track is running. In the event a track elects to reduce its retained percentage from any or all of its pari-mutuel pools, the payments to the track holding the race and the regional track required by paragraphs a and b of this subdivision shall be reduced in proportion to such reduction. Nothing in this section shall be construed to authorize the conduct of off-track betting contrary to the provisions of section five hundred twenty-three of this article.

S 5. Paragraph a of subdivision 1 of section 904 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

a. The applicable state tax provided for in paragraphs a and b of subdivision one of section five hundred twenty-seven of this chapter shall be one-half per centum for regular, multiple and exotic bets. Any harness racing or association or corporation, or thoroughbred racing corporation authorized pursuant to this section shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily pari-mutuel pools.

S 6. Paragraph g of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

g. Any harness racing or association or corporation, or thoroughbred racing corporation authorized pursuant to this section shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily pari-mutuel pools.

S 7. Paragraph b of subdivision 3 of section 1008 of the racing, pari-mutuel wagering and breeding law, as amended by section 7 of part B of chapter 59 of the laws of 2005, is amended to read as follows:

b. Of the sums received by the sending track, fifty percent shall be distributed to purses in addition to moneys distributed pursuant to section five hundred twenty-seven of this chapter. The off-track betting corporation shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily pools.

S 8. Paragraph d of subdivision 4 of section 1009 of the racing, pari-mutuel wagering and breeding law, as amended by section 8 of part B of chapter 59 of the laws of 2005, is amended to read as follows:

d. The operator shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily pools.

S 9. Subparagraph (iv) of paragraph i of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

(iv) Any thoroughbred racing corporation or harness racing association or corporation or off-track betting corporation authorized pursuant to this section shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of all wagering pools.

S 10. Paragraph e of subdivision 3 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

e. Any thoroughbred racing corporation or harness racing association or corporation or off-track betting corporation authorized pursuant to this section shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of all wagering pools.

S 11. Clause (B) of subparagraph 2 of paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

(B) Any harness racing or association or corporation or thoroughbred racing corporation authorized pursuant to this section shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of the total daily pari-mutuel pools.

S 12. Paragraph b of subdivision 2 of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

b. Any thoroughbred racing corporation or harness racing association or corporation or off-track betting corporation shall pay to the [racing and wagering board] COMMISSION as a regulatory fee, which fee is hereby levied, [fifty] SIXTY hundredths of one percent of all wagering pools.

S 13. This act shall take effect immediately.

PART E

Section 1. Subsection (a) of section 653 of the tax law, as amended by chapter 65 of the laws of 1985, is amended to read as follows:

(a) General. (1) Any return, statement or other document required to be made pursuant to this article shall be signed in accordance with regulations or instructions prescribed by the [tax commission] COMMISSIONER. The fact that an individual's name is signed to a return, statement, or other document, shall be prima facie evidence for all

purposes that the return, statement or other document was actually signed by him OR HER.

(2) IN THE CASE OF AN ELECTRONICALLY FILED INDIVIDUAL'S PERSONAL INCOME TAX RETURN PREPARED BY A TAX PREPARER, AN AUTHORIZATION TO FILE ANY RETURN, STATEMENT OR OTHER DOCUMENT REQUIRED TO BE MADE PURSUANT TO THIS ARTICLE SIGNED BY THE TAXPAYER IN ACCORDANCE WITH THE REGULATIONS OR INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER AND RECEIVED ELECTRONICALLY BY THE TAX PREPARER SHALL SATISFY THE SIGNATURE REQUIREMENTS UNDER THIS ARTICLE.

S 2. This act shall take effect immediately and shall apply to returns filed for taxable years beginning on or after January 1, 2014.

PART F

Section 1. Clause (C) of subparagraph (i) of paragraph (b) of subdivision 4 of section 425 of the real property tax law, as amended by section 3 of part E of chapter 83 of the laws of 2002, is amended to read as follows:

(C) For final assessment rolls to be completed in [each ensuing year] THE YEARS TWO THOUSAND FOUR THROUGH TWO THOUSAND FOURTEEN, the applicable income tax year, cost-of-living-adjustment percentage and applicable increase percentage shall all be advanced by one year, and the income standard shall be the previously-applicable income standard increased by the new cost-of-living-adjustment percentage. If there should be a year for which there is no applicable increase percentage due to a general benefit increase as defined by subdivision three of subsection (i) of section four hundred fifteen of title forty-two of the United States code, the applicable increase percentage for purposes of this computation shall be deemed to be the percentage which would have yielded that general benefit increase. FOR FINAL ASSESSMENT ROLLS TO BE COMPLETED IN TWO THOUSAND FIFTEEN AND THEREAFTER, THE APPLICABLE INCOME TAX YEAR SHALL BE ADVANCED BY ONE YEAR, AND ELIGIBILITY FOR THE ENHANCED EXEMPTION SHALL BE BASED UPON THE INCOME STANDARD APPLIED FOR FINAL ASSESSMENT ROLLS COMPLETED IN TWO THOUSAND FOURTEEN.

S 2. This act shall take effect immediately and shall apply to assessment rolls completed in 2015 and thereafter.

PART G

Section 1. Section 2 of part I of chapter 58 of the laws of 2006, relating to providing an enhanced earned income tax credit, as amended by section 1 of part L of chapter 59 of the laws of 2012, is amended to read as follows:

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2006 and before January 1, [2015] 2017.

S 2. This act shall take effect immediately.

PART H

Section 1. The general obligations law is amended by adding a new section 3-505 to read as follows:

S 3-505. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH ELECTRONIC TAX CLEARANCES FOR OCCUPATIONAL, PROFESSIONAL AND BUSINESS LICENSES.

1. AS USED IN THIS SECTION:

A. "GOVERNMENT ENTITY" MEANS THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS, INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA), OR COMBINATION THEREOF, RESPONSIBLE FOR DETERMINING WHETHER A LICENSE SHALL BE ISSUED OR RENEWED.

B. "ELECTRONIC LICENSE APPLICATION" MEANS ANY ELECTRONIC DATA FORM THAT MUST BE COMPLETED BY AN APPLICANT TO OBTAIN OR RENEW A LICENSE, OR AN ELECTRONIC DATA PROCESS WHICH IS USED BY A GOVERNMENT ENTITY TO PROCESS DATA RECEIVED FROM AN APPLICANT SEEKING TO RECEIVE OR RENEW A LICENSE.

C. "ELECTRONIC TAX CLEARANCE" MEANS AN ELECTRONIC COMMUNICATION FROM THE DEPARTMENT OF TAXATION AND FINANCE INDICATING THAT AN APPLICANT HAD NO PAST-DUE TAX LIABILITIES, AS THAT TERM IS DEFINED IN SECTION ONE HUNDRED SEVENTY-ONE-W OF THE TAX LAW, OR THAT NO CONCLUSIVE MATCH COULD BE MADE.

D. "LICENSE" MEANS ANY CERTIFICATE, LICENSE, PERMIT OR GRANT OF PERMISSION REQUIRED BY LAW OR AGENCY REGULATION AS A CONDITION FOR THE LAWFUL PRACTICE OF ANY OCCUPATION, EMPLOYMENT, TRADE, VOCATION, BUSINESS, OR PROFESSION, INCLUDING ANY REGISTRATION REQUIRED BY LAW OR AGENCY REGULATION AS A CONDITION FOR SUCH LAWFUL PRACTICE. THIS SHALL INCLUDE, BUT IS NOT LIMITED TO, ANY LICENSE GRANTED TO AN INDIVIDUAL OR ENTITY BY THE STATE EDUCATION DEPARTMENT, THE DEPARTMENT OF STATE, OR THE OFFICE OF COURT ADMINISTRATION. PROVIDED, HOWEVER, THAT "LICENSE" SHALL NOT, FOR THE PURPOSES OF THIS SECTION, INCLUDE ANY LICENSE OR PERMIT TO OWN, POSSESS, CARRY, OR FIRE ANY EXPLOSIVE, PISTOL, HANDGUN, RIFLE, SHOTGUN, OTHER FIREARM OR AMMUNITION.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND WHEN NOT ALREADY REQUIRED BY ANOTHER PROVISION OF LAW OR REGULATION, ANY GOVERNMENT ENTITY MAY ELECT TO CONDITION THE ISSUANCE OR RENEWAL OF A LICENSE ON THE ABSENCE OF PAST-DUE TAX LIABILITIES AND TO MAKE SUCH DETERMINATION THROUGH THE RECEIPT OF AN ELECTRONIC TAX CLEARANCE FROM THE DEPARTMENT OF TAXATION AND FINANCE AS PROVIDED FOR IN SECTION ONE HUNDRED SEVENTY-ONE-W OF THE TAX LAW.

3. ANY APPLICANT FOR A LICENSE SUBJECT TO ELECTRONIC TAX CLEARANCE SHALL BE REQUIRED TO PROVIDE ANY INFORMATION DEEMED NECESSARY BY THE GOVERNMENT ENTITY AND THE DEPARTMENT OF TAXATION AND FINANCE TO EFFICIENTLY AND ACCURATELY PROVIDE AN ELECTRONIC TAX CLEARANCE, AND THE FAILURE BY THE APPLICANT TO PROVIDE SUCH INFORMATION SHALL RENDER THE APPLICATION INCOMPLETE.

4. THE APPLICATION FOR A LICENSE SUBJECT TO ELECTRONIC TAX CLEARANCE, OR THE INSTRUCTIONS FOR SUCH APPLICATION, SHALL CLEARLY INFORM THE APPLICANT THAT AN ELECTRONIC TAX CLEARANCE WILL BE PERFORMED AND THAT, IF THE TAX CLEARANCE IS DENIED, THE APPLICANT MUST CONTACT THE DEPARTMENT OF TAXATION AND FINANCE TO RESOLVE ANY PAST-DUE TAX LIABILITIES BEFORE THE APPLICATION FOR A LICENSE OR RENEWAL MAY BE RESUBMITTED.

5. IF AN ELECTRONIC TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXATION AND FINANCE, THE GOVERNMENT ENTITY SHALL DENY ISSUANCE OR RENEWAL OF THE REQUESTED LICENSE AND SHALL ELECTRONICALLY NOTIFY THE APPLICANT TO CONTACT THE DEPARTMENT OF TAXATION AND FINANCE TO RESOLVE THE PAST-DUE TAX LIABILITIES AND THAT NO LICENSE MAY BE ISSUED OR RENEWED UNTIL THE TAX LIABILITIES ARE RESOLVED.

6. ANY TAX CLEARANCE OR RELATED COMMUNICATIONS SHALL BE BY SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT OF TAXATION AND FINANCE AND THE REQUESTING GOVERNMENT ENTITY SUCH THAT PROCESSING OF THE ELECTRONIC APPLICATION IS NOT DELAYED IF THE ELECTRONIC TAX CLEARANCE IS RECEIVED. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A GOVERNMENT

ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR INFORMATION WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT IS NECESSARY TO ENSURE THE PROPER MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPARTMENT OF TAXATION AND FINANCE.

7. NO FEE SHALL BE CHARGED TO THE APPLICANT FOR THE PURPOSES OF RECEIVING AN ELECTRONIC TAX CLEARANCE.

S 2. The tax law is amended by adding a new section 171-w to read as follows:

S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH ELECTRONIC TAX CLEARANCES FOR OCCUPATIONAL, PROFESSIONAL AND BUSINESS LICENSES. 1. IN ACCORDANCE WITH SECTION 3-505 OF THE GENERAL OBLIGATIONS LAW, THE COMMISSIONER SHALL COOPERATE WITH ANY GOVERNMENT ENTITY THAT ELECTS TO REQUIRE AN ELECTRONIC TAX CLEARANCE AS A PART OF AN ELECTRONIC LICENSE APPLICATION PROCESS FOR WHICH THE GOVERNMENT ENTITY IS RESPONSIBLE. FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES" SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER, OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES EQUAL TO OR IN EXCESS OF FIVE HUNDRED DOLLARS WHICH HAVE BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO ADMINISTRATIVE OR JUDICIAL REVIEW. FOR THE PURPOSES OF THIS SECTION, THE TERMS "GOVERNMENT ENTITY," "ELECTRONIC LICENSE APPLICATION," AND "LICENSE" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 3-505 OF THE GENERAL OBLIGATIONS LAW.

2. THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY GOVERNMENT ENTITY EXERCISING ITS AUTHORITY PURSUANT TO SECTION 3-505 OF THE GENERAL OBLIGATIONS LAW TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL ELECTRONICALLY RECEIVE A TAX CLEARANCE REQUEST AS AN ELECTRONIC LICENSE APPLICATION IS PROCESSED, AND ELECTRONICALLY TRANSMIT SUCH TAX CLEARANCE TO THE GOVERNMENT ENTITY. THESE PROCEDURES SHALL INCLUDE THE IDENTIFICATION OF OWNERS, OFFICERS OR RESPONSIBLE PERSONS SUBJECT TO ELECTRONIC TAX CLEARANCE IN CONJUNCTION WITH AN APPLICATION BY AN ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.

3. IN ANY INSTANCE WHERE A LICENSE OR LICENSE RENEWAL PROVIDED BY THE GOVERNMENT ENTITY IS OF A TYPE THAT MAY BE ISSUED ONLY TO AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER, THE DEPARTMENT SHALL ALSO VERIFY THAT THE APPLICANT IS REGISTERED PURSUANT TO SUCH SECTION, AND NO ELECTRONIC TAX CLEARANCE MAY BE ISSUED UNLESS THE APPLICANT IS REGISTERED PURSUANT TO SUCH SECTION.

4. IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY PROCESSING THE APPLICATION SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT SHALL INFORM THE APPLICANT (A) WHAT PAST-DUE TAX LIABILITIES ARE AT ISSUE; (B) THAT AN ELECTRONIC TAX CLEARANCE MAY BE RECEIVED BY FULLY SATISFYING THE PAST-DUE TAX LIABILITIES OR BY MAKING PAYMENT ARRANGEMENTS SATISFACTORY TO THE COMMISSIONER OR, IF THE APPLICANT NEEDS TO REGISTER FOR SALES TAX PURPOSES, BY REGISTERING PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER; AND (C) THE GROUNDS FOR CHALLENGING THE DENIAL OF AN ELECTRONIC TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS SECTION. THE GOVERNMENT ENTITY SHALL ALSO INFORM THE APPLICANT THAT AN APPLICATION MAY BE RESUBMITTED AFTER PAYMENT FOR THE PAST-DUE TAX LIABILITIES HAS CLEARED, OR, IF A PAYMENT PLAN IS AGREED TO, AFTER THE FIRST PAYMENT PURSUANT TO SUCH PLAN HAS CLEARED.

5. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED AN ELECTRONIC TAX

CLEARANCE SHALL HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED TO THE DENIAL OF AN ELECTRONIC TAX CLEARANCE BY THE DEPARTMENT. AN APPLICANT MAY CHALLENGE SUCH DENIAL OF AN ELECTRONIC TAX CLEARANCE ONLY ON THE GROUNDS THAT:

(I) THE INDIVIDUAL OR ENTITY DENIED THE ELECTRONIC TAX CLEARANCE IS NOT THE INDIVIDUAL OR ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE PAST-DUE TAX LIABILITIES AT ISSUE; (IV) THE APPLICANT IS MAKING CHILD SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY OF THE FAMILY COURT ACT; OR (V) IF THE ONLY BASIS FOR THE DENIAL OF AN ELECTRONIC TAX CLEARANCE WAS THE APPLICANT'S FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER, THAT THE APPLICANT WAS PROPERLY REGISTERED PURSUANT TO SUCH SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR.

(B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF AN ELECTRONIC TAX CLEARANCE MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER THAN SIXTY DAYS FROM THE DATE OF THE ELECTRONIC NOTIFICATION TO THE APPLICANT, PURSUANT TO SUBDIVISION FOUR OF SECTION 3-505 OF THE GENERAL OBLIGATIONS LAW, THAT THE ELECTRONIC TAX CLEARANCE WAS DENIED.

(C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978 (TITLE ELEVEN OF THE UNITED STATES CODE).

6. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION NECESSARY THAT, IN THE DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF ANY ELECTRONIC TAX CLEARANCE. HOWEVER, NO OTHER AGENCY MAY RE-DISCLOSE THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE PURPOSE OF INFORMING THE APPLICANT THAT THE APPLICATION FOR A LICENSE OR THE RENEWAL OF SUCH LICENSE WILL NOT BE PROCESSED DUE TO THE LACK OF A REQUIRED TAX CLEARANCE AUTHORIZED BY ANY PROVISION OF LAW UNLESS OTHERWISE PERMITTED BY LAW.

7. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

8. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION ONE HUNDRED SEVENTY-ONE-V OF THIS CHAPTER.

S 3. This act shall take effect June 1, 2014; provided, however, that the department of taxation and finance and any government entity electing to receive an electronic tax clearance from the department of taxa-

tion and finance may work to execute the necessary procedures and technical changes to support the electronic tax clearance process as described in sections one and two of this act before that date; provided, further, that this effective date will not impact the administration of any electronic tax clearance program authorized by another provision of law.

PART I

Section 1. Subsection (b) of section 612 of the tax law is amended by adding a new paragraph 40 to read as follows:

(40) IN THE CASE OF A BENEFICIARY OF A NONRESIDENT TRUST OR A TRUST NOT SUBJECT TO TAX PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE (EXCEPT FOR AN INCOMPLETE GIFT NON-GRANTOR TRUST, AS DEFINED BY PARAGRAPH FORTY-ONE OF THIS SUBSECTION), THE AMOUNT OF ANY ACCUMULATION DISTRIBUTION AS DESCRIBED IN SUBSECTION (B) OF SECTION SIX HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE FOR THE TAX YEAR, SUCH AMOUNT TO BE DETERMINED WITHOUT REGARD TO THE PENULTIMATE SENTENCE OF SUCH SUBSECTION THAT REFERENCES SECTION SIX HUNDRED SIXTY-SEVEN OF SUCH CODE, AND WITHOUT REGARD TO SUBSECTION (C) OF SECTION SIX HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, TO THE EXTENT NOT ALREADY INCLUDED IN FEDERAL GROSS INCOME FOR THE TAX YEAR.

S 2. Subsection (b) of section 612 of the tax law is amended by adding a new paragraph 41 to read as follows:

(41) IN THE CASE OF A TAXPAYER WHO TRANSFERRED PROPERTY TO AN INCOMPLETE GIFT NON-GRANTOR TRUST, THE INCOME OF THE TRUST, LESS ANY DEDUCTIONS OF THE TRUST, TO THE EXTENT SUCH INCOME AND DEDUCTIONS OF SUCH TRUST WOULD BE TAKEN INTO ACCOUNT IN COMPUTING THE TAXPAYER'S FEDERAL TAXABLE INCOME IF SUCH TRUST IN ITS ENTIRETY WERE TREATED AS A GRANTOR TRUST FOR FEDERAL TAX PURPOSES. FOR PURPOSES OF THIS PARAGRAPH, AN "INCOMPLETE GIFT NON-GRANTOR TRUST" MEANS A RESIDENT TRUST THAT MEETS THE FOLLOWING CONDITIONS: (I) THE TRUST DOES NOT QUALIFY AS A GRANTOR TRUST UNDER SECTION SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVENTY-NINE OF THE INTERNAL REVENUE CODE, AND (2) THE GRANTOR'S TRANSFER OF ASSETS TO THE TRUST IS TREATED AS AN INCOMPLETE GIFT UNDER SECTION TWENTY-FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS THEREUNDER.

S 3. Section 621 of the tax law, as added by chapter 272 of the laws of 1963 and subsection (a) as amended by chapter 267 of the laws of 1987, is amended to read as follows:

S 621. [Credit] CREDITS to trust beneficiary receiving accumulation distribution. (a) General. A resident beneficiary of a trust whose New York adjusted gross income includes all or part of an accumulation distribution by such trust, as defined in section six hundred sixty-five of the internal revenue code, INCLUDING A BENEFICIARY WHO IS REQUIRED TO MAKE THE MODIFICATION REQUIRED BY PARAGRAPH FORTY OF SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE OF THIS PART, shall be allowed (1) a credit against the tax otherwise due under this article for all or a proportionate part of any tax paid by the trust under this article or under FORMER article sixteen of this chapter (as such article was in effect on or before December thirtieth, nineteen hundred sixty), for any preceding taxable year which would not have been payable if the trust had in fact made distributions to its beneficiaries at the times and in the amounts specified in section six hundred sixty-six of the internal revenue code; AND (2) A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE FOR THE TAXA-

BLE YEAR FOR ANY INCOME TAX IMPOSED ON THE TRUST FOR THE TAXABLE YEAR OR ANY PRIOR TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, UPON INCOME BOTH DERIVED THEREFROM AND SUBJECT TO TAX UNDER THIS ARTICLE, PROVIDED THAT THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE PERCENTAGE OF THE TAX OTHERWISE DUE UNDER THIS ARTICLE DETERMINED BY DIVIDING THE PORTION OF THE INCOME THAT IS BOTH TAXABLE TO THE TRUST IN SUCH OTHER JURISDICTION AND TAXABLE TO THE BENEFICIARY UNDER THIS ARTICLE BY THE TOTAL AMOUNT OF THE BENEFICIARY'S NEW YORK INCOME.

(b) Limitation. The [credit] CREDITS under this section shall not reduce the tax otherwise due from the beneficiary under this article to an amount less than would have been due if the accumulation distribution or his part thereof were excluded from his New York adjusted gross income.

S 4. Section 658 of the tax law is amended by adding a new subsection (f) to read as follows:

(F) (1) EVERY NONRESIDENT TRUST OR A TRUST DESCRIBED BY SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE SHALL MAKE A RETURN FOR ANY TAXABLE YEAR IN WHICH IT MAKES AN ACCUMULATION DISTRIBUTION WITHIN THE MEANING OF SUBDIVISION (B) OF SECTION SIX HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE TO A BENEFICIARY WHO IS A RESIDENT, WHICH RETURN SHALL INCLUDE (I) INFORMATION IDENTIFYING SUCH RESIDENT, (II) THE AMOUNT OF SUCH ACCUMULATION DISTRIBUTION, AND (III) SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE.

(2) EVERY RESIDENT TRUST THAT DOES NOT FILE THE RETURN REQUIRED BY SECTION SIX HUNDRED FIFTY-ONE OF THIS PART ON THE GROUND THAT IT IS NOT SUBJECT TO TAX PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE FOR THE TAXABLE YEAR SHALL MAKE A RETURN FOR SUCH TAXABLE YEAR SUBSTANTIATING ITS ENTITLEMENT TO THAT EXEMPTION AND PROVIDING SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE.

(3) THE RETURNS REQUIRED BY THIS SUBSECTION SHALL BE FILED ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF EACH TAXABLE YEAR. FOR PURPOSES OF THIS PARAGRAPH, "TAXABLE YEAR" MEANS A YEAR OR A PERIOD WHICH WOULD BE A TAXABLE YEAR OF THE TRUST IF IT WERE SUBJECT TO TAX UNDER THIS ARTICLE.

S 5. Paragraph 2 of subsection (h) of section 685 of the tax law, as amended by chapter 190 of the laws of 1990, is amended to read as follows:

(2) If any partnership [or], S corporation, OR TRUST required to file a return or report under subsection (c) OR SUBSECTION (F) of section six hundred fifty-eight or under section six hundred fifty-nine OF THIS ARTICLE for any taxable year fails to file such return or report at the time prescribed therefor (determined with regard to any extension of time for filing), or files a return or report which fails to show the information required under such subsection (c) or section six hundred fifty-nine OF THIS ARTICLE, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall, upon notice and demand by the commissioner and in the same manner as tax, be paid by the partnership or S corporation a penalty for each month (or fraction thereof) during which such failure continues (but not to exceed five months). The amount of such penalty for any month is the product of fifty dollars, multiplied by the number of partners in the partnership or shareholders in the S corporation during any part of the taxable year who were subject to tax under this article during any part of such taxable year, EXCEPT THAT, IN THE CASE OF A TRUST, THE PENALTY SHALL BE

EQUAL TO ONE HUNDRED FIFTY DOLLARS A MONTH UP TO A MAXIMUM OF FIFTEEN HUNDRED DOLLARS PER TAXABLE YEAR.

S 6. Subdivision (b) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 36 to read as follows:

(36) IN THE CASE OF A BENEFICIARY OF A NONRESIDENT TRUST OR A TRUST NOT SUBJECT TO TAX PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION 11-1705 OF THIS CHAPTER (EXCEPT FOR AN INCOMPLETE GIFT NON-GRANTOR TRUST, AS DEFINED BY PARAGRAPH THIRTY-SEVEN OF THIS SUBDIVISION), THE AMOUNT OF ANY ACCUMULATION DISTRIBUTION AS DESCRIBED IN SUBSECTION (B) OF SECTION SIX HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE FOR THE TAX YEAR, SUCH AMOUNT TO BE DETERMINED WITHOUT REGARD TO THE PENULTIMATE SENTENCE OF SUCH SUBSECTION THAT REFERENCES SECTION SIX HUNDRED SIXTY-SEVEN OF SUCH CODE AND WITHOUT REGARD TO SUBSECTION (C) OF SECTION SIX HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE, TO THE EXTENT NOT ALREADY INCLUDED IN FEDERAL GROSS INCOME FOR THE TAX YEAR.

S 7. Subdivision (b) of section 11-1712 of the administrative code of the city of New York is amended by adding a new paragraph 37 to read as follows:

(37) IN THE CASE OF A TAXPAYER WHO TRANSFERRED PROPERTY TO AN INCOMPLETE GIFT NON-GRANTOR TRUST, THE INCOME OF THE TRUST, LESS ANY DEDUCTIONS OF SUCH TRUST, TO THE EXTENT SUCH INCOME AND DEDUCTIONS OF SUCH TRUST WOULD BE TAKEN INTO ACCOUNT IN COMPUTING THE TAXPAYER'S FEDERAL TAXABLE INCOME IF SUCH TRUST IN ITS ENTIRETY WERE TREATED AS A GRANTOR TRUST FOR FEDERAL TAX PURPOSES. FOR PURPOSES OF THIS PARAGRAPH, AN "INCOMPLETE GIFT NON-GRANTOR TRUST" MEANS A RESIDENT TRUST THAT MEETS THE FOLLOWING CONDITIONS: (I) THE TRUST DOES NOT QUALIFY AS A GRANTOR TRUST UNDER SECTION SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVENTY-NINE OF THE INTERNAL REVENUE CODE, AND (2) THE GRANTOR'S TRANSFER OF ASSETS TO THE TRUST IS TREATED AS AN INCOMPLETE GIFT UNDER SECTION TWENTY FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS THEREUNDER.

S 8. Section 11-1721 of the administrative code of the city of New York, subdivisions (a) and (b) as amended by section 72 and such section as renumbered by section 43 of chapter 639 of the laws of 1986, is amended to read as follows:

S 11-1721 [Credit] CREDITS to trust beneficiary receiving accumulation distribution. (a) General. A city resident beneficiary of a trust whose city adjusted gross income includes all or part of an accumulation distribution by such trust, as defined in section six hundred sixty-five of the internal revenue code, INCLUDING A BENEFICIARY WHO IS REQUIRED TO MAKE THE MODIFICATION REQUIRED BY PARAGRAPH THIRTY-SIX OF SUBDIVISION (B) OF SECTION 11-1712 OF THIS SUBCHAPTER, shall be allowed (1) a credit against the tax otherwise due under this chapter for all or a proportionate part of any tax paid by the trust under this chapter or under FORMER title T of chapter forty-six of this code, as it was in effect prior to September first, nineteen hundred eighty-six, for any preceding taxable year which would not have been payable if the trust had in fact made distributions to its beneficiaries at the times and in the amounts specified in section six hundred sixty-six of the internal revenue code; AND (2) A CREDIT AGAINST THE TAXES IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR FOR ANY INCOME TAX IMPOSED FOR THE TAXABLE YEAR OR ANY PRIOR TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, UPON INCOME BOTH DERIVED THEREFROM AND SUBJECT TO TAX UNDER THIS CHAPTER, PROVIDED THAT THE

AMOUNT OF THE CREDIT SHALL NOT EXCEED THE PERCENTAGE OF THE TAX OTHERWISE DUE UNDER THIS CHAPTER DETERMINED BY DIVIDING THE PORTION OF THE INCOME THAT IS BOTH TAXABLE TO THE TRUST IN SUCH OTHER JURISDICTION AND TAXABLE TO THE BENEFICIARY UNDER THIS CHAPTER BY THE TOTAL AMOUNT OF THE BENEFICIARY'S NEW YORK CITY INCOME.

(b) Limitation. The [credit] CREDITS under this section shall not reduce the tax otherwise due from the beneficiary under this chapter to an amount less than would have been due if the accumulation distribution or his or her part thereof were excluded from his or her city adjusted gross income.

S 9. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014, provided that sections one and six of this act shall not apply to income of an exempt resident trust paid to a beneficiary before June 1, 2014, and sections two and seven of this act shall not apply to income from a trust that is liquidated before June 1, 2014.

PART J

Section 1. Section 602 of the tax law is REPEALED.

S 2. Paragraph 4 of subsection (c) and paragraph 4 of subsection (d) of section 606 of the tax law, paragraph 4 of subsection (c) as added by chapter 309 of the laws of 1996 and paragraph 4 of subsection (d) as amended by chapter 2 of the laws of 1995, are amended to read as follows:

(4) Part-year residents. In the case of a part-year resident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one reduced by the credit permitted under subsection (b) of this section, and any excess credit after such application shall be allowed against the [taxes] TAX imposed by [sections six hundred two and] SECTION six hundred three. Any remaining excess, after such application, shall be refunded as provided in paragraph two hereof, provided, however, that any overpayment under such paragraph shall be limited to the amount of the remaining excess multiplied by a fraction, the numerator of which is federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and the denominator of which is federal adjusted gross income for the taxable year.

(4) Part-year residents. In the case of a part-year resident taxpayer, the credit under this subsection shall be allowed against the tax determined under subsections (a) through (d) of section six hundred one reduced by the credits permitted under subsections (b), (c) and (m) of this section, and any excess credit after such application shall be allowed against the [taxes] TAX imposed by [sections six hundred two and] SECTION six hundred three. Any remaining excess, after such application, shall be refunded as provided in paragraph two hereof, provided, however, that any overpayment under such paragraph shall be limited to the amount of the remaining excess multiplied by a fraction, the numerator of which is federal adjusted gross income for the period of residence, computed as if the taxable year for federal income tax purposes were limited to the period of residence, and the denominator of which is federal adjusted gross income for the taxable year.

S 3. Section 622 of the tax law is REPEALED.

S 4. Section 636 of the tax law is REPEALED.

S 5. Subsections (a), (b) and (c) of section 639 of the tax law, as added by chapter 170 of the laws of 1994, are amended to read as follows:

(a) If an individual changes status from resident to nonresident he shall, regardless of his method of accounting, accrue to the period of residence any items of income, gain, loss, deduction, [items of tax preference] or ordinary income portion of a lump sum distribution accruing prior to the change of status, with the applicable modifications and adjustments to federal adjusted gross income[,] AND itemized deductions [and items of tax preference] under sections six hundred twelve[,] AND six hundred fifteen [and six hundred twenty-two], if not otherwise properly includible or allowable for New York income tax purposes for such period or a prior taxable year under his method of accounting.

(b) If an individual changes status from nonresident to resident he shall, regardless of his method of accounting, accrue to the period of nonresidence any items of income, gain, loss or deduction, [items of tax preference] or ordinary income portion of a lump sum distribution accruing prior to the change of status, with the applicable modifications and adjustments to federal adjusted gross income[,] AND itemized deductions [and items of tax preference] under sections six hundred twelve[,] AND six hundred fifteen [and six hundred twenty-two], other than items derived from or connected with New York sources, if not otherwise properly includible or allowable for New York income tax purposes for such period or for a prior taxable year under his method of accounting.

(c) No item of income, gain, loss, deduction, [item of tax preference,] ordinary income portion of a lump sum distribution or modification or adjustment which is accrued under this section shall be taken into account in determining the tax under this article for any subsequent taxable year.

S 6. Paragraphs 1, 2, 3 and 4 of subsection (a) of section 651 of the tax law, paragraph 1 as amended by chapter 333 of the laws of 1987, paragraph 2 as amended by chapter 28 of the laws of 1987, and paragraphs 3 and 4 as amended by chapter 170 of the laws of 1994, are amended to read as follows:

(1) every resident individual (A) required to file a federal income tax return for the taxable year, or (B) having federal adjusted gross income for the taxable year, increased by the modifications under subsection (b) of section six hundred twelve, in excess of four thousand dollars, or in excess of his New York standard deduction, if lower, or (C) [subject to tax under section six hundred two, or (D)] having received during the taxable year a lump sum distribution any portion of which is subject to tax under section six hundred three;

(2) every resident estate or trust required to file a federal income tax return for the taxable year, or having any New York taxable income for the taxable year, determined under section six hundred eighteen, [or subject to tax under section six hundred two,] or having received during the taxable year a lump sum distribution any portion of which is subject to tax under section six hundred three;

(3) every nonresident or part-year resident individual having New York source income for the taxable year, determined under part III of this article, and having New York adjusted gross income for the taxable year, determined under part II of this article, in excess of the taxpayer's New York standard deduction, [or subject to tax under section six hundred two,] or having received during the taxable year a lump sum distribution any portion of which is subject to tax under section six hundred three; and

(4) every nonresident estate or trust or part-year resident trust having New York source income for the taxable year, determined under part III of this article, and having New York adjusted gross income for the taxable year, determined under paragraph four of subsection (e) of section six hundred one, [or subject to tax under section six hundred two,] or having received during the taxable year a lump sum distribution any portion of which is subject to tax under section six hundred three.

S 7. Paragraph 6 of subsection (b) of section 654 of the tax law, as added by section 5 of part Q of chapter 407 of the laws of 1999, is amended to read as follows:

(6) In subparagraph (B) of paragraph two of subsection (d), the phrase "section 1 or 55" shall be read as "section six hundred one [or six hundred two] of this article".

S 8. Section 659 of the tax law, as amended by chapter 577 of the laws of 1997, is amended to read as follows:

S 659. Report of federal changes, corrections or disallowances. If the amount of a taxpayer's federal taxable income, [federal items of tax preference,] total taxable amount or ordinary income portion of a lump sum distribution or includible gain of a trust reported on his federal income tax return for any taxable year, or the amount of a taxpayer's earned income credit or credit for employment-related expenses set forth on such return, or the amount of any federal foreign tax credit affecting the calculation of the credit for Canadian provincial taxes under section six hundred twenty or six hundred twenty-A of this article, or the amount of any claim of right adjustment, is changed or corrected by the United States internal revenue service or other competent authority or as the result of a renegotiation of a contract or subcontract with the United States, or the amount an employer is required to deduct and withhold from wages for federal income tax withholding purposes is changed or corrected by such service or authority or if a taxpayer's claim for credit or refund of federal income tax is disallowed in whole or in part, the taxpayer or employer shall report such change or correction or disallowance within ninety days after the final determination of such change, correction, renegotiation or disallowance, or as otherwise required by the commissioner, and shall concede the accuracy of such determination or state wherein it is erroneous. The allowance of a tentative carryback adjustment based upon a net operating loss carryback pursuant to section sixty-four hundred eleven of the internal revenue code shall be treated as a final determination for purposes of this section. Any taxpayer filing an amended federal income tax return and any employer filing an amended federal return of income tax withheld shall also file within ninety days thereafter an amended return under this article, and shall give such information as the commissioner may require. The commissioner may by regulation prescribe such exceptions to the requirements of this section as he or she deems appropriate. For purposes of this section, (i) the term "taxpayer" shall include a partnership having a resident partner or having any income derived from New York sources, and a corporation with respect to which the taxable year of such change, correction, disallowance or amendment is a year with respect to which the election provided for in subsection (a) of section six hundred sixty of this article is in effect, and (ii) the term "federal income tax return" shall include the returns of income required under sections six thousand thirty-one and six thousand thirty-seven of the internal revenue code. In the case of such a corporation, such report shall also include any change or correction of the taxes described in paragraphs two and three of subsection (f) of section thir-

teen hundred sixty-six of the internal revenue code. Reports made under this section by a partnership or corporation shall indicate the portion of the change in each item of income, gain, loss or deduction (and, in the case of a corporation, of each change in, or disallowance of a claim for credit or refund of, a tax referred to in the preceding sentence) allocable to each partner or shareholder and shall set forth such identifying information with respect to such partner or shareholder as may be prescribed by the commissioner.

S 9. Subsection (d) of section 683 of the tax law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(d) Omission of income, [item of tax preference,] total taxable amount or ordinary income portion of a lump sum distribution on return.--The tax may be assessed at any time within six years after the return was filed if--

(1) an individual omits from his New York adjusted gross income, [the sum of his items of tax preference,] or the total taxable amount or ordinary income portion of a lump sum distribution an amount properly includible therein which is in excess of twenty-five percent of the amount of New York adjusted gross income, [the sum of the items of tax preference,] or the total taxable amount or ordinary income portion of a lump sum distribution stated in the return, or

(2) an estate or trust omits from its New York adjusted gross income, [the sum of its items of tax preference,] or the total taxable amount or ordinary income portion of a lump sum distribution an amount properly includible therein which is in excess of twenty-five percent of the amount stated in the return of New York adjusted gross income determined in accordance with paragraph four of subsection (e) of section six hundred one, [or the sum of the items of tax preference,] or the total taxable amount or ordinary income portion of a lump sum distribution, respectively. For purposes of this subsection 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 commissioner of the nature and amount of the item of income, [tax preference,] total taxable amount or ordinary income portion of a lump sum distribution.

S 10. Subparagraph (B) of paragraph 4 of subsection (c) of section 685 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(B) Determination of annualized income installment.--In the case of any required installment, the annualized income installment is the excess, if any, of an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income [and minimum taxable income] for months in the taxable year ending before the due date for the installment, over the aggregate amount of any prior required installments for the taxable year. The applicable percentage of the tax shall be twenty-two and one-half percent in the case of the first installment, forty-five percent in the case of the second installment, sixty-seven and one-half percent in the case of the third installment and ninety percent in the case of the fourth installment, and shall be computed without regard to any increase in the rates applicable to the taxable year unless such increase was enacted at least thirty days prior to the due date of the installment.

S 11. Paragraphs 2 and 3 of subsection (a) of section 1301 of the tax law, as amended by chapter 209 of the laws of 2011, are amended to read as follows:

(2) [for taxable years beginning before two thousand fifteen, a city minimum income tax on such residents, and

(3)] for taxable years beginning after nineteen hundred seventy-six, a separate tax on the ordinary income portion of lump sum distributions of such residents, at the rates provided for herein, such taxes to be administered, collected and distributed by the commissioner as provided for in this article.

S 12. Section 1301-A of the tax law is REPEALED.

S 13. Subsection (a) of section 1302 of the tax law, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(a) Imposition of tax. The city personal income tax (other than the [city minimum income tax and the] city separate tax on the ordinary income portion of lump sum distributions) imposed pursuant to the authority of this article shall be imposed for each taxable year on the city taxable income of every city resident individual, estate and trust. A taxpayer's taxable year for purposes of a tax imposed pursuant to the authority of this article shall be the same as his taxable year under article twenty-two of this chapter.

S 14. The opening paragraph of subsection (a) of section 1304 of the tax law, as amended by section 134 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

A tax (other than the [city minimum income tax, the] city separate tax relating to qualified higher education funds and the city separate tax on the ordinary income portion of lump sum distributions) imposed pursuant to the authority of section thirteen hundred one of this article shall be determined as follows:

S 15. Subsection (c) of section 1307 of the tax law, as amended by chapter 712 of the laws of 2004, is amended to read as follows:

(c) When an individual changes his status from city resident to city nonresident, or from city nonresident to city resident, he shall, regardless of his method of accounting, accrue any items of income, gain, loss, deduction[, items of tax preference] or ordinary income portion of a lump sum distribution accruing prior to the change of status, with the applicable modifications and adjustments to federal adjusted gross income[,] AND itemized deductions [and items of tax preference] under sections six hundred twelve[,] AND six hundred fifteen [and six hundred twenty-two], if not otherwise properly includible or allowable for New York income tax purposes for such period or a prior taxable year under his method of accounting. Such accruals shall be made as provided in section six hundred thirty-nine of this chapter.

S 16. Subsection (a) of section 1306 of the tax law, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(a) General. On or before the fifteenth day of the fourth month following the close of a taxable year, an income tax return under a city tax imposed pursuant to the authority of this article shall be made and filed by or for every city resident individual, estate or trust required to file a New York state personal income tax (including [a minimum income tax and] a city separate tax on the ordinary income portion of lump sum distributions) return for the taxable year.

S 17. Section 11-1702 of the administrative code of the city of New York is REPEALED.

S 18. Subdivision (a) of section 11-1704 of the administrative code of the city of New York, as amended by chapter 17 of the laws of 1997, is amended to read as follows:

(a) In addition to the taxes imposed by sections 11-1701[, 11-1702] and 11-1703, there is hereby imposed for each taxable year beginning

after nineteen hundred eighty-nine but before nineteen hundred ninety-nine, a tax surcharge on the city taxable income of every city resident individual, estate and trust.

S 19. Subdivision (c) of section 11-1704 of the administrative code of the city of New York, as amended by chapter 271 of the laws of 1991, is amended to read as follows:

(c) The tax surcharge imposed pursuant to this section shall be administered, collected and distributed by the commissioner of taxation and finance in the same manner as the taxes imposed pursuant to sections 11-1701[, 11-1702] and 11-1703, and all of the provisions of this chapter, including sections 11-1706, 11-1721 and 11-1773, shall apply to the tax surcharge imposed by this section.

S 20. Section 11-1722 of the administrative code of the city of New York is REPEALED.

S 21. Subdivision (a) of section 11-1751 of the administrative code of the city of New York, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(a) General. On or before the fifteenth day of the fourth month following the close of a taxable year, an income tax return under this chapter shall be made and filed by or for every city resident individual, estate or trust required to file a New York state personal income tax (including a [minimum income tax and] separate tax on the ordinary income portion of lump sum distributions) return for the taxable year.

S 22. Subdivision (b) of section 11-1754 of the administrative code of the city of New York, as amended by chapter 712 of the laws of 2004, is amended to read as follows:

(b) City taxable income [and city minimum taxable income] as city resident. The city taxable income [and city minimum taxable income] for the portion of the year during which he or she is a city resident shall be determined, except as provided in subdivision (c), as if his or her taxable year for federal income tax purposes were limited to the period of his or her city resident status.

S 23. Paragraph 6 of subdivision (b) of section 11-1755 of the administrative code of the city of New York, as added by section 17 of part Q of chapter 407 of the laws of 1999, is amended to read as follows:

(6) In subparagraph (B) of paragraph two of subsection (d), the phrase "section 1 or 55" shall be read as "section 11-1701 [or 11-1702] of this chapter".

S 24. Section 11-1759 of the administrative code of the city of New York, as amended by chapter 577 of the laws of 1997, is amended to read as follows:

S 11-1759 Report of federal changes, corrections or disallowances. If the amount of a taxpayer's federal taxable income, [federal items of tax preference,] total taxable amount or ordinary income portion of a lump sum distribution or includible gain of a trust reported on his federal income tax return for any taxable year, or the amount of any claim of right adjustment, is changed or corrected by the United States internal revenue service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States or the amount an employer is required to deduct and withhold from wages for federal income tax withholding purposes is changed or corrected by such service or authority or if a taxpayer's claim for credit or refund of federal income tax is disallowed in whole or in part, the taxpayer or employer shall report such change or correction or disallowance within ninety days after the final determination of such change, correction, renegotiation, or disallowance, or as otherwise required by the commis-

sioner, and shall concede the accuracy of such determination or state wherein it is erroneous. The allowance of a tentative carryback adjustment based upon a net operating loss carryback pursuant to section sixty-four hundred eleven of the internal revenue code shall be treated as a final determination for purposes of this section. Any taxpayer filing an amended federal income tax return and any employer filing an amended federal return of income tax withheld shall also file within ninety days thereafter an amended return under this chapter, and shall give such information as the commissioner may require. The commissioner may by regulation prescribe such exceptions to the requirements of this section as he or she deems appropriate. For purposes of this section, (i) the term "taxpayer" shall include a partnership having a resident partner or having any income derived from New York sources, and a corporation with respect to which the taxable year of such change, correction, disallowance or amendment is a year with respect to which the election provided for in subsection (a) of section six hundred sixty of the tax law is in effect, and (ii) the term "federal income tax return" shall include the returns of income required under sections six thousand thirty-one and six thousand thirty-seven of the internal revenue code. In the case of such a corporation, such report shall also include any change or correction of the taxes described in paragraphs two and three of subsection (f) of section thirteen hundred sixty-six of the internal revenue code. Reports made under this section by a partnership or corporation shall indicate the portion of the change in each item of income, gain, loss or deduction (and, in the case of a corporation, of each change in, or disallowance of a claim for credit or refund of, a tax referred to in the preceding sentence) allocable to each partner or shareholder and shall set forth such identifying information with respect to such partner or shareholder as may be prescribed by the commissioner.

S 25. Subdivision (d) of section 11-1783 of the administrative code of the city of New York, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

(d) Omission of income, [item of tax preference,] total taxable amount or ordinary income portion of a lump sum distribution on return. The tax may be assessed at any time within six years after the return was filed if:

(1) an individual omits from his city adjusted gross income[, the sum of his items of tax preference, or] the total taxable amount or ordinary income portion of a lump sum distribution an amount properly includible therein which is in excess of twenty-five percent of the amount of city adjusted gross income[, the sum of the items of tax preference] or the total taxable amount or ordinary income portion of a lump sum distribution stated in the return, or

(2) an estate or trust omits from its city adjusted gross income, [the sum of its items of tax preference,] or the total taxable amount or ordinary income portion of a lump sum distribution an amount properly includible therein which is in excess of twenty-five percent of the amount stated in the return of city adjusted gross income, [or the sum of the items of tax preference,] or the total taxable amount or ordinary income portion of a lump sum distribution, respectively. For purposes of this paragraph, city adjusted gross income means New York adjusted gross income as determined under paragraph four of subsection (e) of section six hundred one of the tax law.

For purposes of this subdivision 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 commissioner of the nature and amount of the item of income, [tax preference,] the total taxable amount or ordinary income portion of a lump sum distribution.

S 26. Subparagraph (B) of paragraph 4 of subdivision (c) of section 11-1785 of the administrative code of the city of New York, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(B) Determination of annualized income installment. In the case of any required installment, the annualized income installment is the excess, if any, of an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income [and minimum taxable income] for months in the taxable year ending before the due date for the installment, over the aggregate amount of any prior required installments for the taxable year. The applicable percentage of the tax shall be twenty-two and one-half percent in the case of the first installment, forty-five percent in the case of the second installment, sixty-seven and one-half percent in the case of the third installment and ninety percent in the case of the fourth installment, and shall be computed without regard to any increase in the rates applicable to the taxable year unless such increase was enacted at least thirty days prior to the due date of the installment.

S 27. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2014.

PART K

Section 1. Subsection (e-1) of section 606 of the tax law is relettered subsection (e-2).

S 2. Section 606 of the tax law is amended by adding a new subsection (e-1) to read as follows:

(E-1) ENHANCED REAL PROPERTY TAX CIRCUIT BREAKER CREDIT. (1) FOR PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO HAS OCCUPIED THE SAME RESIDENCE FOR SIX MONTHS OR MORE OF THE TAXABLE YEAR, AND IS REQUIRED OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE.

(B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED TAXPAYER AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO HAVE THE SAME RESIDENCE AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS. SUCH TERMS SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER OR BOARDER WHO IS NOT RELATED TO THE QUALIFIED TAXPAYER IN ANY DEGREE SPECIFIED IN PARAGRAPHS ONE THROUGH EIGHT OF SUBSECTION (A) OF SECTION ONE HUNDRED FIFTY-TWO OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, NO PERSON MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

(C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED, WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROPERTY OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS; SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS

INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETERANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPENSATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN P.L. 103-286. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE MEMBERS OF SUCH HOUSEHOLD. IN COMPUTING HOUSEHOLD GROSS INCOME, THE NET AMOUNT OF LOSS REPORTED ON FEDERAL SCHEDULE C, D, E, OR F SHALL NOT EXCEED THREE THOUSAND DOLLARS PER SCHEDULE. IN ADDITION, THE NET AMOUNT OF ANY OTHER SEPARATE CATEGORY OF LOSS SHALL NOT EXCEED THREE THOUSAND DOLLARS. THE AGGREGATE AMOUNT OF ALL LOSSES INCLUDED IN COMPUTING HOUSEHOLD GROSS INCOME SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS.

(D) "RESIDENCE" MEANS A DWELLING IN THIS STATE OWNED BY THE TAXPAYER, AND SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE, AS IS REASONABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A COOPERATIVE OR CONDOMINIUM. RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARAGRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW.

(E) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENALTIES AND INTEREST, LEVIED BY A TAXING JURISDICTION WITH A CAP-COMPLIANT BUDGET ON THE RESIDENCE OF A QUALIFIED TAXPAYER AND PAID DURING THE TAXABLE YEAR.

(I) FOR THE PURPOSES OF THIS SUBSECTION, A "CAP-COMPLIANT BUDGET" FOR A SCHOOL DISTRICT SUBJECT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THE EDUCATION LAW MEANS A BUDGET FOR WHICH THE CHIEF EXECUTIVE OFFICER OF SUCH SCHOOL DISTRICT HAS CERTIFIED, NO LATER THAN THE TWENTY-FIRST DAY OF THE FISCAL YEAR TO WHICH IT APPLIES, TO THE STATE COMPTROLLER, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF EDUCATION, IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF EDUCATION, THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED BY SUCH SECTION. A "CAP-COMPLIANT BUDGET" FOR A LOCAL GOVERNMENT SUBJECT TO SECTION THREE-C OF THE GENERAL MUNICIPAL LAW SHALL MEAN A BUDGET FOR WHICH THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF SUCH LOCAL GOVERNMENT UNIT HAS CERTIFIED, NO LATER THAN THE TWENTY-FIRST DAY OF THE FISCAL YEAR TO WHICH IT APPLIES, TO THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE, IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, THAT THE ADOPTED BUDGET OF SUCH LOCAL GOVERNMENT DID NOT REQUIRE AND THE GOVERNING BODY OF SUCH LOCAL GOVERNMENT DID NOT ENACT OR APPROVE A LOCAL LAW OR RESOLUTION TO OVERRIDE THE TAX LEVY LIMIT PRESCRIBED BY SUCH SECTION, OR, IF THE GOVERNING BODY OF THE LOCAL GOVERNMENT DID ENACT A LOCAL LAW OR APPROVE A RESOLUTION TO OVERRIDE SUCH TAX LEVY LIMIT, THAT SUCH LOCAL LAW OR RESOLUTION WAS SUBSEQUENTLY REPEALED. IF A CERTIFICATION REQUIRED BY THIS PARAGRAPH HAS BEEN MADE

AND THE ACTUAL TAX LEVY OF THE TAXING JURISDICTION EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY SUBDIVISION FIVE OF SECTION TWENTY THOUSAND TWENTY-THREE-A OF THE EDUCATION LAW OR SUBDIVISION SIX OF SECTION THREE-C OF THE GENERAL MUNICIPAL LAW, WHICHEVER IS APPLICABLE, EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN DULY AUTHORIZED FOR THE APPLICABLE FISCAL YEAR IN ACCORDANCE WITH SUCH SECTION.

(II) FOR TAX YEAR TWO THOUSAND FOURTEEN, ONLY REAL PROPERTY TAXES LEVIED BY SCHOOL DISTRICTS WITH CAP-COMPLIANT BUDGETS CONSTITUTE QUALIFYING REAL PROPERTY TAXES.

(III) IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE RESTRICTION IN CLAUSE (I) OF THIS SUBPARAGRAPH THAT TAXES MUST BE LEVIED BY A TAXING JURISDICTION WITH A CAP-COMPLIANT BUDGET DOES NOT APPLY. HOWEVER, REAL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES, AND SPECIAL ASSESSMENTS LEVIED BY SUCH CITY SHALL CONSTITUTE QUALIFYING REAL PROPERTY TAXES ONLY IF TAXES LEVIED IN THE STATE OUTSIDE SUCH CITY ARE REQUIRED FOR PURPOSES OF THIS CREDIT TO BE LEVIED BY TAXING JURISDICTIONS WITH CAP-COMPLIANT BUDGETS.

(IV) A QUALIFIED TAXPAYER MAY ELECT TO INCLUDE ANY ADDITIONAL AMOUNT THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION FROM REAL PROPERTY TAXATION PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW. IF TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPORATION HAVE MET THE REQUIREMENTS OF SECTION TWO HUNDRED SIXTEEN OF THE INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A DEDUCTION FOR REAL ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR WHICH WOULD BE ALLOWABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH BASIS, SHALL BE QUALIFYING REAL PROPERTY TAXES. IF A RESIDENCE IS OWNED BY TWO OR MORE INDIVIDUALS AS JOINT TENANTS OR TENANTS IN COMMON, AND ONE OR MORE THAN ONE INDIVIDUAL IS NOT A MEMBER OF THE HOUSEHOLD, QUALIFYING REAL PROPERTY TAXES IS THAT PART OF SUCH TAXES ON THE RESIDENCE WHICH REFLECTS THE OWNERSHIP PERCENTAGE OF THE QUALIFIED TAXPAYER AND MEMBERS OF HIS OR HER HOUSEHOLD. IF A RESIDENCE IS AN INTEGRAL PART OF A LARGER UNIT, QUALIFYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT AMOUNT OF SUCH TAXES PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESIDENCE. IF A HOUSEHOLD OWNS AND OCCUPIES TWO OR MORE RESIDENCES DURING DIFFERENT PERIODS IN THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY TAXES SHALL BE THE SUM OF THE PRORATED QUALIFYING REAL PROPERTY TAXES ATTRIBUTABLE TO THE HOUSEHOLD DURING THE PERIODS SUCH HOUSEHOLD OCCUPIES EACH OF SUCH RESIDENCES. IF THE HOUSEHOLD OWNS AND OCCUPIES A RESIDENCE FOR PART OF THE TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME TAXABLE YEAR, IT MAY INCLUDE THE PRORATION OF QUALIFYING REAL PROPERTY TAXES ON THE RESIDENCE OWNED. PROVIDED, HOWEVER, FOR PURPOSES OF THE CREDIT ALLOWED UNDER THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY BE INCLUDED BY A QUALIFIED TAXPAYER ONLY TO THE EXTENT THAT SUCH TAXPAYER OR THE SPOUSE OF SUCH TAXPAYER, OCCUPYING SUCH RESIDENCE FOR ONE HUNDRED EIGHTY-THREE DAYS OR MORE OF THE TAXABLE YEAR, OWNS OR HAS OWNED THE RESIDENCE AND PAID SUCH TAXES.

(2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN PARAGRAPH THREE HEREOF AGAINST THE TAXES IMPOSED BY THIS ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED, WITHOUT INTEREST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CREDIT TO BE CREDITED OR REFUNDED AS AN OVERPAYMENT, WITHOUT INTEREST.

(3) DETERMINATION OF CREDIT. (A) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FOURTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED AS FOLLOWS:

IF THE HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING PERCENTAGE OF HOUSEHOLD GROSS INCOME:	THE CREDIT AMOUNT IS THE FOLLOWING PERCENTAGE OF THE EXCESS REAL PROPERTY TAXES:
LESS THAN $120,000	2.4%	6.25%
$120,000 TO LESS THAN $150,000	3.2%	4.75%
$150,000 TO LESS THAN $200,000	4.0%	3.25%

NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED FIVE HUNDRED DOLLARS.

(B) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED AS FOLLOWS:

IF THE HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING PERCENTAGE OF HOUSEHOLD GROSS INCOME:	THE CREDIT AMOUNT IS THE FOLLOWING PERCENTAGE OF THE EXCESS REAL PROPERTY TAXES:
LESS THAN $120,000	3.0%	8.25%
$120,000 TO LESS THAN $150,000	4.0%	6.00%
$150,000 TO LESS THAN $200,000	5.0%	3.75%

NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED SEVEN HUNDRED FIFTY DOLLARS.

(C) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FIFTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED AS FOLLOWS:

IF THE HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR IS:	EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING PERCENTAGE OF HOUSEHOLD GROSS INCOME:	THE CREDIT AMOUNT IS THE FOLLOWING PERCENTAGE OF THE EXCESS REAL PROPERTY TAXES:
LESS THAN $120,000	3.0%	20.0%
$120,000 TO LESS THAN $150,000	4.0%	15.0%
$150,000 TO LESS THAN $200,000	5.0%	10.0%

NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED ONE THOUSAND DOLLARS.

(4) IF A QUALIFIED TAXPAYER OCCUPIES A RESIDENCE FOR A PERIOD OF LESS THAN TWELVE MONTHS DURING THE TAXABLE YEAR OR OCCUPIES TWO OR MORE RESIDENCES DURING DIFFERENT PERIODS IN SUCH TAXABLE YEAR, THE CREDIT ALLOWED PURSUANT TO THIS SUBSECTION SHALL BE COMPUTED IN SUCH MANNER AS THE

COMMISSIONER MAY PRESCRIBE IN ORDER TO PROPERLY REFLECT THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESIDENCES AND SUCH PERIOD OR PERIODS.

(5) THE COMMISSIONER MAY PRESCRIBE THAT THE CREDIT UNDER THIS SUBSECTION SHALL BE DETERMINED IN WHOLE OR IN PART BY THE USE OF TABLES PRESCRIBED BY SUCH COMMISSIONER. SUCH TABLES SHALL SET FORTH THE CREDIT TO THE NEAREST DOLLAR.

(6) ONLY ONE CREDIT PER HOUSEHOLD AND PER QUALIFIED TAXPAYER SHALL BE ALLOWED PER TAXABLE YEAR UNDER THIS SUBSECTION. WHEN TWO OR MORE MEMBERS OF A HOUSEHOLD ARE ABLE TO MEET THE QUALIFICATIONS FOR A QUALIFIED TAXPAYER, THE CREDIT SHALL BE EQUALLY DIVIDED BETWEEN OR AMONG SUCH INDIVIDUALS UNLESS SUCH INDIVIDUALS FILE WITH THE COMMISSIONER A WRITTEN AGREEMENT AMONG SUCH INDIVIDUALS SETTING FORTH A DIFFERENT DIVISION.

(A) PROVIDED, HOWEVER, WHERE A JOINT INCOME TAX RETURN HAS BEEN FILED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE BY A QUALIFIED TAXPAYER AND HIS OR HER SPOUSE (OR WHERE BOTH SPOUSES ARE QUALIFIED TAXPAYERS AND HAVE FILED SUCH JOINT RETURN), THE CREDIT, OR THE PORTION OF THE CREDIT IF DIVIDED, TO WHICH THE SPOUSES ARE ENTITLED SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES AND ANY OVERPAYMENT SHALL BE MADE TO BOTH SPOUSES.

(B) WHERE ANY RETURN REQUIRED TO BE FILED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE IS COMBINED WITH ANY RETURN OF TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS CHAPTER OR ANY OTHER LAW IF SUCH TAX IS ADMINISTERED BY THE COMMISSIONER, THE CREDIT OR THE PORTION OF THE CREDIT IF DIVIDED, ALLOWED TO THE QUALIFIED TAXPAYER MAY BE APPLIED BY THE COMMISSIONER TOWARD ANY LIABILITY FOR THE AFOREMENTIONED TAXES.

(7) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

(A) IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR EQUALS OR EXCEEDS TWO HUNDRED THOUSAND DOLLARS.

(B) TO A PROPERTY OWNER UNLESS: (I) THE PROPERTY IS USED FOR RESIDENTIAL PURPOSES, (II) NOT MORE THAN TWENTY PERCENT OF THE RENTAL INCOME, IF ANY, FROM THE PROPERTY IS FROM RENTAL FOR NONRESIDENTIAL PURPOSES AND (III) THE PROPERTY IS OCCUPIED AS A RESIDENCE IN WHOLE OR IN PART BY ONE OR MORE OF THE OWNERS OF THE PROPERTY.

(C) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SUBSECTION (C) OF SECTION ONE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE IS ALLOWABLE TO ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

(D) WITH RESPECT TO A RESIDENCE THAT IS WHOLLY EXEMPTED FROM REAL PROPERTY TAXATION.

(E) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF THE STATE FOR THE ENTIRE TAXABLE YEAR.

(8) THE RIGHT TO CLAIM A CREDIT OR THE PORTION OF A CREDIT, WHERE SUCH CREDIT HAS BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE PERSONAL TO THE QUALIFIED TAXPAYER AND SHALL NOT SURVIVE HIS OR HER DEATH, BUT SUCH RIGHT MAY BE EXERCISED ON BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUARDIAN OR ATTORNEY IN FACT DURING HIS OR HER LIFETIME.

(9) RETURNS. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSUANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR ENDING ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHO SHALL MAKE AVAILABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

(10) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER TO FURNISH THE FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER THIS SUBSECTION: HOUSEHOLD GROSS INCOME, REAL PROPERTY TAXES LEVIED OR THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION FROM REAL PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND OTHER QUALIFYING TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDENTIFYING NUMBERS INCLUDING SOCIAL SECURITY NUMBERS, HOUSEHOLD GROSS INCOME, SIZE AND NATURE OF PROPERTY CLAIMED AS RESIDENCE AND ALL OTHER INFORMATION WHICH MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE CREDIT.

(11) ADMINISTRATION. THE PROVISIONS OF THIS ARTICLE, INCLUDING THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT, AND SIX HUNDRED FIFTY-NINE AND THE PROVISIONS OF PART SIX OF THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH OF SECTION SIX HUNDRED EIGHTY-SEVEN WHICH PERMITS A CLAIM FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARAGRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEVEN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX, SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS USED IN SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED NINETY-SEVEN, WHERE A QUALIFIED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS NOT EXPIRED, HE OR SHE SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER, RECEIVE SUCH INFORMATION (A) THAT IS CONTAINED IN ANY RETURN FILED UNDER THIS ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, AND (B) THAT THE COMMISSIONER FINDS IS RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY DENIED.

(12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL BE DETERMINED AFTER THE DETERMINATION AND APPLICATION OF ANY OTHER CREDITS PERMITTED UNDER THE PROVISIONS OF THIS ARTICLE. A TAXPAYER SHALL BE ALLOWED EITHER THE CREDIT PROVIDED BY THIS SUBSECTION OR THE REAL PROPERTY TAX CIRCUIT BREAKER CREDIT PROVIDED BY SUBSECTION (E) OF THIS SECTION, WHICHEVER IS GREATER.

S 3. Paragraph 14 of subsection (e) of section 606 of the tax law is REPEALED.

S 4. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014.

PART L

Section 1. Section 606 of the tax law is amended by adding a new subsection (b-1) to read as follows:

(B-1) RENTERS' CREDIT.

(1) FOR THE PURPOSES OF THIS SUBSECTION:

(A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO HAS OCCUPIED AND PAID RENT FOR HIS OR HER PRIMARY RESIDENCE IN THIS STATE FOR SIX MONTHS OR MORE OF THE TAXABLE YEAR, IS REQUIRED OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE, AND (I) IS SIXTY-FIVE YEARS OF AGE OR OLDER, (II) IS FILING A JOINT RETURN WITH A SPOUSE WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER, (III) IS A HEAD OF HOUSEHOLD, (IV) IS A MARRIED INDIVIDUAL FILING A JOINT RETURN WITH A SPOUSE AND HAS AT LEAST ONE DEPENDENT, (V) IS A MARRIED INDIVIDUAL FILING A SEPARATE RETURN AND HAS AT LEAST ONE DEPENDENT, OR (VI) IS A SURVIVING SPOUSE AND HAS AT LEAST ONE DEPENDENT. AN INDIVIDUAL CANNOT BE A QUALIFIED TAXPAYER IF HE OR SHE IS AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SUBSECTION (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE IS ALLOWABLE TO ANOTHER TAXPAYER FOR THE TAXABLE YEAR OR PAYS RENT FOR HIS OR HER PRIMARY RESIDENCE TO A FAMILY MEMBER SHARING THE SAME PRIMARY RESIDENCE. A FAMILY MEMBER OF AN INDIVIDUAL IS THE INDIVIDUAL'S SPOUSE, BROTHER, SISTER, PARENT, GRANDPARENT, CHILD, GRANDCHILD, UNCLE, AUNT, NEPHEW, OR NIECE, RELATED TO THE INDIVIDUAL BY BLOOD, MARRIAGE OR ADOPTION.

(B) "RESIDENCE" MEANS A DWELLING IN THIS STATE AND MAY CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A COOPERATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE DWELLING. RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARAGRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW.

(2) (A) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE BUT OTHERWISE QUALIFIES FOR A CREDIT UNDER THIS SUBSECTION, A CLAIM FOR A CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS FROM THE TIME THAT A RETURN WOULD HAVE BEEN REQUIRED TO BE FILED PURSUANT TO SUCH SECTION HAD SUCH QUALIFIED TAXPAYER HAD A TAXABLE YEAR ENDING ON DECEMBER THIRTY-FIRST. RETURNS SHALL BE IN SUCH FORM AS PRESCRIBED BY THE COMMISSIONER. A QUALIFIED TAXPAYER MUST PROVIDE ANY INFORMATION THE COMMISSIONER DEEMS NECESSARY TO DETERMINE THE CREDIT ALLOWED.

(B) IF MORE THAN ONE QUALIFIED TAXPAYER PAYS RENT FOR THE SAME PRIMARY RESIDENCE AND HAS A FEDERAL ADJUSTED GROSS INCOME FOR WHICH A CREDIT WOULD OTHERWISE BE DUE, EACH SUCH QUALIFIED TAXPAYER SHALL DIVIDE THE BASE AMOUNT OF THE CREDIT ALLOWED FOR HIS OR HER INCOME LEVEL BY THE TOTAL NUMBER OF INDIVIDUALS OR MARRIED COUPLES FILING A JOINT RETURN WHO ARE PAYING THE RENT, WHETHER OR NOT ELIGIBLE FOR A CREDIT, TO DETERMINE THE AMOUNT OF CREDIT ALLOWED TO THAT QUALIFIED TAXPAYER. ANY ADDITIONAL AMOUNT OF CREDIT DETERMINED BASED ON THE NUMBER OF EXEMPTIONS CLAIMED BY SUCH TAXPAYER SHALL NOT BE SO DIVIDED.

(C) A QUALIFIED TAXPAYER SHALL BE ALLOWED THE CREDIT UNDER THIS SUBSECTION OR THE CREDIT UNDER SUBSECTION (E) OF THIS SECTION, WHICHEVER IS THE HIGHER AMOUNT.

(3) (A) FOR ANY QUALIFIED TAXPAYER WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER WITH A FILING STATUS OF SINGLE, THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS PARAGRAPH SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES:

FOR TAXABLE YEARS BEGINNING IN 2014,

IF FEDERAL ADJUSTED GROSS INCOME IS:	THE CREDIT SHALL BE:
$25,000 OR LESS	$110
OVER $25,000 BUT NOT OVER $40,000	$90
OVER $40,000 BUT NOT OVER $50,000	$70

FOR TAXABLE YEARS BEGINNING IN OR AFTER 2015, IF FEDERAL ADJUSTED GROSS

INCOME IS:	THE CREDIT SHALL BE:
$25,000 OR LESS	$220
OVER $25,000 BUT NOT OVER $40,000	$180
OVER $40,000 BUT NOT OVER $50,000	$140

(B) FOR ANY OTHER QUALIFIED TAXPAYER, THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS PARAGRAPH SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES; PROVIDED, HOWEVER, THAT A QUALIFIED TAXPAYER WHO IS A MARRIED INDIVIDUAL FILING A SEPARATE NEW YORK INCOME TAX RETURN SHALL RECEIVE ONE-HALF OF THE BASE AMOUNT OF THE CREDIT PLUS ANY ADDITIONAL AMOUNT FOR WHICH SUCH TAXPAYER WOULD BE ELIGIBLE BASED ON THE INCOME AND NUMBER OF EXEMPTIONS CLAIMED BY SUCH TAXPAYER:

FOR TAXABLE YEARS BEGINNING IN 2014,

IF FEDERAL ADJUSTED GROSS INCOME IS:	THE CREDIT SHALL BE:
$25,000 OR LESS	$80 PLUS AN AMOUNT EQUAL TO $35 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE
OVER $25,000 BUT NOT OVER $45,000	$65 PLUS AN AMOUNT EQUAL TO $24 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE

OVER $45,000 BUT NOT OVER $65,000	$55 PLUS AN AMOUNT EQUAL TO $12 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE
OVER $65,000 BUT NOT OVER $100,000	$45 PLUS AN AMOUNT EQUAL TO $12 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE

FOR TAXABLE YEARS BEGINNING IN OR AFTER 2015, IF FEDERAL ADJUSTED GROSS INCOME IS:	THE CREDIT SHALL BE:
$25,000 OR LESS	$160 PLUS AN AMOUNT EQUAL TO $70 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE
OVER $25,000 BUT NOT OVER $45,000	$130 PLUS AN AMOUNT EQUAL TO $48 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER

	(OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE
OVER $45,000 BUT NOT OVER $65,000	$110 PLUS AN AMOUNT EQUAL TO $24 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE
OVER $65,000 BUT NOT OVER $100,000	$90 PLUS AN AMOUNT EQUAL TO $24 MULTIPLIED BY A NUMBER WHICH IS ONE LESS THAN THE NUMBER OF EXEMPTIONS FOR WHICH THE TAXPAYER (OR IN THE CASE OF A MARRIED COUPLE FILING A JOINT RETURN, TAXPAYERS) IS ENTITLED TO A DEDUCTION FOR THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES UNDER SUBSECTIONS (B) AND (C) OF SECTION 151 OF THE INTERNAL REVENUE CODE

S 2. This act shall take effect immediately.

PART M

Section 1. Paragraphs 2, 4 and 5 of subsection (vv) of section 606 of the tax law, as added by section 1 of part CC of chapter 59 of the laws of 2013, are amended to read as follows:

2. To be eligible for the credit, the taxpayer (or taxpayers filing joint returns) on the personal income tax return filed for the taxable year [two years prior], must [have] (a) [been] BE a resident, (b) [claimed] CLAIM one or more dependent children who were under the age of seventeen on the last day of the taxable year, (c) [had] HAVE New York adjusted gross income of at least forty thousand dollars but no greater than three hundred thousand dollars, and (d) [had] HAVE a tax liability as determined under paragraph three of this subsection of greater than or equal to zero.

4. [For each year this credit is allowed, on or before October fifteenth of such year, the commissioner shall determine the taxpayer's eligibility for this credit utilizing the information available to the commissioner on the taxpayer's personal income tax return filed for the taxable year two years prior to the taxable year in which the credit is allowed. For those taxpayers whom the commissioner has determined eligible for this credit, the commissioner shall advance a payment of three hundred fifty dollars. When a taxpayer files his or her return for the taxable year, such taxpayer shall properly reconcile that payment on his or her return.

5.] If the amount of the credit allowed under this subsection shall exceed the taxpayer's tax for the taxable year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of SECTION six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

S 2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2015.

PART N

Section 1. Paragraph 1 of subsection (a) of section 651 of the tax law, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(1) every resident individual (A) required to file a federal income tax return for the taxable year, or (B) having federal adjusted gross income for the taxable year, increased by the modifications under subsection (b) of section six hundred twelve OF THIS ARTICLE, in excess of [four thousand dollars, or in excess of] his OR HER New York standard deduction, [if lower,] or (C) subject to tax under section six hundred two OF THIS ARTICLE, or (D) having received during the taxable year a lump sum distribution any portion of which is subject to tax under section six hundred three OF THIS ARTICLE;

S 2. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2014.

PART O

Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax law, as amended by section 1 of part I of chapter 59 of the laws of 2012, is 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 referenced in subdivision (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. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [fifteen] SEVENTEEN.

S 2. Paragraph (a) of subdivision 38 of section 210 of the tax law, as amended by section 3 of part I of chapter 59 of the laws of 2012, is amended to read as follows:

(a) Allowance of credit. A taxpayer that is eligible pursuant to provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [fifteen] SEVENTEEN.

S 3. Paragraph 1 of subsection (jj) of section 606 of the tax law, as amended by section 4 of part I of chapter 59 of the laws of 2012, is amended to read as follows:

(1) Allowance of credit. A taxpayer that is eligible pursuant to the provisions of section twenty-eight of this chapter shall be allowed a credit to be computed as provided in such section against the tax imposed by this article. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand [fifteen] SEVENTEEN.

S 4. This act shall take effect immediately.

PART P

Section 1. Subdivision 4 of section 22 of the public housing law, as amended by section 2 of part J of chapter 59 of the laws of 2012, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be [forty-eight] FIFTY-SIX million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

S 2. Subdivision 4 of section 22 of the public housing law, as amended by section one of this act, is amended to read as follows:

4. Statewide limitation. The aggregate dollar amount of credit which the commissioner may allocate to eligible low-income buildings under this article shall be [fifty-six] SIXTY-FOUR million dollars. The limitation provided by this subdivision applies only to allocation of the aggregate dollar amount of credit by the commissioner, and does not apply to allowance to a taxpayer of the credit with respect to an eligible low-income building for each year of the credit period.

S 3. This act shall take effect immediately; provided, however, that section two of this act shall take effect April 1, 2015.

PART Q

Section 1. Subdivision (b) of section 27-1318 of the environmental conservation law, as amended by section 2 of part E of chapter 577 of the laws of 2004, is amended to read as follows:

(b) Within [sixty] ONE HUNDRED EIGHTY days of commencement of the remedial design, the owner of an inactive hazardous waste disposal site, and/or any person responsible for implementing a remedial program at such site, where institutional or engineering controls are employed pursuant to this title, shall execute an environmental easement pursuant to title thirty-six of article seventy-one of this chapter.

S 2. Subdivision 2 of section 27-1405 of the environmental conservation law, as amended by section 2 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. "Brownfield site" or "site" shall mean any real property[, the redevelopment or reuse of which may be complicated by the presence or potential presence of] WHERE a contaminant IS PRESENT AT LEVELS EXCEEDING THE SOIL CLEANUP OBJECTIVES OR OTHER HEALTH-BASED OR ENVIRONMENTAL STANDARDS PROMULGATED BY THE DEPARTMENT THAT ARE APPLICABLE BASED ON THE REASONABLY ANTICIPATED USE OF THE PROPERTY, AS DETERMINED BY THE DEPARTMENT. Such term shall not include real property:

(a) listed in the registry of inactive hazardous waste disposal sites under section 27-1305 of this article at the time of application to this program and given a classification as described in subparagraph one or two of paragraph b of subdivision two of section 27-1305 of this article; provided, however [except until July first, two thousand five], real property listed in the registry of inactive hazardous waste disposal sites under subparagraph two of paragraph b of subdivision two of section 27-1305 of this article [prior to the effective date of this article], where such real property is owned by a volunteer OR UNDER CONTRACT TO BE TRANSFERRED TO A VOLUNTEER AND THE DEPARTMENT HAS NOT IDENTIFIED ANY RESPONSIBLE PARTIES FOR THAT PROPERTY HAVING THE ABILITY TO PAY FOR THE INVESTIGATION OR CLEANUP OF THE PROPERTY, shall not be deemed ineligible to participate and further provided that the status of any such site as listed in the registry shall not be altered prior to the issuance of a certificate of completion pursuant to section 27-1419 of this title. THE DEPARTMENT'S ASSESSMENT OF ELIGIBILITY UNDER THIS PARAGRAPH SHALL NOT CONSTITUTE A FINDING CONCERNING LIABILITY WITH RESPECT TO THE PROPERTY;

(b) listed on the national priorities list established under authority of 42 U.S.C. section 9605;

(c) subject to an enforcement action under title seven or nine of this article, [except] OR PERMITTED AS a treatment, storage or disposal facility [subject to a permit]; provided, that nothing herein contained shall be deemed otherwise to exclude from the scope of the term "brownfield site" a hazardous waste treatment, storage or disposal facility having interim status according to regulations promulgated by the commissioner;

(d) subject to an order for cleanup pursuant to article twelve of the navigation law or pursuant to title ten of article seventeen of this chapter except such property shall not be deemed ineligible if it is subject to a stipulation agreement; or

(e) subject to any other on-going state or federal environmental enforcement action related to the contamination which is at or emanating from the site subject to the present application.

S 3. Subdivision 1 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws of 2004, is amended and a new subdivision 1-a is added to read as follows:

1. A person who seeks to participate in this program shall submit a request to the department on a form provided by the department. Such form shall include information to be determined by the department sufficient to allow the department to determine eligibility and the current, intended and reasonably anticipated future land use of the site pursuant to section 27-1415 of this title. ANY SUCH PERSON SHALL SUBMIT AN INVESTIGATION REPORT SUFFICIENT TO DEMONSTRATE THAT THE SITE REQUIRES REMEDIATION IN ORDER TO MEET THE REMEDIAL REQUIREMENTS OF THIS TITLE; AND, FOR ANY STRATEGIC SITE LOCATED WITHIN A BROWNFIELD OPPORTUNITY AREA DESIGNATED BY THE SECRETARY OF STATE PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW, A CERTIFICATION THAT THE DEVEL-

OPMENT OF THE SITE WILL BE IN CONFORMANCE WITH SUCH BROWNFIELD OPPORTUNITY AREA PLAN.

1-A. IF THE PERSON IS ALSO SEEKING TO RECEIVE THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SUCH PERSON SHALL SUBMIT INFORMATION SUFFICIENT TO DEMONSTRATE THAT (1) THE SITE HAS: (I) BEEN A VACANT LOT FOR FIFTEEN OR MORE YEARS, OR (II) A BUILDING OR BUILDINGS THAT HAVE BEEN VACANT FOR FIFTEEN OR MORE YEARS, OR (III) A LOT OR BUILDINGS HAVE BEEN BOTH VACANT AND TAX DELINQUENT FOR TEN OR MORE YEARS, (2) THE PROJECTED COST OF THE INVESTIGATION AND REMEDIATION WHICH IS PROTECTIVE FOR THE ANTICIPATED USE OF THE SITE EXCEEDS THE CERTIFIED APPRAISED VALUE OF THE PROPERTY ABSENT CONTAMINATION, OR (3) THE PROJECT IS A PRIORITY ECONOMIC DEVELOPMENT PROJECT AS DETERMINED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT THAT HAS RECEIVED A RESOLUTION FROM THE MUNICIPALITY WITHIN WHICH THE SITE IS LOCATED STATING THE PROPOSED PROJECT IS CONSISTENT WITH THE MUNICIPALITY'S LOCAL REVITALIZATION OR DEVELOPMENT PLAN. "PRIORITY ECONOMIC DEVELOPMENT PROJECT" MEANS (A) A MANUFACTURER CREATING AT LEAST ONE HUNDRED NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE; (B) A BUSINESS CREATING AT LEAST ONE HUNDRED NET NEW JOBS IN AGRICULTURE IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE; (C) A FINANCIAL SERVICES FIRM, DISTRIBUTION CENTER, OR BACK OFFICE OPERATION CREATING AT LEAST THREE HUNDRED NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE; (D) A SCIENTIFIC RESEARCH AND DEVELOPMENT FIRM CREATING AT LEAST ONE HUNDRED NET NEW JOBS IN THE STATE, AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE; (E) THE CORPORATE HEADQUARTERS OF A FIRM CREATING AT LEAST ONE HUNDRED NET NEW JOBS IN THE STATE, AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE; OR (F) A SOFTWARE DEVELOPMENT OR NEW MEDIA FIRM CREATING AT LEAST FIFTY NET NEW JOBS IN THE STATE, AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE. OTHER BUSINESSES CREATING THREE HUNDRED OR MORE NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE MAY BE CONSIDERED ELIGIBLE AS PRIORITY ECONOMIC DEVELOPMENT PROJECT BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS WELL. AN APPLICANT MAY REQUEST AN ELIGIBILITY DETERMINATION FOR TANGIBLE PROPERTY CREDITS FROM THE COMMISSIONER OF ECONOMIC DEVELOPMENT FOR A PRIORITY ECONOMIC DEVELOPMENT PROJECT WHEN IT CAN DEMONSTRATE THAT IT MEETS SUCH CRITERIA ANY TIME FROM APPLICATION TO THREE YEARS FROM THE DATE THE SITE RECEIVES A CERTIFICATE OF COMPLETION PURSUANT TO SECTION 27-1419 OF THIS TITLE. THE COMMISSIONER OF ECONOMIC DEVELOPMENT SHALL PROMULGATE REGULATIONS TO DETERMINE WHAT CONSTITUTES SIGNIFICANT CAPITAL INVESTMENT FOR EACH OF THE PROJECT CATEGORIES INDICATED IN THIS SUBDIVISION AND WHAT ADDITIONAL CRITERIA A BUSINESS MUST MEET TO BE ELIGIBLE AS A PRIORITY ECONOMIC DEVELOPMENT PROJECT.

SITES ARE NOT ELIGIBLE FOR TANGIBLE PROPERTY TAX CREDITS IF (1) THE CONTAMINATION IS SOLELY EMANATING FROM PROPERTY OTHER THAN THE SITE SUBJECT TO THE PRESENT APPLICATION; OR (2) THE DEPARTMENT HAS DETERMINED THAT THE PROPERTY HAS PREVIOUSLY BEEN REMEDIATED SUCH THAT IT MAY BE DEVELOPED FOR ITS THEN INTENDED USE.

S 4. Subdivision 3 of section 27-1407 of the environmental conservation law, as amended by section 3 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

3. The department shall notify the person requesting participation in this program within [ten] THIRTY days after receiving such request that such request is either complete or incomplete. In the event the application is determined to be incomplete the department shall specify in

writing the missing necessary information required pursuant to this article to complete the application and shall have ten days after receipt of the missing information to issue a written determination if the application is complete.

S 5. Subdivision 6 of section 27-1407 of the environmental conservation law, as added by section 1 of part A of chapter 1 of the laws of 2003, is amended to read as follows:

6. The department shall use all best efforts to expeditiously notify the applicant within forty-five days after receiving [their request] A COMPLETE APPLICATION for participation that such request is either accepted or rejected, AND, FOR ANY APPLICANT SEEKING TO RECEIVE THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW, WHETHER THE CRITERIA FOR RECEIVING SUCH COMPONENT AS SET FORTH IN SUBDIVISION ONE OF THIS SECTION HAVE BEEN MET.

S 6. Subdivision 9 of section 27-1407 of the environmental conservation law is amended by adding a new paragraph (g) to read as follows:

(G) THE PERSON'S PARTICIPATION IN ANY REMEDIAL PROGRAM UNDER THE DEPARTMENT'S OVERSIGHT WAS TERMINATED BY THE DEPARTMENT OR BY A COURT FOR FAILURE TO SUBSTANTIALLY COMPLY WITH AN AGREEMENT OR ORDER.

S 7. Subdivision 2 of section 27-1409 of the environmental conservation law, as amended by section 4 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. One requiring (A) the [applicant] PARTICIPANT to pay for state costs, INCLUDING THE RECOVERY OF STATE COSTS INCURRED BEFORE THE EFFECTIVE DATE OF SUCH AGREEMENT; provided, however, that SUCH COSTS MAY BE BASED ON A REASONABLE FLAT-FEE FOR OVERSIGHT, WHICH SHALL REFLECT THE PROJECTED FUTURE STATE COSTS INCURRED IN NEGOTIATING AND OVERSEEING IMPLEMENTATION OF SUCH AGREEMENT; AND

(B) with respect to a brownfield site which the department has determined constitutes a significant threat to the public health or environment the department may include a provision requiring the applicant to provide a technical assistance grant, as described in subdivision four of section 27-1417 of this title and under the conditions described therein, to an eligible party in accordance with procedures established under such program, with the cost of such a grant incurred by a volunteer serving as an offset against such state costs[. Where the applicant is a participant, the department shall include provisions relating to recovery of state costs incurred before the effective date of such agreement];

S 8. Section 27-1411 of the environmental conservation law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. AN APPLICANT SHALL COMMENCE IMPLEMENTATION OF ANY WORK PLAN WITHIN NINETY DAYS OF APPROVAL OF THE PLAN BY THE DEPARTMENT AND COMPLETE THE ACTIVITIES PROVIDED FOR IN SUCH WORK PLAN IN ACCORDANCE WITH THE SCHEDULE SET FORTH THEREIN, OR AS OTHERWISE APPROVED BY THE DEPARTMENT IN WRITING.

7. AN APPLICANT SHALL INCLUDE WITH EVERY REPORT SUBMITTED TO THE DEPARTMENT A SCHEDULE FOR THE SUBMISSION OF ANY SUBSEQUENT WORK PLAN REQUIRED TO MEET THE REQUIREMENTS OF THIS TITLE.

S 9. Subdivision 2 of section 27-1413 of the environmental conservation law, as amended by section 6 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

2. For all [other] sites SEEKING TO RECEIVE THE TANGIBLE PROPERTY CREDIT COMPONENT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW, the applicant shall develop and eval-

uate at least two remedial alternatives, one of which would achieve a Track 1 cleanup. The department shall have the discretion to require the evaluation of additional alternatives at a site that has been determined to pose a significant threat. The applicant shall submit the alternatives analysis [as a part of the remedial work plan] to the department for review, approval, modification or rejection.

S 10. Subdivision 4 of section 27-1415 of the environmental conservation law, as amended by section 7 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

4. Tracks. The commissioner, in consultation with the commissioner of health, shall propose within twelve months and thereafter timely promulgate regulations which create a multi-track approach for the remediation of contamination, and, commencing on the effective date of such regulations, utilize such multi-track approach. Such regulations shall provide that groundwater use in Tracks 2, 3 or 4 can be either restricted or unrestricted. The tracks shall be as follows:

Track 1: The remedial program shall achieve a cleanup level that will allow the site to be used for any purpose without restriction and without reliance on the long-term employment of institutional or engineering controls, and shall achieve contaminant-specific remedial action objectives for soil which conform with those contained in the generic table of contaminant-specific remedial action objectives for unrestricted use developed pursuant to subdivision six of this section. Provided, however, that volunteers whose proposed remedial program [for the remediation of groundwater] (1)(I) may require the long-term employment of institutional or engineering controls FOR THE REMEDIATION OF GROUNDWATER after the bulk reduction of groundwater contamination to asymptotic levels has been achieved OR (II) MAY REQUIRE AN INSTITUTIONAL OR ENGINEERING CONTROL FOR MORE THAN FIVE YEARS SOLELY TO ADDRESS SOIL VAPOR INTRUSION but (2) whose program would otherwise conform with the requirements necessary to qualify for Track 1, shall qualify for Track 1.

Track 2: The remedial program may include restrictions on the use of the site or reliance on the long-term employment of engineering and/or institutional controls, but shall achieve contaminant-specific remedial action objectives for soil which conform with those contained in one of the generic tables developed pursuant to subdivision six of this section without the use of institutional or engineering controls to reach such objectives.

Track 3: The remedial program shall achieve contaminant-specific remedial action objectives for soil which conform with the criteria used to develop the generic tables for such objectives developed pursuant to subdivision six of this section but may use site specific data to determine such objectives.

Track 4: The remedial program shall achieve a cleanup level that will be protective for the site's current, intended or reasonably anticipated residential, commercial, or industrial use with restrictions and with reliance on the long-term employment of institutional or engineering controls to achieve such level. The regulations shall include a provision requiring that a cleanup level which poses a risk in exceedance of an excess cancer risk of one in one million for carcinogenic end points and a hazard index of one for non-cancer end points for a specific contaminant at a specific site may be approved by the department without requiring the use of institutional or engineering controls to eliminate exposure only upon a site specific finding by the commissioner, in consultation with the commissioner of health, that such level shall be protective of public health and environment. Such finding shall

be included in the draft remedial work plan for the site and fully described in the notice and fact sheet provided for such work plan.

S 11. Paragraphs (b), (c) and (d) of subdivision 7 of section 27-1415 of the environmental conservation law are relettered paragraphs (c), (d) and (e) and a new paragraph (b) is added to read as follows:

(B) WITHIN ONE HUNDRED EIGHTY DAYS OF COMMENCEMENT OF THE REMEDIAL DESIGN OR AT LEAST THREE MONTHS PRIOR TO THE DATE OF THE ANTICIPATED ISSUANCE OF THE CERTIFICATE OF COMPLETION, THE OWNER OF A BROWNFIELD SITE, AND/OR ANY PERSON RESPONSIBLE FOR IMPLEMENTING A REMEDIAL PROGRAM AT SUCH SITE, WHERE INSTITUTIONAL OR ENGINEERING CONTROLS ARE EMPLOYED PURSUANT TO THIS TITLE, SHALL EXECUTE AN ENVIRONMENTAL EASEMENT PURSUANT TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER.

S 12. Paragraph (h) of subdivision 3 of section 27-1417 of the environmental conservation law is REPEALED, paragraph (i) is relettered paragraph (h) and paragraph (f), as amended by section 8 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

(f) Before the department [finalizes] SELECTS a proposed [remedial work plan] REMEDY FROM THE ALTERNATIVES SET FORTH IN THE ALTERNATIVES ANALYSIS AS PRESCRIBED BY SECTION 27-1413 OF THIS TITLE or makes a determination that site conditions meet the requirements of this title without the necessity for remediation pursuant to section 27-1411 of this title, the department, in consultation with the applicant, must notify individuals on the brownfield site contact list. Such notice shall include a fact sheet describing such plan and provide for a forty-five day public comment period. The commissioner shall hold a public meeting if requested by the affected community and the commissioner has found that the site constitutes a significant threat to the public health or the environment. Further, the affected community may request a public meeting at sites that do not constitute a significant threat. (1) To the extent that the department has determined that site conditions do not pose a significant threat and the site is being addressed by a volunteer, the notice shall state that the department has determined that no remediation is required for the off-site areas and that the department's determination of a significant threat is subject to this forty-five day comment period. (2) If the [remedial work plan] REMEDY includes a Track 2, Track 3 or Track 4 remedy at a non-significant threat site, such comment period shall apply both to the approval of the alternatives analysis by the department, IF APPLICABLE, and the proposed remedy selected by the applicant.

S 13. Paragraph (a) of subdivision 2 and subdivision 3 of section 27-1419 of the environmental conservation law, paragraph (a) of subdivision 2 as added by section 1 of part A of chapter 1 of the laws of 2003, subdivision 3 as amended by chapter 390 of the laws of 2008, are amended to read as follows:

(a) a description of the remediation activities completed pursuant to the remedial work plan AND ANY INTERIM REMEDIAL MEASURES for the brownfield site AND THE COSTS PAID FOR THOSE ACTIVITIES;

3. Upon receipt of the final engineering report, the department shall review such report and the data submitted pursuant to the brownfield site cleanup agreement as well as any other relevant information regarding the brownfield site. Upon satisfaction of the commissioner that the remediation requirements set forth in this title have been or will be achieved in accordance with the timeframes, if any, established in the remedial work plan, the commissioner shall issue a written certificate of completion[, such]. THE certificate shall include such information as determined by the department of taxation and finance, including but not

limited to the brownfield site boundaries included in the final engineering report, the date of the brownfield site CLEANUP agreement [pursuant to section 27-1409 of this title], IDENTIFICATION OF THE ENTITY OR ENTITIES ELIGIBLE FOR CREDITS PURSUANT TO SECTIONS TWENTY-ONE, TWENTY-TWO OR TWENTY-THREE OF THE TAX LAW, and the applicable percentages available AS OF THE DATE OF THE CERTIFICATE OF COMPLETION for that site for purposes of section twenty-one of the tax law[, with such percentages to be determined as follows with respect to such qualified site]. FOR THOSE SITES FOR WHICH THE DEPARTMENT HAS ISSUED A NOTICE TO THE APPLICANT ON OR AFTER JULY FIRST, TWO THOUSAND FOURTEEN THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THIS TITLE, THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SHALL ONLY BE AVAILABLE TO THE TAXPAYER IF THE NOTICE INCLUDES A DETERMINATION THAT THE CRITERIA FOR RECEIVING SUCH TAX COMPONENT HAVE BEEN MET. FOR THOSE SITES for which the department has issued a notice to the taxpayer after June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of this title[:

For the purposes of calculating], THE APPLICABLE PERCENTAGE FOR the site preparation credit component pursuant to paragraph two of subdivision (a) of section twenty-one of the tax law, and the on-site groundwater remediation credit component pursuant to paragraph four of subdivision (a) of section twenty-one of the tax law[, the applicable percentage] shall be based on the level of cleanup achieved pursuant to subdivision four of section 27-1415 of this title and the level of cleanup of soils to contaminant-specific soil cleanup objectives promulgated pursuant to subdivision six of section 27-1415 of this title, up to a maximum of fifty percent, as follows:

(a) soil cleanup for unrestricted use, the protection of groundwater or the protection of ecological resources, the applicable percentage shall be fifty percent;

(b) soil cleanup for residential use, the applicable percentage shall be forty percent, except for Track 4 which shall be twenty-eight percent;

(c) soil cleanup for commercial use, the applicable percentage shall be thirty-three percent, except for Track 4 which shall be twenty-five percent;

(d) soil cleanup for industrial use, the applicable percentage shall be twenty-seven percent, except for Track 4 which shall be twenty-two percent.

S 14. Subdivision 5 of section 27-1419 of the environmental conservation law, as amended by section 9 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

5. A certificate of completion issued pursuant to this section may be transferred [to the applicant's successors or assigns upon transfer or sale of the brownfield site] BY THE APPLICANT OR SUBSEQUENT HOLDER OF THE CERTIFICATE OF COMPLETION TO A SUCCESSOR TO A REAL PROPERTY INTEREST, INCLUDING LEGAL TITLE, EQUITABLE TITLE OR LEASEHOLD, IN ALL OR A PART OF THE BROWNFIELD SITE FOR WHICH THE CERTIFICATE OF COMPLETION WAS ISSUED; PROVIDED, HOWEVER, ANY TRANSFER OF A CERTIFICATE OF COMPLETION TO A RESPONSIBLE PARTY SHALL NOT PROVIDE RELIEF FROM LIABILITY. Further, a certificate of completion may be modified or revoked by the commissioner upon a finding that:

(a) Either the applicant, or the applicant's successors or assigns, has failed to comply with the terms and conditions of the brownfield site cleanup agreement;

(b) The applicant made a misrepresentation of a material fact tending to demonstrate that (I) it was qualified as a volunteer OR (II) MET THE CRITERIA SET FORTH IN SUBDIVISION ONE-A OF SECTION 27-1407 OF THIS TITLE FOR THE PURPOSE OF RECEIVING THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW;

(c) Either the applicant, or the applicant's successors or assigns, made a misrepresentation of a material fact tending to demonstrate that the cleanup levels identified in the brownfield site cleanup agreement were reached; [or]

(d) THE ENVIRONMENTAL EASEMENT CREATED AND RECORDED PURSUANT TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER NO LONGER PROVIDES AN EFFECTIVE OR ENFORCEABLE MEANS OF ENSURING THE PERFORMANCE OF MAINTENANCE, MONITORING OR OPERATING REQUIREMENTS, OR THE RESTRICTIONS ON FUTURE USES, INCLUDING RESTRICTIONS ON DRILLING FOR OR WITHDRAWING GROUNDWATER; OR

(E) There is good cause for such modification or revocation.

S 15. Section 27-1423 of the environmental conservation law is REPEALED.

S 16. Section 27-1429 of the environmental conservation law, as amended by section 13 of part A of chapter 577 of the laws of 2004, is amended to read as follows:

S 27-1429. Permit waivers.

The department[, by and through the commissioner,] shall be EXEMPT, AND SHALL BE authorized to exempt a person from the requirement to obtain any state or local permit or other authorization for any activity needed to implement a program for the investigation and/or remediation of contamination AT OR EMANATING FROM A BROWNFIELD SITE; provided that the activity is conducted in a manner which satisfies all substantive technical requirements applicable to like activity conducted pursuant to a permit.

S 17. Subdivision 1 of section 27-1431 of the environmental conservation law is amended by adding a new paragraph c to read as follows:

C. TO INSPECT FOR COMPLIANCE WITH THE SITE MANAGEMENT PLAN APPROVED BY THE DEPARTMENT, INCLUDING (I) INSPECTION OF THE PERFORMANCE OF MAINTENANCE, MONITORING AND OPERATIONAL ACTIVITIES REQUIRED AS PART OF THE REMEDIAL PROGRAM FOR THE SITE, (II) INSPECTION FOR THE PURPOSE OF ASCERTAINING CURRENT USES OF THE SITE, AND (III) TAKING SAMPLES IN ACCORDANCE WITH PARAGRAPH A OF THIS SUBDIVISION.

S 17-a. Section 27-1435 of the environmental conservation law is REPEALED.

S 18. The environmental conservation law is amended by adding a new section 27-1437 to read as follows:

S 27-1437. BCP-EZ PROGRAM.

1. NOTWITHSTANDING THE PROVISIONS OF THIS TITLE OR ANY OTHER PROVISION OF LAW, THE DEPARTMENT IS AUTHORIZED TO EXEMPT A VOLUNTEER FROM PROCEDURAL REQUIREMENTS OF THIS TITLE THAT THE DEPARTMENT MAY SPECIFY WHICH ARE OTHERWISE APPLICABLE TO IMPLEMENTATION OF AN INVESTIGATION AND/OR REMEDIATION OF CONTAMINATION, PROVIDED THAT:

(A) THE DEPARTMENT HAS DETERMINED THAT THE BROWNFIELD SITE DOES NOT POSE A SIGNIFICANT THREAT PURSUANT TO SECTION 27-1411 OF THIS TITLE;

(B) THE APPLICANT HAS WAIVED IN WRITING ANY CLAIM FOR TAX CREDITS PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW ON A FORM PRESCRIBED BY THE DEPARTMENT; AND

(C) THE ACTIVITY IS CONDUCTED IN A MANNER WHICH SATISFIES ALL SUBSTANTIVE TECHNICAL REQUIREMENTS APPLICABLE TO LIKE ACTIVITY CONDUCTED PURSUANT TO THIS TITLE.

2. WHERE A WAIVER HAS BEEN GRANTED, THE APPROVED WORK PLAN FOR A BROWNFIELD SITE SHALL INCLUDE THE PROCEDURAL REQUIREMENTS THE DEPARTMENT DETERMINES APPROPRIATE BASED ON SITE SPECIFIC CONSIDERATIONS AND CONSIDERATION OF SECTION 27-1417 OF THIS TITLE.

3. FOR ANY SITE ACCEPTED INTO THE BCP-EZ PROGRAM PURSUANT TO THIS SECTION WHICH IS PURSUING A TRACK 4 REMEDIATION, IF A CONTAMINANT IS IDENTIFIED IN SOIL IN EXCESS OF THE REMEDIAL ACTION OBJECTIVES CONTAINED IN AN APPLICABLE GENERIC TABLE DEVELOPED PURSUANT TO SUBDIVISION SIX OF SECTION 27-1415 OF THIS TITLE, THE APPLICANT MAY USE SITE-SPECIFIC DATA TO DEMONSTRATE TO THE DEPARTMENT THAT THE CONCENTRATION OF THE CONTAMINANT IN THE SOILS REFLECTS BACKGROUND CONDITIONS AND, IN THAT CASE, A CONTAMINANT-SPECIFIC ACTION OBJECTIVE FOR SUCH CONTAMINANT EQUAL TO SUCH BACKGROUND CONCENTRATION MAY BE ESTABLISHED.

S 19. The opening paragraph of subdivision 10 of section 71-3605 of the environmental conservation law, as added by section 2 of part A of chapter 1 of the laws of 2003, is amended to read as follows:

An environmental easement may be enforced in law or equity by its grantor, by the state, or any affected local government as defined in section 71-3603 of this title. Such easement is enforceable against the owner of the burdened property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, REVERSION or waiver. No general law of the state which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of any environmental easement unless such general law expressly states the intent to defeat the enforcement of such easement or provides for the exercise of the power of eminent domain. It is not a defense in any action to enforce an environmental easement that:

S 20. Paragraph 2 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(2) Site preparation credit component. The site preparation credit component shall be equal to the applicable percentage of the site preparation costs paid [or incurred] by the taxpayer with respect to a qualified site. The credit component amount so determined with respect to a site's qualification for a certificate of completion shall be allowed for the taxable year in which the effective date of the certificate of completion occurs. The credit component amount determined other than with respect to such qualification shall be allowed for the taxable year in which the improvement to which the applicable costs apply is placed in service for up to five taxable years after the issuance of such certificate of completion.

S 21. Paragraph 3 of subdivision (a) of section 21 of the tax law, as amended by chapter 390 of the laws of 2008, is amended to read as follows:

(3) Tangible property credit component. The tangible property credit component shall be equal to the applicable percentage of the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property;

provided[, however,] that in determining the cost or other basis of such property, the taxpayer shall exclude the acquisition cost of any item of property with respect to which a credit under this section was allowable to another taxpayer. WITH RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER ON OR AFTER JULY FIRST, TWO THOUSAND FOURTEEN THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, THE TAXPAYER MAY ALSO INCLUDE THE COSTS INCURRED IN CONNECTION WITH PREPARING A SITE FOR THE ERECTION OF A BUILDING OR A COMPONENT OF A BUILDING, SUCH AS THE COST OF EXCAVATION, DEMOLITION, TEMPORARY ELECTRIC WIRING, SCAFFOLDING, FENCING AND SECURITY FACILITIES, TO THE EXTENT THAT SUCH COSTS ARE NOT USED AS A BASIS FOR COMPUTING THE SITE PREPARATION COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION; AND PROVIDED FURTHER THAT, IN THE CASE OF QUALIFIED SITES ELIGIBLE FOR THE FIVE PERCENT AFFORDABLE HOUSING TANGIBLE PROPERTY CREDIT COMPONENT PURSUANT TO CLAUSE (III) OF SUBPARAGRAPH (B) OF PARAGRAPH FIVE OF THIS SUBDIVISION, THAT PORTION OF THE TANGIBLE PROPERTY CREDIT COMPONENT WILL BE DETERMINED BY MULTIPLYING THE TOTAL COSTS QUALIFIED FOR THE TANGIBLE PROPERTY CREDIT COMPONENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE SQUARE FOOTAGE OF SPACE OF THE AFFORDABLE HOUSING UNITS DEDICATED TO RESIDENTIAL OCCUPANCY AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL SQUARE FOOTAGE OF THE SITE. The credit component amount so determined shall be allowed for the taxable year in which such qualified tangible property is FIRST placed in service on a qualified site with respect to which a certificate of completion has been issued to the taxpayer, OR FOR THE TAXABLE YEAR IN WHICH THE CERTIFICATE OF COMPLETION IS ISSUED IF THE QUALIFIED TANGIBLE PROPERTY IS PLACED IN SERVICE PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF COMPLETION, for up to [ten] FIVE CONSECUTIVE taxable years [after] FROM THE START OF THE REDEVELOPMENT OF THE SITE PROVIDED THAT THE REDEVELOPMENT STARTS WITHIN TEN YEARS OF the date of the issuance of such certificate of completion. The tangible property credit component shall be allowed with respect to property leased to a second party only if such second party is either (i) not a party responsible for the disposal of hazardous waste or the discharge of petroleum at the site according to applicable principles of statutory or common law liability, or (ii) a party responsible according to applicable principles of statutory or common law liability if such party's liability arises solely from operation of the site subsequent to the disposal of hazardous waste or the discharge of petroleum, and is so certified by the commissioner of environmental conservation at the request of the taxpayer, pursuant to section 27-1419 of the environmental conservation law. Notwithstanding any other provision of law to the contrary, in the case of allowance of credit under this section to such a lessor, the commissioner shall have the authority to reveal to such lessor any information, with respect to the issue of qualified use of property by the lessee, which is the basis for the denial in whole or in part, or for the recapture, of the credit claimed by such lessor. For purposes of the tangible property credit component allowed under this section the taxpayer to whom the certificate of completion is issued, as provided for under subdivision five of section 27-1419 of the environmental conservation law, may transfer the benefits and burdens of the certificate of completion, which run with the land and to the applicant's successors or assigns upon transfer or sale of all or any portion of an interest or estate in the qualified site. However, the taxpayer to whom certificate's benefits and burdens are transferred shall not include the

cost of acquiring all or any portion of an interest or estate in the site and the amounts included in the cost or other basis for federal income tax purposes of qualified tangible property already claimed by the previous taxpayer pursuant to this section. THE TANGIBLE PROPERTY CREDIT COMPONENT SHALL NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. ELIGIBLE COSTS FOR THE TANGIBLE PROPERTY CREDIT COMPONENT ARE LIMITED TO COSTS ASSOCIATED WITH ACTUAL CONSTRUCTION OF TANGIBLE PROPERTY INCORPORATED AS PART OF THE PHYSICAL STRUCTURE, AND COSTS ASSOCIATED WITH THE PREPARATION OF THE SITE FOR ERECTION OF A BUILDING OR A COMPONENT OF A BUILDING THAT ARE NOT PROPERLY INCLUDED IN THE SITE PREPARATION COMPONENT.

S 22. Subparagraph (A) of paragraph 3-a of subdivision (a) of section 21 of the tax law, as added by chapter 390 of the laws of 2008, is amended to read as follows:

(A) Notwithstanding any other provision of law to the contrary, the tangible property credit component available for any qualified site pursuant to paragraph three of this subdivision shall not exceed thirty-five million dollars or three times the SUM OF THE costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four, respectively, of this subdivision, AND THE COSTS THAT WOULD HAVE BEEN INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT TREATED AS AN EXPENSE AND DEDUCTED PURSUANT TO SECTION ONE HUNDRED NINETY-EIGHT OF THE INTERNAL REVENUE CODE, whichever is less; provided, however, that: (1) in the case of a qualified site to be used primarily for manufacturing activities, the tangible property credit component available for any qualified site pursuant to paragraph three of this subdivision shall not exceed forty-five million dollars or six times the SUM OF THE costs included in the calculation of the site preparation credit component and the on-site groundwater remediation credit component under paragraphs two and four, respectively, of this subdivision, AND THE COSTS THAT WOULD HAVE BEEN INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT TREATED AS AN EXPENSE AND DEDUCTED PURSUANT TO SECTION ONE HUNDRED NINETY-EIGHT OF THE INTERNAL REVENUE CODE, whichever is less; and (2) the provisions of this paragraph shall not apply to any qualified site for which the department of environmental conservation has issued a notice to the taxpayer before June twenty-third, two thousand eight that its request for participation has been accepted under subdivision six of section 27-1407 of the environmental conservation law.

S 23. Subparagraph (D) of paragraph 3-a of subdivision (a) of section 21 of the tax law, as added by chapter 390 of the laws of 2008, is amended to read as follows:

(D) [If] WITH RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE JULY FIRST, TWO THOUSAND FOURTEEN THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW BEFORE JULY FIRST, TWO THOUSAND FOURTEEN, IF the qualifying site is located in a brownfield opportunity area and is developed in conformance with the goals and priorities established for that applicable brownfield opportunity area as designated pursuant to section nine hundred seventy-r of the general

municipal law, the applicable percentage of the tangible property credit component will be increased by two percent.

S 24. Paragraph 4 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(4) On-site groundwater remediation credit component. The on-site groundwater remediation credit component shall be equal to the applicable percentage of the on-site groundwater remediation costs paid [or incurred] by the taxpayer with respect to a qualified site (to the extent that such groundwater remediation costs are not included in the determination of the site preparation credit or the cost or other basis included in the determination of the tangible property credit). The credit component so determined for costs [incurred and] paid with respect to and prior to the issuance of a certificate of completion shall be allowed for the taxable year in which the effective date of the issuance of a certificate of completion occurs. The credit component amount determined in taxable years after the effective date of the issuance of a certificate of completion shall be allowed in the taxable year such qualified costs are [incurred and] paid for up to five taxable years after the issuance of such certificate of completion.

S 25. Paragraph 5 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(5) Applicable percentage. (A) For purposes of COMPUTING THE SITE PREPARATION AND ON-SITE GROUNDWATER REMEDIATION CREDIT COMPONENTS PURSUANT TO paragraphs two[, three] and four of this subdivision, WITH RESPECT TO SUCH QUALIFIED SITES FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE JUNE TWENTY-THIRD, TWO THOUSAND EIGHT THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW BEFORE JUNE TWENTY-THIRD, TWO THOUSAND EIGHT, AND, FOR PURPOSES OF COMPUTING THE TANGIBLE PROPERTY COMPONENT PURSUANT TO PARAGRAPH THREE OF THIS SUBDIVISION WITH RESPECT TO SUCH QUALIFIED SITES FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE JULY FIRST, TWO THOUSAND FOURTEEN THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW BEFORE JULY FIRST, TWO THOUSAND FOURTEEN, 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.

(B) WITH RESPECT TO SUCH QUALIFIED SITE FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER ON OR AFTER JULY FIRST, TWO THOUSAND FOURTEEN THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, THE APPLICABLE PERCENTAGE FOR THE TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION SHALL BE THE SUM OF TEN PERCENT AND THE FOLLOWING ADDITIONAL PERCENTAGES, PROVIDED THAT THE TOTAL PERCENTAGE OF THE TANGIBLE PROPERTY CREDIT COMPONENT SHALL NOT EXCEED TWENTY-FOUR PERCENT AND IS OTHERWISE SUBJECT TO THE LIMITATIONS SET FORTH IN PARAGRAPHS THREE AND THREE-A OF SUBDIVISION (A) OF THIS SECTION:

(I) TEN PERCENT FOR A SITE WITHIN AN ENVIRONMENTAL ZONE;

(II) FIVE PERCENT FOR A STRATEGIC SITE LOCATED WITHIN A DESIGNATED BROWNFIELD OPPORTUNITY AREA IF THE PROPOSED DEVELOPMENT OF THE SITE IS CERTIFIED TO BE IN CONFORMANCE WITH SUCH BROWNFIELD OPPORTUNITY AREA PLAN PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE GENERAL MUNICIPAL LAW; AND

(III) FIVE PERCENT FOR SITES DEVELOPED AS AFFORDABLE HOUSING, DEFINED AS HAVING AT LEAST TWENTY PERCENT OF ITS RESIDENTIAL UNITS SUBJECT TO AN AGREEMENT WITH A MUNICIPALITY, THE STATE, THE FEDERAL GOVERNMENT, OR AN INSTRUMENTALITY THEREOF, WHERE SUCH AGREEMENT RESTRICTS OCCUPANCY OF THOSE UNITS TO RESIDENTS WHO QUALIFY IN ACCORDANCE WITH AN INCOME TEST.

(C) THE TAXPAYER SHALL SUBMIT, IN THE MANNER PRESCRIBED BY THE COMMISSIONER, INFORMATION SUFFICIENT TO DEMONSTRATE THAT THE SITE QUALIFIES FOR ANY CREDIT COMPONENTS AVAILABLE UNDER CLAUSES (I) THROUGH (III) OF SUBPARAGRAPH (B) OF THIS PARAGRAPH. IF THE SITE IS A PRIORITY ECONOMIC DEVELOPMENT PROJECT, THE TAXPAYER MUST ALSO DEMONSTRATE THAT THE PROJECT HAS BEEN APPROVED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT.

S 26. Paragraph 6 of subdivision (a) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

(6) Site preparation costs and on-site groundwater remediation costs paid [or incurred] by the taxpayer with respect to a qualified site and the cost or other basis for federal income tax purposes of tangible personal property and other tangible property, including buildings and structural components of buildings, which constitute qualified tangible property shall only include costs paid [or incurred] by the taxpayer 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 environmental conservation law.

S 27. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the tax law, as amended by section 1 of part H of chapter 577 of the laws of 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as amended by section 1 of part G of chapter 62 of the laws of 2006, are amended to read as follows:

(2) Site preparation costs. The term "site preparation costs" shall mean all amounts properly [chargeable] CHARGED to a capital account, (i) which are paid [or incurred] in connection with a site's qualification for a certificate of completion AND ATTRIBUTABLE TO ACTIVITIES SPECIFIED IN A DECISION DOCUMENT ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION UNDER SECTION 27-1411 OF THE ENVIRONMENTAL CONSERVATION LAW AND WHICH MAY INCLUDE COSTS ATTRIBUTABLE TO ACTIVITIES UNDERTAKEN UNDER THE OVERSIGHT OF THE DEPARTMENT OF HEALTH OR THE DEPARTMENT OF LABOR TO REMEDIATE REGULATED MATERIALS INCLUDING ASBESTOS, LEAD OR POLYCHLORINATED BIPHENYLS IN BUILDINGS WHICH WILL REMAIN ON THE SITE, and (ii) WITH

RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE JULY FIRST, TWO THOUSAND FOURTEEN THAT ITS REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, all other site preparation costs paid [or incurred] in connection with preparing a site for the erection of a building or a component of a building, or otherwise to establish a site as usable for its industrial, commercial (including the commercial development of residential housing), recreational or conservation purposes. [Site] FOR PURPOSES OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, SITE preparation costs shall include, but not be limited to, the costs of excavation, temporary electric wiring, scaffolding, demolition costs, and the costs of fencing and security facilities. Site preparation costs shall not include the cost of acquiring the site and shall not include amounts included in the cost or other basis for federal income tax purposes of qualified tangible property, as described in paragraph three of this subdivision. "SITE PREPARATION COSTS" SHALL NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. ELIGIBLE SITE PREPARATION COSTS ARE LIMITED TO COSTS DIRECTLY ASSOCIATED WITH ACTUAL SITE PREPARATION-RELATED CONSTRUCTION.

(4) On-site groundwater remediation costs. The term "on-site groundwater remediation costs" shall mean all amounts properly [chargeable] CHARGED to a capital account, (i) which are paid [or incurred] in connection with a site's qualification for a certificate of completion, and (ii) include costs which are paid [or incurred] in connection with the remediation of on-site groundwater contamination and [incurred] PAID to implement a requirement of the remedial work plan or an interim remedial measure work plan for a qualified site which are imposed pursuant to subdivisions two and three of section 27-1411 of the environmental conservation law. "ON-SITE GROUNDWATER REMEDIATION COSTS" SHALL NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. ON SITE GROUNDWATER REMEDIATION COSTS ARE LIMITED TO COSTS DIRECTLY ASSOCIATED WITH ACTUAL GROUNDWATER REMEDIATION ACTIVITIES.

(6) Environmental zones (EN-Zones). An "environmental zone" shall mean an area designated as such by the commissioner of [economic development] LABOR. Such areas so designated are areas which are census tracts and block numbering areas which, as of the [two thousand] MOST RECENT census, satisfy either of the following criteria:

(A) areas that have both:

(i) a poverty rate of at least twenty percent for the year to which the data relate; and

(ii) an unemployment rate of at least one and one-quarter times the statewide unemployment rate for the year to which the data relate, or;

(B) areas that have a poverty rate of at least two times the poverty rate for the county in which the areas are located for the year to which the data relate [provided, however, that a qualified site shall only be deemed to be located in an environmental zone under this subparagraph (B) if such site was the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the environmental conservation law that was entered into prior to September first, two thousand ten].

Such designation shall be made and a list of all such environmental zones shall be established by the commissioner of [economic development]

LABOR no later than [December thirty-first, two thousand four provided, however, that a qualified site shall only be deemed to be located in an environmental zone under subparagraph (B) of this paragraph if such site was the subject of a brownfield site cleanup agreement pursuant to section 27-1409 of the environmental conservation law that was entered into prior to September first, two thousand ten] NINETY DAYS FOLLOWING THE OFFICIAL PUBLICATION OF THE MOST RECENT CENSUS.

S 28. Paragraph 2 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, is amended to read as follows:

(2) Amount of credit. The amount of the credit shall be twenty-five percent of the product of (i) the benefit period factor, (ii) the employment number factor, and (iii) the eligible real property taxes paid [or incurred] by the developer of the qualified site during the taxable year (or the pro rata share of such taxes in the case of a partner in a partnership or a shareholder in a New York S corporation), except that if the real property which is the subject of the credit provided for under this section is attributed to a qualified site located in an environmental zone as defined in paragraph five of subdivision (a) of this section, the amount of the credit shall be the product of the factors and taxes referred to in subparagraphs (i), (ii) and (iii) of this paragraph. However, the amount of the credit may not exceed the credit limitation set forth in paragraph seven of this subdivision.

S 29. Section 171-r of the tax law is amended by adding a new subdivision (e) to read as follows:

(E) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, SHALL PUBLISH BY JANUARY THIRTY-FIRST, TWO THOUSAND FIFTEEN A SUPPLEMENTAL BROWNFIELD CREDIT REPORT CONTAINING THE INFORMATION REQUIRED BY THIS SECTION ABOUT THE CREDITS CLAIMED FOR THE YEARS TWO THOUSAND FIVE, TWO THOUSAND SIX, AND TWO THOUSAND SEVEN.

S 30. Section 171-s of the tax law is REPEALED.

S 31. Section 970-r of the general municipal law is amended by adding a new subdivision 10 to read as follows:

10. THE SECRETARY SHALL ESTABLISH CRITERIA FOR BROWNFIELD OPPORTUNITY AREA CONFORMANCE DETERMINATIONS FOR PURPOSES OF THE BROWNFIELD CLEANUP PROGRAM PURSUANT TO TITLE FOURTEEN OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW AND THE BROWNFIELD REDEVELOPMENT TAX CREDITS PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW. IN ESTABLISHING CRITERIA, THE SECRETARY SHALL BE GUIDED BY, BUT NOT LIMITED TO, THE FOLLOWING CONSIDERATIONS: HOW THE PROPOSED USE AND DEVELOPMENT ADVANCES THE DESIGNATED BROWNFIELD OPPORTUNITY AREA PLAN'S VISION STATEMENT, GOALS AND OBJECTIVES FOR REVITALIZATION; HOW THE DENSITY OF DEVELOPMENT AND ASSOCIATED BUILDINGS AND STRUCTURES ADVANCES THE PLAN'S OBJECTIVES, DESIRED REDEVELOPMENT AND PRIORITIES FOR INVESTMENT; AND HOW THE PROJECT COMPLIES WITH ZONING AND OTHER LOCAL LAWS AND STANDARDS TO GUIDE AND ENSURE APPROPRIATE USE OF THE PROJECT SITE.

S 32. Section 31 of part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, as amended by chapter 474 of the laws of 2012, is amended to read as follows:

S 31. The tax credits allowed under section [21,] 22 or 23 of the tax law and the corresponding provisions in articles 9, 9-A, 22, 32 and 33 of the tax law, as added by the provisions of sections one through twenty-nine of this act, shall not be applicable [if] TO ANY SITE ACCEPTED

INTO THE BROWNFIELD CLEANUP PROGRAM ON AND AFTER JULY 1, 2014. THE TAX CREDITS ALLOWED UNDER SECTION 21 OF THE TAX LAW AND THE CORRESPONDING PROVISIONS IN ARTICLES 9, 9-A, 22, 32 AND 33 OF THE TAX LAW, AS ADDED BY THE PROVISIONS OF SECTIONS ONE THROUGH TWENTY-NINE OF THIS ACT, SHALL NOT BE APPLICABLE TO ANY SITE ACCEPTED INTO THE BROWNFIELD CLEANUP PROGRAM AFTER DECEMBER 31, 2022, PROVIDED, HOWEVER THAT ANY SITES ACCEPTED ON OR BEFORE DECEMBER 31, 2022 MUST HAVE RECEIVED the [remediation] certificate OF COMPLETION required to qualify for any of such credits [is issued after] BY December 31, [2015] 2025.

S 33. Any site for which a brownfield cleanup agreement with the department of environmental conservation was entered into (1) prior to June 23, 2008 and which has not received a certificate of completion by December 31, 2015 or (2) on or after June 23, 2008 and prior to July 1, 2014 which has not received a certificate of completion by December 31, 2017, shall be terminated from the brownfield cleanup program. If such a site reapplies for acceptance into the brownfield cleanup program, it shall be accepted into the program subject to all the requirements of title 14 of article 27 of the environmental conservation law in effect at the time of acceptance.

S 34. Paragraph c of subdivision 3 of section 27-0923 of the environmental conservation law, as amended by section 5 of part I of chapter 577 of the laws of 2004, is amended to read as follows:

c. For the purpose of this section, generation of hazardous waste shall not include retrieval or creation of hazardous waste which must be disposed of under an order of or agreement with the department pursuant to title thirteen or title fourteen of this article or under a contract OR AGREEMENT with the department pursuant to title five of article fifty-six of this chapter OR UNDER AN ORDER OF OR AGREEMENT WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR AN ORDER OF A COURT OF COMPETENT JURISDICTION, RELATED TO A FACILITY ADDRESSED PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (42 U.S.C. 9601 ET SEQ.) OR UNDER A WRITTEN AGREEMENT WITH A MUNICIPALITY WHICH IS SUBJECT TO A MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT RELATED TO THE REMEDIATION OF BROWNFIELD SITES.

S 35. Subparagraphs (i) and (vi) of paragraph d of subdivision 1 of section 72-0402 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, are amended to read as follows:

(i) under a contract with the department, or with the department's written approval and in compliance with department regulations, or pursuant to an order of the department, the United States environmental protection agency or a court OF COMPETENT JURISDICTION, related to the cleanup or remediation of a hazardous materials or hazardous waste spill, discharge, or surficial cleanup, pursuant to this chapter; or

(vi) under a brownfield site cleanup agreement with the department pursuant to section 27-1409 of this chapter OR UNDER AN AGREEMENT WITH A MUNICIPALITY WHICH IS SUBJECT TO A MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT RELATED TO THE REMEDIATION OF BROWNFIELD SITES; or

S 36. Subdivision 1 of section 1285-q of the public authorities law, as added by section 6 of part I of chapter 1 of the laws of 2003, is amended to read as follows:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of hazardous waste site remediation projects for payment of the state's share of the costs of the remediation of hazardous waste sites, in accordance with title thirteen of article twenty-seven of the envi-

ronmental conservation law and section ninety-seven-b of the state finance law, and for payment of state costs associated with the remediation of offsite contamination at significant threat sites as provided in section 27-1411 of the environmental conservation law, AND FOR ENVIRONMENTAL RESTORATION PROJECTS PURSUANT TO TITLE FIVE OF ARTICLE FIFTY-SIX OF THE ENVIRONMENTAL CONSERVATION LAW pursuant to capital appropriations made to the department of environmental conservation, the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

S 37. Section 56-0501 of the environmental conservation law, as added by chapter 413 of the laws of 1996, is amended to read as follows:

S 56-0501. Allocation of moneys.

1. Of the moneys received by the state from the sale of bonds pursuant to the Clean Water/Clean Air Bond Act of 1996, two hundred million dollars ($200,000,000) shall be available for disbursements for environmental restoration projects.

2. ENVIRONMENTAL RESTORATION PROJECTS MAY BE FUNDED USING THE PROCEEDS OF BONDS ISSUED PURSUANT TO SECTION TWELVE HUNDRED EIGHTY-FIVE-Q OF THE PUBLIC AUTHORITIES LAW.

S 38. Subdivision 6 of section 56-0502 of the environmental conservation law, as amended by section 2 of part D of chapter 577 of the laws of 2004, is amended to read as follows:

6. "State assistance", for purposes of this title, shall mean in the case of a contract authorized by subdivision one of section 56-0503 of this title, payments made to a municipality to reimburse the municipality for the state share of the costs incurred by the municipality to undertake an environmental restoration project OR IN THE CASE OF AN AGREEMENT AUTHORIZED BY SUBDIVISION THREE OF SECTION 56-0503 OF THIS TITLE, COSTS INCURRED BY THE STATE TO UNDERTAKE AN ENVIRONMENTAL RESTORATION PROJECT BUT NOT REIMBURSED BY A MUNICIPALITY.

S 39. Paragraph (c) of subdivision 2 of section 56-0503 of the environmental conservation law, as amended by section 4 of part D of chapter 1 of the laws of 2003, is amended and a new subdivision 3 is added to read as follows:

(c) A provision that THE MUNICIPALITY SHALL ASSIST IN IDENTIFYING A RESPONSIBLE PARTY BY SEARCHING LOCAL RECORDS, INCLUDING PROPERTY TAX ROLLS, OR DOCUMENT REVIEWS, AND if, in accordance with the required departmental approval of any settlement with a responsible party, any responsible party payments become available to the municipality, before, during or after the completion of an environmental restoration project, which were not included when the state share was calculated pursuant to this section, the state assistance share shall be recalculated, and the

municipality shall pay to the state, for deposit into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law, the difference between the original state assistance payment and the recalculated state share. Recalculation of the state share shall be done each time a payment from a responsible party is received by the municipality;

3. THE DEPARTMENT MAY UNDERTAKE AN ENVIRONMENTAL RESTORATION PROJECT ON BEHALF OF A MUNICIPALITY UPON REQUEST. IF THE DEPARTMENT UNDERTAKES THE PROJECT ON BEHALF OF THE MUNICIPALITY, THE STATE SHALL ENTER INTO AN AGREEMENT WITH THE MUNICIPALITY AND THE AGREEMENT SHALL REQUIRE THE MUNICIPALITY TO PERIODICALLY PROVIDE ITS SHARE TO THE STATE FOR COSTS INCURRED DURING THE PROGRESS OF SUCH PROJECT. THE MUNICIPALITY'S SHARE SHALL BE THE SAME AS WOULD BE REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION. THE AGREEMENT SHALL INCLUDE ALL PROVISIONS SPECIFIED IN SUBDIVISION TWO OF THIS SECTION AS APPROPRIATE. FOR PURPOSES OF PROJECTS SUBJECT TO AGREEMENTS UNDER THIS SUBDIVISION, ALL REFERENCES TO CONTRACTS IN THIS TITLE SHALL ALSO APPLY TO AGREEMENTS UNDER THIS SUBDIVISION AS APPROPRIATE.

S 40. Subdivision 4 of section 56-0505 of the environmental conservation law, as amended by section 5 of part D of chapter 1 of the laws of 2003, is amended to read as follows:

4. After completion of such project, the municipality may use the property for public purposes or may dispose of it. If the municipality shall dispose of such property by sale to a responsible party, such party shall pay to such municipality, in addition to such other consideration, an amount of money constituting the amount of state assistance provided [to the municipality] under this title plus accrued interest and transaction costs and the municipality shall deposit that money into the environmental restoration project account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law.

S 41. Subdivisions 3 and 4 of section 56-0508 of the environmental conservation law, as added by section 7 of part D of chapter 1 of the laws of 2003, are amended to read as follows:

3. such temporary incidents of ownership by such taxing district shall also qualify it as being the owner of such property [for the purposes of obtaining] TO BE ELIGIBLE FOR funding from the state of New York for such environmental restoration investigation project under this article or for such funding from any source pursuant to any other state, federal, or local law, but such incidents of ownership shall not be sufficient to qualify it as the owner of such property for the purposes of holding it wholly or partially liable for any damages, past, present, or future from any release of any hazardous material, substance, or contaminant into the air, ground, or water, unless such release was caused by such taxing district.

4. within thirty days of the completion of the environmental restoration investigation project and the receipt by the taxing jurisdiction of the final report of such investigation, such taxing jurisdiction shall file such report with the court on notice to the court and all other parties of record, and the stay of the foreclosure shall be lifted (unless lifted earlier by a prior court order), and all incidents of temporary ownership of the taxing jurisdiction that was awarded such taxing district, except any right [to receive funding] for the environmental restoration investigation project TO BE FUNDED, shall cease to exist, and nothing in this subdivision shall preclude the taxing jurisdiction that conducted the environmental restoration investigation

project or the taxing jurisdiction that commenced the foreclosure action, if it is a different taxing jurisdiction than the taxing jurisdiction which conducted the investigation, from withdrawing the parcel from foreclosure pursuant to section eleven hundred thirty-eight of the real property tax law.

S 42. Subdivision 2 and paragraph (f) of subdivision 3 of section 97-b of the state finance law, as amended by section 4 of part I of chapter 1 of the laws of 2003, are amended to read as follows:

2. Such fund shall consist of all of the following:

(a) moneys appropriated for transfer to the fund's site investigation and construction account; (b) all fines and other sums accumulated in the fund prior to April first, nineteen hundred eighty-eight pursuant to section 71-2725 of the environmental conservation law for deposit in the fund's site investigation and construction account; (c) all moneys collected or received by the department of taxation and finance pursuant to section 27-0923 of the environmental conservation law for deposit in the fund's industry fee transfer account; (d) all moneys paid into the fund pursuant to section 72-0201 of the environmental conservation law which shall be deposited in the fund's industry fee transfer account; (e) all moneys paid into the fund pursuant to section one hundred eighty-six of the navigation law which shall be deposited in the fund's industry fee transfer account; (f) [all moneys paid into the fund by municipalities for repayment of landfill closure loans made pursuant to title five of article fifty-two of the environmental conservation law for deposit in the fund's site investigation and construction account; (g)] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of the environmental conservation law into the fund's environmental restoration project account; [(h) all] (G) fees paid into the fund pursuant to section [72-0403] 72-0402 of the environmental conservation law which shall be deposited in the fund's industry fee transfer account; [(i)] (H) payments received for all state costs incurred in negotiating and overseeing the implementation of brownfield site cleanup agreements pursuant to title fourteen OF ARTICLE TWENTY-SEVEN of the environmental conservation law shall be deposited in the hazardous waste remediation oversight and assistance account; and [(j)] (I) other moneys credited or transferred thereto from any other fund or source for deposit in the fund's site investigation and construction account.

(f) to undertake such remedial measures as the department of environmental conservation may determine necessary due to environmental conditions related to the property subject to an agreement [to provide state assistance] OR CONTRACT under title five of article fifty-six of the environmental conservation law [that were unknown to such department at the time of its approval of such agreement which indicates that conditions on such property are not sufficiently protective of human health for its reasonably anticipated uses or due to information received, in whole or in part, after such department's approval of such agreement's final engineering report and certification], which indicates that such agreement's remedial activities are not sufficiently protective of human health for such property's reasonably anticipated uses; and, [respecting the monies in the environmental restoration project account in excess of ten million dollars,] shall provide state assistance under title five of article fifty-six of the environmental conservation law;

S 43. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation

to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 44. This act shall take effect July 1, 2014; provided, however, that the department of environmental conservation shall not charge volunteers in the brownfield cleanup program for oversight costs for any sites in the program incurred on or after July 1, 2014.

PART R

Section 1. Section 208 of the tax law is amended by adding three new subdivisions 13, 14 and 15 to read as follows:

13. THE TERM "MANUFACTURER" MEANS A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT, DURING THE TAXABLE YEAR, IS PRINCIPALLY ENGAGED IN MANUFACTURING. A TAXPAYER OR A COMBINED GROUP IS PRINCIPALLY ENGAGED IN MANUFACTURING IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR THE COMBINED GROUP, RESPECTIVELY, DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY MANUFACTURING. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

14. (A) THE TERM "MANUFACTURING" MEANS THE PROCESS OF WORKING RAW MATERIALS INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR EQUIPMENT.

(B) NOTWITHSTANDING THE DEFINITION OF MANUFACTURING IN PARAGRAPH (A) OF THIS SUBDIVISION:

(I) THE GENERATION AND DISTRIBUTION OF ELECTRICITY, THE EXTRACTION AND DISTRIBUTION OF NATURAL GAS, AND THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY DOES NOT CONSTITUTE MANUFACTURING.

(II) THE CREATION, PRODUCTION OR REPRODUCTION OF A FILM, TELEVISION SHOW OR COMMERCIAL DOES NOT CONSTITUTE MANUFACTURING.

(III) THE BLENDING OF TWO OR MORE FUELS DOES NOT CONSTITUTE MANUFACTURING.

(IV) THE MASS PRODUCTION OF FOOD PRODUCTS FOR WHOLESALE COMMERCIAL DISTRIBUTION AND SALE CONSTITUTES MANUFACTURING.

15. THE TERM "QUALIFIED NEW YORK MANUFACTURER" MEANS A MANUFACTURER THAT HAS PROPERTY IN THE STATE THAT IS USED IN MANUFACTURING AND EITHER THE FAIR MARKET VALUE OF THAT PROPERTY AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST TEN MILLION DOLLARS OR ALL OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN NEW YORK. A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT DOES NOT SATISFY THE CRITERIA IN SUBDIVISION THIRTEEN OF THIS SECTION MAY BE A QUALIFIED NEW YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANUFACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPERTY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST ONE HUNDRED MILLION DOLLARS.

S 2. Section 210 of the tax law is amended by adding a new subdivision 48 to read as follows:

48. REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (A) A QUALIFIED NEW YORK MANUFACTURER, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, WILL BE ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT DEDUCTED IN DETERMINING ENTIRE NET INCOME. THIS CREDIT WILL NOT BE ALLOWED IF THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT ARE INCLUDED IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAYER.

(B) FOR PURPOSES OF THIS SUBDIVISION, THE TERM REAL PROPERTY TAX MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUTABLE TO MAINTENANCE OR INTEREST, WHEN (1) THE PROPERTY SUBJECT TO THE CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (2) THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY ASSESSED, OR (3) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED TENDS TO INCREASE THE PROPERTY VALUE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT IN LIEU OF TAXES MADE BY THE QUALIFIED NEW YORK MANUFACTURER.

(C) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROPERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (1) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (2) THE AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH YEAR BASED ON SUCH REDUCTION.

(D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxvii) to read as follows:

(XXXVII) REAL PROPERTY TAX AMOUNT OF CREDIT UNDER

CREDIT FOR MANUFACTURERS UNDER SUBDIVISION FORTY-EIGHT OF SUBSECTION (XX) SECTION TWO HUNDRED TEN

S 4. Subsections (yy) and (zz) of section 606 of the tax law, as relettered by section 5 of part H of chapter 1 of the laws of 2003, are relettered subsections (yyy) and (zzz) and a new subsection (xx) is added to read as follows:

(XX) REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (1) A QUALIFIED NEW YORK MANUFACTURER WILL BE ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME. THIS CREDIT WILL NOT BE ALLOWED IF THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT ARE INCLUDED IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAYER.

(2)(A) THE TERM QUALIFIED NEW YORK MANUFACTURER HAS THE SAME MEANING AS UNDER SUBPARAGRAPH (B) OF PARAGRAPH TWO OF SUBSECTION (A) OF THIS SECTION.

(B) THE TERM REAL PROPERTY TAX MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUTABLE TO MAINTENANCE OR INTEREST, WHEN (I) THE PROPERTY SUBJECT TO THE CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (II) THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY ASSESSED, OR (III) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED TENDS TO INCREASE THE PROPERTY VALUE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT IN LIEU OF TAXES MADE BY THE QUALIFIED NEW YORK MANUFACTURER.

(3) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROPERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (I) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (II) THE AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH YEAR BASED ON SUCH REDUCTION.

(4) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED HOWEVER, NO INTEREST WILL BE PAID THEREON.

S 5. Paragraph (b) of subdivision 12 of section 210 of the tax law, as amended by chapter 817 of the laws of 1987, subparagraph (i) as amended

by chapter 637 of the laws of 2008 and clause (E) of subparagraph (ii) as added by chapter 393 of the laws of 2005, is amended to read as follows:

(b) (i) A credit shall be allowed under this subdivision TO A QUALIFIED NEW YORK MANUFACTURER, A QUALIFIED NEW YORK AGRICULTURAL BUSINESS OR A QUALIFIED NEW YORK MINING BUSINESS with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which (A) are[:] depreciable pursuant to section one hundred sixty-seven of the internal revenue code, (B) have a useful life of four years or more, (C) are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, (D) HAVE NOT BEEN PREVIOUSLY THE SUBJECT OF AN INVESTMENT TAX CREDIT OR EMPIRE ZONE INVESTMENT TAX CREDIT ALLOWED UNDER THIS CHAPTER TO ANOTHER TAXPAYER, (E) have a situs in this state, and (F) are [(A)] principally used by the taxpayer in the production of goods [by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (B) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (C)] FOR SALE OR ARE research and development property[, (D) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section four hundred seventy-five (e) of the Internal Revenue Code, (E) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, (F) principally used in the ordinary course of the taxpayer's business as an exchange registered as a national securities exchange within the meaning of sections 3(a)(1) and 6(a) of the Securities Exchange Act of 1934 or a board of trade as defined in section 1410(a)(1) of the New York Not-for-Profit Corporation Law or as an entity that is wholly owned by one or more such national securities exchanges or boards of trade and that provides automation or technical services thereto, or (G) principally used as a qualified film production facility including qualified film production facilities having a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, where the taxpayer is providing three or more services to any qualified film production company using the facility, including such services as a studio lighting grid, lighting and grip equipment, multi-line phone service, broadband information technology access, industrial scale electrical capacity, food services, security services, and heating, ventilation and air conditioning. For purposes of clauses (D), (E) and (F) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer, registered investment adviser, national securities exchange or board of trade, is allowed a credit under this subdivision if the property is used by its affiliated regulated broker, dealer, registered investment adviser, national securities exchange or board

of trade in accordance with this subdivision. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (D) and (E) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (D), (E) and (F) of this subparagraph unless (I) eighty percent or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state or (II) the average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (III) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For purposes of clause (III) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of this subdivision, the term "goods" shall not include electricity].

(ii) For purposes of this paragraph, the following definitions shall apply--

(A) [Manufacturing shall mean the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment.] Property used in the production of goods FOR SALE shall include machinery, equipment or other tangible property which is principally used in the repair and service of other machinery, equipment or other tangible property used principally in the production of goods FOR SALE and shall include all facilities used in the production operation, including storage of material to be used in production and of the products that are produced.

(B) Research and development property shall mean property which is used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising,

promotions, or research in connection with literary, historical or similar projects.

(C) [Industrial waste treatment facilities shall mean property constituting facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms "industrial waste" and "other wastes" are defined in section 17-0105 of the environmental conservation law) from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable.] A QUALIFIED NEW YORK AGRICULTURAL BUSINESS SHALL MEAN A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, PRINCIPALLY ENGAGED IN FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING IN THE STATE. A TAXPAYER OR A COMBINED GROUP IS PRINCIPALLY ENGAGED IN FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING IN THE STATE IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR THE COMBINED GROUP, RESPECTIVELY, DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY THE TAXPAYER BY ANY OF THE ACTIVITIES SPECIFIED IN THIS SENTENCE THAT ARE CONDUCTED IN THE STATE. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

(D) [Air pollution control facilities shall mean property constituting facilities which remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms "air contaminant" and "air contamination source" are defined in section 19-0107 of the environmental conservation law) from a point immediately preceding the point of such removal, reduction or rendering to the point of discharge of air, meeting emission standards as established by the department of environmental conservation, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable and excluding those facilities which rely for their efficacy on dilution, dispersion or assimilation of air contaminants in the ambient air after emission. Such term shall further include flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities that conform with this subdivision and which comply with the provisions of the state acid deposition control act set forth in title nine of article nineteen of the environmental conservation law] A QUALIFIED NEW YORK MINING BUSINESS SHALL MEAN A TAXPAYER PRINCIPALLY ENGAGED IN MINING IN THE STATE. A TAXPAYER IS PRINCIPALLY ENGAGED IN MINING IN THE STATE IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, THE COMBINED GROUP, RESPECTIVELY, DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY THE TAXPAYER BY MINING ACTIVITIES THAT ARE CONDUCTED IN THE STATE. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

[(E) The terms "qualified film production facility" and "qualified film production company" shall have the same meaning as in section twenty-four of this chapter.]

(iii) [However, such credit shall be allowed with respect to industrial waste treatment facilities and air pollution control facilities only on condition that such facilities have been certified by the state commissioner of environmental conservation or his designated representative, pursuant to subdivision one of section 17-0707 or subdivision one of section 19-0309 of the environmental conservation law, as complying with applicable provisions of the environmental conservation law, the public health law, the state sanitary code and codes, rules, regulations, permits or orders issued pursuant thereto.] IN ORDER TO PROPERLY ADMINISTER THE CREDIT AUTHORIZED BY THIS SUBDIVISION, THE DEPARTMENT MAY DISCLOSE INFORMATION ABOUT THE ALLOWANCE TO ANOTHER TAXPAYER OF AN INVESTMENT TAX CREDIT OR AN EMPIRE ZONE INVESTMENT TAX CREDIT UNDER THIS CHAPTER WITH RESPECT TO THE SAME PROPERTY.

S 6. Paragraph (d) of subdivision 12 of section 210 of the tax law, as amended by chapter 637 of the laws of 2008, is amended to read as follows:

(d) A taxpayer shall not be allowed a credit under this subdivision with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which it leases to any other person or corporation [except where a taxpayer leases property to an affiliated regulated broker, dealer, registered investment adviser, national securities exchange or board of trade (or other entity described in clause (F) of subparagraph (i) of paragraph (b) of this subdivision) that uses such property in accordance with clause (D), (E) or (F) of subparagraph (i) of paragraph (b) of this subdivision]. For purposes of the preceding sentence, any contract or agreement to lease or rent or for a license to use such property shall be considered a lease. Provided, however, in determining whether a taxpayer shall be allowed a credit under this subdivision with respect to such property, any election made with respect to such property pursuant to the provisions of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code, as such paragraph was in effect for agreements entered into prior to January first, nineteen hundred eighty-four, shall be disregarded. [For purposes of this paragraph, the use of a qualified film production facility by a qualified film production company shall not be considered a lease of such facility to such company.]

S 7. Subparagraph 6 of paragraph (g) of subdivision 12 of section 210 of the tax law is REPEALED.

S 8. Paragraphs (f), (k), (l) and (m) of subdivision 12 of section 210 of the tax law are REPEALED.

S 9. Paragraph 2 of subsection (a) of section 606 of the tax law, as amended by chapter 817 of the laws of 1987, subparagraph (A) as amended by chapter 637 of the laws of 2008 and clause (v) of subparagraph (B) as added by chapter 393 of the laws of 2005, is amended to read as follows:

(2)(A) A credit shall be allowed under this subsection TO A QUALIFIED NEW YORK MANUFACTURER, A QUALIFIED NEW YORK AGRICULTURAL BUSINESS OR A QUALIFIED NEW YORK MINING BUSINESS with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which (I) are[:] depreciable pursuant to section one hundred sixty-seven of the internal revenue code, (II) have a useful life of four years or more, (III) are acquired by purchase as defined in section one hundred seventy-nine (d) of the internal revenue code, (IV) HAVE NOT BEEN PREVIOUSLY THE SUBJECT OF AN INVESTMENT TAX CREDIT OR AN EMPIRE ZONE INVESTMENT TAX CREDIT ALLOWED UNDER THIS CHAPTER TO ANOTHER TAXPAYER, (V) have a situs in this state, and (VI) are

[(i)] principally used by the taxpayer in the production of goods [by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing, (ii) industrial waste treatment facilities or air pollution control facilities, used in the taxpayer's trade or business, (iii)] FOR SALE OR ARE research and development property[, (iv) principally used in the ordinary course of the taxpayer's trade or business as a broker or dealer in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of stocks, bonds or other securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or of commodities as defined in section 475(e) of the Internal Revenue Code, (v) principally used in the ordinary course of the taxpayer's trade or business of providing investment advisory services for a regulated investment company as defined in section eight hundred fifty-one of the Internal Revenue Code, or lending, loan arrangement or loan origination services to customers in connection with the purchase or sale (which shall include but not be limited to the issuance, entering into, assumption, offset, assignment, termination, or transfer) of securities as defined in section four hundred seventy-five (c)(2) of the Internal Revenue Code, or (vi) principally used as a qualified film production facility including qualified film production facilities having a situs in an empire zone designated as such pursuant to article eighteen-B of the general municipal law, where the taxpayer is providing three or more services to any qualified film production company using the facility, including such services as a studio lighting grid, lighting and grip equipment, multi-line phone service, broadband information technology access, industrial scale electrical capacity, food services, security services, and heating, ventilation and air conditioning. For purposes of clauses (iv) and (v) of this subparagraph, property purchased by a taxpayer affiliated with a regulated broker, dealer, or registered investment adviser is allowed a credit under this subsection if the property is used by its affiliated regulated broker, dealer or registered investment adviser in accordance with this subsection. For purposes of determining if the property is principally used in qualifying uses, the uses by the taxpayer described in clauses (iv) and (v) of this subparagraph may be aggregated. In addition, the uses by the taxpayer, its affiliated regulated broker, dealer and registered investment adviser under either or both of those clauses may be aggregated. Provided, however, a taxpayer shall not be allowed the credit provided by clauses (iv) and (v) of this subparagraph unless (I) eighty percent or more of the employees performing the administrative and support functions resulting from or related to the qualifying uses of such equipment are located in this state, or (II) the average number of employees that perform the administrative and support functions resulting from or related to the qualifying uses of such equipment and are located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety-five percent of the average number of employees that perform these functions and are located in this state during the thirty-six months immediately preceding the year for which the credit is claimed, or (III) the number of employees located in this state during the taxable year for which the credit is claimed is equal to or greater than ninety percent of the number of employees located in this state on December thirty-first, nineteen hundred ninety-eight or, if the taxpayer was not a calendar year taxpayer in nineteen hundred ninety-eight, the last day of its first taxable

year ending after December thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes subject to tax in this state after the taxable year beginning in nineteen hundred ninety-eight, then the taxpayer is not required to satisfy the employment test provided in the preceding sentence of this subparagraph for its first taxable year. For the purposes of clause (III) of this subparagraph the employment test will be based on the number of employees located in this state on the last day of the first taxable year the taxpayer is subject to tax in this state. If the uses of the property must be aggregated to determine whether the property is principally used in qualifying uses, then either each affiliate using the property must satisfy this employment test or this employment test must be satisfied through the aggregation of the employees of the taxpayer, its affiliated regulated broker, dealer, and registered investment adviser using the property. For purposes of this subsection, the term "goods" shall not include electricity].

(B) For purposes of this paragraph, the following definitions shall apply:

(i) (I) Manufacturing shall mean the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment. Property used in the production of goods FOR SALE shall include machinery, equipment or other tangible property which is principally used in the repair and service of other machinery, equipment or other tangible property used principally in the production of goods and shall include all facilities used in the production operation, including storage of material to be used in production and of the products that are produced.

(II) NOTWITHSTANDING THE DEFINITION OF MANUFACTURING IN ITEM (I) OF THIS CLAUSE: THE GENERATION AND DISTRIBUTION OF ELECTRICITY, THE EXTRACTION AND DISTRIBUTION OF NATURAL GAS, AND THE PRODUCTION OF STEAM ASSOCIATED WITH THE GENERATION OF ELECTRICITY DOES NOT CONSTITUTE MANUFACTURING. THE CREATION, PRODUCTION OR REPRODUCTION OF A FILM, TELEVISION SHOW OR COMMERCIAL DOES NOT CONSTITUTE MANUFACTURING. THE BLENDING OF TWO OR MORE FUELS DOES NOT CONSTITUTE MANUFACTURING. THE MASS PRODUCTION OF FOOD PRODUCTS FOR COMMERCIAL WHOLESALE DISTRIBUTION AND SALE CONSTITUTES MANUFACTURING.

(ii) Research and development property shall mean property which is used for purposes of research and development in the experimental or laboratory sense. Such purposes shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions, or research in connection with literary, historical or similar projects.

(iii) [Industrial waste treatment facilities shall mean property constituting facilities for the treatment, neutralization or stabilization of industrial waste and other wastes (as the terms "industrial waste" and "other wastes" are defined in section 17-0105 of the environmental conservation law) from a point immediately preceding the point of such treatment, neutralization or stabilization to the point of disposal, including the necessary pumping and transmitting facilities, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable.] "MANUFACTURER" SHALL MEAN A TAXPAYER THAT DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN MANUFACTURING. A TAXPAYER IS PRINCIPALLY ENGAGED IN MANUFACTURING IF MORE THAN FIFTY PERCENT OF THE GROSS

RECEIPTS OF THE TAXPAYER DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY MANUFACTURING. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

(iv) [Air pollution control facilities shall mean property constituting facilities which remove, reduce, or render less noxious air contaminants emitted from an air contamination source (as the terms "air contaminant" and "air contamination source" are defined in section 19-0107 of the environmental conservation law) from a point immediately preceding the point of such removal, reduction or rendering to the point of discharge of air, meeting emission standards as established by the department of environmental conservation, but excluding such facilities installed for the primary purpose of salvaging materials which are usable in the manufacturing process or are marketable and excluding those facilities which rely for their efficacy on dilution, dispersion or assimilation of air contaminants in the ambient air after emission. Such term shall further include flue gas desulfurization equipment and attendant sludge disposal facilities, fluidized bed boilers, precombustion coal cleaning facilities or other facilities that conform with this subsection and which comply with the provisions of the State Acid Deposition Control Act set forth in title nine of article nineteen of the environmental conservation law.] "QUALIFIED NEW YORK MANUFACTURER" SHALL MEAN A MANUFACTURER THAT HAS PROPERTY IN THE STATE THAT IS USED IN MANUFACTURING AND EITHER THE FAIR MARKET VALUE OF THAT PROPERTY AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST TEN MILLION DOLLARS OR ALL OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN NEW YORK.

(v) [For purposes of this paragraph, the terms "qualified film production facility" and "qualified film production company" shall have the same meaning as in section twenty-four of this chapter.] A QUALIFIED NEW YORK AGRICULTURAL BUSINESS SHALL MEAN A TAXPAYER PRINCIPALLY ENGAGED IN FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING IN THE STATE. A TAXPAYER IS PRINCIPALLY ENGAGED IN FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING IN THE STATE IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY THE TAXPAYER BY ANY OF THE ACTIVITIES SPECIFIED IN THIS SENTENCE THAT ARE CONDUCTED IN THE STATE. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

(VI) A QUALIFIED NEW YORK MINING BUSINESS SHALL MEAN A TAXPAYER PRINCIPALLY ENGAGED IN MINING IN THE STATE. A TAXPAYER IS PRINCIPALLY ENGAGED IN MINING IN THE STATE IF MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER DURING THE TAXABLE YEAR ARE DERIVED FROM THE SALE OF GOODS PRODUCED BY THE TAXPAYER BY MINING ACTIVITIES THAT ARE CONDUCTED IN THE STATE. IN COMPUTING GROSS RECEIPTS FOR A TAXPAYER THAT IS A PARTNER IN PARTNERSHIP, INTER-ENTITY RECEIPTS BETWEEN THE TAXPAYER AND SUCH PARTNERSHIP SHALL BE ELIMINATED.

(C) [However, such credit shall be allowed with respect to industrial waste treatment facilities and air pollution control facilities only on condition that such facilities have been certified by the state commissioner of environmental conservation or his designated representative, pursuant to subdivision one of section 17-0707 or subdivision one of section 19-0309 of the environmental conservation law, as complying with applicable provisions of the environmental conservation law, the public health law, the state sanitary code and codes, rules, regulations,

permits or orders issued pursuant thereto.] IN ORDER TO PROPERLY ADMINISTER THE CREDIT AUTHORIZED BY THIS SUBDIVISION, THE DEPARTMENT MAY DISCLOSE INFORMATION ABOUT THE ALLOWANCE TO ANOTHER TAXPAYER OF AN INVESTMENT TAX CREDIT OR AN EMPIRE ZONE INVESTMENT TAX CREDIT UNDER THIS CHAPTER WITH RESPECT TO THE SAME PROPERTY.

S 10. Paragraph 4 of subsection (a) of section 606 of the tax law, as amended by chapter 637 of the laws of 2008, is amended to read as follows:

(4) A taxpayer shall not be allowed a credit under this subsection with respect to tangible personal property and other tangible property, including buildings and structural components of buildings, which it leases to any other person or corporation [except where a taxpayer leases property to an affiliated regulated broker, dealer, or registered investment adviser that uses such property in accordance with clause (iv) or (v) of subparagraph (A) of paragraph two of this subsection]. For purposes of the preceding sentence, any contract or agreement to lease or rent or for a license to use such property shall be considered a lease. Provided, however, in determining whether a taxpayer shall be allowed a credit under this subsection with respect to such property, any election made with respect to such property pursuant to the provisions of paragraph eight of subsection (f) of section one hundred sixty-eight of the internal revenue code, as such paragraph was in effect for agreements entered into prior to January first, nineteen hundred eighty-four, shall be disregarded. [For purposes of this paragraph, the use of a qualified film production facility by a qualified film production company shall not be considered a lease of such facility to such company.]

S 11. Paragraph 6 of subsection (a) of section 606 of the tax law is REPEALED.

S 12. Subparagraph (F) of paragraph 7 of subsection (a) of section 606 of the tax law is REPEALED.

S 13. Paragraphs 11, 12 and 13 of subsection (a) of section 606 of the tax law are REPEALED.

S 14. Subsection (i) of section 1456 of the tax law is REPEALED.

S 15. Subdivision (q) of section 1511 of the tax law is REPEALED.

S 16. Subparagraphs (vi) and (vii) of paragraph (a) of subdivision 1 of section 210 of the tax law, subparagraph (vi) as amended by section 1 of part C of chapter 56 of the laws of 2011 and subparagraph (vii) as added by section 1 of part Z of chapter 59 of the laws of 2013, are amended to read as follows:

(vi) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH OR SUBPARAGRAPH (VII) OF THIS PARAGRAPH, for taxable years beginning on or after January thirty-first, two thousand seven, the amount prescribed by this paragraph for a taxpayer which is a qualified New York manufacturer, AS DEFINED IN SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, shall be computed at the rate of six and one-half (6.5) percent of the taxpayer's entire net income base. For taxable years beginning on or after January first, two thousand twelve and before January first, two thousand fifteen, the amount prescribed by this paragraph for a taxpayer which is an eligible qualified New York manufacturer shall be computed at the rate of three and one-quarter (3.25) percent of the taxpayer's entire net income base. [The term "manufacturer" shall mean a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. However, the generation and distrib-

ution of electricity, the distribution of natural gas, and the production of steam associated with the generation of electricity shall not be qualifying activities for a manufacturer under this subparagraph. Moreover, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this paragraph, or any combination thereof. A taxpayer or a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer which has property in New York which is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision twelve of this section and either (I) the adjusted basis of such property for federal income tax purposes at the close of the taxable year is at least one million dollars or (II) all of its real and personal property is located in New York. In addition, a "qualified New York manufacturer" means a taxpayer which is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph (c).] The commissioner shall establish guidelines and criteria that specify requirements by which a manufacturer may be classified as an eligible qualified New York manufacturer. Criteria may include but not be limited to factors such as regional unemployment, the economic impact that manufacturing has on the surrounding community, population decline within the region and median income within the region in which the manufacturer is located. In establishing these guidelines and criteria, the commissioner shall endeavor that the total annual cost of the lower rates shall not exceed twenty-five million dollars.

[(vii)] For a qualified New York manufacturer, as defined in [subparagraph (vi) of this paragraph] SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, the rate at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for qualified New York manufacturers shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

(VII) FOR A QUALIFIED NEW YORK MANUFACTURER THAT HAS AN APPORTIONMENT FACTOR FOR PURPOSES OF THE METROPOLITAN TRANSPORTATION BUSINESS TAX SURCHARGE COMPUTED PURSUANT TO SUBDIVISION TWO OF SECTION TWO HUNDRED NINE-B OF THIS ARTICLE EQUAL TO ZERO FOR THE TAXABLE YEAR, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL BE COMPUTED AT THE RATE OF ZERO PERCENT OF THE TAXPAYER'S ENTIRE NET INCOME BASE.

S 17. Subparagraphs 2 and 3 of paragraph (b) of subdivision 1 of section 210 of the tax law, subparagraph 2 as amended by section 1 of part GG-1 of chapter 57 of the laws of 2008 and subparagraph 3 as added

by section 2 of part Z of chapter 59 of the laws of 2013, are amended to read as follows:

(2) [For purposes of subparagraph one of this paragraph, the term "manufacturer" shall mean a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture or commercial fishing. Moreover, for purposes of computing the capital base in a combined report, the combined group shall be considered a "manufacturer" for purposes of this subparagraph only if the combined group during the taxable year is principally engaged in the activities set forth in this subparagraph, or any combination thereof. A taxpayer or a combined group shall be "principally engaged" in activities described above if, during the taxable year, more than fifty percent of the gross receipts of the taxpayer or combined group, respectively, are derived from receipts from the sale of goods produced by such activities. In computing a combined group's gross receipts, intercorporate receipts shall be eliminated. A "qualified New York manufacturer" is a manufacturer that has property in New York that is described in clause (A) of subparagraph (i) of paragraph (b) of subdivision twelve of this section and either (i) the adjusted basis of that property for federal income tax purposes at the close of the taxable year is at least one million dollars or (ii) all of its real and personal property is located in New York. In addition, a "qualified New York manufacturer" means a taxpayer that is defined as a qualified emerging technology company under paragraph (c) of subdivision one of section thirty-one hundred two-e of the public authorities law regardless of the ten million dollar limitation expressed in subparagraph one of such paragraph.

(3)] For a qualified New York manufacturer, as defined in [subparagraph two of this paragraph] SUBDIVISION FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, the rate at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

S 18. Subparagraph (iii) of paragraph (c) of subdivision 1 of section 210 of the tax law, as added by section 3 of part Z of chapter 59 of the laws of 2013, is amended to read as follows:

(iii) For a qualified New York manufacturer, as defined in [subparagraph (vi) of paragraph (a) of this] subdivision FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, the rate at which the tax is computed in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for qualified New York manufacturers shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on

or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

S 19. Subparagraph 6 of paragraph (d) of subdivision 1 of section 210 of the tax law, as added by section 4 of part Z of chapter 59 of the laws of 2013, is amended to read as follows:

(6) For a qualified New York manufacturer, as defined in [subparagraph (vi) of paragraph (a) of this] subdivision FIFTEEN OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, the amounts prescribed in subparagraphs one and four of this paragraph in effect for taxable years beginning on or after January first, two thousand thirteen and before January first, two thousand fourteen for qualified New York manufacturers shall be reduced by nine and two-tenths percent for taxable years commencing on or after January first, two thousand fourteen and before January first, two thousand fifteen, twelve and three-tenths percent for taxable years commencing on or after January first, two thousand fifteen and before January first, two thousand sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen.

S 20. Subdivision 1 of section 210 of the tax law is amended by adding a new paragraph (h) to read as follows:

(H) FOR PURPOSES OF DETERMINING WHETHER A TAXPAYER IS AN ELIGIBLE QUALIFIED NEW YORK MANUFACTURER FOR PURPOSES OF THE TAX BENEFITS PROVIDED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION, SUBPARAGRAPH (II) OF PARAGRAPH (C) OF THIS SUBDIVISION, AND SUBPARAGRAPH FIVE OF PARAGRAPH (D) OF THIS SUBDIVISION, A TAXPAYER SHALL UTILIZE THE LAW, GUIDELINES AND CRITERIA IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN.

S 21. 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[,] OR 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 22. Severability. The legislature intends by this act to provide needed tax relief to New York manufacturers. However, if a court of final, competent jurisdiction adjudges the tax rates imposed on qualified New York manufacturers to be invalid, qualified New York manufacturers shall be subject to the same tax rates as all other taxpayers subject to tax under article nine-A of the tax law. Provided further, if a court of final, competent jurisdiction adjudges that the tax credits provided by this act to qualified New York manufacturers, qualified New York agricultural businesses and qualified New York mining businesses to be invalid, such credits shall be deemed repealed and shall be of no force and effect as to any taxpayers.

S 23. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014.

PART S

Section 1. Sections 185, 187-j, 187-k, 187-l, 187-m, 187-q, 187-r and 187-s of the tax law are REPEALED.

S 2. Paragraph (c) of subdivision 9 of section 400 of the economic development law, as added by section 2 of part V of chapter 61 of the laws of 2011, is amended to read as follows:

(c) the business entity must not be substantially similar in ownership and operation to another taxpayer taxable or previously taxable under section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine, former section one hundred eighty-six or article nine-A, twenty-two, thirty-two or thirty-three of the tax law or the income or losses of which is or was includable under article twenty-two of the tax law;

S 3. Paragraph (c) of subdivision 6 of section 431 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(c) the business is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable within the last five taxable years, under section one hundred eighty-three[,] OR one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of the tax law, article nine-A, thirty-two or thirty-three of the tax law, 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) includable under article twenty-two of the tax law; and

S 4. Paragraph 1 of subdivision (a), subdivision (f), paragraph 1 of subdivision (i) and subdivisions (j) and (k) of section 14 of the tax law, paragraph 1 of subdivision (a) as amended by section 3 of part V1 of chapter 109 of the laws of 2006, subdivisions (f) and (j) as amended by section 10 of part CC of chapter 85 of the laws of 2002, paragraph 1 of subdivision (i) and subdivision (k) as amended and paragraph 4 of subdivision (j) as added by section 5 of part A of chapter 63 of the laws of 2005, subparagraph (B) of paragraph 4 of subdivision (j) as amended by chapter 161 of the laws of 2005 and paragraph 5 of subdivision (j) as amended by section 4 of part V1 of chapter 109 of the laws of 2006, 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[,] OR 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

(j) New business. (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, FORMER SECTION one hundred eighty-five or FORMER SECTION 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, FORMER SECTION one hundred eighty-five or FORMER SECTION 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.

(3) For purposes of article twenty-two of this chapter, a shareholder of a New York S corporation 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 one of this subdivision.

(4) (A)(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 FORMER SECTION 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 FORMER SECTION 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.

(iii) Any corporation qualifying as a new business or any individual qualifying as an owner of a new business as a result of the provisions of this subparagraph shall have the same business tax benefit period and sales and use tax benefit period as the business entity to which it is identical in operation and in ownership.

(B) Notwithstanding any provisions of this subdivision to the contrary and notwithstanding subdivision c of section eighteen of part CC of chapter eighty-five of the laws of two thousand two, a corporation or partnership, which was first certified under article eighteen-B of the general municipal law before August first, two thousand two, has a base period of zero years or zero employment for its base period, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under sections specified in paragraph one or two of this subdivision 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 business 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 zone benefits.

(5) Notwithstanding any other provision of this section, a business enterprise which is approved by the commissioner of economic development as the owner of a qualified investment project or a significant capital investment project pursuant to subdivision (w) of section nine hundred fifty-nine of the general municipal law, has a base period of zero years and places in service property (or a project that includes such property) which comprises such qualified investment project or such significant capital investment project[,], shall be deemed to be a new business under this section. Provided, however, to be deemed a new business under this paragraph, such business enterprise shall have received

certification under article eighteen-B of the general business law by December thirty-first, two thousand seven.

(k) If the designation of an area as an empire zone is no longer in effect because section nine hundred sixty-nine of the general municipal law was not amended to extend the effective date of such designation so that the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, a business enterprise that was certified pursuant to article eighteen-B of the general municipal law on the day immediately preceding the day on which such designation expired shall be deemed to continue to be certified under such article eighteen-B for purposes of this section, and sections fifteen, sixteen, [section one hundred eighty-seven-j,] subdivisions twenty-seven and twenty-eight of section two hundred ten, subsections (bb) and (cc) of section six hundred six, subdivision [(z)] (D) of section eleven hundred [fifteen] NINETEEN, subsections (o) and (p) of section fourteen hundred fifty-six, and subdivisions (r) and (s) of section fifteen hundred eleven of this chapter. In addition, if the designation of an area as an empire zone is no longer in effect because section nine hundred sixty-nine of the general municipal law was not amended to extend the effective date of such designation so that the designations of all empire zones pursuant to article eighteen-B of the general municipal law have expired, all references to empire zones in the provisions of this chapter listed in the previous sentence shall be read as meaning areas designated as empire zones on the day immediately preceding the day on which such designation expired.

S 5. Paragraph 1 of subdivision (h) of section 15 of the tax law is REPEALED.

S 6. The closing paragraph of subdivision (a) 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:

(4) 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 FORMER SECTION 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 7. Subdivision (a) of section 31 of the tax law, as amended by section 7 of part G of chapter 61 of the laws of 2011, is 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.

S 8. Paragraph 1 of subdivision (g) of section 31 of the tax law is REPEALED.

S 9. The opening paragraph of paragraph 1 of subdivision (a) and subparagraph (C) of paragraph 2 of subdivision (e) of section 35 of the tax law, as added by section 3 of part V of chapter 61 of the laws of 2011, are amended to read as follows:

A taxpayer which is a participant or the owner of a participant in the economic transformation and facility redevelopment program under article eighteen of the economic development law that is subject to tax under [section one hundred eighty-five of article nine, or] article nine-A, twenty-two, thirty-two or thirty-three of this chapter shall be allowed the sum of following components against such tax, pursuant to the provisions referenced in subdivision (f) of this section.

(C) the business entity must not be substantially similar in ownership and operation to another taxpayer taxable or previously taxable under section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine, former section one hundred eighty-six of this chapter or article nine-A, twenty-two, thirty-two or thirty-three of this chapter or the income or losses of which is or was includable under article twenty-two of this chapter;

S 10. Paragraph 1 of subdivision (f) of section 35 of the tax law, as added by section 3 of part V of chapter 61 of the laws of 2011, is REPEALED.

S 11. Paragraph 1 of subdivision (e) of section 38 of the tax law, as added by section 1 of part EE of chapter 59 of the laws of 2013, is REPEALED.

S 12. Subdivision 2 of section 187 of the tax law, as added by chapter 788 of the laws of 1978, is amended to read as follows:

2. In no event shall the credit herein provided for be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 13. Subdivision 5 of section 187-a of the tax law, as added by chapter 142 of the laws of 1997, is amended to read as follows:

5. Carryover. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 14. Subdivisions 1 and 4 of section 187-b of the tax law, as amended by section 1 of part G of chapter 59 of the laws of 2013, are amended to read as follows:

1. General. A taxpayer shall be allowed a credit, to be credited against the taxes imposed under sections one hundred eighty-three[,] AND

one hundred eighty-four[, and one hundred eighty-five] of this article. Such credit, to be computed as hereinafter provided, shall be allowed for alternative fuel vehicle refueling and electric vehicle recharging property placed in service during the taxable year. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the credit allowed by this section over the amount of such credit allowable against the tax imposed by section one hundred eighty-three of this article.

4. Carryovers. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 15. Section 187-c of the tax law, as amended by section 2 of part K of chapter 59 of the laws of 2012, is amended to read as follows:

S 187-c. Biofuel production credit. A taxpayer shall be allowed a credit to be computed as provided in section twenty-eight of this chapter, as added by part X of chapter sixty-two of the laws of two thousand six, against the tax imposed by this article. Provided, however, that the amount of such credit allowed against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of the credit allowed under this section for any taxable year reduces the tax to such amount, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon. The tax credit allowed pursuant to this section shall apply to taxable years beginning before January first, two thousand twenty.

S 16. Section 187-d of the tax law, as added by section 3 of part II of chapter 63 of the laws of 2000, is amended to read as follows:

S 187-d. Green building credit. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section nineteen of this chapter, against the taxes imposed by sections one hundred eighty-three, one hundred eighty-four[, one hundred eighty-five] and FORMER SECTION one hundred eighty-six of this article. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Carryovers. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this article. If, however, the amount of credit allowable under this section

for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 17. Subdivisions 1 and 2 of section 187-e of the tax law, as added by section 2 of part I of chapter 63 of the laws of 2000, are amended to read as follows:

1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty of this chapter, against the taxes imposed by sections one hundred eighty-three, one hundred eighty-four[, one hundred eighty-five] and FORMER SECTION one hundred eighty-six of this article. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not thus deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

S 18. Section 187-g of the tax law, as added by section 2 of part H of chapter 1 of the laws of 2003, is amended to read as follows:

S 187-g. Brownfield redevelopment tax credit. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty-one of this chapter, against the taxes imposed by sections one hundred eighty-three[,] AND one hundred eighty-four [and one hundred eighty-five] of this article. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be refunded in accordance with the provisions of section ten hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

S 19. Section 187-h of the tax law, as added by section 13 of part H of chapter 1 of the laws of 2003, subdivision 1 as amended by section 5 of part H of chapter 577 of the laws of 2004, is amended to read as follows:

S 187-h. Remediated brownfield credit for real property taxes for qualified sites. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in subdivision (b) of section twenty-two of this chapter, against the taxes imposed by sections one hundred eighty-three[,] AND one hundred eighty-four [and one hundred eighty-five] of this article. Provided, however, that the amount of such credit allowed against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowed under this section for any taxable year reduces the tax to such amount, any amount of credit not thus deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section ten hundred eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section ten hundred eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

S 20. Section 187-i of the tax law, as added by section 20 of part H of chapter 1 of the laws of 2003, is amended to read as follows:

S 187-i. Environmental remediation insurance credit. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section twenty-three of this chapter, against the taxes imposed by sections one hundred eighty-three[,] AND one hundred eighty-four [and one hundred eighty-five] of this article. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

S 21. Subdivision 2 of section 187-n of the tax law, as added by chapter 537 of the laws of 2005, is amended to read as follows:

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of

subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

S 22. Subdivisions 1 and 3 of section 187-n of the tax law, subdivision 1 as amended by section 1 of part C1 of chapter 57 of the laws of 2009 and subdivision 3 as added by chapter 446 of the laws of 2005, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning before January first, two thousand nine, a taxpayer whose business is not substantially engaged in the commercial generation, distribution, transmission, or servicing of energy or energy products shall be allowed a credit against the taxes imposed by sections one hundred eighty-three[,] AND one hundred eighty-four [and one hundred eighty-five] of this article, equal to its qualified fuel cell electric generating equipment expenditures. Provided, however, that the amount of such credit allowable against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of such credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article. This credit shall not exceed one thousand five hundred dollars per generating unit with respect to any taxable year. The credit provided for herein shall be allowed with respect to the taxable year in which the fuel cell electric generating equipment is placed in service.

(3) Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax payable to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 23. Section 187-o of the tax law, as added by section 3 of part Y of chapter 57 of the laws of 2010, is amended to read as follows:

S 187-o. Temporary deferral nonrefundable payout credit. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in subdivision one of section thirty-four of this chapter, against either the taxes imposed by sections one hundred eighty-three[,] AND one hundred eighty-four, [and one hundred eighty-five,] or the tax imposed by section one hundred eighty-six-a of this article. However, the amount of such credit against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of that credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowed under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 24. Section 187-p of the tax law, as added by section 3 of part Y of chapter 57 of the laws of 2010, is amended to read as follows:

S 187-p. Temporary deferral refundable payout credit. 1. Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in subdivision two of section thirty-four of this chapter, against the taxes imposed by sections one hundred eighty-three[,] AND one hundred

eighty-four [and one hundred eighty-five] of this article, or the tax imposed by section one hundred eighty-six-a of this article. However, the amount of such credit against the tax imposed by section one hundred eighty-four of this article shall be the excess of the amount of that credit over the amount of any credit allowed by this section against the tax imposed by section one hundred eighty-three of this article.

2. Application of credit. In no event shall the credit under this section be allowed in an amount which will reduce the tax to less than the applicable minimum tax fixed by section one hundred eighty-three [or one hundred eighty-five] of this article. If, however, the amount of credit allowed under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be refunded in accordance with the provisions of section one thousand eighty-six of this chapter, provided however, that no interest shall be paid thereon.

S 25. Subdivisions 2 and 3 of section 190 of the tax law, as added by section 1 of part E of chapter 63 of the laws of 2000, are amended to read as follows:

2. Computation. The credit allowed by this section shall first be deducted from the taxes imposed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this article. The amount of any such credit remaining shall next be deducted from the taxes imposed by section one hundred eighty-four of this article.

3. Carryover. In no event shall the amount of credit allowed under this section reduce the tax payable to less than the minimum tax fixed by section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this article. If, however, the amount of credit allowable under this section for any taxable year reduces the tax to such amount, any amount of credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

S 26. Subdivision 1 of section 192 of the tax law, as amended by chapter 96 of the laws of 1976, is amended to read as follows:

1. Corporations paying franchise tax. Every corporation, association or joint-stock company liable to pay a tax under section one hundred eighty-three [or one hundred eighty-five] of this chapter shall, on or before March fifteenth in each year, make a written report to the tax commission of its condition at the close of its business on the preceding December thirty-first, stating the amount of its authorized capital stock, the amount of stock paid in, the date and rate per centum of each dividend paid by it during the year ending with such day, the entire amount of the capital of such corporation, and the capital employed by it in this state during such year.

S 27. Subdivision 4 of section 209 of the tax law, as amended by section 2 of part FF1 of chapter 57 of the laws of 2008, is amended to read as follows:

4. Corporations liable to tax under sections one hundred eighty-three to one hundred [eighty-five] EIGHTY-FOUR-A, inclusive, corporations taxable under articles thirty-two and thirty-three of this chapter, any trust company organized under a law of this state all of the stock of which is owned by not less than twenty savings banks organized under a law of this state, bank holding companies filing a combined return in accordance with [subdivision] SUBSECTION (f) of section fourteen hundred sixty-two of this chapter, a captive REIT or a captive RIC filing a combined return under either [subdivision] SUBSECTION (f) of section

fourteen hundred sixty-two or subdivision (f) of section fifteen hundred fifteen of this chapter, and housing companies organized and operating pursuant to the provisions of article two or article five of the private housing finance law and housing development fund companies organized pursuant to the provisions of article eleven of the private housing finance law shall not be subject to tax under this article.

S 28. Section 209 of the tax law is amended by adding a new subdivision 12 to read as follows:

12. ALL FARMERS', FRUIT GROWERS' AND OTHER LIKE AGRICULTURAL CORPORATIONS ORGANIZED AND OPERATED ON A CO-OPERATIVE BASIS FOR THE PURPOSES EXPRESSED IN AND AS PROVIDED UNDER THE CO-OPERATIVE CORPORATIONS LAW OF THE STATE OF NEW YORK, WHETHER OR NOT SUCH CORPORATIONS HAVE CAPITAL STOCK, SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF THIS ARTICLE.

S 29. Paragraphs (b) and (c) of subdivision 1-c, clause (i) of subparagraph 1 of paragraph (b) of subdivision 3, and subparagraphs 1 and 2 of paragraph (j) of subdivision 12 of section 210 of the tax law, paragraph (b) of subdivision 1-c as amended by section 12 of part Y of chapter 63 of the laws of 2000, paragraph (c) of subdivision 1-c and subparagraph 2 of paragraph (j) of subdivision 12 as amended by chapter 1043 of the laws of 1981, clause (i) of subparagraph 1 of paragraph (b) of subdivision 3 as amended by chapter 61 of the laws of 1989 and subparagraph 1 of paragraph (j) of subdivision 12 as amended by section 14 of part Y of chapter 63 of the laws of 2000, are amended to read as follows:

(b) is not a corporation over fifty percent of the number of shares of stock of which entitling the holders thereof to vote for the election of directors or trustees is owned by a taxpayer which (1) is subject to tax under this article; section one hundred eighty-three[,] OR SECTION one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine; article thirty-two or thirty-three of this chapter, and (2) does not qualify as a small business corporation as defined in paragraph three of subsection (c) of section twelve hundred forty-four of the internal revenue code (without regard to the second sentence of subparagraph (A) thereof) as of the last day of its taxable year ending within or with the taxable year of the taxpayer,

(c) is not a corporation which is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under this article; section one hundred eighty-three, one hundred eighty-four, OR FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; 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, and

(i) In the case of an issuer or obligor subject to tax under section one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION one hundred eighty-six of this chapter or under this article or article thirty-three of this chapter (except for savings and insurance banks described in subdivision (b) of section fifteen hundred of this chapter), the issuer's allocation percentage shall be the percentage of the appropriate measure (as defined hereinafter) which is required to be allocated within the state on the report, if any, required of the issuer or obligor under this chapter for the preceding year. The appropriate measure referred to in the preceding sentence shall be: in the case of an issuer or obligor subject to section one hundred eighty-three of this

chapter, issued capital stock; in the case of an issuer or obligor [subject to section one hundred eighty-five] EXEMPT FROM TAX UNDER SUBDIVISION TWELVE OF SECTION TWO HUNDRED NINE of this [chapter] ARTICLE, issued capital stock; in the case of an issuer or obligor subject to FORMER section one hundred eighty-six of this chapter, gross earnings; in the case of an issuer or obligor subject to this article, entire capital; and in the case of an issuer or obligor subject to article thirty-three of this chapter, gross direct premiums.

(1) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under this article; section one hundred eighty-three, one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine; article thirty-two or thirty-three of this chapter; or

(2) is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under this article; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; 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 whereby the intent and purpose of this paragraph and paragraph (e) of this subdivision with respect to refunding of credit to new business would be evaded; or

S 30. Subparagraph (A) of paragraph 10 of subsection (a) of section 606 of the tax law, as amended by section 3 of part CC of chapter 85 of the laws of 2002, is 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, FORMER SECTION one hundred eighty-five or FORMER SECTION 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

S 31. Subparagraphs (A) and (B) of paragraph 8 of subsection (i) of section 1456 of the tax law, as added by section 27 of part A of chapter 56 of the laws of 1998, are amended to read as follows:

(A) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under this article; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article nine-A or article thirty-three of this chapter; or

(B) is substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under this article; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article nine-A or article 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

S 32. Subparagraph (A) of paragraph 7 of subdivision (q) of section 1511 of the tax law, as added by section 1 of part L of chapter 63 of the laws of 2000, is amended to read as follows:

(A) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under this article; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine; article nine-A or article thirty-two of this chapter; or

S 33. Subdivision 13 of section 171 of the transportation law, as added by chapter 478 of the laws of 1991, is amended to read as follows:

13. The transportation for compensation performed by an agricultural cooperative corporation[, which corporation is subject to tax under section one hundred eighty-five of the tax law,] for non-members who are not farmers or cooperative corporations when such transportation is limited to that which is incidental to the agricultural cooperative corporation's primary transportation operation and is necessary for its effective performance. Such transportation shall be provided only after the agricultural cooperative corporation notifies the commissioner in writing of its intent to provide the transportation and it shall not exceed twenty-five percent of the agricultural cooperative corporation's total transportation services in each calendar year measured in terms of tonnage. The commissioner may prescribe the records to be kept and the information to be furnished by all agricultural cooperative corporations performing transportation pursuant to this subdivision.

S 34. Subclause 2 of clause (v) of subparagraph (B) of paragraph 1 of subdivision (o) of section 11-1712 of the administrative code of the city of New York, such subdivision as relettered by chapter 639 of the laws of 1986, is amended to read as follows:

(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, FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six of article nine of the tax law, or under article [nine-a] 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.

S 35. Paragraph (iii) of subdivision 9 of section 16-v of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban

development corporation act, as added by section 1 of part C of chapter 59 of the laws of 2013, is amended to read as follows:

(iii) either: (A) any corporation, except a corporation which:

(1) over fifty percent of the number of shares of stock entitling the holders thereof to vote for the election of directors or trustees is owned or controlled, either directly or indirectly, by a taxpayer subject to tax under the following provisions of the tax law: article nine-A; section one hundred eighty-three[,] OR one hundred eighty-four or FORMER SECTION one hundred eighty-five of article nine; article thirty-two or article thirty-three; or

(2) is substantially similar in operation and in ownership to a business entity (or entities) taxable or previously taxable under the following provisions of the tax law: article nine-A; section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine; article thirty-two; article thirty-three; article twenty-three, or 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; or

(B) a sole proprietorship, partnership, limited partnership, limited liability company, or New York subchapter S corporation that is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable, under article nine-A of the tax law, section one hundred eighty-three, one hundred eighty-four, FORMER SECTION one hundred eighty-five or former section one hundred eighty-six of article nine of the tax law, article thirty-two or thirty-three of the tax law, 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) includable under article twenty-two of the tax law; and

S 36. Notwithstanding the repeal of section 185 of the tax law by section one of this act, all provisions of such section 185, in respect to the imposition, exemption, assessment, payment, payment over, determination, collection, and credit or refund of tax imposed thereunder, the filing of forms and returns, the preservation of records for the purposes of such tax, the secrecy of returns, the disposition of revenues, and the civil and criminal penalties applicable to the violation of the provisions of such section 185, shall continue in full force and effect with respect to all such tax accrued up to December 31, 2014; all actions and proceedings, civil or criminal, commenced or authorized to be commenced under or by virtue of any provision of such section 185 so repealed, and pending or able to commence prior to the taking effect of such repeal, may be commenced, prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

S 37. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2015; provided, however that:

a. the amendments to subdivision 9 of section 400 of the economic development law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

b. the amendments to subdivisions (a) and (e) of section 35 of the tax law made by section nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART T

Section 1. Section 39 of the tax law is amended by adding a new subdivision (c-1) to read as follows:

(C-1) EXCISE TAX ON TELECOMMUNICATION SERVICES. SUCH BUSINESS OR OWNER OF A BUSINESS SHALL BE ELIGIBLE FOR A CREDIT OF THE EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS CHAPTER THAT IS PASSED THROUGH TO SUCH BUSINESS, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (K) OF THIS SECTION.

S 2. Paragraphs 4 and 6 of subdivision (k) of section 39 of the tax law, as added by section 2 of part A of chapter 68 of the laws of 2013, are amended to read as follows:

(4) Article 9-A: section 210, subdivision 47 AND SUBDIVISION 48.

(6) Article 22: section 606, subsection (ww) AND SUBSECTION (XX).

S 3. Section 210 of the tax law is amended by adding a new subdivision 48 to read as follows:

48. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING ENTIRE NET INCOME. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES AND PAID BY SUCH BUSINESS DURING THE TAXABLE YEAR. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

S 4. Section 606 of the tax law is amended by adding a new subsection (xx) to read as follows:

(XX) THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME. THIS CREDIT MAY BE CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES AND PAID BY SUCH TAXPAYER DURING THE TAXABLE YEAR. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST WILL BE PAID THEREON.

S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxvii) to read as follows:

(XXXVII) TAX FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES CREDIT UNDER SUBSECTION (XX) — AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-EIGHT OF SECTION TWO HUNDRED TEN

S 6. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014.

PART U

Section 1. Paragraph (a) of subdivision 44 of section 210 of the tax law, as amended by section 2 of part T of chapter 59 of the laws of 2012, is amended to read as follows:

(a) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (i) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, and (ii) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, AND (III) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. For purposes of this subdivision, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (i) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, and the portion of the credit described in subparagraph (ii) of this paragraph shall be allowed in the taxable year in which the additional six month period ends.

S 2. Paragraph 1 of subsection (tt) of section 606 of the tax law, as amended by section 3 of part T of chapter 59 of the laws of 2012, is amended to read as follows:

(1) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (A) five hundred dollars per month for up to six months for each qualified employee the employer employs in a full-time job or two hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, and (B) one thousand dollars for each qualified employee who is employed for at least an additional six months by the qualified employer in a full-time job or five hundred dollars for each qualified employee who is employed for at least an additional six

months by the qualified employer in a part-time job of at least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, AND (C) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation. For purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (A) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, and the portion of the credit described in subparagraph (B) of this paragraph shall be allowed in the taxable year in which the additional six month period ends.

S 3. Subdivision (a) of section 25-a of the labor law, as amended by section 2 of part DD of chapter 59 of the laws of 2013, is amended to read as follows:

(a) The commissioner is authorized to establish and administer the New York youth works tax credit program to provide tax incentives to employers for employing at risk youth in part-time and full-time positions. There will be five distinct pools of tax incentives. Program one will cover tax incentives allocated for two thousand twelve and two thousand thirteen. Program two will cover tax incentives allocated in two thousand fourteen to be used in two thousand fourteen and fifteen. Program three will cover tax incentives allocated in two thousand fifteen to be used in two thousand fifteen and sixteen. Program four will cover tax incentives allocated in two thousand sixteen to be used in two thousand sixteen and seventeen. Program five will cover tax incentives allocated in two thousand seventeen to be used in two thousand seventeen and eighteen. The commissioner is authorized to allocate up to twenty-five million dollars of tax credits under program one, [six] TEN million dollars of tax credits under program two, [six] TEN million dollars of tax credits under program three, [and six] TEN million dollars of tax credits under program four, and [six] TEN million dollars of tax credits under program five.

S 4. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2014.

PART V

Section 1. Section 19 of Part W-1 of chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, as amended by section 1 of part D of chapter 59 of the laws of 2012, is amended to read as follows:

S 19. This act shall take effect immediately; provided, however, that sections one through thirteen of this act shall take effect September 1,

2006 and shall be deemed repealed on September 1, [2014] 2016 and such repeal shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law, and shall apply to sales made, fuel compounded or manufactured, and uses occurring on or after such date, and with respect to sections seven through eleven of this act, in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law; provided, however, that the commissioner of taxation and finance shall be authorized on and after the date this act shall have become a law to adopt and amend any rules or regulations and to take any steps necessary to implement the provisions of this act; provided further that sections fourteen through sixteen of this act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2006.

S 2. This act shall take effect immediately.

PART W

Section 1. Section 11 of part EE of chapter 63 of the laws of 2000, amending the tax law and other laws relating to modifying the distribution of funds from the motor vehicle fuel excise tax, as amended by section 1 of part M of chapter 61 of the laws of 2011, is amended to read as follows:

S 11. Notwithstanding any other law, rule or regulation to the contrary, the comptroller is hereby authorized and directed to deposit in equal monthly installments and distribute pursuant to the provisions of subdivision (d) of section 301-j of the tax law amounts listed below to the credit of the dedicated highway and bridge trust fund and the dedicated mass transportation trust fund from all motor vehicle receipts now deposited into the general fund pursuant to provisions of the vehicle and traffic law: twenty-eight million four hundred thousand dollars from April 1, 2002 through March 31, 2003, sixty-seven million nine hundred thousand dollars from April 1, 2003 through March 31, 2004, one hundred seventy million one hundred thousand dollars from April 1, 2004 through March 31, 2005, and one hundred percent of all motor vehicle receipts pursuant to provisions of the vehicle and traffic law that are not otherwise directed to be deposited in a fund other than the general fund from April 1, 2005 through March 31, 2006, and the same amount each year thereafter UNTIL MARCH 31, 2014. FROM APRIL 1, 2014 THROUGH MARCH 31, 2015, AND EACH YEAR THEREAFTER, THE COMPTROLLER SHALL, ON A QUARTERLY BASIS, CERTIFY AND TRANSFER SIXTEEN MILLION FOUR HUNDRED NINETY-EIGHT THOUSAND TWO HUNDRED FIFTY-FIVE DOLLARS TO THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND AND FIFTEEN MILLION SIX HUNDRED SIXTY-FIVE THOUSAND TWO HUNDRED FORTY-FIVE DOLLARS TO THE DEDICATED MASS TRANSPORTATION TRUST FUND.

S 2. Paragraph (f) of subdivision 4 of section 503 of the vehicle and traffic law, as added by section 1 of part W of chapter 59 of the laws of 2006, is amended to read as follows:

(f) Notwithstanding any other provision of law to the contrary, commencing April first, two thousand six and ending March thirty-first, two thousand [seven] FOURTEEN, IN EACH YEAR, the first forty million seven hundred thousand dollars of fees collected pursuant to this subdivision and section eleven hundred ninety-nine of this chapter, in the aggregate, shall be paid to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. Any such fees collected in excess of such amount shall be paid to the credit of

the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. [Commencing April first, two thousand seven and ending March thirty-first, two thousand eight, and for each such fiscal year thereafter, the first forty million seven hundred thousand dollars of fees collected pursuant to this subdivision and section eleven hundred ninety-nine of this chapter, in the aggregate, shall be paid to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. Any such fees collected in excess of such amount for each such state fiscal year, shall be paid to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.] COMMENCING APRIL FIRST, TWO THOUSAND FOURTEEN AND FOR EACH SUCH FISCAL YEAR THEREAFTER, ANY SUCH FEES COLLECTED PURSUANT TO THIS SUBDIVISION AND SECTION ELEVEN HUNDRED NINETY-NINE OF THIS CHAPTER SHALL BE PAID TO THE CREDIT OF THE COMPTROLLER ON ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

PART X

Section 1. Section 951 of the tax law, as amended by chapter 67 of the laws of 1978, subsection (a) as amended by section 1 of part T of chapter 57 of the laws of 2010, subsection (b) as amended by section 5 of part A of chapter 389 of the laws of 1997 and subsection (c) as added by chapter 538 of the laws of 2013, is amended to read as follows:

S 951. Applicable internal revenue code provisions.-- (a) [Dates] GENERAL. For purposes of this article, any reference to the internal revenue code means the United States Internal Revenue Code of 1986, with all amendments enacted on or before [July twenty-second, nineteen hundred ninety-eight,] JANUARY FIRST, TWO THOUSAND FOURTEEN and, unless specifically provided otherwise in this article, any reference to December thirty-first, nineteen hundred seventy-six or January first, nineteen hundred seventy-seven contained in the provisions of such code which are applicable to the determination of the tax imposed by this article shall be read as a reference to June thirtieth, nineteen hundred seventy-eight or July first, nineteen hundred seventy-eight, respectively. [Notwithstanding the foregoing, the unified credit against the estate tax provided in section two thousand ten of the internal revenue code shall, for purposes of this article, be the amount allowable as if the federal applicable exclusion amount were one million dollars.]

(b) [Applicable generation-skipping transfer tax provisions.--Where any reference is made in this article (or in the provisions of the internal revenue code which are made applicable by section two, as amended, of chapter one thousand thirteen of the laws of nineteen hundred sixty-two, to the determination of the tax imposed by this article and appended thereto) to provisions of the internal revenue code contained in section one thousand twenty-five of this chapter, such internal revenue code provisions contained in such section one thousand twenty-five shall apply to the provisions of this article in the same manner and with the same force and effect as if the language of such provisions of the internal revenue code had been incorporated in full into this article except to the extent that any such provision is either

inconsistent with a provision of this article or is not relevant thereto.

(c)] Disposition to surviving spouse who is not a United States citizen. In the case of an estate where a federal estate tax return is not required for federal estate tax purposes, a disposition to a surviving spouse that would qualify for the federal estate tax marital deduction under section 2056 of the internal revenue code if not for the limitation imposed by subsection (d)(1) of such section shall nonetheless be treated as qualifying for the federal estate tax marital deduction for purposes of computing the tax imposed by section nine hundred fifty-two of this part, without requiring that such disposition pass to the surviving spouse in a qualified domestic trust as required for federal purposes by internal revenue code section 2056(d)(2).

S 2. Section 952 of the tax law, as added by section 9 of part A of chapter 389 of the laws of 1997, subsection (b) as amended by section 3 of part I of chapter 60 of the laws of 2004, is amended to read as follows:

S 952. Tax imposed. (a) A tax is hereby imposed on the transfer of the New York estate by every deceased individual who at his or her death was a resident of New York state. [The tax imposed by this subsection shall be an amount equal to the maximum amount allowable against the federal estate tax as a credit for state death taxes under section two thousand eleven of the internal revenue code.]

(b) [If the transfer of any part of the estate of a deceased resident includes real or tangible personal property having an actual situs outside New York state, the tax imposed by subsection (a) of this section shall be reduced by an amount determined by multiplying the maximum amount of the federal credit for state death taxes by a fraction, the numerator of which is the decedent's federal gross estate reduced by his or her New York gross estate and the denominator of which is his or her federal gross estate.] COMPUTATION OF TAX. THE TAX IMPOSED BY THIS SECTION SHALL BE COMPUTED ON THE DECEASED RESIDENT'S NEW YORK TAXABLE ESTATE AS FOLLOWS:

IN THE CASE OF DECEDENTS DYING ON OR AFTER APRIL 1, 2014 AND BEFORE APRIL 1, 2015

IF THE NEW YORK TAXABLE ESTATE IS:	THE TAX IS:
NOT OVER $500,000	3.06% OF TAXABLE ESTATE
OVER $500,000 BUT NOT OVER $1,000,000	$15,300 PLUS 5.0% OF EXCESS OVER $500,000
OVER $1,000,000 BUT NOT OVER $1,500,000	$40,300 PLUS 5.5% OF EXCESS OVER $1,000,000
OVER $1,500,000 BUT NOT OVER $2,100,000	$67,800 PLUS 6.5% OF EXCESS OVER $1,500,000
OVER $2,100,000 BUT NOT OVER $2,600,000	$106,800 PLUS 8.0% OF EXCESS OVER $2,100,000
OVER $2,600,000 BUT NOT OVER $3,100,000	$146,800 PLUS 8.8% OF EXCESS OVER $2,600,000
OVER $3,100,000 BUT NOT OVER $3,600,000	$190,800 PLUS 9.6% OF EXCESS OVER $3,100,000
OVER $3,600,000 BUT NOT OVER $4,100,000	$238,800 PLUS 10.4% OF EXCESS OVER $3,600,000
OVER $4,100,000 BUT NOT OVER $5,100,000	$290,800 PLUS 11.2% OF EXCESS OVER $4,100,000
OVER $5,100,000 BUT NOT OVER $6,100,000	$402,800 PLUS 12.0% OF EXCESS OVER $5,100,000
OVER $6,100,000 BUT NOT OVER $7,100,000	$522,800 PLUS 12.8% OF EXCESS

	OVER $6,100,000
OVER $7,100,000 BUT NOT OVER $8,100,000	$650,800 PLUS 13.6% OF EXCESS OVER $7,100,000
OVER $8,100,000 BUT NOT OVER $9,100,000	$786,800 PLUS 14.4% OF EXCESS OVER $8,100,000
OVER $9,100,000	$930,800 PLUS 14.5% OF EXCESS OVER $9,100,000

IN THE CASE OF DECEDENTS DYING ON OR AFTER APRIL 1, 2015 AND BEFORE APRIL 1, 2016

IF THE NEW YORK TAXABLE ESTATE IS:	THE TAX IS:
NOT OVER $500,000	3.06% OF TAXABLE ESTATE
OVER $500,000 BUT NOT OVER $1,000,000	$15,300 PLUS 5.0% OF EXCESS OVER $500,000
OVER $1,000,000 BUT NOT OVER $1,500,000	$40,300 PLUS 5.5% OF EXCESS OVER $1,000,000
OVER $1,500,000 BUT NOT OVER $2,100,000	$67,800 PLUS 6.5% OF EXCESS OVER $1,500,000
OVER $2,100,000 BUT NOT OVER $2,600,000	$106,800 PLUS 8.0% OF EXCESS OVER $2,100,000
OVER $2,600,000 BUT NOT OVER $3,100,000	$146,800 PLUS 8.8% OF EXCESS OVER $2,600,000
OVER $3,100,000 BUT NOT OVER $3,600,000	$190,800 PLUS 9.6% OF EXCESS OVER $3,100,000
OVER $3,600,000 BUT NOT OVER $4,100,000	$238,800 PLUS 10.4% OF EXCESS OVER $3,600,000
OVER $4,100,000 BUT NOT OVER $5,100,000	$290,800 PLUS 11.2% OF EXCESS OVER $4,100,000
OVER $5,100,000 BUT NOT OVER $6,100,000	$402,800 PLUS 12.0% OF EXCESS OVER $5,100,000
OVER $6,100,000 BUT NOT OVER $7,100,000	$522,800 PLUS 12.8% OF EXCESS OVER $6,100,000
OVER $7,100,000	$650,800 PLUS 13.0% OF EXCESS OVER $7,100,000

IN THE CASE OF DECEDENTS DYING ON OR AFTER APRIL 1, 2016 AND BEFORE APRIL 1, 2017

IF THE NEW YORK TAXABLE ESTATE IS:	THE TAX IS:
NOT OVER $500,000	3.06% OF TAXABLE ESTATE
OVER $500,000 BUT NOT OVER $1,000,000	$15,300 PLUS 5.0% OF EXCESS OVER $500,000
OVER $1,000,000 BUT NOT OVER $1,500,000	$40,300 PLUS 5.5% OF EXCESS OVER $1,000,000
OVER $1,500,000 BUT NOT OVER $2,100,000	$67,800 PLUS 6.5% OF EXCESS OVER $1,500,000
OVER $2,100,000 BUT NOT OVER $2,600,000	$106,800 PLUS 8.0% OF EXCESS OVER $2,100,000
OVER $2,600,000 BUT NOT OVER $3,100,000	$146,800 PLUS 8.8% OF EXCESS OVER $2,600,000
OVER $3,100,000 BUT NOT OVER $3,600,000	$190,800 PLUS 9.6% OF EXCESS OVER $3,100,000
OVER $3,600,000 BUT NOT OVER $4,100,000	$238,800 PLUS 10.4% OF EXCESS OVER $3,600,000
OVER $4,100,000 BUT NOT OVER $5,100,000	$290,800 PLUS 11.2% OF EXCESS OVER $4,100,000
OVER $5,100,000	$402,800 PLUS 11.5% OF EXCESS OVER $5,100,000

IN THE CASE OF DECEDENTS DYING ON OR AFTER APRIL 1, 2017

IF THE NEW YORK TAXABLE ESTATE IS:	THE TAX IS:
NOT OVER $500,000	3.06% OF TAXABLE ESTATE
OVER $500,000 BUT NOT OVER $1,000,000	$15,300 PLUS 5.0% OF EXCESS OVER $500,000
OVER $1,000,000 BUT NOT OVER $1,500,000	$40,300 PLUS 5.5% OF EXCESS OVER $1,000,000
OVER $1,500,000 BUT NOT OVER $2,100,000	$67,800 PLUS 6.5% OF EXCESS OVER $1,500,000
OVER $2,100,000 BUT NOT OVER $2,600,000	$106,800 PLUS 8.0% OF EXCESS OVER $2,100,000
OVER $2,600,000 BUT NOT OVER $3,100,000	$146,800 PLUS 8.8% OF EXCESS OVER $2,600,000
OVER $3,100,000 BUT NOT OVER $3,600,000	$190,800 PLUS 9.6% OF EXCESS OVER $3,100,000
OVER $3,600,000	$238,800 PLUS 10.0% OF EXCESS OVER $3,600,000

(C) APPLICABLE CREDIT AMOUNT. (1) A CREDIT OF THE APPLICABLE CREDIT AMOUNT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS SECTION AS PROVIDED IN THIS SUBSECTION. IN THE CASE OF A DECEDENT WHOSE NEW YORK TAXABLE ESTATE IS LESS THAN OR EQUAL TO THE BASIC EXCLUSION AMOUNT, THE APPLICABLE CREDIT AMOUNT SHALL BE THE AMOUNT OF TAX THAT WOULD BE DUE UNDER SUBSECTION (B) OF THIS SECTION ON SUCH DECEDENT'S NEW YORK TAXABLE ESTATE. IN THE CASE OF A DECEDENT WHOSE NEW YORK TAXABLE ESTATE EXCEEDS THE BASIC EXCLUSION AMOUNT BY AN AMOUNT THAT IS LESS THAN OR EQUAL TO FIVE PERCENT OF SUCH AMOUNT, THE APPLICABLE CREDIT AMOUNT SHALL BE THE AMOUNT OF TAX THAT WOULD BE DUE UNDER SUBSECTION (B) OF THIS SECTION IF THE AMOUNT ON WHICH THE TAX IS TO BE COMPUTED WERE EQUAL TO THE BASIC EXCLUSION AMOUNT MULTIPLIED BY ONE MINUS A FRACTION, THE NUMERATOR OF WHICH IS THE DECEDENT'S NEW YORK TAXABLE ESTATE MINUS THE BASIC EXCLUSION AMOUNT, AND THE DENOMINATOR OF WHICH IS FIVE PERCENT OF THE BASIC EXCLUSION AMOUNT. PROVIDED, HOWEVER, THAT THE CREDIT ALLOWED BY THIS SUBSECTION SHALL NOT EXCEED THE TAX IMPOSED BY THIS SECTION, AND NO CREDIT SHALL BE ALLOWED TO THE ESTATE OF ANY DECEDENT WHOSE NEW YORK TAXABLE ESTATE EXCEEDS ONE HUNDRED FIVE PERCENT OF THE BASIC EXCLUSION AMOUNT.

(2) (A) FOR PURPOSES OF THIS SECTION, THE BASIC EXCLUSION AMOUNT SHALL BE AS FOLLOWS:

IN THE CASE OF DECEDENTS DYING ON OR AFTER:	THE BASIC EXCLUSION AMOUNT IS:
APRIL 1, 2014 AND BEFORE APRIL 1, 2015	$ 2,062,500
APRIL 1, 2015 AND BEFORE APRIL 1, 2016	3,125,000
APRIL 1, 2016 AND BEFORE APRIL 1, 2017	4,187,500
APRIL 1, 2017 AND BEFORE JANUARY 1, 2019	5,250,000

(B) IN THE CASE OF ANY DECEDENT DYING ON OR AFTER JANUARY FIRST, TWO THOUSAND NINETEEN AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY, THE BASIC EXCLUSION AMOUNT IN SUBPARAGRAPH (A) OF THIS PARAGRAPH FOR DECEDENTS DYING ON AND AFTER APRIL FIRST, TWO THOUSAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN SHALL BE INCREASED BY AN AMOUNT EQUAL TO:

(I) SUCH DOLLAR AMOUNT, MULTIPLIED BY

(II) THE COST-OF-LIVING ADJUSTMENT, WHICH SHALL BE THE PERCENTAGE BY WHICH THE CONSUMER PRICE INDEX FOR THE PRECEDING CALENDAR YEAR EXCEEDS THE CONSUMER PRICE INDEX FOR CALENDAR YEAR TWO THOUSAND TWELVE.

(C) IN THE CASE OF ANY DECEDENT DYING IN A CALENDAR YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY, THE BASIC EXCLUSION AMOUNT

FOR DECEDENTS DYING IN THE PRECEDING CALENDAR YEAR SHALL BE INCREASED BY AN AMOUNT EQUAL TO:

(I) SUCH DOLLAR AMOUNT, MULTIPLIED BY

(II) THE COST-OF-LIVING ADJUSTMENT, WHICH SHALL BE THE PERCENTAGE BY WHICH THE CONSUMER PRICE INDEX FOR THE PRECEDING CALENDAR YEAR EXCEEDS THE CONSUMER PRICE INDEX FOR CALENDAR YEAR TWO THOUSAND EIGHTEEN.

(D) (I) FOR PURPOSES OF THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS THE MOST RECENT CONSUMER PRICE INDEX FOR ALL-URBAN CONSUMERS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR.

(II) IF ANY AMOUNT ADJUSTED UNDER THIS PARAGRAPH IS NOT A MULTIPLE OF TEN THOUSAND DOLLARS, SUCH AMOUNT SHALL BE ROUNDED TO THE NEAREST MULTIPLE OF TEN THOUSAND DOLLARS.

S 3. Section 954 of the tax law, as amended by chapter 67 of the laws of 1978, paragraph 1 of subsection (a) as amended by section 10 and subsection (b) as amended by section 11 of part A of chapter 389 of the laws of 1997, subsection (c) as amended by chapter 916 of the laws of 1982, paragraph 1 of subsection (c) as amended by section 3 of part A of chapter 407 of the laws of 1999 and such subsection (c) as relettered by section 12 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

S 954. Resident's New York gross estate. (a) General.-- The New York gross estate of a deceased resident means his OR HER federal gross estate as defined in the internal revenue code (whether or not a federal estate tax return is required to be filed) modified as follows:

(1) Reduced by the value of real or tangible personal property having an actual situs outside New York state.

(2) Increased by the amount determined under section nine hundred fifty-seven OF THIS PART (relating to limited powers of appointment created prior to September first, nineteen hundred thirty).

(3) INCREASED BY THE AMOUNT OF ANY TAXABLE GIFT UNDER SECTION 2503 OF THE INTERNAL REVENUE CODE, ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, IF THE DECEDENT WAS A RESIDENT OF NEW YORK STATE AT THE TIME SUCH GIFT WAS MADE.

(b) Valuation. -- (1) The New York gross estate shall be valued as of the TIME OF THE DECEDENT'S DEATH, EXCEPT THAT IF A FEDERAL ESTATE TAX RETURN IS FILED AND THE ALTERNATE VALUATION UNDER SECTION 2032 OF THE INTERNAL REVENUE CODE IS ELECTED FOR FEDERAL ESTATE TAX PURPOSES, THE NEW YORK GROSS ESTATE SHALL BE VALUED AS OF THE applicable federal valuation date or dates. Any real property qualified under section two thousand thirty-two-A of the internal revenue code shall have the same value for purposes of the New York gross estate as it has for federal estate tax purposes.

(2) IF SUCH ALTERNATE VALUATION COULD HAVE BEEN ELECTED PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION, BUT FOR THE ABSENCE OF AN ESTATE SUFFICIENT TO REQUIRE THE FILING OF A FEDERAL RETURN, THE NEW YORK GROSS ESTATE MAY, UPON THE ELECTION OF THE EXECUTOR, BE VALUED AS OF THE FEDERAL VALUATION DATE OR DATES WHICH WOULD HAVE APPLIED IF A FEDERAL RETURN HAD BEEN FILED. HOWEVER, NO ELECTION MAY BE MADE UNDER THIS PARAGRAPH UNLESS SUCH ELECTION WILL DECREASE THE VALUE OF THE NEW YORK GROSS ESTATE AND THE AMOUNT OF TAX IMPOSED BY THIS ARTICLE (REDUCED BY CREDITS ALLOWABLE AGAINST SUCH TAX). ANY ELECTION MADE UNDER THIS PARAGRAPH SHALL BE IRREVOCABLE. THE ELECTION ALLOWED BY THIS PARAGRAPH SHALL BE MADE NO LATER THAN THE DATE PRESCRIBED FOR THE FILING OF THE RETURN UNDER THIS ARTICLE (INCLUDING EXTENSIONS) OR ANY TIME THEREAFTER AS THE COMMISSIONER MAY PRESCRIBE.

(c) Cross references.-- (1) For provisions of the internal revenue code defining the federal gross estate, see:
Sec. 2031. Definition of gross estate.
Sec. 2032. Alternate valuation.
Sec. 2032A. Valuation of certain farm, etc., real property.
Sec. 2033. Property in which the decedent had an interest.
Sec. 2034. Dower or curtesy interest.
Sec. 2035. Adjustments for gifts made within three years of decedent's death.
Sec. 2036. Transfers with retained life estate.
Sec. 2037. Transfers taking effect at death.
Sec. 2038. Revocable transfers.
Sec. 2039. Annuities.
Sec. 2040. Joint interests.
Sec. 2041. Powers of appointment.
Sec. 2042. Proceeds of life insurance.
Sec. 2043. Transfers for insufficient consideration.
Sec. 2044. Certain property for which marital deduction was previously allowed.
Sec. 2045. Prior interests.
Sec. 2046. Disclaimers.
(2) FOR PROVISIONS OF THE INTERNAL REVENUE CODE WHICH, EXCEPT TO THE EXTENT THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, ARE PERTINENT TO THE COMPUTATION OF TAXABLE GIFTS AND THE TAX UNDER THIS ARTICLE, SEE:
SEC. 2503. TAXABLE GIFTS.
SEC. 2511. TRANSFERS IN GENERAL.
SEC. 2512. VALUATION OF GIFTS.
SEC. 2513. GIFT BY HUSBAND OR WIFE TO THIRD PARTY.
SEC. 2514. POWERS OF APPOINTMENT.
SEC. 2516. CERTAIN PROPERTY SETTLEMENTS.
SEC. 2518. DISCLAIMERS.
SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES.
SEC. 2522. CHARITABLE AND SIMILAR GIFTS.
SEC. 2523. GIFT TO SPOUSE.
SEC. 2524. EXTENT OF DEDUCTIONS.
SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS.
SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN TRUSTS.
SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.
SEC. 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS.
SEC. 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES.
(3) For effect of federal estate tax determinations, see section nine hundred sixty-one of this article.
S 4. The tax law is amended by adding a new section 955 to read as follows:
S 955. RESIDENT'S NEW YORK TAXABLE ESTATE. (A) GENERAL.--THE TAXABLE ESTATE OF A NEW YORK RESIDENT SHALL BE HIS OR HER NEW YORK GROSS ESTATE, MINUS THE DEDUCTIONS ALLOWABLE FOR DETERMINING HIS OR HER FEDERAL TAXABLE ESTATE UNDER THE INTERNAL REVENUE CODE (WHETHER OR NOT A FEDERAL ESTATE TAX RETURN IS REQUIRED TO BE FILED), EXCEPT TO THE EXTENT THAT SUCH DEDUCTIONS RELATE TO REAL OR TANGIBLE PERSONAL PROPERTY SITUSED OUTSIDE NEW YORK STATE.

(B) WAIVER OF DEDUCTIONS.-- IF THE RIGHT TO ANY DEDUCTION OTHERWISE ALLOWABLE IS WAIVED FOR FEDERAL ESTATE TAX PURPOSES, IT SHALL BE CONSIDERED WAIVED FOR NEW YORK ESTATE TAX PURPOSES.

(C) QUALIFIED TERMINABLE INTEREST PROPERTY ELECTION.-- EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE ELECTION REFERRED TO IN PARAGRAPH (7) OF SUBSECTION (B) OF SECTION 2056 OF THE INTERNAL REVENUE CODE SHALL NOT BE ALLOWED UNDER THIS ARTICLE UNLESS SUCH ELECTION WAS MADE WITH RESPECT TO THE FEDERAL ESTATE TAX RETURN REQUIRED TO BE FILED UNDER THE PROVISIONS OF THE INTERNAL REVENUE CODE. IF SUCH ELECTION WAS MADE FOR THE PURPOSES OF THE FEDERAL ESTATE TAX, THEN SUCH ELECTION MUST ALSO BE MADE BY THE EXECUTOR ON THE RETURN OF THE TAX IMPOSED BY THIS ARTICLE. WHERE NO FEDERAL ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE EXECUTOR MAY MAKE THE ELECTION REFERRED TO IN SUCH PARAGRAPH (7) WITH RESPECT TO THE TAX IMPOSED BY THIS ARTICLE ON THE RETURN OF THE TAX IMPOSED BY THIS ARTICLE. ANY ELECTION MADE UNDER THIS SUBSECTION SHALL BE IRREVOCABLE.

(D) CROSS REFERENCES.-- FOR PROVISIONS OF THE INTERNAL REVENUE CODE SPECIFYING THE DEDUCTIONS ALLOWABLE FOR FEDERAL ESTATE TAX PURPOSES, SEE:

SEC.2032(B). ALTERNATE VALUATION--SPECIAL RULE FOR DEDUCTIONS.

SEC.2046. DISCLAIMERS.

SEC.2053. EXPENSES, INDEBTEDNESS, AND TAXES.

SEC.2054. LOSSES.

SEC.2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

SEC.2056. BEQUESTS, ETC., TO SURVIVING SPOUSE.

S 5. Subsections (b) and (d) of section 960 of the tax law, subsection (b) as amended by section 4 of part I of chapter 60 of the laws of 2004 and subsection (d) as added by section 190 of the laws of 1980 and relettered by section 15 of part A of chapter 389 of the laws of 1997, are amended to read as follows:

(b) Computation of tax.--The tax imposed under subsection (a) shall be the same as the tax that would be due, if the decedent had died a resident, under subsection (a) of section nine hundred fifty-two, except that for purposes of [allocating] COMPUTING the tax under subsection (b) of section nine hundred fifty-two, "New York [gross] TAXABLE estate"[, in the numerator in subsection (b) of section nine hundred fifty-two,] shall not include the value of any intangible personal property otherwise includible in the deceased individual's New York gross estate, AND SHALL NOT INCLUDE THE AMOUNT OF ANY GIFT UNLESS SUCH GIFT CONSISTS OF REAL OR TANGIBLE PERSONAL PROPERTY HAVING AN ACTUAL SITUS IN NEW YORK STATE OR INTANGIBLE PERSONAL PROPERTY EMPLOYED IN A BUSINESS, TRADE OR PROFESSION CARRIED ON IN THIS STATE.

(d) Works of art on loan for exhibition. Notwithstanding the foregoing, the tax imposed under subsection (a) OF THIS SECTION on the transfer, from any deceased individual who at his OR HER death was not a resident of the state of New York, of works of art having an actual situs in the state of New York and either (i) includible in his OR HER federal gross estate or (ii) which would be includible in his OR HER New York gross estate pursuant to section nine hundred fifty-seven (relating to certain limited powers of appointment) if he OR SHE were a resident of the state of New York, shall [be an amount equal to the transfer taxes or death taxes of every character in respect of personal property which would be imposed on such transfer or such works of art if the actual situs of such works of art were the state or territory of the United States of residence of such individual] NOT BE SUBJECT TO THE TAX IMPOSED BY THIS SECTION if such works of art are [sited in the state of

New York solely for exhibition purposes,] loaned [for such] TO A PUBLIC GALLERY LOCATED WITHIN THE STATE OF NEW YORK SOLELY FOR EXHIBITION purposes [to a public gallery or museum (] BUT ONLY IF no part of the net earnings of [which] SUCH PUBLIC GALLERY OR MUSEUM inure to the benefit of any private stockholder or individual[)], and [(], at the time of the death of such individual[)] SUCH WORKS OF ART ARE on exhibition or en route to or from exhibition in such a public gallery or museum. [Provided however, that if the state or territory of the United States of residence of such individual imposes transfer taxes or death taxes on such works of art which are sited in the state of New York for the purposes herein specified, then such works of art shall not be subject to the tax imposed by this section.]

S 6. Subsection (a) of section 971 of the tax law, as added by section 17 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(a) Returns by executor. (1) Residents. In the case of the estate of every individual dying on or after [February first, two thousand] APRIL FIRST, TWO THOUSAND FOURTEEN, who at his or her death was a resident of New York state, [if] his or her executor [is required to file a return with respect to the federal estate tax (determined as if the limitation contained in subsection (a) of section nine hundred fifty-one of this article were applicable in determining whether such executor is required to file such federal return), the executor] shall make a return with respect to the estate tax imposed by section nine hundred fifty-two of this article IF THE DECEDENT'S FEDERAL GROSS ESTATE, INCREASED BY THE AMOUNT OF ANY GIFT INCLUDIBLE IN HIS OR HER NEW YORK GROSS ESTATE, EXCEEDS THE BASIC EXCLUSION AMOUNT APPLICABLE TO THE DECEDENT'S DATE OF DEATH IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION NINE HUNDRED FIFTY-TWO OF THIS ARTICLE.

(2) Nonresidents. In the case of the estate of every individual DYING ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, who at his or her death was not a resident of New York state, [if his or her executor is required to file a return with respect to the federal estate tax (determined as if the limitation contained in subsection (a) of section nine hundred fifty-one of this article were applicable in determining whether such executor is required to file such federal return) and] if such individual's federal gross estate includes real or tangible personal property having an actual situs in New York state, the executor shall make a return with respect to the estate tax imposed by section nine hundred sixty of this article IF THE DECEDENT'S FEDERAL GROSS ESTATE, INCREASED BY THE AMOUNT OF ANY GIFT INCLUDIBLE IN HIS OR HER NEW YORK GROSS ESTATE, EXCEEDS THE BASIC EXCLUSION AMOUNT APPLICABLE TO THE DECEDENT'S DATE OF DEATH IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION NINE HUNDRED FIFTY-TWO OF THIS ARTICLE.

S 7. Subsection (a) of section 997 of the tax law, as amended by section 27 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(a) The phrase "adjusted gross estate" shall be read as "adjusted federal gross estate determined without reference to paragraphs (1) [and], (2) AND (3) of subsection (a) of section nine hundred fifty-four" of this article.

S 8. Article 26-B of the tax law is REPEALED.

S 9. Section 2 of chapter 1013 of the laws of 1962 amending the tax law relating to imposing a tax on the transfer of estates of decedents dying on or after April first, nineteen hundred sixty-three is REPEALED.

S 10. The tax law is amended by adding a new section 999-a to read as follows:

S 999-A. APPENDIX TO ARTICLE TWENTY-SIX. THE FOLLOWING PROVISIONS OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, WITH ALL AMENDMENTS ENACTED ON OR BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, SHALL APPLY TO THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT SPECIFIED IN THIS ARTICLE.

S 2031. DEFINITION OF GROSS ESTATE.

(A) GENERAL.--THE VALUE OF THE GROSS ESTATE OF THE DECEDENT SHALL BE DETERMINED BY INCLUDING TO THE EXTENT PROVIDED FOR IN THIS PART, THE VALUE AT THE TIME OF HIS DEATH OF ALL PROPERTY, REAL OR PERSONAL, TANGIBLE OR INTANGIBLE, WHEREVER SITUATED.

(B) VALUATION OF UNLISTED STOCK AND SECURITIES.--IN THE CASE OF STOCK AND SECURITIES OF A CORPORATION THE VALUE OF WHICH, BY REASON OF THEIR NOT BEING LISTED ON AN EXCHANGE AND BY REASON OF THE ABSENCE OF SALES THEREOF, CANNOT BE DETERMINED WITH REFERENCE TO BID AND ASKED PRICES OR WITH REFERENCE TO SALES PRICES, THE VALUE THEREOF SHALL BE DETERMINED BY TAKING INTO CONSIDERATION, IN ADDITION TO ALL OTHER FACTORS, THE VALUE OF STOCK OR SECURITIES OF CORPORATIONS ENGAGED IN THE SAME OR A SIMILAR LINE OF BUSINESS WHICH ARE LISTED ON AN EXCHANGE.

(C) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.--

(1) IN GENERAL.--IF THE EXECUTOR MAKES THE ELECTION DESCRIBED IN PARAGRAPH (6), THEN, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THERE SHALL BE EXCLUDED FROM THE GROSS ESTATE THE LESSER OF--

(A) THE APPLICABLE PERCENTAGE OF THE VALUE OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT, REDUCED BY THE AMOUNT OF ANY DEDUCTION UNDER SECTION 2055(F) WITH RESPECT TO SUCH LAND, OR

(B) THE EXCLUSION LIMITATION.

(2) APPLICABLE PERCENTAGE.--FOR PURPOSES OF PARAGRAPH (1), THE TERM "APPLICABLE PERCENTAGE" MEANS 40 PERCENT REDUCED (BUT NOT BELOW ZERO) BY 2 PERCENTAGE POINTS FOR EACH PERCENTAGE POINT (OR FRACTION THEREOF) BY WHICH THE VALUE OF THE QUALIFIED CONSERVATION EASEMENT IS LESS THAN 30 PERCENT OF THE VALUE OF THE LAND (DETERMINED WITHOUT REGARD TO THE VALUE OF SUCH EASEMENT AND REDUCED BY THE VALUE OF ANY RETAINED DEVELOPMENT RIGHT (AS DEFINED IN PARAGRAPH (5)). THE VALUES TAKEN INTO ACCOUNT UNDER THE PRECEDING SENTENCE SHALL BE SUCH VALUES AS OF THE DATE OF THE CONTRIBUTION REFERRED TO IN PARAGRAPH (8)(B).

(3) EXCLUSION LIMITATION.--FOR PURPOSES OF PARAGRAPH (1), THE EXCLUSION LIMITATION IS THE LIMITATION DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

IN THE CASE OF ESTATES OF DECEDENTS DYING DURING:	THE EXCLUSION LIMITATION IS:
1998	100,000
1999	200,000
2000	300,000
2001	400,000
2002 OR THEREAFTER	500,000

(4) TREATMENT OF CERTAIN INDEBTEDNESS.--

(A) IN GENERAL.--THE EXCLUSION PROVIDED IN PARAGRAPH (1) SHALL NOT APPLY TO THE EXTENT THAT THE LAND IS DEBT-FINANCED PROPERTY.

(B) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

(I) DEBT-FINANCED PROPERTY.--THE TERM "DEBT-FINANCED PROPERTY" MEANS ANY PROPERTY WITH RESPECT TO WHICH THERE IS AN ACQUISITION INDEBTEDNESS (AS DEFINED IN CLAUSE (II)) ON THE DATE OF THE DECEDENT'S DEATH.

(II) ACQUISITION INDEBTEDNESS.--THE TERM "ACQUISITION INDEBTEDNESS" MEANS, WITH RESPECT TO DEBT-FINANCED PROPERTY, THE UNPAID AMOUNT OF--

(I) THE INDEBTEDNESS INCURRED BY THE DONOR IN ACQUIRING SUCH PROPERTY,

(II) THE INDEBTEDNESS INCURRED BEFORE THE ACQUISITION OF SUCH PROPERTY IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUISITION,

(III) THE INDEBTEDNESS INCURRED AFTER THE ACQUISITION OF SUCH PROPERTY IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUISITION AND THE INCURRENCE OF SUCH INDEBTEDNESS WAS REASONABLY FORESEEABLE AT THE TIME OF SUCH ACQUISITION, AND

(IV) THE EXTENSION, RENEWAL, OR REFINANCING OF AN ACQUISITION INDEBTEDNESS.

(5) TREATMENT OF RETAINED DEVELOPMENT RIGHT.--

(A) IN GENERAL.--PARAGRAPH (1) SHALL NOT APPLY TO THE VALUE OF ANY DEVELOPMENT RIGHT RETAINED BY THE DONOR IN THE CONVEYANCE OF A QUALIFIED CONSERVATION EASEMENT.

(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.--IF EVERY PERSON IN BEING WHO HAS AN INTEREST (WHETHER OR NOT IN POSSESSION) IN THE LAND EXECUTES AN AGREEMENT TO EXTINGUISH PERMANENTLY SOME OR ALL OF ANY DEVELOPMENT RIGHTS (AS DEFINED IN SUBPARAGRAPH (D)) RETAINED BY THE DONOR ON OR BEFORE THE DATE FOR FILING THE RETURN OF THE TAX IMPOSED BY SECTION 2001, THEN ANY TAX IMPOSED BY SECTION 2001 SHALL BE REDUCED ACCORDINGLY. SUCH AGREEMENT SHALL BE FILED WITH THE RETURN OF THE TAX IMPOSED BY SECTION 2001. THE AGREEMENT SHALL BE IN SUCH FORM AS THE SECRETARY SHALL PRESCRIBE.

(C) ADDITIONAL TAX.--ANY FAILURE TO IMPLEMENT THE AGREEMENT DESCRIBED IN SUBPARAGRAPH (B) NOT LATER THAN THE EARLIER OF--

(I) THE DATE WHICH IS 2 YEARS AFTER THE DATE OF THE DECEDENT'S DEATH, OR

(II) THE DATE OF THE SALE OF SUCH LAND SUBJECT TO THE QUALIFIED CONSERVATION EASEMENT,

SHALL RESULT IN THE IMPOSITION OF AN ADDITIONAL TAX IN THE AMOUNT OF THE TAX WHICH WOULD HAVE BEEN DUE ON THE RETAINED DEVELOPMENT RIGHTS SUBJECT TO SUCH AGREEMENT. SUCH ADDITIONAL TAX SHALL BE DUE AND PAYABLE ON THE LAST DAY OF THE 6TH MONTH FOLLOWING SUCH DATE.

(D) DEVELOPMENT RIGHT DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DEVELOPMENT RIGHT" MEANS ANY RIGHT TO USE THE LAND SUBJECT TO THE QUALIFIED CONSERVATION EASEMENT IN WHICH SUCH RIGHT IS RETAINED FOR ANY COMMERCIAL PURPOSE WHICH IS NOT SUBORDINATE TO AND DIRECTLY SUPPORTIVE OF THE USE OF SUCH LAND AS A FARM FOR FARMING PURPOSES (WITHIN THE MEANING OF SECTION 2032A(E)(5)).

(6) ELECTION.--THE ELECTION UNDER THIS SUBSECTION SHALL BE MADE ON OR BEFORE THE DUE DATE (INCLUDING EXTENSIONS) FOR FILING THE RETURN OF TAX IMPOSED BY SECTION 2001 AND SHALL BE MADE ON SUCH RETURN. SUCH AN ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(7) CALCULATION OF ESTATE TAX DUE.--AN EXECUTOR MAKING THE ELECTION DESCRIBED IN PARAGRAPH (6) SHALL, FOR PURPOSES OF CALCULATING THE AMOUNT OF TAX IMPOSED BY SECTION 2001, INCLUDE THE VALUE OF ANY DEVELOPMENT RIGHT (AS DEFINED IN PARAGRAPH (5)) RETAINED BY THE DONOR IN THE CONVEYANCE OF SUCH QUALIFIED CONSERVATION EASEMENT. THE COMPUTATION OF TAX ON ANY RETAINED DEVELOPMENT RIGHT PRESCRIBED IN THIS PARAGRAPH SHALL BE DONE IN SUCH MANNER AND ON SUCH FORMS AS THE SECRETARY SHALL PRESCRIBE.

(8) DEFINITIONS.--FOR PURPOSES OF THIS SUBSECTION--

(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.--THE TERM "LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT" MEANS LAND--

(I) WHICH IS LOCATED IN THE UNITED STATES OR ANY POSSESSION OF THE UNITED STATES,

(II) WHICH WAS OWNED BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY AT ALL TIMES DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH, AND

(III) WITH RESPECT TO WHICH A QUALIFIED CONSERVATION EASEMENT HAS BEEN MADE BY AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (C), AS OF THE DATE OF THE ELECTION DESCRIBED IN PARAGRAPH (6).

(B) QUALIFIED CONSERVATION EASEMENT.--THE TERM "QUALIFIED CONSERVATION EASEMENT" MEANS A QUALIFIED CONSERVATION CONTRIBUTION (AS DEFINED IN SECTION 170(H)(1)) OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN SECTION 170(H)(2)(C)), EXCEPT THAT CLAUSE (IV) OF SECTION 170(H)(4)(A) SHALL NOT APPLY, AND THE RESTRICTION ON THE USE OF SUCH INTEREST DESCRIBED IN SECTION 170(H)(2)(C) SHALL INCLUDE A PROHIBITION ON MORE THAN A DE MINIMIS USE FOR A COMMERCIAL RECREATIONAL ACTIVITY.

(C) INDIVIDUAL DESCRIBED.--AN INDIVIDUAL IS DESCRIBED IN THIS SUBPARAGRAPH IF SUCH INDIVIDUAL IS--

(I) THE DECEDENT,

(II) A MEMBER OF THE DECEDENT'S FAMILY,

(III) THE EXECUTOR OF THE DECEDENT'S ESTATE, OR

(IV) THE TRUSTEE OF A TRUST THE CORPUS OF WHICH INCLUDES THE LAND TO BE SUBJECT TO THE QUALIFIED CONSERVATION EASEMENT.

(D) MEMBER OF FAMILY.--THE TERM "MEMBER OF THE DECEDENT'S FAMILY" MEANS ANY MEMBER OF THE FAMILY (AS DEFINED IN SECTION 2032A(E)(2)) OF THE DECEDENT.

(9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.--IN ANY CASE IN WHICH THE QUALIFIED CONSERVATION EASEMENT IS GRANTED AFTER THE DATE OF THE DECEDENT'S DEATH AND ON OR BEFORE THE DUE DATE (INCLUDING EXTENSIONS) FOR FILING THE RETURN OF TAX IMPOSED BY SECTION 2001, THE DEDUCTION UNDER SECTION 2055(F) WITH RESPECT TO SUCH EASEMENT SHALL BE ALLOWED TO THE ESTATE BUT ONLY IF NO CHARITABLE DEDUCTION IS ALLOWED UNDER CHAPTER 1 TO ANY PERSON WITH RESPECT TO THE GRANT OF SUCH EASEMENT.

(10) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.--THIS SECTION SHALL APPLY TO AN INTEREST IN A PARTNERSHIP, CORPORATION, OR TRUST IF AT LEAST 30 PERCENT OF THE ENTITY IS OWNED (DIRECTLY OR INDIRECTLY) BY THE DECEDENT, AS DETERMINED UNDER THE RULES DESCRIBED IN SECTION 2057(E)(3).

(D) CROSS REFERENCE.--

FOR EXECUTOR'S RIGHT TO BE FURNISHED ON REQUEST A STATEMENT REGARDING ANY VALUATION MADE BY THE SECRETARY WITHIN THE GROSS ESTATE, SEE SECTION 7517.

S 2032. ALTERNATE VALUATION.

(A) GENERAL.--THE VALUE OF THE GROSS ESTATE MAY BE DETERMINED, IF THE EXECUTOR SO ELECTS, BY VALUING ALL THE PROPERTY INCLUDED IN THE GROSS ESTATE AS FOLLOWS:

(1) IN THE CASE OF PROPERTY DISTRIBUTED, SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, WITHIN 6 MONTHS AFTER THE DECEDENT'S DEATH SUCH PROPERTY SHALL BE VALUED AS OF THE DATE OF DISTRIBUTION, SALE, EXCHANGE, OR OTHER DISPOSITION.

(2) IN THE CASE OF PROPERTY NOT DISTRIBUTED, SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, WITHIN 6 MONTHS AFTER THE DECEDENT'S DEATH SUCH PROPERTY SHALL BE VALUED AS OF THE DATE 6 MONTHS AFTER THE DECEDENT'S DEATH.

(3) ANY INTEREST OR ESTATE WHICH IS AFFECTED BY MERE LAPSE OF TIME SHALL BE INCLUDED AT ITS VALUE AS OF THE TIME OF DEATH (INSTEAD OF THE

LATER DATE) WITH ADJUSTMENT FOR ANY DIFFERENCE IN ITS VALUE AS OF THE LATER DATE NOT DUE TO MERE LAPSE OF TIME.

(B) SPECIAL RULES.--NO DEDUCTION UNDER THIS CHAPTER OF ANY ITEM SHALL BE ALLOWED IF ALLOWANCE FOR SUCH ITEMS IS IN EFFECT GIVEN BY THE ALTERNATE VALUATION PROVIDED BY THIS SECTION. WHEREVER IN ANY OTHER SUBSECTION OR SECTION OF THIS CHAPTER REFERENCE IS MADE TO THE VALUE OF PROPERTY AT THE TIME OF THE DECEDENT'S DEATH, SUCH REFERENCE SHALL BE DEEMED TO REFER TO THE VALUE OF SUCH PROPERTY USED IN DETERMINING THE VALUE OF THE GROSS ESTATE. IN CASE OF AN ELECTION MADE BY THE EXECUTOR UNDER THIS SECTION, THEN--

(1) FOR PURPOSES OF THE CHARITABLE DEDUCTION UNDER SECTION 2055 OR 2106(A)(2), ANY BEQUEST, LEGACY, DEVISE, OR TRANSFER ENUMERATED THEREIN, AND

(2) FOR THE PURPOSE OF THE MARITAL DEDUCTION UNDER SECTION 2056, ANY INTEREST IN PROPERTY PASSING TO THE SURVIVING SPOUSE,

SHALL BE VALUED AS OF THE DATE OF THE DECEDENT'S DEATH WITH ADJUSTMENT FOR ANY DIFFERENCE IN VALUE (NOT DUE TO MERE LAPSE OF TIME OR THE OCCURRENCE OR NONOCCURRENCE OF A CONTINGENCY) OF THE PROPERTY AS OF THE DATE 6 MONTHS AFTER THE DECEDENT'S DEATH (SUBSTITUTING, IN THE CASE OF PROPERTY DISTRIBUTED BY THE EXECUTOR OR TRUSTEE, OR SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, DURING SUCH 6-MONTH PERIOD, THE DATE THEREOF).

(C) ELECTION MUST DECREASE GROSS ESTATE AND ESTATE TAX.--NO ELECTION MAY BE MADE UNDER THIS SECTION WITH RESPECT TO AN ESTATE UNLESS SUCH ELECTION WILL DECREASE--

(1) THE VALUE OF THE GROSS ESTATE, AND

(2) THE SUM OF THE TAX IMPOSED BY THIS CHAPTER AND THE TAX IMPOSED BY CHAPTER 13 WITH RESPECT TO PROPERTY INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE (REDUCED BY CREDITS ALLOWABLE AGAINST SUCH TAXES).

(D) ELECTION.--

(1) IN GENERAL.--THE ELECTION PROVIDED FOR IN THIS SECTION SHALL BE MADE BY THE EXECUTOR ON THE RETURN OF THE TAX IMPOSED BY THIS CHAPTER. SUCH ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(2) EXCEPTION.--NO ELECTION MAY BE MADE UNDER THIS SECTION IF SUCH RETURN IS FILED MORE THAN 1 YEAR AFTER THE TIME PRESCRIBED BY LAW (INCLUDING EXTENSIONS) FOR FILING SUCH RETURN.

S 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

(A) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.--

(1) GENERAL RULE.--IF--

(A) THE DECEDENT WAS (AT THE TIME OF HIS DEATH) A CITIZEN OR RESIDENT OF THE UNITED STATES, AND

(B) THE EXECUTOR ELECTS THE APPLICATION OF THIS SECTION AND FILES THE AGREEMENT REFERRED TO IN SUBSECTION (D)(2),

THEN, FOR PURPOSES OF THIS CHAPTER, THE VALUE OF QUALIFIED REAL PROPERTY SHALL BE ITS VALUE FOR THE USE UNDER WHICH IT QUALIFIES, UNDER SUBSECTION (B), AS QUALIFIED REAL PROPERTY.

(2) LIMITATION ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.--THE AGGREGATE DECREASE IN THE VALUE OF QUALIFIED REAL PROPERTY TAKEN INTO ACCOUNT FOR PURPOSES OF THIS CHAPTER WHICH RESULTS FROM THE APPLICATION OF PARAGRAPH (1) WITH RESPECT TO ANY DECEDENT SHALL NOT EXCEED $750,000.

(3) INFLATION ADJUSTMENT.--IN THE CASE OF ESTATES OF DECEDENTS DYING IN A CALENDAR YEAR AFTER 1998, THE $750,000 AMOUNT CONTAINED IN PARAGRAPH (2) SHALL BE INCREASED BY AN AMOUNT EQUAL TO--

(A) $750,000, MULTIPLIED BY

(B) THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER SECTION 1(F)(3) FOR SUCH CALENDAR YEAR BY SUBSTITUTING "CALENDAR YEAR 1997" FOR "CALENDAR YEAR 1992" IN SUBPARAGRAPH (B) THEREOF.

IF ANY AMOUNT AS ADJUSTED UNDER THE PRECEDING SENTENCE IS NOT A MULTIPLE OF $10,000, SUCH AMOUNT SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE OF $10,000.

(B) QUALIFIED REAL PROPERTY.--

(1) IN GENERAL.--FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED REAL PROPERTY" MEANS REAL PROPERTY LOCATED IN THE UNITED STATES WHICH WAS ACQUIRED FROM OR PASSED FROM THE DECEDENT TO A QUALIFIED HEIR OF THE DECEDENT AND WHICH, ON THE DATE OF THE DECEDENT'S DEATH, WAS BEING USED FOR A QUALIFIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY, BUT ONLY IF--

(A) 50 PERCENT OR MORE OF THE ADJUSTED VALUE OF THE GROSS ESTATE CONSISTS OF THE ADJUSTED VALUE OF REAL OR PERSONAL PROPERTY WHICH--

(I) ON THE DATE OF THE DECEDENT'S DEATH, WAS BEING USED FOR A QUALIFIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY, AND

(II) WAS ACQUIRED FROM OR PASSED FROM THE DECEDENT TO A QUALIFIED HEIR OF THE DECEDENT.

(B) 25 PERCENT OR MORE OF THE ADJUSTED VALUE OF THE GROSS ESTATE CONSISTS OF THE ADJUSTED VALUE OF REAL PROPERTY WHICH MEETS THE REQUIREMENTS OF SUBPARAGRAPHS (A)(II) AND (C),

(C) DURING THE 8-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH THERE HAVE BEEN PERIODS AGGREGATING 5 YEARS OR MORE DURING WHICH--

(I) SUCH REAL PROPERTY WAS OWNED BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY AND USED FOR A QUALIFIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY, AND

(II) THERE WAS MATERIAL PARTICIPATION BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS, AND

(D) SUCH REAL PROPERTY IS DESIGNATED IN THE AGREEMENT REFERRED TO IN SUBSECTION (D)(2).

(2) QUALIFIED USE.--FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED USE" MEANS THE DEVOTION OF THE PROPERTY TO ANY OF THE FOLLOWING:

(A) USE AS A FARM FOR FARMING PURPOSES, OR

(B) USE IN A TRADE OR BUSINESS OTHER THAN THE TRADE OR BUSINESS OF FARMING.

(3) ADJUSTED VALUE.--FOR PURPOSES OF PARAGRAPH (1), THE TERM "ADJUSTED VALUE" MEANS--

(A) IN THE CASE OF THE GROSS ESTATE, THE VALUE OF THE GROSS ESTATE FOR PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO THIS SECTION), REDUCED BY ANY AMOUNTS ALLOWABLE AS A DEDUCTION UNDER PARAGRAPH (4) OF SECTION 2053(A), OR

(B) IN THE CASE OF ANY REAL OR PERSONAL PROPERTY, THE VALUE OF SUCH PROPERTY FOR PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO THIS SECTION), REDUCED BY ANY AMOUNTS ALLOWABLE AS A DEDUCTION IN RESPECT OF SUCH PROPERTY UNDER PARAGRAPH (4) OF SECTION 2053(A).

(4) DECEDENTS WHO ARE RETIRED OR DISABLED.--

(A) IN GENERAL.--IF, ON THE DATE OF THE DECEDENT'S DEATH, THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) WITH RESPECT TO THE DECEDENT FOR ANY PROPERTY ARE NOT MET, AND THE DECEDENT--

(I) WAS RECEIVING OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT FOR A CONTINUOUS PERIOD ENDING ON SUCH DATE, OR

(II) WAS DISABLED FOR A CONTINUOUS PERIOD ENDING ON SUCH DATE,

THEN PARAGRAPH (1)(C)(II) SHALL BE APPLIED WITH RESPECT TO SUCH PROPERTY BY SUBSTITUTING "THE DATE ON WHICH THE LONGER OF SUCH CONTINUOUS PERIODS BEGAN" FOR "THE DATE OF THE DECEDENT'S DEATH" IN PARAGRAPH (1)(C).

(B) DISABLED DEFINED.--FOR PURPOSES OF SUBPARAGRAPH (A), AN INDIVIDUAL SHALL BE DISABLED IF SUCH INDIVIDUAL HAS A MENTAL OR PHYSICAL IMPAIRMENT WHICH RENDERS HIM UNABLE TO MATERIALLY PARTICIPATE IN THE OPERATION OF THE FARM OR OTHER BUSINESS.

(C) COORDINATION WITH RECAPTURE.--FOR PURPOSES OF SUBSECTION (C)(6)(B)(I), IF THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) ARE MET WITH RESPECT TO ANY DECEDENT BY REASON OF SUBPARAGRAPH (A), THE PERIOD ENDING ON THE DATE ON WHICH THE CONTINUOUS PERIOD TAKEN INTO ACCOUNT UNDER SUBPARAGRAPH (A) BEGAN SHALL BE TREATED AS THE PERIOD IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

(5) SPECIAL RULES FOR SURVIVING SPOUSES.--

(A) IN GENERAL.--IF PROPERTY IS QUALIFIED REAL PROPERTY WITH RESPECT TO A DECEDENT (HEREINAFTER IN THIS PARAGRAPH REFERRED TO AS THE "FIRST DECEDENT") AND SUCH PROPERTY WAS ACQUIRED FROM OR PASSED FROM THE FIRST DECEDENT TO THE SURVIVING SPOUSE OF THE FIRST DECEDENT, FOR PURPOSES OF APPLYING THIS SUBSECTION AND SUBSECTION (C) IN THE CASE OF THE ESTATE OF SUCH SURVIVING SPOUSE, ACTIVE MANAGEMENT OF THE FARM OR OTHER BUSINESS BY THE SURVIVING SPOUSE SHALL BE TREATED AS MATERIAL PARTICIPATION BY SUCH SURVIVING SPOUSE IN THE OPERATION OF SUCH FARM OR BUSINESS.

(B) SPECIAL RULE.--FOR THE PURPOSES OF SUBPARAGRAPH (A), THE DETERMINATION OF WHETHER PROPERTY IS QUALIFIED REAL PROPERTY WITH RESPECT TO THE FIRST DECEDENT SHALL BE MADE WITHOUT REGARD TO SUBPARAGRAPH (D) OF PARAGRAPH (1) AND WITHOUT REGARD TO WHETHER AN ELECTION UNDER THIS SECTION WAS MADE.

(C) COORDINATION WITH PARAGRAPH (4).--IN ANY CASE IN WHICH TO DO SO WILL ENABLE THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) TO BE MET WITH RESPECT TO THE SURVIVING SPOUSE, THIS SUBSECTION AND SUBSECTION (C) SHALL BE APPLIED BY TAKING INTO ACCOUNT ANY APPLICATION OF PARAGRAPH (4).

(C) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED USE.--

(1) IMPOSITION OF ADDITIONAL ESTATE TAX.--IF, WITHIN 10 YEARS AFTER THE DECEDENT'S DEATH AND BEFORE THE DEATH OF THE QUALIFIED HEIR--

(A) THE QUALIFIED HEIR DISPOSES OF ANY INTEREST IN QUALIFIED REAL PROPERTY (OTHER THAN BY A DISPOSITION TO A MEMBER OF HIS FAMILY), OR

(B) THE QUALIFIED HEIR CEASES TO USE FOR THE QUALIFIED USE THE QUALIFIED REAL PROPERTY WHICH WAS ACQUIRED (OR PASSED) FROM THE DECEDENT,

THEN, THERE IS HEREBY IMPOSED AN ADDITIONAL ESTATE TAX.

(2) AMOUNT OF ADDITIONAL TAX.--

(A) IN GENERAL.--THE AMOUNT OF THE ADDITIONAL TAX IMPOSED BY PARAGRAPH (1) WITH RESPECT TO ANY INTEREST SHALL BE THE AMOUNT EQUAL TO THE LESSER OF--

(I) THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO SUCH INTEREST, OR

(II) THE EXCESS OF THE AMOUNT REALIZED WITH RESPECT TO THE INTEREST (OR, IN ANY CASE OTHER THAN A SALE OR EXCHANGE AT ARM'S LENGTH, THE FAIR MARKET VALUE OF THE INTEREST) OVER THE VALUE OF THE INTEREST DETERMINED UNDER SUBSECTION (A).

(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.--FOR PURPOSES OF SUBPARAGRAPH (A), THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO AN INTEREST IS THE AMOUNT WHICH BEARS THE SAME RATIO TO THE ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE (DETERMINED UNDER SUBPARAGRAPH (C)) AS--

(I) THE EXCESS OF THE VALUE OF SUCH INTEREST FOR PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO SUBSECTION (A)) OVER THE VALUE OF SUCH INTEREST DETERMINED UNDER SUBSECTION (A), BEARS TO

(II) A SIMILAR EXCESS DETERMINED FOR ALL QUALIFIED REAL PROPERTY.

(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.--FOR PURPOSES OF SUBPARAGRAPH (B), THE TERM "ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE" MEANS THE EXCESS OF WHAT WOULD HAVE BEEN THE ESTATE TAX LIABILITY BUT FOR SUBSECTION (A) OVER THE ESTATE TAX LIABILITY. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "ESTATE TAX LIABILITY" MEANS THE TAX IMPOSED BY SECTION 2001 REDUCED BY THE CREDITS ALLOWABLE AGAINST SUCH TAX.

(D) PARTIAL DISPOSITIONS.--FOR PURPOSES OF THIS PARAGRAPH, WHERE THE QUALIFIED HEIR DISPOSES OF A PORTION OF THE INTEREST ACQUIRED BY (OR PASSING TO) SUCH HEIR (OR A PREDECESSOR QUALIFIED HEIR) OR THERE IS A CESSATION OF USE OF SUCH A PORTION--

(I) THE VALUE DETERMINED UNDER SUBSECTION (A) TAKEN INTO ACCOUNT UNDER SUBPARAGRAPH (A)(II) WITH RESPECT TO SUCH PORTION SHALL BE ITS PRO RATA SHARE OF SUCH VALUE OF SUCH INTEREST, AND

(II) THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO THE INTEREST TAKEN INTO ACCOUNT WITH RESPECT TO THE TRANSACTION INVOLVING THE SECOND OR ANY SUCCEEDING PORTION SHALL BE REDUCED BY THE AMOUNT OF THE TAX IMPOSED BY THIS SUBSECTION WITH RESPECT TO ALL PRIOR TRANSACTIONS INVOLVING PORTIONS OF SUCH INTEREST.

(E) SPECIAL RULE FOR DISPOSITION OF TIMBER.--IN THE CASE OF QUALIFIED WOODLAND TO WHICH AN ELECTION UNDER SUBSECTION (E)(13)(A) APPLIES, IF THE QUALIFIED HEIR DISPOSES OF (OR SEVERS) ANY STANDING TIMBER ON SUCH QUALIFIED WOODLAND--

(I) SUCH DISPOSITION (OR SEVERANCE) SHALL BE TREATED AS A DISPOSITION OF A PORTION OF THE INTEREST OF THE QUALIFIED HEIR IN SUCH PROPERTY, AND

(II) THE AMOUNT OF THE ADDITIONAL TAX IMPOSED BY PARAGRAPH (1) WITH RESPECT TO SUCH DISPOSITION SHALL BE AN AMOUNT EQUAL TO THE LESSER OF--

(I) THE AMOUNT REALIZED ON SUCH DISPOSITION (OR, IN ANY CASE OTHER THAN A SALE OR EXCHANGE AT ARM'S LENGTH, THE FAIR MARKET VALUE OF THE PORTION OF THE INTEREST DISPOSED OR SEVERED), OR

(II) THE AMOUNT OF ADDITIONAL TAX DETERMINED UNDER THIS PARAGRAPH (WITHOUT REGARD TO THIS SUBPARAGRAPH) IF THE ENTIRE INTEREST OF THE QUALIFIED HEIR IN THE QUALIFIED WOODLAND HAD BEEN DISPOSED OF, LESS THE SUM OF THE AMOUNT OF THE ADDITIONAL TAX IMPOSED WITH RESPECT TO ALL PRIOR TRANSACTIONS INVOLVING SUCH WOODLAND TO WHICH THIS SUBPARAGRAPH APPLIED.

FOR PURPOSES OF THE PRECEDING SENTENCE, THE DISPOSITION OF A RIGHT TO SEVER SHALL BE TREATED AS THE DISPOSITION OF THE STANDING TIMBER. THE AMOUNT OF ADDITIONAL TAX IMPOSED UNDER PARAGRAPH (1) IN ANY CASE IN WHICH A QUALIFIED HEIR DISPOSES OF HIS ENTIRE INTEREST IN THE QUALIFIED WOODLAND SHALL BE REDUCED BY ANY AMOUNT DETERMINED UNDER THIS SUBPARAGRAPH WITH RESPECT TO SUCH WOODLAND.

(3) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.--IN THE CASE OF AN INTEREST ACQUIRED FROM (OR PASSING FROM) ANY DECEDENT, IF SUBPARAGRAPH (A) OR (B) OF PARAGRAPH (1) APPLIES TO ANY PORTION OF AN INTEREST, SUBPARAGRAPH (B) OR (A), AS THE CASE MAY BE, OF PARAGRAPH (1) SHALL NOT APPLY WITH RESPECT TO THE SAME PORTION OF SUCH INTEREST.

(4) DUE DATE.--THE ADDITIONAL TAX IMPOSED BY THIS SUBSECTION SHALL BECOME DUE AND PAYABLE ON THE DAY WHICH IS 6 MONTHS AFTER THE DATE OF THE DISPOSITION OR CESSATION REFERRED TO IN PARAGRAPH (1).

(5) LIABILITY FOR TAX; FURNISHING OF BOND.--THE QUALIFIED HEIR SHALL BE PERSONALLY LIABLE FOR THE ADDITIONAL TAX IMPOSED BY THIS SUBSECTION WITH RESPECT TO HIS INTEREST UNLESS THE HEIR HAS FURNISHED BOND WHICH MEETS THE REQUIREMENTS OF SUBSECTION (E)(11).

(6) CESSATION OF QUALIFIED USE.--FOR PURPOSES OF PARAGRAPH (1)(B), REAL PROPERTY SHALL CEASE TO BE USED FOR THE QUALIFIED USE IF--

(A) SUCH PROPERTY CEASES TO BE USED FOR THE QUALIFIED USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER WHICH THE PROPERTY QUALIFIED UNDER SUBSECTION (B), OR

(B) DURING ANY PERIOD OF 8 YEARS ENDING AFTER THE DATE OF THE DECEDENT'S DEATH AND BEFORE THE DATE OF THE DEATH OF THE QUALIFIED HEIR, THERE HAD BEEN PERIODS AGGREGATING MORE THAN 3 YEARS DURING WHICH--

(I) IN THE CASE OF PERIODS DURING WHICH THE PROPERTY WAS HELD BY THE DECEDENT, THERE WAS NO MATERIAL PARTICIPATION BY THE DECEDENT OR ANY MEMBER OF HIS FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS, AND

(II) IN THE CASE OF PERIODS DURING WHICH THE PROPERTY WAS HELD BY ANY QUALIFIED HEIR, THERE WAS NO MATERIAL PARTICIPATION BY SUCH QUALIFIED HEIR OR ANY MEMBER OF HIS FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS.

(7) SPECIAL RULES.--

(A) NO TAX IF USE BEGINS WITHIN 2 YEARS.--IF THE DATE ON WHICH THE QUALIFIED HEIR BEGINS TO USE THE QUALIFIED REAL PROPERTY (HEREINAFTER IN THIS SUBPARAGRAPH REFERRED TO AS THE COMMENCEMENT DATE) IS BEFORE THE DATE 2 YEARS AFTER THE DECEDENT'S DEATH--

(I) NO TAX SHALL BE IMPOSED UNDER PARAGRAPH (1) BY REASON OF THE FAILURE BY THE QUALIFIED HEIR TO SO USE SUCH PROPERTY BEFORE THE COMMENCEMENT DATE, AND

(II) THE 10-YEAR PERIOD UNDER PARAGRAPH (1) SHALL BE EXTENDED BY THE PERIOD AFTER THE DECEDENT'S DEATH AND BEFORE THE COMMENCEMENT DATE.

(B) ACTIVE MANAGEMENT BY ELIGIBLE QUALIFIED HEIR TREATED AS MATERIAL PARTICIPATION.--FOR PURPOSES OF PARAGRAPH (6)(B)(II), THE ACTIVE MANAGEMENT OF A FARM OR OTHER BUSINESS BY--

(I) AN ELIGIBLE QUALIFIED HEIR, OR

(II) A FIDUCIARY OF AN ELIGIBLE QUALIFIED HEIR DESCRIBED IN CLAUSE (II) OR (III) OF SUBPARAGRAPH (C),

SHALL BE TREATED AS MATERIAL PARTICIPATION BY SUCH ELIGIBLE QUALIFIED HEIR IN THE OPERATION OF SUCH FARM OR BUSINESS. IN THE CASE OF AN ELIGIBLE QUALIFIED HEIR DESCRIBED IN CLAUSE (II), (III), OR (IV) OF SUBPARAGRAPH (C), THE PRECEDING SENTENCE SHALL APPLY ONLY DURING PERIODS DURING WHICH SUCH HEIR MEETS THE REQUIREMENTS OF SUCH CLAUSE.

(C) ELIGIBLE QUALIFIED HEIR.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ELIGIBLE QUALIFIED HEIR" MEANS A QUALIFIED HEIR WHO--

(I) IS THE SURVIVING SPOUSE OF THE DECEDENT,

(II) HAS NOT ATTAINED THE AGE OF 21,

(III) IS DISABLED (WITHIN THE MEANING OF SUBSECTION (B)(4)(B)), OR

(IV) IS A STUDENT.

(D) STUDENT.--FOR PURPOSES OF SUBPARAGRAPH (C), AN INDIVIDUAL SHALL BE TREATED AS A STUDENT WITH RESPECT TO PERIODS DURING ANY CALENDAR YEAR IF (AND ONLY IF) SUCH INDIVIDUAL IS A STUDENT (WITHIN THE MEANING OF SECTION 152(F)(2)) FOR SUCH CALENDAR YEAR.

(E) CERTAIN RENTS TREATED AS QUALIFIED USE.--FOR PURPOSES OF THIS SUBSECTION, A SURVIVING SPOUSE OR LINEAL DESCENDANT OF THE DECEDENT SHALL NOT BE TREATED AS FAILING TO USE QUALIFIED REAL PROPERTY IN A QUALIFIED USE SOLELY BECAUSE SUCH SPOUSE OR DESCENDANT RENTS SUCH PROPERTY TO A MEMBER OF THE FAMILY OF SUCH SPOUSE OR DESCENDANT ON A NET CASH BASIS. FOR PURPOSES OF THE PRECEDING SENTENCE, A LEGALLY ADOPTED CHILD OF AN INDIVIDUAL SHALL BE TREATED AS THE CHILD OF SUCH INDIVIDUAL BY BLOOD.

(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.--A QUALIFIED CONSERVATION CONTRIBUTION (AS DEFINED IN SECTION 170(H)) BY GIFT OR OTHERWISE SHALL NOT BE DEEMED A DISPOSITION UNDER SUBSECTION (C)(1)(A).

(D) ELECTION; AGREEMENT.--

(1) ELECTION.--THE ELECTION UNDER THIS SECTION SHALL BE MADE ON THE RETURN OF THE TAX IMPOSED BY SECTION 2001. SUCH ELECTION SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. SUCH AN ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(2) AGREEMENT.--THE AGREEMENT REFERRED TO IN THIS PARAGRAPH IS A WRITTEN AGREEMENT SIGNED BY EACH PERSON IN BEING WHO HAS AN INTEREST (WHETHER OR NOT IN POSSESSION) IN ANY PROPERTY DESIGNATED IN SUCH AGREEMENT CONSENTING TO THE APPLICATION OF SUBSECTION (C) WITH RESPECT TO SUCH PROPERTY.

(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.--THE SECRETARY SHALL PRESCRIBE PROCEDURES WHICH PROVIDE THAT IN ANY CASE IN WHICH THE EXECUTOR MAKES AN ELECTION UNDER PARAGRAPH (1) (AND SUBMITS THE AGREEMENT REFERRED TO IN PARAGRAPH (2)) WITHIN THE TIME PRESCRIBED THEREFOR, BUT--

(A) THE NOTICE OF ELECTION, AS FILED, DOES NOT CONTAIN ALL REQUIRED INFORMATION, OR

(B) SIGNATURES OF 1 OR MORE PERSONS REQUIRED TO ENTER INTO THE AGREEMENT DESCRIBED IN PARAGRAPH (2) ARE NOT INCLUDED ON THE AGREEMENT AS FILED, OR THE AGREEMENT DOES NOT CONTAIN ALL REQUIRED INFORMATION,

THE EXECUTOR WILL HAVE A REASONABLE PERIOD OF TIME (NOT EXCEEDING 90 DAYS) AFTER NOTIFICATION OF SUCH FAILURES TO PROVIDE SUCH INFORMATION OR SIGNATURES.

(E) DEFINITIONS; SPECIAL RULES.--FOR PURPOSES OF THIS SECTION--

(1) QUALIFIED HEIR.--THE TERM "QUALIFIED HEIR" MEANS, WITH RESPECT TO ANY PROPERTY, A MEMBER OF THE DECEDENT'S FAMILY WHO ACQUIRED SUCH PROPERTY (OR TO WHOM SUCH PROPERTY PASSED) FROM THE DECEDENT. IF A QUALIFIED HEIR DISPOSES OF ANY INTEREST IN QUALIFIED REAL PROPERTY TO ANY MEMBER OF HIS FAMILY, SUCH MEMBER SHALL THEREAFTER BE TREATED AS THE QUALIFIED HEIR WITH RESPECT TO SUCH INTEREST.

(2) MEMBER OF FAMILY.--THE TERM "MEMBER OF THE FAMILY" MEANS, WITH RESPECT TO ANY INDIVIDUAL, ONLY--

(A) AN ANCESTOR OF SUCH INDIVIDUAL,

(B) THE SPOUSE OF SUCH INDIVIDUAL,

(C) A LINEAL DESCENDANT OF SUCH INDIVIDUAL, OF SUCH INDIVIDUAL'S SPOUSE, OR OF A PARENT OF SUCH INDIVIDUAL, OR

(D) THE SPOUSE OF ANY LINEAL DESCENDANT DESCRIBED IN SUBPARAGRAPH (C).

FOR PURPOSES OF THE PRECEDING SENTENCE, A LEGALLY ADOPTED CHILD OF AN INDIVIDUAL SHALL BE TREATED AS THE CHILD OF SUCH INDIVIDUAL BY BLOOD.

(3) CERTAIN REAL PROPERTY INCLUDED.--IN THE CASE OF REAL PROPERTY WHICH MEETS THE REQUIREMENTS OF SUBPARAGRAPH (C) OF SUBSECTION (B)(1), RESIDENTIAL BUILDINGS AND RELATED IMPROVEMENTS ON SUCH REAL PROPERTY OCCUPIED ON A REGULAR BASIS BY THE OWNER OR LESSEE OF SUCH REAL PROPERTY OR BY PERSONS EMPLOYED BY SUCH OWNER OR LESSEE FOR THE PURPOSE OF OPERATING OR MAINTAINING SUCH REAL PROPERTY, AND ROADS, BUILDINGS, AND OTHER STRUCTURES AND IMPROVEMENTS FUNCTIONALLY RELATED TO THE QUALIFIED USE SHALL BE TREATED AS REAL PROPERTY DEVOTED TO THE QUALIFIED USE.

(4) FARM.--THE TERM "FARM" INCLUDES STOCK, DAIRY, POULTRY, FRUIT, FURBEARING ANIMAL, AND TRUCK FARMS, PLANTATIONS, RANCHES, NURSERIES, RANGES, GREENHOUSES OR OTHER SIMILAR STRUCTURES USED PRIMARILY FOR THE RAISING OF AGRICULTURAL OR HORTICULTURAL COMMODITIES, AND ORCHARDS AND WOODLANDS.

(5) FARMING PURPOSES.--THE TERM "FARMING PURPOSES" MEANS-

(A) CULTIVATING THE SOIL OR RAISING OR HARVESTING ANY AGRICULTURAL OR HORTICULTURAL COMMODITY (INCLUDING THE RAISING, SHEARING, FEEDING, CARING FOR, TRAINING, AND MANAGEMENT OF ANIMALS) ON A FARM;

(B) HANDLING, DRYING, PACKING, GRADING, OR STORING ON A FARM ANY AGRICULTURAL OR HORTICULTURAL COMMODITY IN ITS UNMANUFACTURED STATE, BUT ONLY IF THE OWNER, TENANT, OR OPERATOR OF THE FARM REGULARLY PRODUCES MORE THAN ONE-HALF OF THE COMMODITY SO TREATED; AND

(C)(I) THE PLANTING, CULTIVATING, CARING FOR, OR CUTTING OF TREES, OR

(II) THE PREPARATION (OTHER THAN MILLING) OF TREES FOR MARKET.

(6) MATERIAL PARTICIPATION.--MATERIAL PARTICIPATION SHALL BE DETERMINED IN A MANNER SIMILAR TO THE MANNER USED FOR PURPOSES OF PARAGRAPH (1) OF SECTION 1402(A) (RELATING TO NET EARNINGS FROM SELF-EMPLOYMENT).

(7) METHOD OF VALUING FARMS.--

(A) IN GENERAL.--EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), THE VALUE OF A FARM FOR FARMING PURPOSES SHALL BE DETERMINED BY DIVIDING--

(I) THE EXCESS OF THE AVERAGE ANNUAL GROSS CASH RENTAL FOR COMPARABLE LAND USED FOR FARMING PURPOSES AND LOCATED IN THE LOCALITY OF SUCH FARM OVER THE AVERAGE ANNUAL STATE AND LOCAL REAL ESTATE TAXES FOR SUCH COMPARABLE LAND, BY

(II) THE AVERAGE ANNUAL EFFECTIVE INTEREST RATE FOR ALL NEW FEDERAL LAND BANK LOANS.

FOR PURPOSES OF THE PRECEDING SENTENCE, EACH AVERAGE ANNUAL COMPUTATION SHALL BE MADE ON THE BASIS OF THE 5 MOST RECENT CALENDAR YEARS ENDING BEFORE THE DATE OF THE DECEDENT'S DEATH.

(B) VALUE BASED ON NET SHARE RENTAL IN CERTAIN CASES.--

(I) IN GENERAL.--IF THERE IS NO COMPARABLE LAND FROM WHICH THE AVERAGE ANNUAL GROSS CASH RENTAL MAY BE DETERMINED BUT THERE IS COMPARABLE LAND FROM WHICH THE AVERAGE NET SHARE RENTAL MAY BE DETERMINED, SUBPARAGRAPH (A)(I) SHALL BE APPLIED BY SUBSTITUTING "AVERAGE ANNUAL NET SHARE RENTAL" FOR "AVERAGE ANNUAL GROSS CASH RENTAL".

(II) NET SHARE RENTAL.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "NET SHARE RENTAL" MEANS THE EXCESS OF--

(I) THE VALUE OF THE PRODUCE RECEIVED BY THE LESSOR OF THE LAND ON WHICH SUCH PRODUCE IS GROWN, OVER

(II) THE CASH OPERATING EXPENSES OF GROWING SUCH PRODUCE WHICH, UNDER THE LEASE, ARE PAID BY THE LESSOR.

(C) EXCEPTION.--THE FORMULA PROVIDED BY SUBPARAGRAPH (A) SHALL NOT BE USED--

(I) WHERE IT IS ESTABLISHED THAT THERE IS NO COMPARABLE LAND FROM WHICH THE AVERAGE ANNUAL GROSS CASH RENTAL MAY BE DETERMINED, OR

(II) WHERE THE EXECUTOR ELECTS TO HAVE THE VALUE OF THE FARM FOR FARMING PURPOSES DETERMINED AND THAT THERE IS NO COMPARABLE LAND FROM WHICH THE AVERAGE NET SHARE RENTAL MAY BE DETERMINED UNDER PARAGRAPH (8).

(8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.--IN ANY CASE TO WHICH PARAGRAPH (7)(A) DOES NOT APPLY, THE FOLLOWING FACTORS SHALL APPLY IN DETERMINING THE VALUE OF ANY QUALIFIED REAL PROPERTY:

(A) THE CAPITALIZATION OF INCOME WHICH THE PROPERTY CAN BE EXPECTED TO YIELD FOR FARMING OR CLOSELY HELD BUSINESS PURPOSES OVER A REASONABLE PERIOD OF TIME UNDER PRUDENT MANAGEMENT USING TRADITIONAL CROPPING PATTERNS FOR THE AREA, TAKING INTO ACCOUNT SOIL CAPACITY, TERRAIN CONFIGURATION, AND SIMILAR FACTORS,

(B) THE CAPITALIZATION OF THE FAIR RENTAL VALUE OF THE LAND FOR FARMLAND OR CLOSELY HELD BUSINESS PURPOSES,

(C) ASSESSED LAND VALUES IN A STATE WHICH PROVIDES A DIFFERENTIAL OR USE VALUE ASSESSMENT LAW FOR FARMLAND OR CLOSELY HELD BUSINESS,

(D) COMPARABLE SALES OF OTHER FARM OR CLOSELY HELD BUSINESS LAND IN THE SAME GEOGRAPHICAL AREA FAR ENOUGH REMOVED FROM A METROPOLITAN OR RESORT AREA SO THAT NONAGRICULTURAL USE IS NOT A SIGNIFICANT FACTOR IN THE SALES PRICE, AND

(E) ANY OTHER FACTOR WHICH FAIRLY VALUES THE FARM OR CLOSELY HELD BUSINESS VALUE OF THE PROPERTY.

(9) PROPERTY ACQUIRED FROM DECEDENT.--PROPERTY SHALL BE CONSIDERED TO HAVE BEEN ACQUIRED FROM OR TO HAVE PASSED FROM THE DECEDENT IF--

(A) SUCH PROPERTY IS SO CONSIDERED UNDER SECTION 1014(B) (RELATING TO BASIS OF PROPERTY ACQUIRED FROM A DECEDENT),

(B) SUCH PROPERTY IS ACQUIRED BY ANY PERSON FROM THE ESTATE, OR

(C) SUCH PROPERTY IS ACQUIRED BY ANY PERSON FROM A TRUST (TO THE EXTENT SUCH PROPERTY IS INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT).

(10) COMMUNITY PROPERTY.--IF THE DECEDENT AND HIS SURVIVING SPOUSE AT ANY TIME HELD QUALIFIED REAL PROPERTY AS COMMUNITY PROPERTY, THE INTEREST OF THE SURVIVING SPOUSE IN SUCH PROPERTY SHALL BE TAKEN INTO ACCOUNT UNDER THIS SECTION TO THE EXTENT NECESSARY TO PROVIDE A RESULT UNDER THIS SECTION WITH RESPECT TO SUCH PROPERTY WHICH IS CONSISTENT WITH THE RESULT WHICH WOULD HAVE OBTAINED UNDER THIS SECTION IF SUCH PROPERTY HAD NOT BEEN COMMUNITY PROPERTY.

(11) BOND IN LIEU OF PERSONAL LIABILITY.--IF THE QUALIFIED HEIR MAKES WRITTEN APPLICATION TO THE SECRETARY FOR DETERMINATION OF THE MAXIMUM AMOUNT OF THE ADDITIONAL TAX WHICH MAY BE IMPOSED BY SUBSECTION (C) WITH RESPECT TO THE QUALIFIED HEIR'S INTEREST, THE SECRETARY (AS SOON AS POSSIBLE, AND IN ANY EVENT WITHIN 1 YEAR AFTER THE MAKING OF SUCH APPLICATION) SHALL NOTIFY THE HEIR OF SUCH MAXIMUM AMOUNT. THE QUALIFIED HEIR, ON FURNISHING A BOND IN SUCH AMOUNT AND FOR SUCH PERIOD AS MAY BE REQUIRED, SHALL BE DISCHARGED FROM PERSONAL LIABILITY FOR ANY ADDITIONAL TAX IMPOSED BY SUBSECTION (C) AND SHALL BE ENTITLED TO A RECEIPT OR WRITING SHOWING SUCH DISCHARGE.

(12) ACTIVE MANAGEMENT.--THE TERM "ACTIVE MANAGEMENT" MEANS THE MAKING OF THE MANAGEMENT DECISIONS OF A BUSINESS (OTHER THAN THE DAILY OPERATING DECISIONS).

(13) SPECIAL RULES FOR WOODLANDS.--

(A) IN GENERAL.--IN THE CASE OF ANY QUALIFIED WOODLAND WITH RESPECT TO WHICH THE EXECUTOR ELECTS TO HAVE THIS SUBPARAGRAPH APPLY, TREES GROWING ON SUCH WOODLAND SHALL NOT BE TREATED AS A CROP.

(B) QUALIFIED WOODLAND.--THE TERM "QUALIFIED WOODLAND" MEANS ANY REAL PROPERTY WHICH--

(I) IS USED IN TIMBER OPERATIONS, AND

(II) IS AN IDENTIFIABLE AREA OF LAND SUCH AS AN ACRE OR OTHER AREA FOR WHICH RECORDS ARE NORMALLY MAINTAINED IN CONDUCTING TIMBER OPERATIONS.

(C) TIMBER OPERATIONS.--THE TERM "TIMBER OPERATIONS" MEANS--

(I) THE PLANTING, CULTIVATING, CARING FOR, OR CUTTING OF TREES, OR

(II) THE PREPARATION (OTHER THAN MILLING) OF TREES FOR MARKET.

(D) ELECTION.--AN ELECTION UNDER SUBPARAGRAPH (A) SHALL BE MADE ON THE RETURN OF THE TAX IMPOSED BY SECTION 2001. SUCH ELECTION SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. SUCH AN ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(14) TREATMENT OF REPLACEMENT PROPERTY ACQUIRED IN SECTION 1031 OR 1033 TRANSACTIONS.--

(A) IN GENERAL.--IN THE CASE OF ANY QUALIFIED REPLACEMENT PROPERTY, ANY PERIOD DURING WHICH THERE WAS OWNERSHIP, QUALIFIED USE, OR MATERIAL PARTICIPATION WITH RESPECT TO THE REPLACED PROPERTY BY THE DECEDENT OR ANY MEMBER OF HIS FAMILY SHALL BE TREATED AS A PERIOD DURING WHICH THERE WAS SUCH OWNERSHIP, USE, OR MATERIAL PARTICIPATION (AS THE CASE MAY BE) WITH RESPECT TO THE QUALIFIED REPLACEMENT PROPERTY.

(B) LIMITATION.--SUBPARAGRAPH (A) SHALL NOT APPLY TO THE EXTENT THAT THE FAIR MARKET VALUE OF THE QUALIFIED REPLACEMENT PROPERTY (AS OF THE

DATE OF ITS ACQUISITION) EXCEEDS THE FAIR MARKET VALUE OF THE REPLACED PROPERTY (AS OF THE DATE OF ITS DISPOSITION).

(C) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

(I) QUALIFIED REPLACEMENT PROPERTY.--THE TERM "QUALIFIED REPLACEMENT PROPERTY" MEANS ANY REAL PROPERTY WHICH IS--

(I) ACQUIRED IN AN EXCHANGE WHICH QUALIFIES UNDER SECTION 1031, OR

(II) THE ACQUISITION OF WHICH RESULTS IN THE NONRECOGNITION OF GAIN UNDER SECTION 1033.

SUCH TERM SHALL ONLY INCLUDE PROPERTY WHICH IS USED FOR THE SAME QUALIFIED USE AS THE REPLACED PROPERTY WAS BEING USED BEFORE THE EXCHANGE.

(II) REPLACED PROPERTY.--THE TERM "REPLACED PROPERTY" MEANS--

(I) THE PROPERTY TRANSFERRED IN THE EXCHANGE WHICH QUALIFIES UNDER SECTION 1031, OR

(II) THE PROPERTY COMPULSORILY OR INVOLUNTARILY CONVERTED (WITHIN THE MEANING OF SECTION 1033).

(F) STATUTE OF LIMITATIONS.--IF QUALIFIED REAL PROPERTY IS DISPOSED OF OR CEASES TO BE USED FOR A QUALIFIED USE, THEN--

(1) THE STATUTORY PERIOD FOR THE ASSESSMENT OF ANY ADDITIONAL TAX UNDER SUBSECTION (C) ATTRIBUTABLE TO SUCH DISPOSITION OR CESSATION SHALL NOT EXPIRE BEFORE THE EXPIRATION OF 3 YEARS FROM THE DATE THE SECRETARY IS NOTIFIED (IN SUCH MANNER AS THE SECRETARY MAY BY REGULATIONS PRESCRIBE) OF SUCH DISPOSITION OR CESSATION (OR IF LATER IN THE CASE OF AN INVOLUNTARY CONVERSION OR EXCHANGE TO WHICH SUBSECTION (H) OR (I) APPLIES, 3 YEARS FROM THE DATE THE SECRETARY IS NOTIFIED OF THE REPLACEMENT OF THE CONVERTED PROPERTY OR OF AN INTENTION NOT TO REPLACE OR OF THE EXCHANGE OF PROPERTY), AND

(2) SUCH ADDITIONAL TAX MAY BE ASSESSED BEFORE THE EXPIRATION OF SUCH 3-YEAR PERIOD NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW OR RULE OF LAW WHICH WOULD OTHERWISE PREVENT SUCH ASSESSMENT.

(G) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.--THE SECRETARY SHALL PRESCRIBE REGULATIONS SETTING FORTH THE APPLICATION OF THIS SECTION AND SECTION 6324B IN THE CASE OF AN INTEREST IN A PARTNERSHIP, CORPORATION, OR TRUST WHICH, WITH RESPECT TO THE DECEDENT, IS AN INTEREST IN A CLOSELY HELD BUSINESS (WITHIN THE MEANING OF PARAGRAPH (1) OF SECTION 6166(B)). FOR PURPOSES OF THE PRECEDING SENTENCE, AN INTEREST IN A DISCRETIONARY TRUST ALL THE BENEFICIARIES OF WHICH ARE QUALIFIED HEIRS SHALL BE TREATED AS A PRESENT INTEREST.

(H) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROPERTY.--

(1) TREATMENT OF CONVERTED PROPERTY.--

(A) IN GENERAL.--IF THERE IS AN INVOLUNTARY CONVERSION OF AN INTEREST IN QUALIFIED REAL PROPERTY--

(I) NO TAX SHALL BE IMPOSED BY SUBSECTION (C) ON SUCH CONVERSION IF THE COST OF THE QUALIFIED REPLACEMENT PROPERTY EQUALS OR EXCEEDS THE AMOUNT REALIZED ON SUCH CONVERSION, OR

(II) IF CLAUSE (I) DOES NOT APPLY, THE AMOUNT OF THE TAX IMPOSED BY SUBSECTION (C) ON SUCH CONVERSION SHALL BE THE AMOUNT DETERMINED UNDER SUBPARAGRAPH (B).

(B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.--THE AMOUNT DETERMINED UNDER THIS SUBPARAGRAPH WITH RESPECT TO ANY INVOLUNTARY CONVERSION IS THE AMOUNT OF THE TAX WHICH (BUT FOR THIS SUBSECTION) WOULD HAVE BEEN IMPOSED ON SUCH CONVERSION REDUCED BY AN AMOUNT WHICH--

(I) BEARS THE SAME RATIO TO SUCH TAX, AS

(II) THE COST OF THE QUALIFIED REPLACEMENT PROPERTY BEARS TO THE AMOUNT REALIZED ON THE CONVERSION.

(2) TREATMENT OF REPLACEMENT PROPERTY.--FOR PURPOSES OF SUBSECTION (C)--

(A) ANY QUALIFIED REPLACEMENT PROPERTY SHALL BE TREATED IN THE SAME MANNER AS IF IT WERE A PORTION OF THE INTEREST IN QUALIFIED REAL PROPERTY WHICH WAS INVOLUNTARILY CONVERTED; EXCEPT THAT WITH RESPECT TO SUCH QUALIFIED REPLACEMENT PROPERTY THE 10-YEAR PERIOD UNDER PARAGRAPH (1) OF SUBSECTION (C) SHALL BE EXTENDED BY ANY PERIOD, BEYOND THE 2-YEAR PERIOD REFERRED TO IN SECTION 1033(A)(2)(B)(I), DURING WHICH THE QUALIFIED HEIR WAS ALLOWED TO REPLACE THE QUALIFIED REAL PROPERTY,

(B) ANY TAX IMPOSED BY SUBSECTION (C) ON THE INVOLUNTARY CONVERSION SHALL BE TREATED AS A TAX IMPOSED ON A PARTIAL DISPOSITION, AND

(C) PARAGRAPH (6) OF SUBSECTION (C) SHALL BE APPLIED--

(I) BY NOT TAKING INTO ACCOUNT PERIODS AFTER THE INVOLUNTARY CONVERSION AND BEFORE THE ACQUISITION OF THE QUALIFIED REPLACEMENT PROPERTY, AND

(II) BY TREATING MATERIAL PARTICIPATION WITH RESPECT TO THE CONVERTED PROPERTY AS MATERIAL PARTICIPATION WITH RESPECT TO THE QUALIFIED REPLACEMENT PROPERTY.

(3) DEFINITIONS AND SPECIAL RULES.--FOR PURPOSES OF THIS SUBSECTION--

(A) INVOLUNTARY CONVERSION.--THE TERM "INVOLUNTARY CONVERSION" MEANS A COMPULSORY OR INVOLUNTARY CONVERSION WITHIN THE MEANING OF SECTION 1033.

(B) QUALIFIED REPLACEMENT PROPERTY.--THE TERM "QUALIFIED REPLACEMENT PROPERTY" MEANS--

(I) IN THE CASE OF AN INVOLUNTARY CONVERSION DESCRIBED IN SECTION 1033(A)(1), ANY REAL PROPERTY INTO WHICH THE QUALIFIED REAL PROPERTY IS CONVERTED, OR

(II) IN THE CASE OF AN INVOLUNTARY CONVERSION DESCRIBED IN SECTION 1033(A)(2), ANY REAL PROPERTY PURCHASED BY THE QUALIFIED HEIR DURING THE PERIOD SPECIFIED IN SECTION 1033(A)(2)(B) FOR PURPOSES OF REPLACING THE QUALIFIED REAL PROPERTY.

SUCH TERM ONLY INCLUDES PROPERTY WHICH IS TO BE USED FOR THE QUALIFIED USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER WHICH THE QUALIFIED REAL PROPERTY QUALIFIED UNDER SUBSECTION (A).

(4) CERTAIN RULES MADE APPLICABLE.--THE RULES OF THE LAST SENTENCE OF SECTION 1033(A)(2)(A) SHALL APPLY FOR PURPOSES OF PARAGRAPH (3)(B)(II).

(I) EXCHANGES OF QUALIFIED REAL PROPERTY.--

(1) TREATMENT OF PROPERTY EXCHANGED.--

(A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.--IF AN INTEREST IN QUALIFIED REAL PROPERTY IS EXCHANGED SOLELY FOR AN INTEREST IN QUALIFIED EXCHANGE PROPERTY IN A TRANSACTION WHICH QUALIFIES UNDER SECTION 1031, NO TAX SHALL BE IMPOSED BY SUBSECTION (C) BY REASON OF SUCH EXCHANGE.

(B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.--IF AN INTEREST IN QUALIFIED REAL PROPERTY IS EXCHANGED FOR AN INTEREST IN QUALIFIED EXCHANGE PROPERTY AND OTHER PROPERTY IN A TRANSACTION WHICH QUALIFIES UNDER SECTION 1031, THE AMOUNT OF THE TAX IMPOSED BY SUBSECTION (C) BY REASON OF SUCH EXCHANGE SHALL BE THE AMOUNT OF TAX WHICH (BUT FOR THIS SUBPARAGRAPH) WOULD HAVE BEEN IMPOSED ON SUCH EXCHANGE UNDER SUBSECTION (C)(1), REDUCED BY AN AMOUNT WHICH--

(I) BEARS THE SAME RATIO TO SUCH TAX, AS

(II) THE FAIR MARKET VALUE OF THE QUALIFIED EXCHANGE PROPERTY BEARS TO THE FAIR MARKET VALUE OF THE QUALIFIED REAL PROPERTY EXCHANGED.

FOR PURPOSES OF CLAUSE (II) OF THE PRECEDING SENTENCE, FAIR MARKET VALUE SHALL BE DETERMINED AS OF THE TIME OF THE EXCHANGE.

(2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.--FOR PURPOSES OF SUBSECTION (C)--

(A) ANY INTEREST IN QUALIFIED EXCHANGE PROPERTY SHALL BE TREATED IN THE SAME MANNER AS IF IT WERE A PORTION OF THE INTEREST IN QUALIFIED REAL PROPERTY WHICH WAS EXCHANGED,

(B) ANY TAX IMPOSED BY SUBSECTION (C) BY REASON OF THE EXCHANGE SHALL BE TREATED AS A TAX IMPOSED ON A PARTIAL DISPOSITION, AND

(C) PARAGRAPH (6) OF SUBSECTION (C) SHALL BE APPLIED BY TREATING MATERIAL PARTICIPATION WITH RESPECT TO THE EXCHANGED PROPERTY AS MATERIAL PARTICIPATION WITH RESPECT TO THE QUALIFIED EXCHANGE PROPERTY.

(3) QUALIFIED EXCHANGE PROPERTY.--FOR PURPOSES OF THIS SUBSECTION, THE TERM "QUALIFIED EXCHANGE PROPERTY" MEANS REAL PROPERTY WHICH IS TO BE USED FOR THE QUALIFIED USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER WHICH THE REAL PROPERTY EXCHANGED THEREFOR ORIGINALLY QUALIFIED UNDER SUBSECTION (A).

S 2033. PROPERTY IN WHICH THE DECEDENT HAD AN INTEREST. THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF THE INTEREST THEREIN OF THE DECEDENT AT THE TIME OF HIS DEATH.

S 2034. DOWER OR CURTESY INTERESTS. THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST THEREIN OF THE SURVIVING SPOUSE, EXISTING AT THE TIME OF THE DECEDENT'S DEATH AS DOWER OR CURTESY, OR BY VIRTUE OF A STATUTE CREATING AN ESTATE IN LIEU OF DOWER OR CURTESY.

S 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN THREE YEARS OF DECEDENT'S DEATH. (A) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.--IF--

(1) THE DECEDENT MADE A TRANSFER (BY TRUST OR OTHERWISE) OF AN INTEREST IN ANY PROPERTY, OR RELINQUISHED A POWER WITH RESPECT TO ANY PROPERTY, DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH, AND

(2) THE VALUE OF SUCH PROPERTY (OR AN INTEREST THEREIN) WOULD HAVE BEEN INCLUDED IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2036, 2037, 2038, OR 2042 IF SUCH TRANSFERRED INTEREST OR RELINQUISHED POWER HAD BEEN RETAINED BY THE DECEDENT ON THE DATE OF HIS DEATH,

THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ANY PROPERTY (OR INTEREST THEREIN) WHICH WOULD HAVE BEEN SO INCLUDED.

(B) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.--THE AMOUNT OF THE GROSS ESTATE (DETERMINED WITHOUT REGARD TO THIS SUBSECTION) SHALL BE INCREASED BY THE AMOUNT OF ANY TAX PAID UNDER CHAPTER 12 BY THE DECEDENT OR HIS ESTATE ON ANY GIFT MADE BY THE DECEDENT OR HIS SPOUSE DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH.

(C) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.--

(1) IN GENERAL.--FOR PURPOSES OF--

(A) SECTION 303(B) (RELATING TO DISTRIBUTIONS IN REDEMPTION OF STOCK TO PAY DEATH TAXES),

(B) SECTION 2032A (RELATING TO SPECIAL VALUATION OF CERTAIN FARMS, ETC., REAL PROPERTY), AND

(C) SUBCHAPTER C OF CHAPTER 64 (RELATING TO LIEN FOR TAXES),

THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER, BY TRUST OR OTHERWISE, DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH.

(2) COORDINATION WITH SECTION 6166.--AN ESTATE SHALL BE TREATED AS MEETING THE 35 PERCENT OF ADJUSTED GROSS ESTATE REQUIREMENT OF SECTION 6166(A)(1) ONLY IF THE ESTATE MEETS SUCH REQUIREMENT BOTH WITH AND WITHOUT THE APPLICATION OF SUBSECTION (A).

(3) MARITAL AND SMALL TRANSFERS.--PARAGRAPH (1) SHALL NOT APPLY TO ANY TRANSFER (OTHER THAN A TRANSFER WITH RESPECT TO A LIFE INSURANCE POLICY) MADE DURING A CALENDAR YEAR TO ANY DONEE IF THE DECEDENT WAS NOT REQUIRED BY SECTION 6019 (OTHER THAN BY REASON OF SECTION 6019(2)) TO FILE ANY GIFT TAX RETURN FOR SUCH YEAR WITH RESPECT TO TRANSFERS TO SUCH DONEE.

(D) EXCEPTION.--SUBSECTION (A) AND PARAGRAPH (1) OF SUBSECTION (C) SHALL NOT APPLY TO ANY BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH.

(E) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.--FOR PURPOSES OF THIS SECTION AND SECTION 2038, ANY TRANSFER FROM ANY PORTION OF A TRUST DURING ANY PERIOD THAT SUCH PORTION WAS TREATED UNDER SECTION 676 AS OWNED BY THE DECEDENT BY REASON OF A POWER IN THE GRANTOR (DETERMINED WITHOUT REGARD TO SECTION 672(E)) SHALL BE TREATED AS A TRANSFER MADE DIRECTLY BY THE DECEDENT.

S 2036. TRANSFERS WITH RETAINED LIFE ESTATE. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, UNDER WHICH HE HAS RETAINED FOR HIS LIFE OR FOR ANY PERIOD NOT ASCERTAINABLE WITHOUT REFERENCE TO HIS DEATH OR FOR ANY PERIOD WHICH DOES NOT IN FACT END BEFORE HIS DEATH--

(1) THE POSSESSION OR ENJOYMENT OF, OR THE RIGHT TO THE INCOME FROM, THE PROPERTY, OR

(2) THE RIGHT, EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON, TO DESIGNATE THE PERSONS WHO SHALL POSSESS OR ENJOY THE PROPERTY OR THE INCOME THEREFROM.

(B) VOTING RIGHTS.--

(1) IN GENERAL.--FOR PURPOSES OF SUBSECTION (A)(1), THE RETENTION OF THE RIGHT TO VOTE (DIRECTLY OR INDIRECTLY) SHARES OF STOCK OF A CONTROLLED CORPORATION SHALL BE CONSIDERED TO BE A RETENTION OF THE ENJOYMENT OF TRANSFERRED PROPERTY.

(2) CONTROLLED CORPORATION.--FOR PURPOSES OF PARAGRAPH (1), A CORPORATION SHALL BE TREATED AS A CONTROLLED CORPORATION IF, AT ANY TIME AFTER THE TRANSFER OF THE PROPERTY AND DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH, THE DECEDENT OWNED (WITH THE APPLICATION OF SECTION 318), OR HAD THE RIGHT (EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON) TO VOTE, STOCK POSSESSING AT LEAST 20 PERCENT OF THE TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK.

(3) COORDINATION WITH SECTION 2035.--FOR PURPOSES OF APPLYING SECTION 2035 WITH RESPECT TO PARAGRAPH (1), THE RELINQUISHMENT OR CESSATION OF VOTING RIGHTS SHALL BE TREATED AS A TRANSFER OF PROPERTY MADE BY THE DECEDENT.

(C) LIMITATION ON APPLICATION OF GENERAL RULE.--THIS SECTION SHALL NOT APPLY TO A TRANSFER MADE BEFORE MARCH 4, 1931; NOR TO A TRANSFER MADE AFTER MARCH 3, 1931, AND BEFORE JUNE 7, 1932, UNLESS THE PROPERTY TRANSFERRED WOULD HAVE BEEN INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE BY REASON OF THE AMENDATORY LANGUAGE OF THE JOINT RESOLUTION OF MARCH 3, 1931 (46 STAT. 1516).

S 2037. TRANSFERS TAKING EFFECT AT DEATH. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME AFTER SEPTEMBER 7, 1916, MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, IF--

(1) POSSESSION OR ENJOYMENT OF THE PROPERTY CAN, THROUGH OWNERSHIP OF SUCH INTEREST, BE OBTAINED ONLY BY SURVIVING THE DECEDENT, AND

(2) THE DECEDENT HAS RETAINED A REVERSIONARY INTEREST IN THE PROPERTY (BUT IN THE CASE OF A TRANSFER MADE BEFORE OCTOBER 8, 1949, ONLY IF SUCH REVERSIONARY INTEREST AROSE BY THE EXPRESS TERMS OF THE INSTRUMENT OF TRANSFER), AND THE VALUE OF SUCH REVERSIONARY INTEREST IMMEDIATELY BEFORE THE DEATH OF THE DECEDENT EXCEEDS 5 PERCENT OF THE VALUE OF SUCH PROPERTY.

(B) SPECIAL RULES.--FOR PURPOSES OF THIS SECTION, THE TERM "REVERSIONARY INTEREST" INCLUDES A POSSIBILITY THAT PROPERTY TRANSFERRED BY THE DECEDENT--

(1) MAY RETURN TO HIM OR HIS ESTATE, OR

(2) MAY BE SUBJECT TO A POWER OF DISPOSITION BY HIM,

BUT SUCH TERM DOES NOT INCLUDE A POSSIBILITY THAT THE INCOME ALONE FROM SUCH PROPERTY MAY RETURN TO HIM OR BECOME SUBJECT TO A POWER OF DISPOSITION BY HIM. THE VALUE OF A REVERSIONARY INTEREST IMMEDIATELY BEFORE THE DEATH OF THE DECEDENT SHALL BE DETERMINED (WITHOUT REGARD TO THE FACT OF THE DECEDENT'S DEATH) BY USUAL METHODS OF VALUATION, INCLUDING THE USE OF TABLES OF MORTALITY AND ACTUARIAL PRINCIPLES, UNDER REGULATIONS PRESCRIBED BY THE SECRETARY. IN DETERMINING THE VALUE OF A POSSIBILITY THAT PROPERTY MAY BE SUBJECT TO A POWER OF DISPOSITION BY THE DECEDENT, SUCH POSSIBILITY SHALL BE VALUED AS IF IT WERE A POSSIBILITY THAT SUCH PROPERTY MAY RETURN TO THE DECEDENT OR HIS ESTATE. NOTWITHSTANDING THE FOREGOING, AN INTEREST SO TRANSFERRED SHALL NOT BE INCLUDED IN THE DECEDENT'S GROSS ESTATE UNDER THIS SECTION IF POSSESSION OR ENJOYMENT OF THE PROPERTY COULD HAVE BEEN OBTAINED BY ANY BENEFICIARY DURING THE DECEDENT'S LIFE THROUGH THE EXERCISE OF A GENERAL POWER OF APPOINTMENT (AS DEFINED IN SECTION 2041) WHICH IN FACT WAS EXERCISABLE IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

S 2038. REVOCABLE TRANSFERS. (A) IN GENERAL.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

(1) TRANSFERS AFTER JUNE 22, 1936.--TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, WHERE THE ENJOYMENT THEREOF WAS SUBJECT AT THE DATE OF HIS DEATH TO ANY CHANGE THROUGH THE EXERCISE OF A POWER (IN WHATEVER CAPACITY EXERCISABLE) BY THE DECEDENT ALONE OR BY THE DECEDENT IN CONJUNCTION WITH ANY OTHER PERSON (WITHOUT REGARD TO WHEN OR FROM WHAT SOURCE THE DECEDENT ACQUIRED SUCH POWER), TO ALTER, AMEND, REVOKE, OR TERMINATE, OR WHERE ANY SUCH POWER IS RELINQUISHED DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH.

(2) TRANSFERS ON OR BEFORE JUNE 22, 1936.--TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, WHERE THE ENJOYMENT THEREOF WAS SUBJECT AT THE DATE OF HIS DEATH TO ANY CHANGE THROUGH THE EXERCISE OF A POWER, EITHER BY THE DECEDENT ALONE OR IN CONJUNCTION WITH ANY PERSON, TO ALTER, AMEND, OR REVOKE, OR WHERE THE DECEDENT RELINQUISHED ANY SUCH POWER DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH. EXCEPT IN THE CASE OF TRANSFERS MADE AFTER JUNE 22, 1936, NO INTEREST OF THE DECEDENT OF WHICH HE HAS MADE A TRANSFER SHALL BE INCLUDED IN THE GROSS ESTATE UNDER PARAGRAPH (1) UNLESS IT IS INCLUDIBLE UNDER THIS PARAGRAPH.

(B) DATE OF EXISTENCE OF POWER.--FOR PURPOSES OF THIS SECTION, THE POWER TO ALTER, AMEND, REVOKE, OR TERMINATE SHALL BE CONSIDERED TO EXIST ON THE DATE OF THE DECEDENT'S DEATH EVEN THOUGH THE EXERCISE OF THE

POWER IS SUBJECT TO A PRECEDENT GIVING OF NOTICE OR EVEN THOUGH THE ALTERATION, AMENDMENT, REVOCATION, OR TERMINATION TAKES EFFECT ONLY ON THE EXPIRATION OF A STATED PERIOD AFTER THE EXERCISE OF THE POWER, WHETHER OR NOT ON OR BEFORE THE DATE OF THE DECEDENT'S DEATH NOTICE HAS BEEN GIVEN OR THE POWER HAS BEEN EXERCISED. IN SUCH CASES PROPER ADJUSTMENT SHALL BE MADE REPRESENTING THE INTERESTS WHICH WOULD HAVE BEEN EXCLUDED FROM THE POWER IF THE DECEDENT HAD LIVED, AND FOR SUCH PURPOSE, IF THE NOTICE HAS NOT BEEN GIVEN OR THE POWER HAS NOT BEEN EXERCISED ON OR BEFORE THE DATE OF HIS DEATH, SUCH NOTICE SHALL BE CONSIDERED TO HAVE BEEN GIVEN, OR THE POWER EXERCISED, ON THE DATE OF HIS DEATH.

S 2039. ANNUITIES. (A) GENERAL.--THE GROSS ESTATE SHALL INCLUDE THE VALUE OF AN ANNUITY OR OTHER PAYMENT RECEIVABLE BY ANY BENEFICIARY BY REASON OF SURVIVING THE DECEDENT UNDER ANY FORM OF CONTRACT OR AGREEMENT ENTERED INTO AFTER MARCH 3, 1931 (OTHER THAN AS INSURANCE UNDER POLICIES ON THE LIFE OF THE DECEDENT), IF, UNDER SUCH CONTRACT OR AGREEMENT, AN ANNUITY OR OTHER PAYMENT WAS PAYABLE TO THE DECEDENT, OR THE DECEDENT POSSESSED THE RIGHT TO RECEIVE SUCH ANNUITY OR PAYMENT, EITHER ALONE OR IN CONJUNCTION WITH ANOTHER FOR HIS LIFE OR FOR ANY PERIOD NOT ASCERTAINABLE WITHOUT REFERENCE TO HIS DEATH OR FOR ANY PERIOD WHICH DOES NOT IN FACT END BEFORE HIS DEATH.

(B) AMOUNT INCLUDIBLE.--SUBSECTION (A) SHALL APPLY TO ONLY SUCH PART OF THE VALUE OF THE ANNUITY OR OTHER PAYMENT RECEIVABLE UNDER SUCH CONTRACT OR AGREEMENT AS IS PROPORTIONATE TO THAT PART OF THE PURCHASE PRICE THEREFOR CONTRIBUTED BY THE DECEDENT. FOR PURPOSES OF THIS SECTION, ANY CONTRIBUTION BY THE DECEDENT'S EMPLOYER OR FORMER EMPLOYER TO THE PURCHASE PRICE OF SUCH CONTRACT OR AGREEMENT (WHETHER OR NOT TO AN EMPLOYEE'S TRUST OR FUND FORMING PART OF A PENSION, ANNUITY, RETIREMENT, BONUS OR PROFIT SHARING PLAN) SHALL BE CONSIDERED TO BE CONTRIBUTED BY THE DECEDENT IF MADE BY REASON OF HIS EMPLOYMENT.

S 2040. JOINT INTERESTS. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF THE INTEREST THEREIN HELD AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP BY THE DECEDENT AND ANY OTHER PERSON, OR AS TENANTS BY THE ENTIRETY BY THE DECEDENT AND SPOUSE, OR DEPOSITED, WITH ANY PERSON CARRYING ON THE BANKING BUSINESS, IN THEIR JOINT NAMES AND PAYABLE TO EITHER OR THE SURVIVOR, EXCEPT SUCH PART THEREOF AS MAY BE SHOWN TO HAVE ORIGINALLY BELONGED TO SUCH OTHER PERSON AND NEVER TO HAVE BEEN RECEIVED OR ACQUIRED BY THE LATTER FROM THE DECEDENT FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH: PROVIDED, THAT WHERE SUCH PROPERTY OR ANY PART THEREOF, OR PART OF THE CONSIDERATION WITH WHICH SUCH PROPERTY WAS ACQUIRED, IS SHOWN TO HAVE BEEN AT ANY TIME ACQUIRED BY SUCH OTHER PERSON FROM THE DECEDENT FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THERE SHALL BE EXCEPTED ONLY SUCH PART OF THE VALUE OF SUCH PROPERTY AS IS PROPORTIONATE TO THE CONSIDERATION FURNISHED BY SUCH OTHER PERSON: PROVIDED FURTHER, THAT WHERE ANY PROPERTY HAS BEEN ACQUIRED BY GIFT, BEQUEST, DEVISE, OR INHERITANCE, AS A TENANCY BY THE ENTIRETY BY THE DECEDENT AND SPOUSE, THEN TO THE EXTENT OF ONE-HALF OF THE VALUE THEREOF, OR, WHERE SO ACQUIRED BY THE DECEDENT AND ANY OTHER PERSON AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND THEIR INTERESTS ARE NOT OTHERWISE SPECIFIED OR FIXED BY LAW, THEN TO THE EXTENT OF THE VALUE OF A FRACTIONAL PART TO BE DETERMINED BY DIVIDING THE VALUE OF THE PROPERTY BY THE NUMBER OF JOINT TENANTS WITH RIGHT OF SURVIVORSHIP.

(B) CERTAIN JOINT INTERESTS OF HUSBAND AND WIFE.--

(1) INTERESTS OF SPOUSE EXCLUDED FROM GROSS ESTATE.--NOTWITHSTANDING SUBSECTION (A), IN THE CASE OF ANY QUALIFIED JOINT INTEREST, THE VALUE

INCLUDED IN THE GROSS ESTATE WITH RESPECT TO SUCH INTEREST BY REASON OF THIS SECTION IS ONE-HALF OF THE VALUE OF SUCH QUALIFIED JOINT INTEREST.

(2) QUALIFIED JOINT INTEREST DEFINED.--FOR PURPOSES OF PARAGRAPH (1), THE TERM "QUALIFIED JOINT INTEREST" MEANS ANY INTEREST IN PROPERTY HELD BY THE DECEDENT AND THE DECEDENT'S SPOUSE AS--

(A) TENANTS BY THE ENTIRETY, OR

(B) JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, BUT ONLY IF THE DECEDENT AND THE SPOUSE OF THE DECEDENT ARE THE ONLY JOINT TENANTS.

S 2041. POWERS OF APPOINTMENT. (A) IN GENERAL.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

(1) POWERS OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942.--TO THE EXTENT OF ANY PROPERTY WITH RESPECT TO WHICH A GENERAL POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, IS EXERCISED BY THE DECEDENT--

(A) BY WILL, OR

(B) BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANSFER OF PROPERTY OWNED BY THE DECEDENT, SUCH PROPERTY WOULD BE INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE UNDER SECTIONS 2035 TO 2038, INCLUSIVE;

BUT THE FAILURE TO EXERCISE SUCH A POWER OR THE COMPLETE RELEASE OF SUCH A POWER SHALL NOT BE DEEMED AN EXERCISE THEREOF. IF A GENERAL POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, HAS BEEN PARTIALLY RELEASED SO THAT IT IS NO LONGER A GENERAL POWER OF APPOINTMENT, THE EXERCISE OF SUCH POWER SHALL NOT BE DEEMED TO BE THE EXERCISE OF A GENERAL POWER OF APPOINTMENT IF--

(I) SUCH PARTIAL RELEASE OCCURRED BEFORE NOVEMBER 1, 1951, OR

(II) THE DONEE OF SUCH POWER WAS UNDER A LEGAL DISABILITY TO RELEASE SUCH POWER ON OCTOBER 21, 1942, AND SUCH PARTIAL RELEASE OCCURRED NOT LATER THAN 6 MONTHS AFTER THE TERMINATION OF SUCH LEGAL DISABILITY.

(2) POWERS CREATED AFTER OCTOBER 21, 1942.--TO THE EXTENT OF ANY PROPERTY WITH RESPECT TO WHICH THE DECEDENT HAS AT THE TIME OF HIS DEATH A GENERAL POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, OR WITH RESPECT TO WHICH THE DECEDENT HAS AT ANY TIME EXERCISED OR RELEASED SUCH A POWER OF APPOINTMENT BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANSFER OF PROPERTY OWNED BY THE DECEDENT, SUCH PROPERTY WOULD BE INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE UNDER SECTIONS 2035 TO 2038, INCLUSIVE. FOR PURPOSES OF THIS PARAGRAPH (2), THE POWER OF APPOINTMENT SHALL BE CONSIDERED TO EXIST ON THE DATE OF THE DECEDENT'S DEATH EVEN THOUGH THE EXERCISE OF THE POWER IS SUBJECT TO A PRECEDENT GIVING OF NOTICE OR EVEN THOUGH THE EXERCISE OF THE POWER TAKES EFFECT ONLY ON THE EXPIRATION OF A STATED PERIOD AFTER ITS EXERCISE, WHETHER OR NOT ON OR BEFORE THE DATE OF THE DECEDENT'S DEATH NOTICE HAS BEEN GIVEN OR THE POWER HAS BEEN EXERCISED.

(3) CREATION OF ANOTHER POWER IN CERTAIN CASES.--TO THE EXTENT OF ANY PROPERTY WITH RESPECT TO WHICH THE DECEDENT--

(A) BY WILL, OR

(B) BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANSFER OF PROPERTY OWNED BY THE DECEDENT SUCH PROPERTY WOULD BE INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2035, 2036, OR 2037,

EXERCISES A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, BY CREATING ANOTHER POWER OF APPOINTMENT WHICH UNDER THE APPLICABLE LOCAL LAW CAN BE VALIDLY EXERCISED SO AS TO POSTPONE THE VESTING OF ANY ESTATE OR INTEREST IN SUCH PROPERTY, OR SUSPEND THE ABSOLUTE OWNERSHIP OR POWER OF ALIENATION OF SUCH PROPERTY, FOR A PERIOD ASCERTAINABLE WITHOUT REGARD TO THE DATE OF THE CREATION OF THE FIRST POWER.

(B) DEFINITIONS.--FOR PURPOSES OF SUBSECTION (A)--

(1) GENERAL POWER OF APPOINTMENT.--THE TERM "GENERAL POWER OF APPOINTMENT" MEANS A POWER WHICH IS EXERCISABLE IN FAVOR OF THE DECEDENT, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE; EXCEPT THAT--

(A) A POWER TO CONSUME, INVADE, OR APPROPRIATE PROPERTY FOR THE BENEFIT OF THE DECEDENT WHICH IS LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE DECEDENT SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(B) A POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, WHICH IS EXERCISABLE BY THE DECEDENT ONLY IN CONJUNCTION WITH ANOTHER PERSON SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(C) IN THE CASE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, WHICH IS EXERCISABLE BY THE DECEDENT ONLY IN CONJUNCTION WITH ANOTHER PERSON--

(I) IF THE POWER IS NOT EXERCISABLE BY THE DECEDENT EXCEPT IN CONJUNCTION WITH THE CREATOR OF THE POWER--SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(II) IF THE POWER IS NOT EXERCISABLE BY THE DECEDENT EXCEPT IN CONJUNCTION WITH A PERSON HAVING A SUBSTANTIAL INTEREST IN THE PROPERTY, SUBJECT TO THE POWER, WHICH IS ADVERSE TO EXERCISE OF THE POWER IN FAVOR OF THE DECEDENT--SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT. FOR THE PURPOSES OF THIS CLAUSE A PERSON WHO, AFTER THE DEATH OF THE DECEDENT, MAY BE POSSESSED OF A POWER OF APPOINTMENT (WITH RESPECT TO THE PROPERTY SUBJECT TO THE DECEDENT'S POWER) WHICH HE MAY EXERCISE IN HIS OWN FAVOR SHALL BE DEEMED AS HAVING AN INTEREST IN THE PROPERTY AND SUCH INTEREST SHALL BE DEEMED ADVERSE TO SUCH EXERCISE OF THE DECEDENT'S POWER.

(III) IF (AFTER THE APPLICATION OF CLAUSES (I) AND (II)) THE POWER IS A GENERAL POWER OF APPOINTMENT AND IS EXERCISABLE IN FAVOR OF SUCH OTHER PERSON--SUCH POWER SHALL BE DEEMED A GENERAL POWER OF APPOINTMENT ONLY IN RESPECT OF A FRACTIONAL PART OF THE PROPERTY SUBJECT TO SUCH POWER, SUCH PART TO BE DETERMINED BY DIVIDING THE VALUE OF SUCH PROPERTY BY THE NUMBER OF SUCH PERSONS (INCLUDING THE DECEDENT) IN FAVOR OF WHOM SUCH POWER IS EXERCISABLE.

FOR PURPOSES OF CLAUSES (II) AND (III), A POWER SHALL BE DEEMED TO BE EXERCISABLE IN FAVOR OF A PERSON IF IT IS EXERCISABLE IN FAVOR OF SUCH PERSON, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE.

(2) LAPSE OF POWER.--THE LAPSE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, DURING THE LIFE OF THE INDIVIDUAL POSSESSING THE POWER SHALL BE CONSIDERED A RELEASE OF SUCH POWER. THE PRECEDING SENTENCE SHALL APPLY WITH RESPECT TO THE LAPSE OF POWERS DURING ANY CALENDAR YEAR ONLY TO THE EXTENT THAT THE PROPERTY, WHICH COULD HAVE BEEN APPOINTED BY EXERCISE OF SUCH LAPSED POWERS, EXCEEDED IN VALUE, AT THE TIME OF SUCH LAPSE, THE GREATER OF THE FOLLOWING AMOUNTS:

(A) $5,000, OR

(B) 5 PERCENT OF THE AGGREGATE VALUE, AT THE TIME OF SUCH LAPSE, OF THE ASSETS OUT OF WHICH, OR THE PROCEEDS OF WHICH, THE EXERCISE OF THE LAPSED POWERS COULD HAVE BEEN SATISFIED.

(3) DATE OF CREATION OF POWER.--FOR PURPOSES OF THIS SECTION, A POWER OF APPOINTMENT CREATED BY A WILL EXECUTED ON OR BEFORE OCTOBER 21, 1942, SHALL BE CONSIDERED A POWER CREATED ON OR BEFORE SUCH DATE IF THE PERSON EXECUTING SUCH WILL DIES BEFORE JULY 1, 1949, WITHOUT HAVING REPUBLISHED SUCH WILL, BY CODICIL OR OTHERWISE, AFTER OCTOBER 21, 1942.

S 2042. PROCEEDS OF LIFE INSURANCE. THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

(1) RECEIVABLE BY THE EXECUTOR.--TO THE EXTENT OF THE AMOUNT RECEIVABLE BY THE EXECUTOR AS INSURANCE UNDER POLICIES ON THE LIFE OF THE DECEDENT.

(2) RECEIVABLE BY OTHER BENEFICIARIES.--TO THE EXTENT OF THE AMOUNT RECEIVABLE BY ALL OTHER BENEFICIARIES AS INSURANCE UNDER POLICIES ON THE LIFE OF THE DECEDENT WITH RESPECT TO WHICH THE DECEDENT POSSESSED AT HIS DEATH ANY OF THE INCIDENTS OF OWNERSHIP, EXERCISABLE EITHER ALONE OR IN CONJUNCTION WITH ANY OTHER PERSON. FOR PURPOSES OF THE PRECEDING SENTENCE, THE TERM "INCIDENT OF OWNERSHIP" INCLUDES A REVERSIONARY INTEREST (WHETHER ARISING BY THE EXPRESS TERMS OF THE POLICY OR OTHER INSTRUMENT OR BY OPERATION OF LAW) ONLY IF THE VALUE OF SUCH REVERSIONARY INTEREST EXCEEDED 5 PERCENT OF THE VALUE OF THE POLICY IMMEDIATELY BEFORE THE DEATH OF THE DECEDENT. AS USED IN THIS PARAGRAPH, THE TERM "REVERSIONARY INTEREST" INCLUDES A POSSIBILITY THAT THE POLICY, OR THE PROCEEDS OF THE POLICY, MAY RETURN TO THE DECEDENT OR HIS ESTATE, OR MAY BE SUBJECT TO A POWER OF DISPOSITION BY HIM. THE VALUE OF A REVERSIONARY INTEREST AT ANY TIME SHALL BE DETERMINED (WITHOUT REGARD TO THE FACT OF THE DECEDENT'S DEATH) BY USUAL METHODS OF VALUATION, INCLUDING THE USE OF TABLES OF MORTALITY AND ACTUARIAL PRINCIPLES, PURSUANT TO REGULATIONS PRESCRIBED BY THE SECRETARY. IN DETERMINING THE VALUE OF A POSSIBILITY THAT THE POLICY OR PROCEEDS THEREOF MAY BE SUBJECT TO A POWER OF DISPOSITION BY THE DECEDENT, SUCH POSSIBILITY SHALL BE VALUED AS IF IT WERE A POSSIBILITY THAT SUCH POLICY OR PROCEEDS MAY RETURN TO THE DECEDENT OR HIS ESTATE.

S 2043. TRANSFERS FOR INSUFFICIENT CONSIDERATION. (A) IN GENERAL.--IF ANY ONE OF THE TRANSFERS, TRUSTS, INTERESTS, RIGHTS, OR POWERS ENUMERATED AND DESCRIBED IN SECTIONS 2035 TO 2038, INCLUSIVE, AND SECTION 2041 IS MADE, CREATED, EXERCISED, OR RELINQUISHED FOR A CONSIDERATION IN MONEY OR MONEY'S WORTH, BUT IS NOT A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THERE SHALL BE INCLUDED IN THE GROSS ESTATE ONLY THE EXCESS OF THE FAIR MARKET VALUE AT THE TIME OF DEATH OF THE PROPERTY OTHERWISE TO BE INCLUDED ON ACCOUNT OF SUCH TRANSACTION, OVER THE VALUE OF THE CONSIDERATION RECEIVED THEREFOR BY THE DECEDENT.

(B) MARITAL RIGHTS NOT TREATED AS CONSIDERATION.--

(1) IN GENERAL.--FOR PURPOSES OF THIS CHAPTER, A RELINQUISHMENT OR PROMISED RELINQUISHMENT OF DOWER OR CURTESY, OR OF A STATUTORY ESTATE CREATED IN LIEU OF DOWER OR CURTESY, OR OF OTHER MARITAL RIGHTS IN THE DECEDENT'S PROPERTY OR ESTATE, SHALL NOT BE CONSIDERED TO ANY EXTENT A CONSIDERATION "IN MONEY OR MONEY'S WORTH".

(2) EXCEPTION.--FOR PURPOSES OF SECTION 2053 (RELATING TO EXPENSES, INDEBTEDNESS, AND TAXES), A TRANSFER OF PROPERTY WHICH SATISFIES THE REQUIREMENTS OF PARAGRAPH (1) OF SECTION 2516 (RELATING TO CERTAIN PROPERTY SETTLEMENTS) SHALL BE CONSIDERED TO BE MADE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH.

S 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY ALLOWED. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ANY PROPERTY TO WHICH THIS SECTION APPLIES IN WHICH THE DECEDENT HAD A QUALIFYING INCOME INTEREST FOR LIFE.

(B) PROPERTY TO WHICH THIS SECTION APPLIES.--THIS SECTION APPLIES TO ANY PROPERTY IF--

(1) A DEDUCTION WAS ALLOWED WITH RESPECT TO THE TRANSFER OF SUCH PROPERTY TO THE DECEDENT--

(A) UNDER SECTION 2056 BY REASON OF SUBSECTION (B)(7) THEREOF, OR

(B) UNDER SECTION 2523 BY REASON OF SUBSECTION (F) THEREOF, AND

(2) SECTION 2519 (RELATING TO DISPOSITIONS OF CERTAIN LIFE ESTATES) DID NOT APPLY WITH RESPECT TO A DISPOSITION BY THE DECEDENT OF PART OR ALL OF SUCH PROPERTY.

(C) PROPERTY TREATED AS HAVING PASSED FROM DECEDENT.--FOR PURPOSES OF THIS CHAPTER AND CHAPTER 13, PROPERTY INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT UNDER SUBSECTION (A) SHALL BE TREATED AS PROPERTY PASSING FROM THE DECEDENT.

S 2045. PRIOR INTERESTS. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY LAW, SECTIONS 2034 TO 2042, INCLUSIVE, SHALL APPLY TO THE TRANSFERS, TRUSTS, ESTATES, INTERESTS, RIGHTS, POWERS, AND RELINQUISHMENT OF POWERS, AS SEVERALLY ENUMERATED AND DESCRIBED THEREIN, WHENEVER MADE, CREATED, ARISING, EXISTING, EXERCISED, OR RELINQUISHED.

S 2046. DISCLAIMERS. FOR PROVISIONS RELATING TO THE EFFECT OF A QUALIFIED DISCLAIMER FOR PURPOSES OF THIS CHAPTER, SEE SECTION 2518.

S 2053. EXPENSES, INDEBTEDNESS, AND TAXES. (A) GENERAL RULE.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE SUCH AMOUNTS--

(1) FOR FUNERAL EXPENSES,

(2) FOR ADMINISTRATION EXPENSES,

(3) FOR CLAIMS AGAINST THE ESTATE, AND

(4) FOR UNPAID MORTGAGES ON, OR ANY INDEBTEDNESS IN RESPECT OF, PROPERTY WHERE THE VALUE OF THE DECEDENT'S INTEREST THEREIN, UNDIMINISHED BY SUCH MORTGAGE OR INDEBTEDNESS, IS INCLUDED IN THE VALUE OF THE GROSS ESTATE,

AS ARE ALLOWABLE BY THE LAWS OF THE JURISDICTION, WHETHER WITHIN OR WITHOUT THE UNITED STATES, UNDER WHICH THE ESTATE IS BEING ADMINISTERED.

(B) OTHER ADMINISTRATION EXPENSES.--SUBJECT TO THE LIMITATIONS IN PARAGRAPH (1) OF SUBSECTION (C), THERE SHALL BE DEDUCTED IN DETERMINING THE TAXABLE ESTATE AMOUNTS REPRESENTING EXPENSES INCURRED IN ADMINISTERING PROPERTY NOT SUBJECT TO CLAIMS WHICH IS INCLUDED IN THE GROSS ESTATE TO THE SAME EXTENT SUCH AMOUNTS WOULD BE ALLOWABLE AS A DEDUCTION UNDER SUBSECTION (A) IF SUCH PROPERTY WERE SUBJECT TO CLAIMS, AND SUCH AMOUNTS ARE PAID BEFORE THE EXPIRATION OF THE PERIOD OF LIMITATION FOR ASSESSMENT PROVIDED IN SECTION 6501.

(C) LIMITATIONS.--

(1) LIMITATIONS APPLICABLE TO SUBSECTIONS (A) AND (B).--

(A) CONSIDERATION FOR CLAIMS.--THE DEDUCTION ALLOWED BY THIS SECTION IN THE CASE OF CLAIMS AGAINST THE ESTATE, UNPAID MORTGAGES, OR ANY INDEBTEDNESS SHALL, WHEN FOUNDED ON A PROMISE OR AGREEMENT, BE LIMITED TO THE EXTENT THAT THEY WERE CONTRACTED BONA FIDE AND FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH; EXCEPT THAT IN ANY CASE IN WHICH ANY SUCH CLAIM IS FOUNDED ON A PROMISE OR AGREEMENT OF THE DECEDENT TO MAKE A CONTRIBUTION OR GIFT TO OR FOR THE USE OF ANY DONEE DESCRIBED IN SECTION 2055 FOR THE PURPOSES SPECIFIED THEREIN, THE DEDUCTION FOR SUCH CLAIMS SHALL NOT BE SO LIMITED, BUT SHALL BE LIMITED TO THE EXTENT THAT IT WOULD BE ALLOWABLE AS A DEDUCTION UNDER SECTION 2055 IF SUCH PROMISE OR AGREEMENT CONSTITUTED A BEQUEST.

(B) CERTAIN TAXES.--ANY INCOME TAXES ON INCOME RECEIVED AFTER THE DEATH OF THE DECEDENT, OR PROPERTY TAXES NOT ACCRUED BEFORE HIS DEATH, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAXES, SHALL NOT BE DEDUCTIBLE UNDER THIS SECTION.

(C) CERTAIN CLAIMS BY REMAINDERMEN.--NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR A CLAIM AGAINST THE ESTATE BY A REMAINDERMAN RELATING TO ANY PROPERTY DESCRIBED IN SECTION 2044.

(D) SECTION 6166 INTEREST.--NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR ANY INTEREST PAYABLE UNDER SECTION 6601 ON ANY UNPAID PORTION OF THE TAX IMPOSED BY SECTION 2001 FOR THE PERIOD DURING WHICH AN EXTENSION OF TIME FOR PAYMENT OF SUCH TAX IS IN EFFECT UNDER SECTION 6166.

(2) LIMITATIONS APPLICABLE ONLY TO SUBSECTION (A).--IN THE CASE OF THE AMOUNTS DESCRIBED IN SUBSECTION (A), THERE SHALL BE DISALLOWED THE AMOUNT BY WHICH THE DEDUCTIONS SPECIFIED THEREIN EXCEED THE VALUE, AT THE TIME OF THE DECEDENT'S DEATH, OF PROPERTY SUBJECT TO CLAIMS, EXCEPT TO THE EXTENT THAT SUCH DEDUCTIONS REPRESENT AMOUNTS PAID BEFORE THE DATE PRESCRIBED FOR THE FILING OF THE ESTATE TAX RETURN. FOR PURPOSES OF THIS SECTION, THE TERM "PROPERTY SUBJECT TO CLAIMS" MEANS PROPERTY INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT WHICH, OR THE AVAILS OF WHICH, WOULD UNDER THE APPLICABLE LAW, BEAR THE BURDEN OF THE PAYMENT OF SUCH DEDUCTIONS IN THE FINAL ADJUSTMENT AND SETTLEMENT OF THE ESTATE, EXCEPT THAT THE VALUE OF THE PROPERTY SHALL BE REDUCED BY THE AMOUNT OF THE DEDUCTION UNDER SECTION 2054 ATTRIBUTABLE TO SUCH PROPERTY.

(D) CERTAIN FOREIGN DEATH TAXES.--

(1) IN GENERAL.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (C)(1)(B), FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE MAY BE DETERMINED, IF THE EXECUTOR SO ELECTS BEFORE THE EXPIRATION OF THE PERIOD OF LIMITATION FOR ASSESSMENT PROVIDED IN SECTION 6501, BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE THE AMOUNT (AS DETERMINED IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY THE SECRETARY) OF ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAX IMPOSED BY AND ACTUALLY PAID TO ANY FOREIGN COUNTRY, IN RESPECT OF ANY PROPERTY SITUATED WITHIN SUCH FOREIGN COUNTRY AND INCLUDED IN THE GROSS ESTATE OF A CITIZEN OR RESIDENT OF THE UNITED STATES, UPON A TRANSFER BY THE DECEDENT FOR PUBLIC, CHARITABLE, OR RELIGIOUS USES DESCRIBED IN SECTION 2055. THE DETERMINATION UNDER THIS PARAGRAPH OF THE COUNTRY WITHIN WHICH PROPERTY IS SITUATED SHALL BE MADE IN ACCORDANCE WITH THE RULES APPLICABLE UNDER SUBCHAPTER B (SEC. 2101 AND FOLLOWING) IN DETERMINING WHETHER PROPERTY IS SITUATED WITHIN OR WITHOUT THE UNITED STATES. ANY ELECTION UNDER THIS PARAGRAPH SHALL BE EXERCISED IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY THE SECRETARY.

(2) CONDITION FOR ALLOWANCE OF DEDUCTION.--NO DEDUCTION SHALL BE ALLOWED UNDER PARAGRAPH (1) FOR A FOREIGN DEATH TAX SPECIFIED THEREIN UNLESS THE DECREASE IN THE TAX IMPOSED BY SECTION 2001 WHICH RESULTS FROM THE DEDUCTION PROVIDED IN PARAGRAPH (1) WILL INURE SOLELY FOR THE BENEFIT OF THE PUBLIC, CHARITABLE, OR RELIGIOUS TRANSFEREES DESCRIBED IN SECTION 2055 OR SECTION 2106(A)(2). IN ANY CASE WHERE THE TAX IMPOSED BY SECTION 2001 IS EQUITABLY APPORTIONED AMONG ALL THE TRANSFEREES OF PROPERTY INCLUDED IN THE GROSS ESTATE, INCLUDING THOSE DESCRIBED IN SECTIONS 2055 AND 2106(A)(2) (TAKING INTO ACCOUNT ANY EXEMPTIONS, CREDITS, OR DEDUCTIONS ALLOWED BY THIS CHAPTER), IN DETERMINING SUCH DECREASE, THERE SHALL BE DISREGARDED ANY DECREASE IN THE FEDERAL ESTATE TAX WHICH ANY TRANSFEREES OTHER THAN THOSE DESCRIBED IN SECTIONS 2055 AND 2106(A)(2) ARE REQUIRED TO PAY.

(3) EFFECT ON CREDIT FOR FOREIGN DEATH TAXES OF DEDUCTION UNDER THIS SUBSECTION.--

(A) ELECTION.--AN ELECTION UNDER THIS SUBSECTION SHALL BE DEEMED A WAIVER OF THE RIGHT TO CLAIM A CREDIT, AGAINST THE FEDERAL ESTATE TAX, UNDER A DEATH TAX CONVENTION WITH ANY FOREIGN COUNTRY FOR ANY TAX OR PORTION THEREOF IN RESPECT OF WHICH A DEDUCTION IS TAKEN UNDER THIS SUBSECTION.

(B) CROSS REFERENCE.--

SEE SECTION 2011(D) FOR THE EFFECT OF A DEDUCTION TAKEN UNDER THIS PARAGRAPH ON THE CREDIT FOR FOREIGN DEATH TAXES.

(E) MARITAL RIGHTS.--

FOR PROVISIONS TREATING CERTAIN RELINQUISHMENTS OF MARITAL RIGHTS AS CONSIDERATION IN MONEY OR MONEY'S WORTH, SEE SECTION 2043(B)(2).

S 2054. LOSSES. FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE LOSSES INCURRED DURING THE SETTLEMENT OF ESTATES ARISING FROM FIRES, STORMS, SHIPWRECKS, OR OTHER CASUALTIES, OR FROM THEFT, WHEN SUCH LOSSES ARE NOT COMPENSATED FOR BY INSURANCE OR OTHERWISE.

S 2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

(A) IN GENERAL.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE THE AMOUNT OF ALL BEQUESTS, LEGACIES, DEVISES, OR TRANSFERS--

(1) TO OR FOR THE USE OF THE UNITED STATES, ANY STATE, ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

(2) TO OR FOR THE USE OF ANY CORPORATION ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART, OR TO FOSTER NATIONAL OR INTERNATIONAL AMATEUR SPORTS COMPETITION (BUT ONLY IF NO PART OF ITS ACTIVITIES INVOLVE THE PROVISION OF ATHLETIC FACILITIES OR EQUIPMENT), AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE STOCKHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

(3) TO A TRUSTEE OR TRUSTEES, OR A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION OPERATING UNDER THE LODGE SYSTEM, BUT ONLY IF SUCH CONTRIBUTIONS OR GIFTS ARE TO BE USED BY SUCH TRUSTEE OR TRUSTEES, OR BY SUCH FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, OR FOR THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, SUCH TRUST, FRATERNAL SOCIETY, ORDER, OR ASSOCIATION WOULD NOT BE DISQUALIFIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND SUCH TRUSTEE OR TRUSTEES, OR SUCH FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

(4) TO OR FOR THE USE OF ANY VETERANS' ORGANIZATION INCORPORATED BY ACT OF CONGRESS, OR OF ITS DEPARTMENTS OR LOCAL CHAPTERS OR POSTS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL; OR

(5) TO AN EMPLOYEE STOCK OWNERSHIP PLAN IF SUCH TRANSFER QUALIFIES AS A QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES WITHIN THE MEANING OF SECTION 664(G).

FOR PURPOSES OF THIS SUBSECTION, THE COMPLETE TERMINATION BEFORE THE DATE PRESCRIBED FOR THE FILING OF THE ESTATE TAX RETURN OF A POWER TO CONSUME, INVADE, OR APPROPRIATE PROPERTY FOR THE BENEFIT OF AN INDIVIDUAL BEFORE SUCH POWER HAS BEEN EXERCISED BY REASON OF THE DEATH OF SUCH INDIVIDUAL OR FOR ANY OTHER REASON SHALL BE CONSIDERED AND DEEMED TO BE

A QUALIFIED DISCLAIMER WITH THE SAME FULL FORCE AND EFFECT AS THOUGH HE HAD FILED SUCH QUALIFIED DISCLAIMER. RULES SIMILAR TO THE RULES OF SECTION 501(J) SHALL APPLY FOR PURPOSES OF PARAGRAPH (2).

(B) POWERS OF APPOINTMENT.--PROPERTY INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2041 (RELATING TO POWERS OF APPOINTMENT) RECEIVED BY A DONEE DESCRIBED IN THIS SECTION SHALL, FOR PURPOSES OF THIS SECTION, BE CONSIDERED A BEQUEST OF SUCH DECEDENT.

(C) DEATH TAXES PAYABLE OUT OF BEQUESTS.--IF THE TAX IMPOSED BY SECTION 2001, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAXES, ARE, EITHER BY THE TERMS OF THE WILL, BY THE LAW OF THE JURISDICTION UNDER WHICH THE ESTATE IS ADMINISTERED, OR BY THE LAW OF THE JURISDICTION IMPOSING THE PARTICULAR TAX, PAYABLE IN WHOLE OR IN PART OUT OF THE BEQUESTS, LEGACIES, OR DEVISES OTHERWISE DEDUCTIBLE UNDER THIS SECTION, THEN THE AMOUNT DEDUCTIBLE UNDER THIS SECTION SHALL BE THE AMOUNT OF SUCH BEQUESTS, LEGACIES, OR DEVISES REDUCED BY THE AMOUNT OF SUCH TAXES.

(D) LIMITATION ON DEDUCTION.--THE AMOUNT OF THE DEDUCTION UNDER THIS SECTION FOR ANY TRANSFER SHALL NOT EXCEED THE VALUE OF THE TRANSFERRED PROPERTY REQUIRED TO BE INCLUDED IN THE GROSS ESTATE.

(E) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.--

(1) NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR A TRANSFER TO OR FOR THE USE OF AN ORGANIZATION OR TRUST DESCRIBED IN SECTION 508(D) OR 4948(C)(4) SUBJECT TO THE CONDITIONS SPECIFIED IN SUCH SECTIONS.

(2) WHERE AN INTEREST IN PROPERTY (OTHER THAN AN INTEREST DESCRIBED IN SECTION 170(F)(3)(B)) PASSES OR HAS PASSED FROM THE DECEDENT TO A PERSON, OR FOR A USE, DESCRIBED IN SUBSECTION (A), AND AN INTEREST (OTHER THAN AN INTEREST WHICH IS EXTINGUISHED UPON THE DECEDENT'S DEATH) IN THE SAME PROPERTY PASSES OR HAS PASSED (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM THE DECEDENT TO A PERSON, OR FOR A USE, NOT DESCRIBED IN SUBSECTION (A), NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR THE INTEREST WHICH PASSES OR HAS PASSED TO THE PERSON, OR FOR THE USE, DESCRIBED IN SUBSECTION (A) UNLESS--

(A) IN THE CASE OF A REMAINDER INTEREST, SUCH INTEREST IS IN A TRUST WHICH IS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER UNITRUST (DESCRIBED IN SECTION 664) OR A POOLED INCOME FUND (DESCRIBED IN SECTION 642(C)(5)), OR

(B) IN THE CASE OF ANY OTHER INTEREST, SUCH INTEREST IS IN THE FORM OF A GUARANTEED ANNUITY OR IS A FIXED PERCENTAGE DISTRIBUTED YEARLY OF THE FAIR MARKET VALUE OF THE PROPERTY (TO BE DETERMINED YEARLY).

(3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).--

(A) IN GENERAL.--A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY QUALIFIED REFORMATION.

(B) QUALIFIED REFORMATION.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED REFORMATION" MEANS A CHANGE OF A GOVERNING INSTRUMENT BY REFORMATION, AMENDMENT, CONSTRUCTION, OR OTHERWISE WHICH CHANGES A REFORMABLE INTEREST INTO A QUALIFIED INTEREST BUT ONLY IF--

(I) ANY DIFFERENCE BETWEEN--

(I) THE ACTUARIAL VALUE (DETERMINED AS OF THE DATE OF THE DECEDENT'S DEATH) OF THE QUALIFIED INTEREST, AND

(II) THE ACTUARIAL VALUE (AS SO DETERMINED) OF THE REFORMABLE INTEREST,

DOES NOT EXCEED 5 PERCENT OF THE ACTUARIAL VALUE (AS SO DETERMINED) OF THE REFORMABLE INTEREST,

(II) IN THE CASE OF--

(I) A CHARITABLE REMAINDER INTEREST, THE NONREMAINDER INTEREST (BEFORE AND AFTER THE QUALIFIED REFORMATION) TERMINATED AT THE SAME TIME, OR

(II) ANY OTHER INTEREST, THE REFORMABLE INTEREST AND THE QUALIFIED INTEREST ARE FOR THE SAME PERIOD, AND

(III) SUCH CHANGE IS EFFECTIVE AS OF THE DATE OF THE DECEDENT'S DEATH.

A NONREMAINDER INTEREST (BEFORE REFORMATION) FOR A TERM OF YEARS IN EXCESS OF 20 YEARS SHALL BE TREATED AS SATISFYING SUBCLAUSE (I) OF CLAUSE (II) IF SUCH INTEREST (AFTER REFORMATION) IS FOR A TERM OF 20 YEARS.

(C) REFORMABLE INTEREST.--FOR PURPOSES OF THIS PARAGRAPH--

(I) IN GENERAL.--THE TERM "REFORMABLE INTEREST" MEANS ANY INTEREST FOR WHICH A DEDUCTION WOULD BE ALLOWABLE UNDER SUBSECTION (A) AT THE TIME OF THE DECEDENT'S DEATH BUT FOR PARAGRAPH (2).

(II) BENEFICIARY'S INTEREST MUST BE FIXED.--THE TERM "REFORMABLE INTEREST" DOES NOT INCLUDE ANY INTEREST UNLESS, BEFORE THE REMAINDER VESTS IN POSSESSION, ALL PAYMENTS TO PERSONS OTHER THAN AN ORGANIZATION DESCRIBED IN SUBSECTION (A) ARE EXPRESSED EITHER IN SPECIFIED DOLLAR AMOUNTS OR A FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ALL SUCH PAYMENTS ARE EXPRESSED AS A FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY, SECTION 664(D)(3) SHALL BE TAKEN INTO ACCOUNT.

(III) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.--CLAUSE (II) SHALL NOT APPLY TO ANY INTEREST IF A JUDICIAL PROCEEDING IS COMMENCED TO CHANGE SUCH INTEREST INTO A QUALIFIED INTEREST NOT LATER THAN THE 90TH DAY AFTER--

(I) IF AN ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE LAST DATE (INCLUDING EXTENSIONS) FOR FILING SUCH RETURN, OR

(II) IF NO ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE LAST DATE (INCLUDING EXTENSIONS) FOR FILING THE INCOME TAX RETURN FOR THE 1ST TAXABLE YEAR FOR WHICH SUCH A RETURN IS REQUIRED TO BE FILED BY THE TRUST.

(IV) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.--IN THE CASE OF ANY INTEREST PASSING UNDER A WILL EXECUTED BEFORE JANUARY 1, 1979, OR UNDER A TRUST CREATED BEFORE SUCH DATE, CLAUSE (II) SHALL NOT APPLY.

(D) QUALIFIED INTEREST.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED INTEREST" MEANS AN INTEREST FOR WHICH A DEDUCTION IS ALLOWABLE UNDER SUBSECTION (A).

(E) LIMITATION.--THE DEDUCTION REFERRED TO IN SUBPARAGRAPH (A) SHALL NOT EXCEED THE AMOUNT OF THE DEDUCTION WHICH WOULD HAVE BEEN ALLOWABLE FOR THE REFORMABLE INTEREST BUT FOR PARAGRAPH (2).

(F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.--IF (BY REASON OF THE DEATH OF ANY INDIVIDUAL, OR BY TERMINATION OR DISTRIBUTION OF A TRUST IN ACCORDANCE WITH THE TERMS OF THE TRUST INSTRUMENT) BY THE DUE DATE FOR FILING THE ESTATE TAX RETURN (INCLUDING ANY EXTENSION THEREOF) A REFORMABLE INTEREST IS IN A WHOLLY CHARITABLE TRUST OR PASSES DIRECTLY TO A PERSON OR FOR A USE DESCRIBED IN SUBSECTION (A), A DEDUCTION SHALL BE ALLOWED FOR SUCH REFORMABLE INTEREST AS IF IT HAD MET THE REQUIREMENTS OF PARAGRAPH (2) ON THE DATE OF THE DECEDENT'S DEATH. FOR PURPOSES OF THE PRECEDING SENTENCE, THE TERM "WHOLLY CHARITABLE TRUST" MEANS A CHARITABLE TRUST WHICH, UPON THE ALLOWANCE OF A DEDUCTION, WOULD BE DESCRIBED IN SECTION 4947(A)(1).

(G) STATUTE OF LIMITATIONS.--THE PERIOD FOR ASSESSING ANY DEFICIENCY OF ANY TAX ATTRIBUTABLE TO THE APPLICATION OF THIS PARAGRAPH SHALL NOT EXPIRE BEFORE THE DATE 1 YEAR AFTER THE DATE ON WHICH THE SECRETARY IS NOTIFIED THAT SUCH REFORMATION (OR OTHER PROCEEDING PURSUANT TO SUBPARAGRAPH (J)1 HAS OCCURRED.

(H) REGULATIONS.--THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS PARAGRAPH, INCLUDING REGULATIONS PROVIDING SUCH ADJUSTMENTS IN THE APPLICATION OF THE PROVISIONS OF SECTION 508 (RELATING TO SPECIAL RULES RELATING TO SECTION 501(C)(3) ORGANIZATIONS), SUBCHAPTER J (RELATING TO ESTATES, TRUSTS, BENEFICIARIES, AND DECEDENTS), AND CHAPTER 42 (RELATING TO PRIVATE FOUNDATIONS) AS MAY BE NECESSARY BY REASON OF THE QUALIFIED REFORMATION.

(I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.--THE SECRETARY SHALL PRESCRIBE REGULATIONS (CONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH) PERMITTING REFORMATIONS IN THE CASE OF ANY FAILURE--

(I) TO MEET THE REQUIREMENTS OF SECTION 170(F)(3)(B) (RELATING TO REMAINDER INTERESTS IN PERSONAL RESIDENCE OR FARM, ETC.), OR

(II) TO MEET THE REQUIREMENTS OF SECTION 642(C)(5).

(J) VOID OR REFORMED TRUST IN CASES OF INSUFFICIENT REMAINDER INTERESTS.--IN THE CASE OF A TRUST THAT WOULD QUALIFY (OR COULD BE REFORMED TO QUALIFY PURSUANT TO SUBPARAGRAPH (B)) BUT FOR FAILURE TO SATISFY THE REQUIREMENT OF PARAGRAPH (1)(D) OR (2)(D) OF SECTION 664(D), SUCH TRUST MAY BE--

(I) DECLARED NULL AND VOID AB INITIO, OR

(II) CHANGED BY REFORMATION, AMENDMENT, OR OTHERWISE TO MEET SUCH REQUIREMENT BY REDUCING THE PAYOUT RATE OR THE DURATION (OR BOTH) OF ANY NONCHARITABLE BENEFICIARY'S INTEREST TO THE EXTENT NECESSARY TO SATISFY SUCH REQUIREMENT,

PURSUANT TO A PROCEEDING THAT IS COMMENCED WITHIN THE PERIOD REQUIRED IN SUBPARAGRAPH (C)(III). IN A CASE DESCRIBED IN CLAUSE (I), NO DEDUCTION SHALL BE ALLOWED UNDER THIS TITLE FOR ANY TRANSFER TO THE TRUST AND ANY TRANSACTIONS ENTERED INTO BY THE TRUST PRIOR TO BEING DECLARED VOID SHALL BE TREATED AS ENTERED INTO BY THE TRANSFEROR.

(4) WORKS OF ART AND THEIR COPYRIGHTS TREATED AS SEPARATE PROPERTIES IN CERTAIN CASES.--

(A) IN GENERAL.--IN THE CASE OF A QUALIFIED CONTRIBUTION OF A WORK OF ART, THE WORK OF ART AND THE COPYRIGHT ON SUCH WORK OF ART SHALL BE TREATED AS SEPARATE PROPERTIES FOR PURPOSES OF PARAGRAPH (2).

(B) WORK OF ART DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "WORK OF ART" MEANS ANY TANGIBLE PERSONAL PROPERTY WITH RESPECT TO WHICH THERE IS A COPYRIGHT UNDER FEDERAL LAW.

(C) QUALIFIED CONTRIBUTION DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED CONTRIBUTION" MEANS ANY TRANSFER OF PROPERTY TO A QUALIFIED ORGANIZATION IF THE USE OF THE PROPERTY BY THE ORGANIZATION IS RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR ITS EXEMPTION UNDER SECTION 501.

(D) QUALIFIED ORGANIZATION DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "QUALIFIED ORGANIZATION" MEANS ANY ORGANIZATION DESCRIBED IN SECTION 501(C)(3) OTHER THAN A PRIVATE FOUNDATION (AS DEFINED IN SECTION 509). FOR PURPOSES OF THE PRECEDING SENTENCE, A PRIVATE OPERATING FOUNDATION (AS DEFINED IN SECTION 4942(J)(3)) SHALL NOT BE TREATED AS A PRIVATE FOUNDATION.

(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.--A DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A) FOR ANY CONTRIBUTION TO A DONOR ADVISED FUND (AS DEFINED IN SECTION 4966(D)(2)) SHALL ONLY BE ALLOWED IF--

(A) THE SPONSORING ORGANIZATION (AS DEFINED IN SECTION 4966(D)(1)) WITH RESPECT TO SUCH DONOR ADVISED FUND IS NOT--

(I) DESCRIBED IN PARAGRAPH (3) OR (4) OF SUBSECTION (A), OR

(II) A TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(A)) WHICH IS NOT A FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(B)), AND

(B) THE TAXPAYER OBTAINS A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT (DETERMINED UNDER RULES SIMILAR TO THE RULES OF SECTION 170(F)(8)(C)) FROM THE SPONSORING ORGANIZATION (AS SO DEFINED) OF SUCH DONOR ADVISED FUND THAT SUCH ORGANIZATION HAS EXCLUSIVE LEGAL CONTROL OVER THE ASSETS CONTRIBUTED.

(F) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY.--A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY TRANSFER OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN SECTION 170(H)(2)(C)) WHICH MEETS THE REQUIREMENTS OF SECTION 170(H) (WITHOUT REGARD TO PARAGRAPH (4)(A) THEREOF).

(G) CROSS REFERENCES.--

(1) FOR OPTION AS TO TIME FOR VALUATION FOR PURPOSE OF DEDUCTION UNDER THIS SECTION, SEE SECTION 2032.

(2) FOR TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE, SEE SECTION 501(K).

(3) FOR EXEMPTION OF GIFTS AND BEQUESTS TO OR FOR THE BENEFIT OF LIBRARY OF CONGRESS, SEE SECTION 5 OF THE ACT OF MARCH 3, 1925, AS AMENDED (2 U.S.C. 161).

(4) FOR TREATMENT OF GIFTS AND BEQUESTS FOR THE BENEFIT OF THE NAVAL HISTORICAL CENTER AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 7222 OF TITLE 10, UNITED STATES CODE.

(5) FOR TREATMENT OF GIFTS AND BEQUESTS TO OR FOR THE BENEFIT OF NATIONAL PARK FOUNDATION AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 8 OF THE ACT OF DECEMBER 18, 1967 (16 U.S.C. 191).

(6) FOR TREATMENT OF GIFTS, DEVISES, OR BEQUESTS ACCEPTED BY THE SECRETARY OF STATE, THE DIRECTOR OF THE INTERNATIONAL COMMUNICATION AGENCY, OR THE DIRECTOR OF THE UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY AS GIFTS, DEVISES, OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 25 OF THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.

(7) FOR TREATMENT OF GIFTS OR BEQUESTS OF MONEY ACCEPTED BY THE ATTORNEY GENERAL FOR CREDIT TO "COMMISSARY FUNDS, FEDERAL PRISONS" AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 4043 OF TITLE 18, UNITED STATES CODE.

(8) FOR PAYMENT OF TAX ON GIFTS AND BEQUESTS OF UNITED STATES OBLIGATIONS TO THE UNITED STATES, SEE SECTION 3113(E) OF TITLE 31, UNITED STATES CODE.

(9) FOR TREATMENT OF GIFTS AND BEQUESTS FOR BENEFIT OF THE NAVAL ACADEMY AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 6973 OF TITLE 10, UNITED STATES CODE.

(10) FOR TREATMENT OF GIFTS AND BEQUESTS FOR BENEFIT OF THE NAVAL ACADEMY MUSEUM AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 6974 OF TITLE 10, UNITED STATES CODE.

(11) FOR EXEMPTION OF GIFTS AND BEQUESTS RECEIVED BY NATIONAL ARCHIVES TRUST FUND BOARD, SEE SECTION 2308 OF TITLE 44, UNITED STATES CODE.

(12) FOR TREATMENT OF GIFTS AND BEQUESTS TO OR FOR THE USE OF INDIAN TRIBAL GOVERNMENTS (OR THEIR SUBDIVISIONS), SEE SECTION 7871.

S 2056. BEQUESTS, ETC., TO SURVIVING SPOUSE. (A) ALLOWANCE OF MARITAL DEDUCTION.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE ESTATE SHALL, EXCEPT AS LIMITED BY SUBSECTION (B), BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE AN AMOUNT EQUAL TO THE VALUE OF ANY INTEREST IN PROPERTY WHICH PASSES OR HAS

PASSED FROM THE DECEDENT TO HIS SURVIVING SPOUSE, BUT ONLY TO THE EXTENT THAT SUCH INTEREST IS INCLUDED IN DETERMINING THE VALUE OF THE GROSS ESTATE.

(B) LIMITATION IN THE CASE OF LIFE ESTATE OR OTHER TERMINABLE INTEREST.--

(1) GENERAL RULE.--WHERE, ON THE LAPSE OF TIME, ON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF AN EVENT OR CONTINGENCY TO OCCUR, AN INTEREST PASSING TO THE SURVIVING SPOUSE WILL TERMINATE OR FAIL, NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION WITH RESPECT TO SUCH INTEREST--

(A) IF AN INTEREST IN SUCH PROPERTY PASSES OR HAS PASSED (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM THE DECEDENT TO ANY PERSON OTHER THAN SUCH SURVIVING SPOUSE (OR THE ESTATE OF SUCH SPOUSE); AND

(B) IF BY REASON OF SUCH PASSING SUCH PERSON (OR HIS HEIRS OR ASSIGNS) MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER SUCH TERMINATION OR FAILURE OF THE INTEREST SO PASSING TO THE SURVIVING SPOUSE;

AND NO DEDUCTION SHALL BE ALLOWED WITH RESPECT TO SUCH INTEREST (EVEN IF SUCH DEDUCTION IS NOT DISALLOWED UNDER SUBPARAGRAPHS (A) AND (B))--

(C) IF SUCH INTEREST IS TO BE ACQUIRED FOR THE SURVIVING SPOUSE, PURSUANT TO DIRECTIONS OF THE DECEDENT, BY HIS EXECUTOR OR BY THE TRUSTEE OF A TRUST.

FOR PURPOSES OF THIS PARAGRAPH, AN INTEREST SHALL NOT BE CONSIDERED AS AN INTEREST WHICH WILL TERMINATE OR FAIL MERELY BECAUSE IT IS THE OWNERSHIP OF A BOND, NOTE, OR SIMILAR CONTRACTUAL OBLIGATION, THE DISCHARGE OF WHICH WOULD NOT HAVE THE EFFECT OF AN ANNUITY FOR LIFE OR FOR A TERM.

(2) INTEREST IN UNIDENTIFIED ASSETS.--WHERE THE ASSETS (INCLUDED IN THE DECEDENT'S GROSS ESTATE) OUT OF WHICH, OR THE PROCEEDS OF WHICH, AN INTEREST PASSING TO THE SURVIVING SPOUSE MAY BE SATISFIED INCLUDE A PARTICULAR ASSET OR ASSETS WITH RESPECT TO WHICH NO DEDUCTION WOULD BE ALLOWED IF SUCH ASSET OR ASSETS PASSED FROM THE DECEDENT TO SUCH SPOUSE, THEN THE VALUE OF SUCH INTEREST PASSING TO SUCH SPOUSE SHALL, FOR PURPOSES OF SUBSECTION (A), BE REDUCED BY THE AGGREGATE VALUE OF SUCH PARTICULAR ASSETS.

(3) INTEREST OF SPOUSE CONDITIONAL ON SURVIVAL FOR LIMITED PERIOD.--FOR PURPOSES OF THIS SUBSECTION, AN INTEREST PASSING TO THE SURVIVING SPOUSE SHALL NOT BE CONSIDERED AS AN INTEREST WHICH WILL TERMINATE OR FAIL ON THE DEATH OF SUCH SPOUSE IF--

(A) SUCH DEATH WILL CAUSE A TERMINATION OR FAILURE OF SUCH INTEREST ONLY IF IT OCCURS WITHIN A PERIOD NOT EXCEEDING 6 MONTHS AFTER THE DECEDENT'S DEATH, OR ONLY IF IT OCCURS AS A RESULT OF A COMMON DISASTER RESULTING IN THE DEATH OF THE DECEDENT AND THE SURVIVING SPOUSE, OR ONLY IF IT OCCURS IN THE CASE OF EITHER SUCH EVENT; AND

(B) SUCH TERMINATION OR FAILURE DOES NOT IN FACT OCCUR.

(4) VALUATION OF INTEREST PASSING TO SURVIVING SPOUSE.--IN DETERMINING FOR PURPOSES OF SUBSECTION (A) THE VALUE OF ANY INTEREST IN PROPERTY PASSING TO THE SURVIVING SPOUSE FOR WHICH A DEDUCTION IS ALLOWED BY THIS SECTION--

(A) THERE SHALL BE TAKEN INTO ACCOUNT THE EFFECT WHICH THE TAX IMPOSED BY SECTION 2001, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAX, HAS ON THE NET VALUE TO THE SURVIVING SPOUSE OF SUCH INTEREST; AND

(B) WHERE SUCH INTEREST OR PROPERTY IS ENCUMBERED IN ANY MANNER, OR WHERE THE SURVIVING SPOUSE INCURS ANY OBLIGATION IMPOSED BY THE DECEDENT WITH RESPECT TO THE PASSING OF SUCH INTEREST, SUCH ENCUMBRANCE OR OBLIGATION SHALL BE TAKEN INTO ACCOUNT IN THE SAME MANNER AS IF THE AMOUNT OF A GIFT TO SUCH SPOUSE OF SUCH INTEREST WERE BEING DETERMINED.

(5) LIFE ESTATE WITH POWER OF APPOINTMENT IN SURVIVING SPOUSE.--IN THE CASE OF AN INTEREST IN PROPERTY PASSING FROM THE DECEDENT, IF HIS SURVIVING SPOUSE IS ENTITLED FOR LIFE TO ALL THE INCOME FROM THE ENTIRE INTEREST, OR ALL THE INCOME FROM A SPECIFIC PORTION THEREOF, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, WITH POWER IN THE SURVIVING SPOUSE TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION (EXERCISABLE IN FAVOR OF SUCH SURVIVING SPOUSE, OR OF THE ESTATE OF SUCH SURVIVING SPOUSE, OR IN FAVOR OF EITHER, WHETHER OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF OTHERS), AND WITH NO POWER IN ANY OTHER PERSON TO APPOINT ANY PART OF THE INTEREST, OR SUCH SPECIFIC PORTION, TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE--

(A) THE INTEREST OR SUCH PORTION THEREOF SO PASSING SHALL, FOR PURPOSES OF SUBSECTION (A), BE CONSIDERED AS PASSING TO THE SURVIVING SPOUSE, AND

(B) NO PART OF THE INTEREST SO PASSING SHALL, FOR PURPOSES OF PARAGRAPH (1)(A), BE CONSIDERED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

THIS PARAGRAPH SHALL APPLY ONLY IF SUCH POWER IN THE SURVIVING SPOUSE TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION THEREOF, WHETHER EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE AND IN ALL EVENTS.

(6) LIFE INSURANCE OR ANNUITY PAYMENTS WITH POWER OF APPOINTMENT IN SURVIVING SPOUSE.--IN THE CASE OF AN INTEREST IN PROPERTY PASSING FROM THE DECEDENT CONSISTING OF PROCEEDS UNDER A LIFE INSURANCE, ENDOWMENT, OR ANNUITY CONTRACT, IF UNDER THE TERMS OF THE CONTRACT SUCH PROCEEDS ARE PAYABLE IN INSTALLMENTS OR ARE HELD BY THE INSURER SUBJECT TO AN AGREEMENT TO PAY INTEREST THEREON (WHETHER THE PROCEEDS, ON THE TERMINATION OF ANY INTEREST PAYMENTS, ARE PAYABLE IN A LUMP SUM OR IN ANNUAL OR MORE FREQUENT INSTALLMENTS), AND SUCH INSTALLMENT OR INTEREST PAYMENTS ARE PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, COMMENCING NOT LATER THAN 13 MONTHS AFTER THE DECEDENT'S DEATH, AND ALL AMOUNTS, OR A SPECIFIC PORTION OF ALL SUCH AMOUNTS, PAYABLE DURING THE LIFE OF THE SURVIVING SPOUSE ARE PAYABLE ONLY TO SUCH SPOUSE, AND SUCH SPOUSE HAS THE POWER TO APPOINT ALL AMOUNTS, OR SUCH SPECIFIC PORTION, PAYABLE UNDER SUCH CONTRACT (EXERCISABLE IN FAVOR OF SUCH SURVIVING SPOUSE, OR OF THE ESTATE OF SUCH SURVIVING SPOUSE, OR IN FAVOR OF EITHER, WHETHER OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF OTHERS), WITH NO POWER IN ANY OTHER PERSON TO APPOINT SUCH AMOUNTS TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE--

(A) SUCH AMOUNTS SHALL, FOR PURPOSES OF SUBSECTION (A), BE CONSIDERED AS PASSING TO THE SURVIVING SPOUSE, AND

(B) NO PART OF SUCH AMOUNTS SHALL, FOR PURPOSES OF PARAGRAPH (1)(A), BE CONSIDERED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

THIS PARAGRAPH SHALL APPLY ONLY IF, UNDER THE TERMS OF THE CONTRACT, SUCH POWER IN THE SURVIVING SPOUSE TO APPOINT SUCH AMOUNTS, WHETHER EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE AND IN ALL EVENTS.

(7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING SPOUSE.--

(A) IN GENERAL.--IN THE CASE OF QUALIFIED TERMINABLE INTEREST PROPERTY--

(I) FOR PURPOSES OF SUBSECTION (A), SUCH PROPERTY SHALL BE TREATED AS PASSING TO THE SURVIVING SPOUSE, AND

(II) FOR PURPOSES OF PARAGRAPH (1)(A), NO PART OF SUCH PROPERTY SHALL BE TREATED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

(B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.--FOR PURPOSES OF THIS PARAGRAPH--

(I) IN GENERAL.--THE TERM "QUALIFIED TERMINABLE INTEREST PROPERTY" MEANS PROPERTY--

(I) WHICH PASSES FROM THE DECEDENT,

(II) IN WHICH THE SURVIVING SPOUSE HAS A QUALIFYING INCOME INTEREST FOR LIFE, AND

(III) TO WHICH AN ELECTION UNDER THIS PARAGRAPH APPLIES.

(II) QUALIFYING INCOME INTEREST FOR LIFE.--THE SURVIVING SPOUSE HAS A QUALIFYING INCOME INTEREST FOR LIFE IF--

(I) THE SURVIVING SPOUSE IS ENTITLED TO ALL THE INCOME FROM THE PROPERTY, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, OR HAS A USUFRUCT INTEREST FOR LIFE IN THE PROPERTY, AND

(II) NO PERSON HAS A POWER TO APPOINT ANY PART OF THE PROPERTY TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

SUBCLAUSE (II) SHALL NOT APPLY TO A POWER EXERCISABLE ONLY AT OR AFTER THE DEATH OF THE SURVIVING SPOUSE. TO THE EXTENT PROVIDED IN REGULATIONS, AN ANNUITY SHALL BE TREATED IN A MANNER SIMILAR TO AN INCOME INTEREST IN PROPERTY (REGARDLESS OF WHETHER THE PROPERTY FROM WHICH THE ANNUITY IS PAYABLE CAN BE SEPARATELY IDENTIFIED).

(III) PROPERTY INCLUDES INTEREST THEREIN.--THE TERM "PROPERTY" INCLUDES AN INTEREST IN PROPERTY.

(IV) SPECIFIC PORTION TREATED AS SEPARATE PROPERTY.--A SPECIFIC PORTION OF PROPERTY SHALL BE TREATED AS SEPARATE PROPERTY.

(V) ELECTION.--AN ELECTION UNDER THIS PARAGRAPH WITH RESPECT TO ANY PROPERTY SHALL BE MADE BY THE EXECUTOR ON THE RETURN OF TAX IMPOSED BY SECTION 2001. SUCH AN ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(C) TREATMENT OF SURVIVOR ANNUITIES.--IN THE CASE OF AN ANNUITY INCLUDED IN THE GROSS ESTATE OF THE DECEDENT UNDER SECTION 2039 (OR, IN THE CASE OF AN INTEREST IN AN ANNUITY ARISING UNDER THE COMMUNITY PROPERTY LAWS OF A STATE, INCLUDED IN THE GROSS ESTATE OF THE DECEDENT UNDER SECTION 2033) WHERE ONLY THE SURVIVING SPOUSE HAS THE RIGHT TO RECEIVE PAYMENTS BEFORE THE DEATH OF SUCH SURVIVING SPOUSE--

(I) THE INTEREST OF SUCH SURVIVING SPOUSE SHALL BE TREATED AS A QUALIFYING INCOME INTEREST FOR LIFE, AND

(II) THE EXECUTOR SHALL BE TREATED AS HAVING MADE AN ELECTION UNDER THIS SUBSECTION WITH RESPECT TO SUCH ANNUITY UNLESS THE EXECUTOR OTHERWISE ELECTS ON THE RETURN OF TAX IMPOSED BY SECTION 2001.

AN ELECTION UNDER CLAUSE (II), ONCE MADE, SHALL BE IRREVOCABLE.

(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.--

(A) IN GENERAL.--IF THE SURVIVING SPOUSE OF THE DECEDENT IS THE ONLY BENEFICIARY OF A QUALIFIED CHARITABLE REMAINDER TRUST WHO IS NOT A CHARITABLE BENEFICIARY NOR AN ESOP BENEFICIARY, PARAGRAPH (1) SHALL NOT APPLY TO ANY INTEREST IN SUCH TRUST WHICH PASSES OR HAS PASSED FROM THE DECEDENT TO SUCH SURVIVING SPOUSE.

(B) DEFINITIONS.--FOR PURPOSES OF SUBPARAGRAPH (A)--

(I) CHARITABLE BENEFICIARY.--THE TERM "CHARITABLE BENEFICIARY" MEANS ANY BENEFICIARY WHICH IS AN ORGANIZATION DESCRIBED IN SECTION 170(C).

(II) ESOP BENEFICIARY.--THE TERM "ESOP BENEFICIARY" MEANS ANY BENEFICIARY WHICH IS AN EMPLOYEE STOCK OWNERSHIP PLAN (AS DEFINED IN SECTION 4975(E)(7)) THAT HOLDS A REMAINDER INTEREST IN QUALIFIED EMPLOYER SECURITIES (AS DEFINED IN SECTION 664(G)(4)) TO BE TRANSFERRED TO SUCH PLAN IN A QUALIFIED GRATUITOUS TRANSFER (AS DEFINED IN SECTION 664(G)(1)).

(III) QUALIFIED CHARITABLE REMAINDER TRUST.--THE TERM "QUALIFIED CHARITABLE REMAINDER TRUST" MEANS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER UNITRUST (DESCRIBED IN SECTION 664).

(9) DENIAL OF DOUBLE DEDUCTION.--NOTHING IN THIS SECTION OR ANY OTHER PROVISION OF THIS CHAPTER SHALL ALLOW THE VALUE OF ANY INTEREST IN PROP-

ERTY TO BE DEDUCTED UNDER THIS CHAPTER MORE THAN ONCE WITH RESPECT TO THE SAME DECEDENT.

(10) SPECIFIC PORTION.--FOR PURPOSES OF PARAGRAPHS (5), (6), AND (7)(B)(IV), THE TERM "SPECIFIC PORTION" ONLY INCLUDES A PORTION DETERMINED ON A FRACTIONAL OR PERCENTAGE BASIS.

(C) DEFINITION.--FOR PURPOSES OF THIS SECTION, AN INTEREST IN PROPERTY SHALL BE CONSIDERED AS PASSING FROM THE DECEDENT TO ANY PERSON IF AND ONLY IF--

(1) SUCH INTEREST IS BEQUEATHED OR DEVISED TO SUCH PERSON BY THE DECEDENT;

(2) SUCH INTEREST IS INHERITED BY SUCH PERSON FROM THE DECEDENT;

(3) SUCH INTEREST IS THE DOWER OR CURTESY INTEREST (OR STATUTORY INTEREST IN LIEU THEREOF) OF SUCH PERSON AS SURVIVING SPOUSE OF THE DECEDENT;

(4) SUCH INTEREST HAS BEEN TRANSFERRED TO SUCH PERSON BY THE DECEDENT AT ANY TIME;

(5) SUCH INTEREST WAS, AT THE TIME OF THE DECEDENT'S DEATH, HELD BY SUCH PERSON AND THE DECEDENT (OR BY THEM AND ANY OTHER PERSON) IN JOINT OWNERSHIP WITH RIGHT OF SURVIVORSHIP;

(6) THE DECEDENT HAD A POWER (EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON) TO APPOINT SUCH INTEREST AND IF HE APPOINTS OR HAS APPOINTED SUCH INTEREST TO SUCH PERSON, OR IF SUCH PERSON TAKES SUCH INTEREST IN DEFAULT ON THE RELEASE OR NONEXERCISE OF SUCH POWER; OR

(7) SUCH INTEREST CONSISTS OF PROCEEDS OF INSURANCE ON THE LIFE OF THE DECEDENT RECEIVABLE BY SUCH PERSON.

EXCEPT AS PROVIDED IN PARAGRAPH (5) OR (6) OF SUBSECTION (B), WHERE AT THE TIME OF THE DECEDENT'S DEATH IT IS NOT POSSIBLE TO ASCERTAIN THE PARTICULAR PERSON OR PERSONS TO WHOM AN INTEREST IN PROPERTY MAY PASS FROM THE DECEDENT, SUCH INTEREST SHALL, FOR PURPOSES OF SUBPARAGRAPHS (A) AND (B) OF SUBSECTION (B)(1), BE CONSIDERED AS PASSING FROM THE DECEDENT TO A PERSON OTHER THAN THE SURVIVING SPOUSE.

S 2103. DEFINITION OF GROSS ESTATE. FOR THE PURPOSE OF THE TAX IMPOSED BY SECTION 2101, THE VALUE OF THE GROSS ESTATE OF EVERY DECEDENT NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE THAT PART OF HIS GROSS ESTATE (DETERMINED AS PROVIDED IN SECTION 2031) WHICH AT THE TIME OF HIS DEATH IS SITUATED IN THE UNITED STATES.

S 2104. PROPERTY WITHIN THE UNITED STATES. (A) STOCK IN CORPORATION.--FOR PURPOSES OF THIS SUBCHAPTER SHARES OF STOCK OWNED AND HELD BY A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE DEEMED PROPERTY WITHIN THE UNITED STATES ONLY IF ISSUED BY A DOMESTIC CORPORATION.

(B) REVOCABLE TRANSFERS AND TRANSFERS WITHIN 3 YEARS OF DEATH.--FOR PURPOSES OF THIS SUBCHAPTER, ANY PROPERTY OF WHICH THE DECEDENT HAS MADE A TRANSFER, BY TRUST OR OTHERWISE, WITHIN THE MEANING OF SECTIONS 2035 TO 2038, INCLUSIVE, SHALL BE DEEMED TO BE SITUATED IN THE UNITED STATES, IF SO SITUATED EITHER AT THE TIME OF THE TRANSFER OR AT THE TIME OF THE DECEDENT'S DEATH.

(C) DEBT OBLIGATIONS.--FOR PURPOSES OF THIS SUBCHAPTER, DEBT OBLIGATIONS OF-

(1) A UNITED STATES PERSON, OR

(2) THE UNITED STATES, A STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA,

OWNED AND HELD BY A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE DEEMED PROPERTY WITHIN THE UNITED STATES. WITH RESPECT TO ESTATES OF DECEDENTS DYING AFTER DECEMBER 31, 1969, DEPOSITS WITH A DOMESTIC BRANCH OF A FOREIGN CORPORATION, IF SUCH BRANCH IS ENGAGED IN THE COMMERCIAL BANKING BUSINESS, SHALL, FOR PURPOSES OF THIS SUBCHAPTER,

BE DEEMED PROPERTY WITHIN THE UNITED STATES. THIS SUBSECTION SHALL NOT APPLY TO A DEBT OBLIGATION TO WHICH SECTION 2105(B) APPLIES.

S 2105. PROPERTY WITHOUT THE UNITED STATES. (A) PROCEEDS OF LIFE INSURANCE.--FOR PURPOSES OF THIS SUBCHAPTER, THE AMOUNT RECEIVABLE AS INSURANCE ON THE LIFE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES.

(B) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.--FOR PURPOSES OF THIS SUBCHAPTER, THE FOLLOWING SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES--

(1) AMOUNTS DESCRIBED IN SECTION 871(I)(3), IF ANY INTEREST THEREON WOULD NOT BE SUBJECT TO TAX BY REASON OF SECTION 871(I)(1) WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH,

(2) DEPOSITS WITH A FOREIGN BRANCH OF A DOMESTIC CORPORATION OR DOMESTIC PARTNERSHIP, IF SUCH BRANCH IS ENGAGED IN THE COMMERCIAL BANKING BUSINESS,

(3) DEBT OBLIGATIONS, IF, WITHOUT REGARD TO WHETHER A STATEMENT MEETING THE REQUIREMENTS OF SECTION 871(H)(5) HAS BEEN RECEIVED, ANY INTEREST THEREON WOULD BE ELIGIBLE FOR THE EXEMPTION FROM TAX UNDER SECTION 871(H)(1) WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH, AND

(4) OBLIGATIONS WHICH WOULD BE ORIGINAL ISSUE DISCOUNT OBLIGATIONS AS DEFINED IN SECTION 871(G)(1) BUT FOR SUBPARAGRAPH (B)(I) THEREOF, IF ANY INTEREST THEREON (WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH) WOULD NOT BE EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE UNITED STATES.

NOTWITHSTANDING THE PRECEDING SENTENCE, IF ANY PORTION OF THE INTEREST ON AN OBLIGATION REFERRED TO IN PARAGRAPH (3) WOULD NOT BE ELIGIBLE FOR THE EXEMPTION REFERRED TO IN PARAGRAPH (3) BY REASON OF SECTION 871(H)(4) IF THE INTEREST WERE RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH, THEN AN APPROPRIATE PORTION (AS DETERMINED IN A MANNER PRESCRIBED BY THE SECRETARY) OF THE VALUE (AS DETERMINED FOR PURPOSES OF THIS CHAPTER) OF SUCH DEBT OBLIGATION SHALL BE DEEMED PROPERTY WITHIN THE UNITED STATES.

(C) WORKS OF ART ON LOAN FOR EXHIBITION.--FOR PURPOSES OF THIS SUBCHAPTER, WORKS OF ART OWNED BY A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES IF SUCH WORKS OF ART ARE--

(1) IMPORTED INTO THE UNITED STATES SOLELY FOR EXHIBITION PURPOSES,

(2) LOANED FOR SUCH PURPOSES, TO A PUBLIC GALLERY OR MUSEUM, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE STOCKHOLDER OR INDIVIDUAL, AND

(3) AT THE TIME OF THE DEATH OF THE OWNER, ON EXHIBITION, OR ENROUTE TO OR FROM EXHIBITION, IN SUCH A PUBLIC GALLERY OR MUSEUM.

S 2503. (A) GENERAL DEFINITION - THE TERM "TAXABLE GIFTS" MEANS THE TOTAL AMOUNT OF GIFTS MADE DURING THE CALENDAR YEAR, LESS DEDUCTIONS PROVIDED IN SUBCHAPTER C (SECTION 2522 AND FOLLOWING).

(B) EXCLUSIONS FROM GIFTS. (1) IN GENERAL.--IN THE CASE OF GIFTS (OTHER THAN GIFTS OF FUTURE INTERESTS IN PROPERTY) MADE TO ANY PERSON BY THE DONOR DURING THE CALENDAR YEAR, THE FIRST $10,000 OF SUCH GIFTS TO SUCH PERSON SHALL NOT, FOR PURPOSES OF SUBSECTION (A), BE INCLUDED IN THE TOTAL AMOUNT OF GIFTS MADE DURING SUCH YEAR. WHERE THERE HAS BEEN A TRANSFER TO ANY PERSON OF A PRESENT INTEREST IN PROPERTY, THE POSSIBILITY THAT SUCH INTEREST MAY BE DIMINISHED BY THE EXERCISE OF A POWER SHALL BE DISREGARDED IN APPLYING THIS SUBSECTION, IF NO PART OF SUCH INTEREST WILL AT ANY TIME PASS TO ANY OTHER PERSON.

(2) INFLATION ADJUSTMENT.--IN THE CASE OF GIFTS MADE IN A CALENDAR YEAR AFTER 1998, THE $10,000 AMOUNT CONTAINED IN PARAGRAPH (1) SHALL BE INCREASED BY AN AMOUNT EQUAL TO--

(A) $10,000, MULTIPLIED BY

(B) THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER SECTION 1(F)(3) FOR SUCH CALENDAR YEAR BY SUBSTITUTING "CALENDAR YEAR 1997" FOR "CALENDAR YEAR 1992" IN SUBPARAGRAPH (B) THEREOF.

IF ANY AMOUNT AS ADJUSTED UNDER THE PRECEDING SENTENCE IS NOT A MULTIPLE OF $1,000, SUCH AMOUNT SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE OF $1,000.

(C) TRANSFER FOR THE BENEFIT OF MINOR. -- NO PART OF A GIFT TO AN INDIVIDUAL WHO HAS NOT ATTAINED THE AGE OF 21 YEARS ON THE DATE OF SUCH TRANSFER SHALL BE CONSIDERED A GIFT OF A FUTURE INTEREST IN PROPERTY FOR PURPOSES OF SUBSECTION (B) IF THE PROPERTY AND THE INCOME THEREFROM-

(1) MAY BE EXPENDED BY, OR FOR THE BENEFIT OF, THE DONEE BEFORE HIS ATTAINING THE AGE OF 21 YEARS, AND

(2) WILL TO THE EXTENT NOT SO EXPENDED-

(A) PASS TO THE DONEE ON HIS ATTAINING THE AGE OF 21 YEARS, AND

(B) IN THE EVENT THE DONEE DIES BEFORE ATTAINING THE AGE OF 21 YEARS, BE PAYABLE TO THE ESTATE OF THE DONEE OR AS HE MAY APPOINT UNDER A GENERAL POWER OF APPOINTMENT AS DEFINED IN SECTION 2514(C).

{(D) REPEALED. PUB. L. 97-34, TITLE III, S 311(H)(5), AUG. 13, 1981, 95 STAT. 282}

(E) EXCLUSION FOR CERTAIN TRANSFERS FOR EDUCATIONAL EXPENSES OR MEDICAL EXPENSES. (1) IN GENERAL. ANY QUALIFIED TRANSFER SHALL NOT BE TREATED AS A TRANSFER OF PROPERTY BY GIFT FOR PURPOSES OF THIS CHAPTER.

(2) QUALIFIED TRANSFER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "QUALIFIED TRANSFER" MEANS ANY AMOUNT PAID ON BEHALF OF AN INDIVIDUAL-

(A) AS TUITION TO AN EDUCATIONAL ORGANIZATION DESCRIBED IN SECTION 170(B)(1)(A)(II) FOR THE EDUCATION OR TRAINING OF SUCH INDIVIDUAL, OR

(B) TO ANY PERSON WHO PROVIDES MEDICAL CARE (AS DEFINED IN SECTION 213(D)) WITH RESPECT TO SUCH INDIVIDUAL AS PAYMENT FOR SUCH MEDICAL CARE.

(F) WAIVER OF CERTAIN PENSION RIGHTS. IF ANY INDIVIDUAL WAIVES, BEFORE THE DEATH OF A PARTICIPANT, ANY SURVIVOR BENEFIT, OR RIGHT TO SUCH BENEFIT, UNDER SECTION 401(A)(11) OR 417, SUCH WAIVER SHALL NOT BE TREATED AS A TRANSFER OF PROPERTY BY GIFT FOR PURPOSES OF THIS CHAPTER.

(G) TREATMENT OF CERTAIN LOANS OF ARTWORKS. (1) IN GENERAL. FOR PURPOSES OF THIS SUBTITLE, ANY LOAN OF A QUALIFIED WORK OF ART SHALL NOT BE TREATED AS A TRANSFER (AND THE VALUE OF SUCH QUALIFIED WORK OF ART SHALL BE DETERMINED AS IF SUCH LOAN HAD NOT BEEN MADE) IF-

(A) SUCH LOAN IS TO AN ORGANIZATION DESCRIBED IN SECTION 501(C)(3) AND EXEMPT FROM TAX UNDER SECTION 501(C) (OTHER THAN A PRIVATE FOUNDATION), AND

(B) THE USE OF SUCH WORK BY SUCH ORGANIZATION IS RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR ITS EXEMPTION UNDER SECTION 501.

(2) DEFINITIONS. FOR PURPOSES OF THIS SECTION-

(A) QUALIFIED WORK OF ART. THE TERM "QUALIFIED WORK OF ART" MEANS ANY ARCHAEOLOGICAL, HISTORIC, OR CREATIVE TANGIBLE PERSONAL PROPERTY.

(B) PRIVATE FOUNDATION. THE TERM "PRIVATE FOUNDATION" HAS THE MEANING GIVEN SUCH TERM BY SECTION 509, EXCEPT THAT SUCH TERM SHALL NOT INCLUDE ANY PRIVATE OPERATING FOUNDATION (AS DEFINED IN SECTION 4942(J)(3)).

S 2511. TRANSFERS IN GENERAL. (A) SCOPE. SUBJECT TO THE LIMITATIONS CONTAINED IN THIS CHAPTER, THE TAX IMPOSED BY SECTION 2501 SHALL APPLY WHETHER THE TRANSFER IS IN TRUST OR OTHERWISE, WHETHER THE GIFT IS

DIRECT OR INDIRECT, AND WHETHER THE PROPERTY IS REAL OR PERSONAL, TANGIBLE OR INTANGIBLE; BUT IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES, SHALL APPLY TO A TRANSFER ONLY IF THE PROPERTY IS SITUATED WITHIN THE UNITED STATES.

(B) INTANGIBLE PROPERTY. FOR PURPOSES OF THIS CHAPTER, IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES WHO IS EXCEPTED FROM THE APPLICATION OF SECTION 2501(A)(2)-

(1) SHARES OF STOCK ISSUED BY A DOMESTIC CORPORATION, AND

(2) DEBT OBLIGATIONS OF-

--(A) A UNITED STATES PERSON, OR

--(B) THE UNITED STATES, A STATE OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA,

--WHICH ARE OWNED AND HELD BY SUCH NONRESIDENT SHALL BE DEEMED TO BE PROPERTY SITUATED WITHIN THE UNITED STATES.

S 2512. VALUATION OF GIFTS. (A) IF THE GIFT IS MADE IN PROPERTY, THE VALUE THEREOF AT THE DATE OF THE GIFT SHALL BE CONSIDERED THE AMOUNT OF THE GIFT.

(B) WHERE PROPERTY IS TRANSFERRED FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THEN THE AMOUNT BY WHICH THE VALUE OF THE PROPERTY EXCEEDED THE VALUE OF THE CONSIDERATION SHALL BE DEEMED A GIFT, AND SHALL BE INCLUDED IN COMPUTING THE AMOUNT OF GIFTS MADE DURING THE CALENDAR YEAR.

S 2513. GIFT BY HUSBAND OR WIFE TO THIRD PARTY. (A) CONSIDERED AS MADE ONE-HALF BY EACH. (1) IN GENERAL. A GIFT MADE BY ONE SPOUSE TO ANY PERSON OTHER THAN HIS SPOUSE SHALL, FOR THE PURPOSES OF THIS CHAPTER, BE CONSIDERED AS MADE ONE-HALF BY HIM AND ONE-HALF BY HIS SPOUSE, BUT ONLY IF AT THE TIME OF THE GIFT EACH SPOUSE IS A CITIZEN OR RESIDENT OF THE UNITED STATES. THIS PARAGRAPH SHALL NOT APPLY WITH RESPECT TO A GIFT BY A SPOUSE OF AN INTEREST IN PROPERTY IF HE CREATES IN HIS SPOUSE A GENERAL POWER OF APPOINTMENT, AS DEFINED IN SECTION 2514(C), OVER SUCH INTEREST. FOR PURPOSES OF THIS SECTION, AN INDIVIDUAL SHALL BE CONSIDERED AS THE SPOUSE OF ANOTHER INDIVIDUAL ONLY IF HE IS MARRIED TO SUCH INDIVIDUAL AT THE TIME OF THE GIFT AND DOES NOT REMARRY DURING THE REMAINDER OF THE CALENDAR YEAR.

(2) CONSENT OF BOTH SPOUSES. PARAGRAPH (1) SHALL APPLY ONLY IF BOTH SPOUSES HAVE SIGNIFIED (UNDER THE REGULATIONS PROVIDED FOR IN SUBSECTION (B)) THEIR CONSENT TO THE APPLICATION OF PARAGRAPH (1) IN THE CASE OF ALL SUCH GIFTS MADE DURING THE CALENDAR YEAR BY EITHER WHILE MARRIED TO THE OTHER.

(B) MANNER AND TIME OF SIGNIFYING CONSENT. (1) MANNER. A CONSENT UNDER THIS SECTION SHALL BE SIGNIFIED IN SUCH MANNER AS IS PROVIDED UNDER REGULATIONS PRESCRIBED BY THE SECRETARY.

(2) TIME. SUCH CONSENT MAY BE SO SIGNIFIED AT ANY TIME AFTER THE CLOSE OF THE CALENDAR YEAR IN WHICH THE GIFT WAS MADE, SUBJECT TO THE FOLLOWING LIMITATIONS-

--(A) THE CONSENT MAY NOT BE SIGNIFIED AFTER THE 15TH DAY OF APRIL FOLLOWING THE CLOSE OF SUCH YEAR, UNLESS BEFORE SUCH 15TH DAY NO RETURN HAS BEEN FILED FOR SUCH YEAR BY EITHER SPOUSE, IN WHICH CASE THE CONSENT MAY NOT BE SIGNIFIED AFTER A RETURN FOR SUCH YEAR IS FILED BY EITHER SPOUSE.

--(B) THE CONSENT MAY NOT BE SIGNIFIED AFTER A NOTICE OF DEFICIENCY WITH RESPECT TO THE TAX FOR SUCH YEAR HAS BEEN SENT TO EITHER SPOUSE IN ACCORDANCE WITH SECTION 6212(A).

(C) REVOCATION OF CONSENT. REVOCATION OF A CONSENT PREVIOUSLY SIGNIFIED SHALL BE MADE IN SUCH MANNER AS IN PROVIDED UNDER REGULATIONS

PRESCRIBED BY THE SECRETARY, BUT THE RIGHT TO REVOKE A CONSENT PREVIOUSLY SIGNIFIED WITH RESPECT TO A CALENDAR YEAR-

(1) SHALL NOT EXIST AFTER THE 15TH DAY OF APRIL FOLLOWING THE CLOSE OF SUCH YEAR IF THE CONSENT WAS SIGNIFIED ON OR BEFORE SUCH 15TH DAY; AND

(2) SHALL NOT EXIST IF THE CONSENT WAS NOT SIGNIFIED UNTIL AFTER SUCH 15TH DAY.

(D) JOINT AND SEVERAL LIABILITY FOR TAX. IF THE CONSENT REQUIRED BY SUBSECTION (A)(2) IS SIGNIFIED WITH RESPECT TO A GIFT MADE IN ANY CALENDAR YEAR, THE LIABILITY WITH RESPECT TO THE ENTIRE TAX IMPOSED BY THIS CHAPTER OF EACH SPOUSE FOR SUCH YEAR SHALL BE JOINT AND SEVERAL.

S 2514. POWERS OF APPOINTMENT. (A) POWERS CREATED ON OR BEFORE OCTOBER 21, 1942. AN EXERCISE OF A GENERAL POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, SHALL BE DEEMED A TRANSFER OF PROPERTY BY THE INDIVIDUAL POSSESSING SUCH POWER; BUT THE FAILURE TO EXERCISE SUCH A POWER OR THE COMPLETE RELEASE OF SUCH A POWER SHALL NOT BE DEEMED AN EXERCISE THEREOF. IF A GENERAL POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, HAS BEEN PARTIALLY RELEASED SO THAT IT IS NO LONGER A GENERAL POWER OF APPOINTMENT, THE SUBSEQUENT EXERCISE OF SUCH POWER SHALL NOT BE DEEMED TO BE THE EXERCISE OF A GENERAL POWER OF APPOINTMENT IF-

(1) SUCH PARTIAL RELEASE OCCURRED BEFORE NOVEMBER 1, 1951, OR

(2) THE DONEE OF SUCH POWER WAS UNDER A LEGAL DISABILITY TO RELEASE SUCH POWER ON OCTOBER 21, 1942, AND SUCH PARTIAL RELEASE OCCURRED NOT LATER THAN SIX MONTHS AFTER THE TERMINATION OF SUCH LEGAL DISABILITY.

(B) POWERS CREATED AFTER OCTOBER 21, 1942. THE EXERCISE OR RELEASE OF A GENERAL POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, SHALL BE DEEMED A TRANSFER OF PROPERTY BY THE INDIVIDUAL POSSESSING SUCH POWER.

(C) DEFINITION OF GENERAL POWER OF APPOINTMENT. FOR PURPOSES OF THIS SECTION, THE TERM "GENERAL POWER OF APPOINTMENT" MEANS A POWER WHICH IS EXERCISABLE IN FAVOR OF THE INDIVIDUAL POSSESSING THE POWER (HEREAFTER IN THIS SUBSECTION REFERRED TO AS THE "POSSESSOR"), HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE; EXCEPT THAT-

(1) A POWER TO CONSUME, INVADE, OR APPROPRIATE PROPERTY FOR THE BENEFIT OF THE POSSESSOR WHICH IS LIMITED BY AN ASCERTAINABLE STANDARD RELATING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE POSSESSOR SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(2) A POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, WHICH IS EXERCISABLE BY THE POSSESSOR ONLY IN CONJUNCTION WITH ANOTHER PERSON SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

(3) IN THE CASE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, WHICH IS EXERCISABLE BY THE POSSESSOR ONLY IN CONJUNCTION WITH ANOTHER PERSON-

--(A) IF THE POWER IS NOT EXERCISABLE BY THE POSSESSOR EXCEPT IN CONJUNCTION WITH THE CREATOR OF THE POWER-SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT;

--(B) IF THE POWER IS NOT EXERCISABLE BY THE POSSESSOR EXCEPT IN CONJUNCTION WITH A PERSON HAVING A SUBSTANTIAL INTEREST, IN THE PROPERTY SUBJECT TO THE POWER, WHICH IS ADVERSE TO EXERCISE OF THE POWER IN FAVOR OF THE POSSESSOR-SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT. FOR THE PURPOSES OF THIS SUBPARAGRAPH A PERSON WHO, AFTER THE DEATH OF THE POSSESSOR, MAY BE POSSESSED OF A POWER OF APPOINTMENT (WITH RESPECT TO THE PROPERTY SUBJECT TO THE POSSESSOR'S POWER) WHICH HE MAY EXERCISE IN HIS OWN FAVOR SHALL BE DEEMED AS HAVING AN INTEREST IN THE PROPERTY AND SUCH INTEREST SHALL BE DEEMED ADVERSE TO SUCH EXERCISE OF THE POSSESSOR'S POWER;

--(C) IF (AFTER THE APPLICATION OF SUBPARAGRAPHS (A) AND (B)) THE POWER IS A GENERAL POWER OF APPOINTMENT AND IS EXERCISABLE IN FAVOR OF SUCH OTHER PERSON-SUCH POWER SHALL BE DEEMED A GENERAL POWER OF APPOINTMENT ONLY IN RESPECT OF A FRACTIONAL PART OF THE PROPERTY SUBJECT TO SUCH POWER, SUCH PART TO BE DETERMINED BY DIVIDING THE VALUE OF SUCH PROPERTY BY THE NUMBER OF SUCH PERSONS (INCLUDING THE POSSESSOR) IN FAVOR OF WHOM SUCH POWER IS EXERCISABLE.

--FOR PURPOSES OF SUBPARAGRAPHS (B) AND (C), A POWER SHALL BE DEEMED TO BE EXERCISABLE IN FAVOR OF A PERSON IF IT IS EXERCISABLE IN FAVOR OF SUCH PERSON, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE.

(D) CREATION OF ANOTHER POWER IN CERTAIN CASES. IF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, IS EXERCISED BY CREATING ANOTHER POWER OF APPOINTMENT WHICH, UNDER THE APPLICABLE LOCAL LAW, CAN BE VALIDLY EXERCISED SO AS TO POSTPONE THE VESTING OF ANY ESTATE OR INTEREST IN THE PROPERTY WHICH WAS SUBJECT TO THE FIRST POWER, OR SUSPEND THE ABSOLUTE OWNERSHIP OR POWER OF ALIENATION OF SUCH PROPERTY, FOR A PERIOD ASCERTAINABLE WITHOUT REGARD TO THE DATE OF THE CREATION OF THE FIRST POWER, SUCH EXERCISE OF THE FIRST POWER SHALL, TO THE EXTENT OF THE PROPERTY SUBJECT TO THE SECOND POWER, BE DEEMED A TRANSFER OF PROPERTY BY THE INDIVIDUAL POSSESSING SUCH POWER.

(E) LAPSE OF POWER. THE LAPSE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, DURING THE LIFE OF THE INDIVIDUAL POSSESSING THE POWER SHALL BE CONSIDERED A RELEASE OF SUCH POWER. THE RULE OF THE PRECEDING SENTENCE SHALL APPLY WITH RESPECT TO THE LAPSE OF POWERS DURING ANY CALENDAR YEAR ONLY TO THE EXTENT THAT THE PROPERTY WHICH COULD HAVE BEEN APPOINTED BY EXERCISE OF SUCH LAPSED POWERS EXCEEDS IN VALUE THE GREATER OF THE FOLLOWING AMOUNTS:

(1) $5,000, OR

(2) 5 PERCENT OF THE AGGREGATE VALUE OF THE ASSETS OUT OF WHICH, OR THE PROCEEDS OF WHICH, THE EXERCISE OF THE LAPSED POWERS COULD BE SATISFIED.

(F) DATE OF CREATION OF POWER. FOR PURPOSES OF THIS SECTION A POWER OF APPOINTMENT CREATED BY A WILL EXECUTED ON OR BEFORE OCTOBER 21, 1942, SHALL BE CONSIDERED A POWER CREATED ON OR BEFORE SUCH DATE IF THE PERSON EXECUTING SUCH WILL DIES BEFORE JULY 1, 1949, WITHOUT HAVING REPUBLISHED SUCH WILL, BY CODICIL OR OTHERWISE, AFTER OCTOBER 21, 1942.

S 2516. CERTAIN PROPERTY SETTLEMENTS. WHERE A HUSBAND AND WIFE ENTER INTO A WRITTEN AGREEMENT RELATIVE TO THEIR MARITAL AND PROPERTY RIGHTS AND DIVORCE OCCURS WITHIN THE 3-YEAR PERIOD BEGINNING ON THE DATE 1 YEAR BEFORE SUCH AGREEMENT IS ENTERED INTO (WHETHER OR NOT SUCH AGREEMENT IS APPROVED BY THE DIVORCE DECREE), ANY TRANSFERS OF PROPERTY OR INTERESTS IN PROPERTY MADE PURSUANT TO SUCH AGREEMENT-

(1) TO EITHER SPOUSE IN SETTLEMENT OF HIS OR HER MARITAL OR PROPERTY RIGHTS, OR

(2) TO PROVIDE A REASONABLE ALLOWANCE FOR THE SUPPORT OF ISSUE OF THE MARRIAGE DURING MINORITY,

--SHALL BE DEEMED TO BE TRANSFERS MADE FOR A FULL AND ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH.

S 2518. DISCLAIMERS. (A) GENERAL RULE. - FOR PURPOSES OF THIS SUBTITLE, IF A PERSON MAKES A QUALIFIED DISCLAIMER WITH RESPECT TO ANY INTEREST IN PROPERTY, THIS SUBTITLE SHALL APPLY WITH RESPECT TO SUCH INTEREST AS IF THE INTEREST HAD NEVER BEEN TRANSFERRED TO SUCH PERSON.

(B) QUALIFIED DISCLAIMER DEFINED. - FOR PURPOSES OF SUBSECTION (A), THE TERM "QUALIFIED DISCLAIMER" MEANS AN IRREVOCABLE AND UNQUALIFIED REFUSAL BY A PERSON TO ACCEPT AN INTEREST IN PROPERTY BUT ONLY IF -

(1) SUCH REFUSAL IS IN WRITING,

(2) SUCH WRITING IS RECEIVED BY THE TRANSFEROR OF THE INTEREST, HIS LEGAL REPRESENTATIVE, OR THE HOLDER OF THE LEGAL TITLE TO THE PROPERTY TO WHICH THE INTEREST RELATES NOT LATER THAN THE DATE WHICH IS 9 MONTHS AFTER THE LATER OF -

(A) THE DATE ON WHICH THE TRANSFER CREATING THE INTEREST IN SUCH PERSON IS MADE, OR

(B) THE DAY ON WHICH SUCH PERSON ATTAINS AGE 21,

(3) SUCH PERSON HAS NOT ACCEPTED THE INTEREST OR ANY OF ITS BENEFITS, AND

(4) AS A RESULT OF SUCH REFUSAL, THE INTEREST PASSES WITHOUT ANY DIRECTION ON THE PART OF THE PERSON MAKING THE DISCLAIMER AND PASSES EITHER -

(A) TO THE SPOUSE OF THE DECEDENT, OR

(B) TO A PERSON OTHER THAN THE PERSON MAKING THE DISCLAIMER.

(C) OTHER RULES. FOR PURPOSES OF SUBSECTION (A)-

(1) DISCLAIMER OF UNDIVIDED PORTION OF INTEREST. A DISCLAIMER WITH RESPECT TO AN UNDIVIDED PORTION OF AN INTEREST WHICH MEETS THE REQUIREMENTS OF THE PRECEDING SENTENCE SHALL BE TREATED AS A QUALIFIED DISCLAIMER OF SUCH PORTION OF THE INTEREST.

(2) POWERS. A POWER WITH RESPECT TO PROPERTY SHALL BE TREATED AS AN INTEREST IN SUCH PROPERTY.

(3) CERTAIN TRANSFERS TREATED AS DISCLAIMERS. A WRITTEN TRANSFER OF THE TRANSFEROR'S ENTIRE INTEREST IN THE PROPERTY-

(A) WHICH MEETS REQUIREMENTS SIMILAR TO THE REQUIREMENTS OF PARAGRAPHS (2) AND (3) OF SUBSECTION (B), AND

(B) WHICH IS TO A PERSON OR PERSONS WHO WOULD HAVE RECEIVED THE PROPERTY HAD THE TRANSFEROR MADE A QUALIFIED DISCLAIMER (WITHIN THE MEANING OF SUBSECTION (B)),

--SHALL BE TREATED AS A QUALIFIED DISCLAIMER.

S 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES. (A) GENERAL RULE

--FOR PURPOSES OF THIS CHAPTER AND CHAPTER 11, ANY DISPOSITION OF ALL OR PART OF A QUALIFYING INCOME INTEREST FOR LIFE IN ANY PROPERTY TO WHICH THIS SECTION APPLIES SHALL BE TREATED AS A TRANSFER OF ALL INTERESTS IN SUCH PROPERTY OTHER THAN THE QUALIFYING INCOME INTEREST.

(B) PROPERTY TO WHICH THIS SUBSECTION APPLIES. THIS SECTION APPLIES TO ANY PROPERTY IF A DEDUCTION WAS ALLOWED WITH RESPECT TO THE TRANSFER OF SUCH PROPERTY TO THE DONOR-

(1) UNDER SECTION 2056 BY REASON OF SUBSECTION (B)(7) THEREOF, OR

(2) UNDER SECTION 2523 BY REASON OF SUBSECTION (F) THEREOF.

(C) CROSS REFERENCE

--FOR RIGHT OF RECOVERY FOR GIFT TAX IN THE CASE OF PROPERTY TREATED AS TRANSFERRED UNDER THIS SECTION, SEE SECTION 2207A(B).

S 2522. CHARITABLE AND SIMILAR GIFTS. (A) CITIZENS OR RESIDENTS. IN COMPUTING TAXABLE GIFTS FOR THE CALENDAR YEAR, THERE SHALL BE ALLOWED AS A DEDUCTION IN THE CASE OF A CITIZEN OR RESIDENT THE AMOUNT OF ALL GIFTS MADE DURING SUCH YEAR TO OR FOR THE USE OF-

(1) THE UNITED STATES, ANY STATE, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

(2) A CORPORATION, OR TRUST, OR COMMUNITY CHEST, FUND, OR FOUNDATION, ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, OR TO FOSTER NATIONAL OR INTERNATIONAL AMATEUR SPORTS COMPETITION (BUT ONLY IF NO PART OF ITS ACTIVITIES INVOLVE THE PROVISION OF ATHLETIC FACILITIES OR EQUIPMENT), INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX

EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

(3) A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, OPERATING UNDER THE LODGE SYSTEM, BUT ONLY IF SUCH GIFTS ARE TO BE USED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS;

(4) POSTS OR ORGANIZATIONS OF WAR VETERANS, OR AUXILIARY UNITS OR SOCIETIES OF ANY SUCH POSTS OR ORGANIZATIONS, IF SUCH POSTS, ORGANIZATIONS, UNITS, OR SOCIETIES ARE ORGANIZED IN THE UNITED STATES OR ANY OF ITS POSSESSIONS, AND IF NO PART OF THEIR NET EARNINGS INSURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

RULES SIMILAR TO THE RULES OF SECTION 501(J) SHALL APPLY FOR PURPOSES OF PARAGRAPH (2).

(B) NONRESIDENTS. IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES, THERE SHALL BE ALLOWED AS A DEDUCTION THE AMOUNT OF ALL GIFTS MADE DURING SUCH YEAR TO OR FOR THE USE OF-

(1) THE UNITED STATES, ANY STATE, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

(2) A DOMESTIC CORPORATION ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

(3) A TRUST, OR COMMUNITY CHEST, FUND, OR FOUNDATION, ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO SUBSTANTIAL PART OF THE ACTIVITIES OF WHICH IS CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING, TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE; BUT ONLY IF SUCH GIFTS ARE TO BE USED WITHIN THE UNITED STATES EXCLUSIVELY FOR SUCH PURPOSES;

(4) A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, OPERATING UNDER THE LODGE SYSTEM, BUT ONLY IF SUCH GIFTS ARE TO BE USED WITHIN THE UNITED STATES EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS;

(5) POSTS OR ORGANIZATIONS OF WAR VETERANS, OR AUXILIARY UNITS OR SOCIETIES OF ANY SUCH POSTS OR ORGANIZATIONS, IF SUCH POSTS, ORGANIZATIONS, UNITS, OR SOCIETIES ARE ORGANIZED IN THE UNITED STATES OR ANY OF ITS POSSESSIONS, AND IF NO PART OF THEIR NET EARNINGS INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

(C) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES. (1) NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR A GIFT TO OF 1 FOR THE USE OF AN ORGANIZATION OR TRUST DESCRIBED IN SECTION 508(D) OR 4948(C)(4) SUBJECT TO THE CONDITIONS SPECIFIED IN SUCH SECTIONS.

(2) WHERE A DONOR TRANSFERS AN INTEREST IN PROPERTY (OTHER THAN AN INTEREST DESCRIBED IN SECTION 170(F)(3)(B)) TO A PERSON, OR FOR A USE, DESCRIBED IN SUBSECTION (A) OR (B) AND AN INTEREST IN THE SAME PROPERTY IS RETAINED BY THE DONOR, OR IS TRANSFERRED OR HAS BEEN TRANSFERRED (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM THE DONOR TO A PERSON, OR FOR A USE, NOT DESCRIBED IN SUBSECTION (A) OR (B), NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR THE INTEREST WHICH IS, OR HAS BEEN TRANSFERRED TO THE PERSON, OR FOR THE USE, DESCRIBED IN SUBSECTION (A) OR (B), UNLESS-

(A) IN THE CASE OF A REMAINDER INTEREST, SUCH INTEREST IS IN A TRUST WHICH IS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER UNITRUST (DESCRIBED IN SECTION 664) OR A POOLED INCOME FUND (DESCRIBED IN SECTION 642(C)(5)), OR

(B) IN THE CASE OF ANY OTHER INTEREST, SUCH INTEREST IS IN THE FORM OF A GUARANTEED ANNUITY OR IS A FIXED PERCENTAGE DISTRIBUTED YEARLY OF THE FAIR MARKET VALUE OF THE PROPERTY (TO BE DETERMINED YEARLY).

(3) RULES SIMILAR TO THE RULES OF SECTION 2055(E)(4) SHALL APPLY FOR PURPOSES OF PARAGRAPH (2).

(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2). (A) IN GENERAL -- A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY QUALIFIED REFORMATION (WITHIN THE MEANING OF SECTION 2055(E)(3)(B)).

(B) RULES SIMILAR TO SECTION 2055(E)(3) TO APPLY -- FOR PURPOSES OF THIS PARAGRAPH, RULES SIMILAR TO THE RULES OF SECTION 2055(E)(3) SHALL APPLY.

(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS. A DEDUCTION OTHERWISE ALLOWED UNDER SUBSECTION (A) FOR ANY CONTRIBUTION TO A DONOR ADVISED FUND (AS DEFINED IN SECTION 4966(D)(2)) SHALL ONLY BE ALLOWED IF-

--(A) THE SPONSORING ORGANIZATION (AS DEFINED IN SECTION 4966(D)(1)) WITH RESPECT TO SUCH DONOR ADVISED FUND IS NOT-

--(I) DESCRIBED IN PARAGRAPH (3) OR (4) OF SUBSECTION (A), OR

--(II) A TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(A)) WHICH IS NOT A FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(B)), AND

--(B) THE TAXPAYER OBTAINS A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT (DETERMINED UNDER RULES SIMILAR TO THE RULES OF SECTION 170(F)(8)(C)) FROM THE SPONSORING ORGANIZATION (AS SO DEFINED) OF SUCH DONOR ADVISED FUND THAT SUCH ORGANIZATION HAS EXCLUSIVE LEGAL CONTROL OVER THE ASSETS CONTRIBUTED.

(D) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY. A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY TRANSFER OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN SECTION 170(H)(2)(C)) WHICH MEETS THE REQUIREMENTS OF SECTION 170(H) (WITHOUT REGARD TO PARAGRAPH (4)(A) THEREOF).

(E) SPECIAL RULES FOR FRACTIONAL GIFTS

(1) DENIAL OF DEDUCTION IN CERTAIN CASES

(A) IN GENERAL

--NO DEDUCTION SHALL BE ALLOWED FOR A CONTRIBUTION OF AN UNDIVIDED PORTION OF A TAXPAYER'S ENTIRE INTEREST IN TANGIBLE PERSONAL PROPERTY UNLESS ALL INTERESTS IN THE PROPERTY ARE HELD IMMEDIATELY BEFORE SUCH CONTRIBUTION BY-

--(I) THE TAXPAYER, OR

--(II) THE TAXPAYER AND THE DONEE.

(B) EXCEPTIONS

--THE SECRETARY MAY, BY REGULATION, PROVIDE FOR EXCEPTIONS TO SUBPARAGRAPH (A) IN CASES WHERE ALL PERSONS WHO HOLD AN INTEREST IN THE PROPER-

TY MAKE PROPORTIONAL CONTRIBUTIONS OF AN UNDIVIDED PORTION OF THE ENTIRE INTEREST HELD BY SUCH PERSONS.

(2) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX

(A) IN GENERAL. THE SECRETARY SHALL PROVIDE FOR THE RECAPTURE OF AN AMOUNT EQUAL TO ANY DEDUCTION ALLOWED UNDER THIS SECTION (PLUS INTEREST) WITH RESPECT TO ANY CONTRIBUTION OF AN UNDIVIDED PORTION OF A TAXPAYER'S ENTIRE INTEREST IN TANGIBLE PERSONAL PROPERTY-

--(I) IN ANY CASE IN WHICH THE DONOR DOES NOT CONTRIBUTE ALL OF THE REMAINING INTERESTS IN SUCH PROPERTY TO THE DONEE (OR, IF SUCH DONEE IS NO LONGER IN EXISTENCE, TO ANY PERSON DESCRIBED IN SECTION 170(C)) ON OR BEFORE THE EARLIER OF-

--(I) THE DATE THAT IS 10 YEARS AFTER THE DATE OF THE INITIAL FRACTIONAL CONTRIBUTION, OR

--(II) THE DATE OF THE DEATH OF THE DONOR, AND

--(II) IN ANY CASE IN WHICH THE DONEE HAS NOT, DURING THE PERIOD BEGINNING ON THE DATE OF THE INITIAL FRACTIONAL CONTRIBUTION AND ENDING ON THE DATE DESCRIBED IN CLAUSE (I)-

--(I) HAD SUBSTANTIAL PHYSICAL POSSESSION OF THE PROPERTY, AND

--(II) USED THE PROPERTY IN A USE WHICH IS RELATED TO A PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR THE ORGANIZATIONS' EXEMPTION UNDER SECTION 501.

(B) ADDITION TO TAX. THE TAX IMPOSED UNDER THIS CHAPTER FOR ANY TAXABLE YEAR FOR WHICH THERE IS A RECAPTURE UNDER SUBPARAGRAPH (A) SHALL BE INCREASED BY 10 PERCENT OF THE AMOUNT SO RECAPTURED.

(C) INITIAL FRACTIONAL CONTRIBUTION. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INITIAL FRACTIONAL CONTRIBUTION" MEANS, WITH RESPECT TO ANY DONOR, THE FIRST GIFT OF AN UNDIVIDED PORTION OF THE DONOR'S ENTIRE INTEREST IN ANY TANGIBLE PERSONAL PROPERTY FOR WHICH A DEDUCTION IS ALLOWED UNDER SUBSECTION (A) OR (B).

(F) CROSS REFERENCES

--(1) FOR TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE, SEE SECTION 501(K).

--(2) FOR EXEMPTION OF CERTAIN GIFTS TO OR FOR THE BENEFIT OF THE UNITED STATES AND FOR RULES OF CONSTRUCTION WITH RESPECT TO CERTAIN BEQUESTS, SEE SECTION 2055(F).

--(3) FOR TREATMENT OF GIFTS TO OR FOR THE USE OF INDIAN TRIBAL GOVERNMENTS (OR THEIR SUBDIVISIONS), SEE SECTION 7871.

S 2523. GIFT TO SPOUSE (A) ALLOWANCE OF DEDUCTION. WHERE A DONOR TRANSFERS DURING THE CALENDAR YEAR BY GIFT AN INTEREST IN PROPERTY TO A DONEE WHO AT THE TIME OF THE GIFT IS THE DONOR'S SPOUSE, THERE SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING TAXABLE GIFTS FOR THE CALENDAR YEAR AN AMOUNT WITH RESPECT TO SUCH INTEREST EQUAL TO ITS VALUE.

(B) LIFE ESTATE OR OTHER TERMINABLE INTEREST. WHERE, ON THE LAPSE OF TIME, ON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF AN EVENT OR CONTINGENCY TO OCCUR, SUCH INTEREST TRANSFERRED TO THE SPOUSE WILL TERMINATE OR FAIL, NO DEDUCTION SHALL BE ALLOWED WITH RESPECT TO SUCH INTEREST-

(1) IF THE DONOR RETAINS IN HIMSELF, OR TRANSFERS OR HAS TRANSFERRED (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) TO ANY PERSON OTHER THAN SUCH DONEE SPOUSE (OR THE ESTATE OF SUCH SPOUSE), AN INTEREST IN SUCH PROPERTY, AND IF BY REASON OF SUCH RETENTION OR TRANSFER THE DONOR (OR HIS HEIRS OR ASSIGNS) OR SUCH PERSON (OR HIS HEIRS OR ASSIGNS) MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER SUCH TERMINATION OR FAILURE OF THE INTEREST TRANSFERRED TO THE DONEE SPOUSE; OR

(2) IF THE DONOR IMMEDIATELY AFTER THE TRANSFER TO THE DONEE SPOUSE HAS A POWER TO APPOINT AN INTEREST IN SUCH PROPERTY WHICH HE CAN EXERCISE (EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON) IN SUCH MANNER THAT THE APPOINTEE MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER SUCH TERMINATION OR FAILURE OF THE INTEREST TRANSFERRED TO THE DONEE SPOUSE. FOR PURPOSES OF THIS PARAGRAPH, THE DONOR SHALL BE CONSIDERED AS HAVING IMMEDIATELY AFTER THE TRANSFER TO THE DONEE SPOUSE SUCH POWER TO APPOINT EVEN THOUGH SUCH POWER CANNOT BE EXERCISED UNTIL AFTER THE LAPSE OF TIME, UPON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF AN EVENT OR CONTINGENCY TO OCCUR.

AN EXERCISE OR RELEASE AT ANY TIME BY THE DONOR, EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON, OF A POWER TO APPOINT AN INTEREST IN PROPERTY, EVEN THOUGH NOT OTHERWISE A TRANSFER, SHALL, FOR PURPOSES OF PARAGRAPH (1), BE CONSIDERED AS A TRANSFER BY HIM. EXCEPT AS PROVIDED IN SUBSECTION (E), WHERE AT THE TIME OF THE TRANSFER IT IS IMPOSSIBLE TO ASCERTAIN THE PARTICULAR PERSON OR PERSONS WHO MAY RECEIVE FROM THE DONOR AN INTEREST IN PROPERTY SO TRANSFERRED BY HIM, SUCH INTEREST SHALL, FOR PURPOSES OF PARAGRAPH (1), BE CONSIDERED AS TRANSFERRED TO A PERSON OTHER THAN THE DONEE SPOUSE.

(C) INTEREST IN UNIDENTIFIED ASSETS. WHERE THE ASSETS OUT OF WHICH, OR THE PROCEEDS OF WHICH, THE INTEREST TRANSFERRED TO THE DONEE SPOUSE MAY BE SATISFIED INCLUDE A PARTICULAR ASSET OR ASSETS WITH RESPECT TO WHICH NO DEDUCTION WOULD BE ALLOWED IF SUCH ASSET OR ASSETS WERE TRANSFERRED FROM THE DONOR TO SUCH SPOUSE, THEN THE VALUE OF THE INTEREST TRANSFERRED TO SUCH SPOUSE SHALL, FOR PURPOSES OF SUBSECTION (A), BE REDUCED BY THE AGGREGATE VALUE OF SUCH PARTICULAR ASSETS.

(D) JOINT INTERESTS. IF THE INTEREST IS TRANSFERRED TO THE DONEE SPOUSE AS SOLE JOINT TENANT WITH THE DONOR OR AS TENANT BY THE ENTIRETY, THE INTEREST OF THE DONOR IN THE PROPERTY WHICH EXISTS SOLELY BY REASON OF THE POSSIBILITY THAT THE DONOR MAY SURVIVE THE DONEE SPOUSE, OR THAT THERE MAY OCCUR A SEVERANCE OF THE TENANCY, SHALL NOT BE CONSIDERED FOR PURPOSES OF SUBSECTION (B) AS AN INTEREST RETAINED BY THE DONOR IN HIMSELF.

(E) LIFE ESTATE WITH POWER OF APPOINTMENT IN DONEE SPOUSE. WHERE THE DONOR TRANSFERS AN INTEREST IN PROPERTY, IF BY SUCH TRANSFER HIS SPOUSE IS ENTITLED FOR LIFE TO ALL OF THE INCOME FROM THE ENTIRE INTEREST, OR ALL THE INCOME FROM A SPECIFIC PORTION THEREOF, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, WITH POWER IN THE DONEE SPOUSE TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION (EXERCISABLE IN FAVOR OF SUCH DONEE SPOUSE, OR OF THE ESTATE OF SUCH DONEE SPOUSE, OR IN FAVOR OF EITHER, WHETHER OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF OTHERS), AND WITH NO POWER IN ANY OTHER PERSON TO APPOINT ANY PART OF SUCH INTEREST, OR SUCH PORTION, TO ANY PERSON OTHER THAN THE DONEE SPOUSE-

(1) THE INTEREST, OR SUCH PORTION, SO TRANSFERRED SHALL, FOR PURPOSES OF SUBSECTION (A) BE CONSIDERED AS TRANSFERRED TO THE DONEE SPOUSE, AND

(2) NO PART OF THE INTEREST, OR SUCH PORTION, SO TRANSFERRED SHALL, FOR PURPOSES OF SUBSECTION (B)(1), BE CONSIDERED AS RETAINED IN THE DONOR OR TRANSFERRED TO ANY PERSON OTHER THAN THE DONEE SPOUSE.

THIS SUBSECTION SHALL APPLY ONLY IF, BY SUCH TRANSFER, SUCH POWER IN THE DONEE SPOUSE TO APPOINT THE INTEREST, OR SUCH PORTION, WHETHER EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE AND IN ALL EVENTS. FOR PURPOSES OF THIS SUBSECTION, THE TERM "SPECIFIC PORTION" ONLY INCLUDES A PORTION DETERMINED ON A FRACTIONAL OR PERCENTAGE BASIS.

(F) ELECTION WITH RESPECT TO LIFE ESTATE FOR DONEE SPOUSE. (1) IN GENERAL

IN THE CASE OF QUALIFIED TERMINABLE INTEREST PROPERTY-

(A) FOR PURPOSES OF SUBSECTION (A), SUCH PROPERTY SHALL BE TREATED AS TRANSFERRED TO THE DONEE SPOUSE, AND

(B) FOR PURPOSES OF SUBSECTION (B)(1), NO PART OF SUCH PROPERTY SHALL BE CONSIDERED AS RETAINED IN THE DONOR OR TRANSFERRED TO ANY PERSON OTHER THAN THE DONEE SPOUSE.

(2) QUALIFIED TERMINABLE INTEREST PROPERTY. FOR PURPOSES OF THIS SUBSECTION, THE TERM "QUALIFIED TERMINABLE INTEREST PROPERTY" MEANS ANY PROPERTY-

(A) WHICH IS TRANSFERRED BY THE DONOR SPOUSE,

(B) IN WHICH THE DONEE SPOUSE HAS A QUALIFYING INCOME INTEREST FOR LIFE, AND

(C) TO WHICH AN ELECTION UNDER THIS SUBSECTION APPLIES.

(3) CERTAIN RULES MADE APPLICABLE. FOR PURPOSES OF THIS SUBSECTION, RULES SIMILAR TO THE RULES OF CLAUSES (II), (III), AND (IV) OF SECTION 2056(B)(7)(B) SHALL APPLY AND THE RULES OF SECTION 2056(B)(10) SHALL APPLY.

(4) ELECTION. (A) TIME AND MANNER. AN ELECTION UNDER THIS SUBSECTION WITH RESPECT TO ANY PROPERTY SHALL BE MADE ON OR BEFORE THE DATE PRESCRIBED BY SECTION 6075(B) FOR FILING A GIFT TAX RETURN WITH RESPECT TO THE TRANSFER (DETERMINED WITHOUT REGARD TO SECTION 6019(2)) AND SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.

(B) ELECTION IRREVOCABLE. AN ELECTION UNDER THIS SUBSECTION, ONCE MADE, SHALL BE IRREVOCABLE.

(5) TREATMENT OF INTEREST RETAINED BY DONOR SPOUSE. (A) IN GENERAL. IN THE CASE OF ANY QUALIFIED TERMINABLE INTEREST PROPERTY-

(I) SUCH PROPERTY SHALL NOT BE INCLUDIBLE IN THE GROSS ESTATE OF THE DONOR SPOUSE, AND

(II) ANY SUBSEQUENT TRANSFER BY THE DONOR SPOUSE OF AN INTEREST IN SUCH PROPERTY SHALL NOT BE TREATED AS A TRANSFER FOR PURPOSES OF THIS CHAPTER.

(B) SUBPARAGRAPH (A) NOT TO APPLY AFTER TRANSFER BY DONEE SPOUSE. SUBPARAGRAPH (A) SHALL NOT APPLY WITH RESPECT TO ANY PROPERTY AFTER THE DONEE SPOUSE IS TREATED AS HAVING TRANSFERRED SUCH PROPERTY UNDER SECTION 2519, OR SUCH PROPERTY IS INCLUDIBLE IN THE DONEE SPOUSE'S GROSS ESTATE UNDER SECTION 2044.

(6) TREATMENT OF JOINT AND SURVIVOR ANNUITIES. IN THE CASE OF A JOINT AND SURVIVOR ANNUITY WHERE ONLY THE DONOR SPOUSE AND DONEE SPOUSE HAVE THE RIGHT TO RECEIVE PAYMENTS BEFORE THE DEATH OF THE LAST SPOUSE TO DIE-

--(A) THE DONEE SPOUSE'S INTEREST SHALL BE TREATED AS A QUALIFYING INCOME INTEREST FOR LIFE,

--(B) THE DONOR SPOUSE SHALL BE TREATED AS HAVING MADE AN ELECTION UNDER THIS SUBSECTION WITH RESPECT TO SUCH ANNUITY UNLESS THE DONOR SPOUSE OTHERWISE ELECTS ON OR BEFORE THE DATE SPECIFIED IN PARAGRAPH (4)(A),

--(C) PARAGRAPH (5) AND SECTION 2519 SHALL NOT APPLY TO THE DONOR SPOUSE'S INTEREST IN THE ANNUITY, AND

--(D) IF THE DONEE SPOUSE DIES BEFORE THE DONOR SPOUSE, NO AMOUNT SHALL BE INCLUDIBLE IN THE GROSS ESTATE OF THE DONEE SPOUSE UNDER SECTION 2044 WITH RESPECT TO SUCH ANNUITY.

AN ELECTION UNDER SUBPARAGRAPH (B), ONCE MADE, SHALL BE IRREVOCABLE.

(G) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS. (1) IN GENERAL. IF, AFTER THE TRANSFER, THE DONEE SPOUSE IS THE ONLY NONCHARITABLE BENEFICIARY (OTHER THAN THE DONOR) OF A QUALIFIED CHARITABLE REMAINDER TRUST,

SUBSECTION (B) SHALL NOT APPLY TO THE INTEREST IN SUCH TRUST WHICH IS TRANSFERRED TO THE DONEE SPOUSE.

(2) DEFINITIONS. FOR PURPOSES OF PARAGRAPH (1), THE TERM "NONCHARITABLE BENEFICIARY" AND "QUALIFIED CHARITABLE REMAINDER TRUST" HAVE THE MEANINGS GIVEN TO SUCH TERMS BY SECTION 2056(B)(8)(B).

(H) DENIAL OF DOUBLE DEDUCTION. NOTHING IN THIS SECTION OR ANY OTHER PROVISION OF THIS CHAPTER SHALL ALLOW THE VALUE OF ANY INTEREST IN PROPERTY TO BE DEDUCTED UNDER THIS CHAPTER MORE THAN ONCE WITH RESPECT TO THE SAME DONOR.

S 2524. EXTENT OF DEDUCTIONS. THE DEDUCTIONS PROVIDED IN SECTIONS 2522 AND 2523 SHALL BE ALLOWED ONLY TO THE EXTENT THAT THE GIFTS THEREIN SPECIFIED ARE INCLUDED IN THE AMOUNT OF GIFTS AGAINST WHICH SUCH DEDUCTIONS ARE APPLIED.

S 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS. (A) VALUATION RULES. (1) IN GENERAL. SOLELY FOR PURPOSES OF DETERMINING WHETHER A TRANSFER OF AN INTEREST IN A CORPORATION OR PARTNERSHIP TO (OR FOR THE BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY IS A GIFT (AND THE VALUE OF SUCH TRANSFER), THE VALUE OF ANY RIGHT-

--(A) WHICH IS DESCRIBED IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(1), AND

--(B) WHICH IS WITH RESPECT TO ANY APPLICABLE RETAINED INTEREST THAT IS HELD BY THE TRANSFEROR OR AN APPLICABLE FAMILY MEMBER IMMEDIATELY AFTER THE TRANSFER,

--SHALL BE DETERMINED UNDER PARAGRAPH (3). THIS PARAGRAPH SHALL NOT APPLY TO THE TRANSFER OF ANY INTEREST FOR WHICH MARKET QUOTATIONS ARE READILY AVAILABLE (AS OF THE DATE OF TRANSFER) ON AN ESTABLISHED SECURITIES MARKET.

(2) EXCEPTIONS FOR MARKETABLE RETAINED INTERESTS, ETC. PARAGRAPH (1) SHALL NOT APPLY TO ANY RIGHT WITH RESPECT TO AN APPLICABLE RETAINED INTEREST IF-

--(A) MARKET QUOTATIONS ARE READILY AVAILABLE (AS OF THE DATE OF THE TRANSFER) FOR SUCH INTEREST ON AN ESTABLISHED SECURITIES MARKET,

--(B) SUCH INTEREST IS OF THE SAME CLASS AS THE TRANSFERRED INTEREST, OR

--(C) SUCH INTEREST IS PROPORTIONALLY THE SAME AS THE TRANSFERRED INTEREST, WITHOUT REGARD TO NONLAPSING DIFFERENCES IN VOTING POWER (OR, FOR A PARTNERSHIP, NONLAPSING DIFFERENCES WITH RESPECT TO MANAGEMENT AND LIMITATIONS ON LIABILITY).

--SUBPARAGRAPH (C) SHALL NOT APPLY TO ANY INTEREST IN A PARTNERSHIP IF THE TRANSFEROR OR AN APPLICABLE FAMILY MEMBER HAS THE RIGHT TO ALTER THE LIABILITY OF THE TRANSFEREE OF THE TRANSFERRED PROPERTY. EXCEPT AS PROVIDED BY THE SECRETARY, ANY DIFFERENCE DESCRIBED IN SUBPARAGRAPH (C) WHICH LAPSES BY REASON OF ANY FEDERAL OR STATE LAW SHALL BE TREATED AS A NONLAPSING DIFFERENCE FOR PURPOSES OF SUCH SUBPARAGRAPH.

(3) VALUATION OF RIGHTS TO WHICH PARAGRAPH (1) APPLIES. (A) IN GENERAL. THE VALUE OF ANY RIGHT DESCRIBED IN PARAGRAPH (1), OTHER THAN A DISTRIBUTION RIGHT WHICH CONSISTS OF A RIGHT TO RECEIVE A QUALIFIED PAYMENT, SHALL BE TREATED AS BEING ZERO.

(B) VALUATION OF CERTAIN QUALIFIED PAYMENTS. IF-

--(I) ANY APPLICABLE RETAINED INTEREST CONFERS A DISTRIBUTION RIGHT WHICH CONSISTS OF THE RIGHT TO A QUALIFIED PAYMENT, AND

--(II) THERE ARE 1 OR MORE LIQUIDATION, PUT, CALL, OR CONVERSION RIGHTS WITH RESPECT TO SUCH INTEREST, THE VALUE OF ALL SUCH RIGHTS SHALL BE DETERMINED AS IF EACH LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT WERE EXERCISED IN THE MANNER RESULTING IN THE LOWEST VALUE BEING DETERMINED FOR ALL SUCH RIGHTS.

(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS. IN THE CASE OF AN APPLICABLE RETAINED INTEREST WHICH IS DESCRIBED IN SUBPARAGRAPH (B)(I) BUT NOT SUBPARAGRAPH (B)(II), THE VALUE OF THE DISTRIBUTION RIGHT SHALL BE DETERMINED WITHOUT REGARD TO THIS SECTION.

(4) MINIMUM VALUATION OF JUNIOR EQUITY. (A) IN GENERAL. IN THE CASE OF A TRANSFER DESCRIBED IN PARAGRAPH (1) OF A JUNIOR EQUITY INTEREST IN A CORPORATION OR PARTNERSHIP, SUCH INTEREST SHALL IN NO EVENT BE VALUED AT AN AMOUNT LESS THAN THE VALUE WHICH WOULD BE DETERMINED IF THE TOTAL VALUE OF ALL OF THE JUNIOR EQUITY INTERESTS IN THE ENTITY WERE EQUAL TO 10 PERCENT OF THE SUM OF-

--(I) THE TOTAL VALUE OF ALL OF THE EQUITY INTERESTS IN SUCH ENTITY, PLUS

--(II) THE TOTAL AMOUNT OF INDEBTEDNESS OF SUCH ENTITY TO THE TRANSFEROR (OR AN APPLICABLE FAMILY MEMBER).

(B) DEFINITIONS. FOR PURPOSES OF THIS PARAGRAPH-

(I) JUNIOR EQUITY INTEREST. THE TERM "JUNIOR EQUITY INTEREST" MEANS COMMON STOCK OR, IN THE CASE OF A PARTNERSHIP, ANY PARTNERSHIP INTEREST UNDER WHICH THE RIGHTS AS TO INCOME AND CAPITAL (OR, TO THE EXTENT PROVIDED IN REGULATIONS, THE RIGHTS AS TO EITHER INCOME OR CAPITAL) ARE JUNIOR TO THE RIGHTS OF ALL OTHER CLASSES OF EQUITY INTERESTS.

(II) EQUITY INTEREST. THE TERM "EQUITY INTEREST" MEANS STOCK OR ANY INTEREST AS A PARTNER, AS THE CASE MAY BE.

(B) APPLICABLE RETAINED INTERESTS. FOR PURPOSES OF THIS SECTION-

(1) IN GENERAL. THE TERM "APPLICABLE RETAINED INTEREST" MEANS ANY INTEREST IN AN ENTITY WITH RESPECT TO WHICH THERE IS-

--(A) A DISTRIBUTION RIGHT, BUT ONLY IF, IMMEDIATELY BEFORE THE TRANSFER DESCRIBED IN SUBSECTION (A)(1), THE TRANSFEROR AND APPLICABLE FAMILY MEMBERS HOLD (AFTER APPLICATION OF SUBSECTION (E)(3)) CONTROL OF THE ENTITY, OR

--(B) A LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT.

(2) CONTROL. FOR PURPOSES OF PARAGRAPH (1)-

(A) CORPORATIONS. IN THE CASE OF A CORPORATION, THE TERM "CONTROL" MEANS THE HOLDING OF AT LEAST 50 PERCENT (BY VOTE OR VALUE) OF THE STOCK OF THE CORPORATION.

(B) PARTNERSHIPS. IN THE CASE OF A PARTNERSHIP, THE TERM "CONTROL" MEANS-

--(I) THE HOLDING OF AT LEAST 50 PERCENT OF THE CAPITAL OR PROFITS INTERESTS IN THE PARTNERSHIP, OR

--(II) IN THE CASE OF A LIMITED PARTNERSHIP, THE HOLDING OF ANY INTEREST AS A GENERAL PARTNER.

(C) APPLICABLE FAMILY MEMBER. FOR PURPOSES OF THIS SUBSECTION, THE TERM "APPLICABLE FAMILY MEMBER" INCLUDES ANY LINEAL DESCENDANT OF ANY PARENT OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE.

(C) DISTRIBUTION AND OTHER RIGHTS; QUALIFIED PAYMENTS. FOR PURPOSES OF THIS SECTION-

(1) DISTRIBUTION RIGHT. (A) IN GENERAL. THE TERM "DISTRIBUTION RIGHT" MEANS-

--(I) A RIGHT TO DISTRIBUTIONS FROM A CORPORATION WITH RESPECT TO ITS STOCK, AND

--(II) A RIGHT TO DISTRIBUTIONS FROM A PARTNERSHIP WITH RESPECT TO A PARTNER'S INTEREST IN THE PARTNERSHIP.

(B) EXCEPTIONS. THE TERM "DISTRIBUTION RIGHT" DOES NOT INCLUDE-

--(I) A RIGHT TO DISTRIBUTIONS WITH RESPECT TO ANY INTEREST WHICH IS JUNIOR TO THE RIGHTS OF THE TRANSFERRED INTEREST,

--(II) ANY LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT, OR

--(III) ANY RIGHT TO RECEIVE ANY GUARANTEED PAYMENT DESCRIBED IN SECTION 707(C) OF A FIXED AMOUNT.

(2) LIQUIDATION, ETC. RIGHTS. (A) IN GENERAL. THE TERM "LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT" MEANS ANY LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT, OR ANY SIMILAR RIGHT, THE EXERCISE OR NONEXERCISE OF WHICH AFFECTS THE VALUE OF THE TRANSFERRED INTEREST.

(B) EXCEPTION FOR FIXED RIGHTS. (I) IN GENERAL. THE TERM "LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT" DOES NOT INCLUDE ANY RIGHT WHICH MUST BE EXERCISED AT A SPECIFIC TIME AND AT A SPECIFIC AMOUNT.

(II) TREATMENT OF CERTAIN RIGHTS. IF A RIGHT IS ASSUMED TO BE EXERCISED IN A PARTICULAR MANNER UNDER SUBSECTION (A)(3)(B), SUCH RIGHT SHALL BE TREATED AS SO EXERCISED FOR PURPOSES OF CLAUSE (I).

(C) EXCEPTION FOR CERTAIN RIGHTS TO CONVERT. THE TERM "LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT" DOES NOT INCLUDE ANY RIGHT WHICH-

--(I) IS A RIGHT TO CONVERT INTO A FIXED NUMBER (OR A FIXED PERCENTAGE) OF SHARES OF THE SAME CLASS OF STOCK IN A CORPORATION AS THE TRANSFERRED STOCK IN SUCH CORPORATION UNDER SUBSECTION (A)(1) (OR STOCK WHICH WOULD BE OF THE SAME CLASS BUT FOR NONLAPSING DIFFERENCES IN VOTING POWER),

--(II) IS NONLAPSING,

--(III) IS SUBJECT TO PROPORTIONATE ADJUSTMENTS FOR SPLITS, COMBINATIONS, RECLASSIFICATIONS, AND SIMILAR CHANGES IN THE CAPITAL STOCK, AND

--(IV) IS SUBJECT TO ADJUSTMENTS SIMILAR TO THE ADJUSTMENTS UNDER SUBSECTION (D) FOR ACCUMULATED BUT UNPAID DISTRIBUTIONS.

--A RULE SIMILAR TO THE RULE OF THE PRECEDING SENTENCE SHALL APPLY FOR PARTNERSHIPS.

(3) QUALIFIED PAYMENT. (A) IN GENERAL. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE TERM "QUALIFIED PAYMENT" MEANS ANY DIVIDEND PAYABLE ON A PERIODIC BASIS UNDER ANY CUMULATIVE PREFERRED STOCK (OR A COMPARABLE PAYMENT UNDER ANY PARTNERSHIP INTEREST) TO THE EXTENT THAT SUCH DIVIDEND (OR COMPARABLE PAYMENT) IS DETERMINED AT A FIXED RATE.

(B) TREATMENT OF VARIABLE RATE PAYMENTS. FOR PURPOSES OF SUBPARAGRAPH (A), A PAYMENT SHALL BE TREATED AS FIXED AS TO RATE IF SUCH PAYMENT IS DETERMINED AT A RATE WHICH BEARS A FIXED RELATIONSHIP TO A SPECIFIED MARKET INTEREST RATE.

(C) ELECTIONS. (I) IN GENERAL. PAYMENTS UNDER ANY INTEREST HELD BY A TRANSFEROR WHICH (WITHOUT REGARD TO THIS SUBPARAGRAPH) ARE QUALIFIED PAYMENTS SHALL BE TREATED AS QUALIFIED PAYMENTS UNLESS THE TRANSFEROR ELECTS NOT TO TREAT SUCH PAYMENTS AS QUALIFIED PAYMENTS. PAYMENTS DESCRIBED IN THE PRECEDING SENTENCE WHICH ARE HELD BY AN APPLICABLE FAMILY MEMBER SHALL BE TREATED AS QUALIFIED PAYMENTS ONLY IF SUCH MEMBER ELECTS TO TREAT SUCH PAYMENTS AS QUALIFIED PAYMENTS.

(II) ELECTION TO HAVE INTEREST TREATED AS QUALIFIED PAYMENT. A TRANSFEROR OR APPLICABLE FAMILY MEMBER HOLDING ANY DISTRIBUTION RIGHT WHICH (WITHOUT REGARD TO THIS SUBPARAGRAPH) IS NOT A QUALIFIED PAYMENT MAY ELECT TO TREAT SUCH RIGHT AS A QUALIFIED PAYMENT, TO BE PAID IN THE AMOUNTS AND AT THE TIMES SPECIFIED IN SUCH ELECTION. THE PRECEDING SENTENCE SHALL APPLY ONLY TO THE EXTENT THAT THE AMOUNTS AND TIMES SO SPECIFIED ARE NOT INCONSISTENT WITH THE UNDERLYING LEGAL INSTRUMENT GIVING RISE TO SUCH RIGHT.

(III) ELECTIONS IRREVOCABLE. ANY ELECTION UNDER THIS SUBPARAGRAPH WITH RESPECT TO AN INTEREST SHALL, ONCE MADE, BE IRREVOCABLE.

(D) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS. (1) IN GENERAL. IF A TAXABLE EVENT OCCURS WITH RESPECT TO ANY DISTRIBUTION RIGHT TO WHICH SUBSECTION (A)(3)(B) OR (C) APPLIED, THE FOLLOWING SHALL BE INCREASED BY THE AMOUNT DETERMINED UNDER PARAGRAPH (2):

--(A) THE TAXABLE ESTATE OF THE TRANSFEROR IN THE CASE OF A TAXABLE EVENT DESCRIBED IN PARAGRAPH (3)(A)(I).
--(B) THE TAXABLE GIFTS OF THE TRANSFEROR FOR THE CALENDAR YEAR IN WHICH THE TAXABLE EVENT OCCURS IN THE CASE OF A TAXABLE EVENT DESCRIBED IN PARAGRAPH (3)(A)(II) OR (III).
(2) AMOUNT OF INCREASE. (A) IN GENERAL. THE AMOUNT OF THE INCREASE DETERMINED UNDER THIS PARAGRAPH SHALL BE THE EXCESS (IF ANY) OF-
--(I) THE VALUE OF THE QUALIFIED PAYMENTS PAYABLE DURING THE PERIOD BEGINNING ON THE DATE OF THE TRANSFER UNDER SUBSECTION (A)(1) AND ENDING ON THE DATE OF THE TAXABLE EVENT DETERMINED AS IF-
--(I) ALL SUCH PAYMENTS WERE PAID ON THE DATE PAYMENT WAS DUE, AND
--(II) ALL SUCH PAYMENTS WERE REINVESTED BY THE TRANSFEROR AS OF THE DATE OF PAYMENT AT A YIELD EQUAL TO THE DISCOUNT RATE USED IN DETERMINING THE VALUE OF THE APPLICABLE RETAINED INTEREST DESCRIBED IN SUBSECTION (A)(1), OVER
(II) THE VALUE OF SUCH PAYMENTS PAID DURING SUCH PERIOD COMPUTED UNDER CLAUSE (I) ON THE BASIS OF THE TIME WHEN SUCH PAYMENTS WERE ACTUALLY PAID.
(B) LIMITATION ON AMOUNT OF INCREASE. (I) IN GENERAL. THE AMOUNT OF THE INCREASE UNDER SUBPARAGRAPH (A) SHALL NOT EXCEED THE APPLICABLE PERCENTAGE OF THE EXCESS (IF ANY) OF-
--(I) THE VALUE (DETERMINED AS OF THE DATE OF THE TAXABLE EVENT) OF ALL EQUITY INTERESTS IN THE ENTITY WHICH ARE JUNIOR TO THE APPLICABLE RETAINED INTEREST, OVER
--(II) THE VALUE OF SUCH INTERESTS (DETERMINED AS OF THE DATE OF THE TRANSFER TO WHICH SUBSECTION (A)(1) APPLIED).
(II) APPLICABLE PERCENTAGE. FOR PURPOSES OF CLAUSE (I), THE APPLICABLE PERCENTAGE IS THE PERCENTAGE DETERMINED BY DIVIDING-
--(I) THE NUMBER OF SHARES IN THE CORPORATION HELD (AS OF THE DATE OF THE TAXABLE EVENT) BY THE TRANSFEROR WHICH ARE APPLICABLE RETAINED INTERESTS OF THE SAME CLASS, BY
--(II) THE TOTAL NUMBER OF SHARES IN SUCH CORPORATION (AS OF SUCH DATE) WHICH ARE OF THE SAME CLASS AS THE CLASS DESCRIBED IN SUBCLAUSE (I).
--A SIMILAR PERCENTAGE SHALL BE DETERMINED IN THE CASE OF INTERESTS IN A PARTNERSHIP.
(III) DEFINITION. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "EQUITY INTEREST" HAS THE MEANING GIVEN SUCH TERM BY SUBSECTION (A)(4)(B).
(C) GRACE PERIOD. FOR PURPOSES OF SUBPARAGRAPH (A), ANY PAYMENT OF ANY DISTRIBUTION DURING THE 4-YEAR PERIOD BEGINNING ON ITS DUE DATE SHALL BE TREATED AS HAVING BEEN MADE ON SUCH DUE DATE.
(3) TAXABLE EVENTS. FOR PURPOSES OF THIS SUBSECTION-
(A) IN GENERAL. THE TERM "TAXABLE EVENT" MEANS ANY OF THE FOLLOWING:
--(I) THE DEATH OF THE TRANSFEROR IF THE APPLICABLE RETAINED INTEREST CONFERRING THE DISTRIBUTION RIGHT IS INCLUDIBLE IN THE ESTATE OF THE TRANSFEROR.
--(II) THE TRANSFER OF SUCH APPLICABLE RETAINED INTEREST.
--(III) AT THE ELECTION OF THE TAXPAYER, THE PAYMENT OF ANY QUALIFIED PAYMENT AFTER THE PERIOD DESCRIBED IN PARAGRAPH (2)(C), BUT ONLY WITH RESPECT TO SUCH PAYMENT.
(B) EXCEPTION WHERE SPOUSE IS TRANSFEREE. (I) DEATHTIME TRANSFERS
--SUBPARAGRAPH (A)(I) SHALL NOT APPLY TO ANY INTEREST INCLUDIBLE IN THE GROSS ESTATE OF THE TRANSFEROR IF A DEDUCTION WITH RESPECT TO SUCH INTEREST IS ALLOWABLE UNDER SECTION 2056 OR 2106(A)(3).
(II) LIFETIME TRANSFERS. A TRANSFER TO THE SPOUSE OF THE TRANSFEROR SHALL NOT BE TREATED AS A TAXABLE EVENT UNDER SUBPARAGRAPH (A)(II) IF SUCH TRANSFER DOES NOT RESULT IN A TAXABLE GIFT BY REASON OF-

--(I) ANY DEDUCTION ALLOWED UNDER SECTION 2523, OR THE EXCLUSION UNDER SECTION 2503(B), OR

--(II) CONSIDERATION FOR THE TRANSFER PROVIDED BY THE SPOUSE.

(III) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR. IF AN EVENT IS NOT TREATED AS A TAXABLE EVENT BY REASON OF THIS SUBPARAGRAPH, THE TRANSFEREE SPOUSE OR SURVIVING SPOUSE (AS THE CASE MAY BE) SHALL BE TREATED IN THE SAME MANNER AS THE TRANSFEROR IN APPLYING THIS SUBSECTION WITH RESPECT TO THE INTEREST INVOLVED.

(4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS. (A) FAMILY MEMBER TREATED IN SAME MANNER AS TRANSFEROR. FOR PURPOSES OF THIS SUBSECTION, AN APPLICABLE FAMILY MEMBER SHALL BE TREATED IN THE SAME MANNER AS THE TRANSFEROR WITH RESPECT TO ANY DISTRIBUTION RIGHT RETAINED BY SUCH FAMILY MEMBER TO WHICH SUBSECTION (A)(3)(B) OR (C) APPLIED.

(B) TRANSFER TO APPLICABLE FAMILY MEMBER. IN THE CASE OF A TAXABLE EVENT DESCRIBED IN PARAGRAPH (3)(A)(II) INVOLVING THE TRANSFER OF AN APPLICABLE RETAINED INTEREST TO AN APPLICABLE FAMILY MEMBER (OTHER THAN THE SPOUSE OF THE TRANSFEROR), THE APPLICABLE FAMILY MEMBER SHALL BE TREATED IN THE SAME MANNER AS THE TRANSFEROR IN APPLYING THIS SUBSECTION TO DISTRIBUTIONS ACCUMULATING WITH RESPECT TO SUCH INTEREST AFTER SUCH TAXABLE EVENT.

(C) TRANSFER TO TRANSFERORS. IN THE CASE OF A TAXABLE EVENT DESCRIBED IN PARAGRAPH (3)(A)(II) INVOLVING A TRANSFER OF AN APPLICABLE RETAINED INTEREST FROM AN APPLICABLE FAMILY MEMBER TO A TRANSFEROR, THIS SUBSECTION SHALL CONTINUE TO APPLY TO THE TRANSFEROR DURING ANY PERIOD THE TRANSFEROR HOLDS SUCH INTEREST.

(5) TRANSFER TO INCLUDE TERMINATION. FOR PURPOSES OF THIS SUBSECTION, ANY TERMINATION OF AN INTEREST SHALL BE TREATED AS A TRANSFER.

(E) OTHER DEFINITIONS AND RULES. FOR PURPOSES OF THIS SECTION-

(1) MEMBER OF THE FAMILY. THE TERM "MEMBER OF THE FAMILY" MEANS, WITH RESPECT TO ANY TRANSFEROR-

--(A) THE TRANSFEROR'S SPOUSE,

--(B) A LINEAL DESCENDANT OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE, AND

--(C) THE SPOUSE OF ANY SUCH DESCENDANT.

(2) APPLICABLE FAMILY MEMBER. THE TERM "APPLICABLE FAMILY MEMBER" MEANS, WITH RESPECT TO ANY TRANSFEROR-

--(A) THE TRANSFEROR'S SPOUSE,

--(B) AN ANCESTOR OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE, AND

--(C) THE SPOUSE OF ANY SUCH ANCESTOR.

(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS. AN INDIVIDUAL SHALL BE TREATED AS HOLDING ANY INTEREST TO THE EXTENT SUCH INTEREST IS HELD INDIRECTLY BY SUCH INDIVIDUAL THROUGH A CORPORATION, PARTNERSHIP, TRUST, OR OTHER ENTITY. IF ANY INDIVIDUAL IS TREATED AS HOLDING ANY INTEREST BY REASON OF THE PRECEDING SENTENCE, ANY TRANSFER WHICH RESULTS IN SUCH INTEREST BEING TREATED AS NO LONGER HELD BY SUCH INDIVIDUAL SHALL BE TREATED AS A TRANSFER OF SUCH INTEREST.

(4) EFFECT OF ADOPTION. A RELATIONSHIP BY LEGAL ADOPTION SHALL BE TREATED AS A RELATIONSHIP BY BLOOD.

(5) CERTAIN CHANGES TREATED AS TRANSFERS. EXCEPT AS PROVIDED IN REGULATIONS, A CONTRIBUTION TO CAPITAL OR A REDEMPTION, RECAPITALIZATION, OR OTHER CHANGE IN THE CAPITAL STRUCTURE OF A CORPORATION OR PARTNERSHIP SHALL BE TREATED AS A TRANSFER OF AN INTEREST IN SUCH ENTITY TO WHICH THIS SECTION APPLIES IF THE TAXPAYER OR AN APPLICABLE FAMILY MEMBER-

--(A) RECEIVES AN APPLICABLE RETAINED INTEREST IN SUCH ENTITY PURSUANT TO SUCH TRANSACTION, OR

--(B) UNDER REGULATIONS, OTHERWISE HOLDS, IMMEDIATELY AFTER SUCH TRANSACTION, AN APPLICABLE RETAINED INTEREST IN SUCH ENTITY.
--THIS PARAGRAPH SHALL NOT APPLY TO ANY TRANSACTION (OTHER THAN A CONTRIBUTION TO CAPITAL) IF THE INTERESTS IN THE ENTITY HELD BY THE TRANSFEROR, APPLICABLE FAMILY MEMBERS, AND MEMBERS OF THE TRANSFEROR'S FAMILY BEFORE AND AFTER THE TRANSACTION ARE SUBSTANTIALLY IDENTICAL.
(6) ADJUSTMENTS. UNDER REGULATIONS PRESCRIBED BY THE SECRETARY, IF THERE IS ANY SUBSEQUENT TRANSFER, OR INCLUSION IN THE GROSS ESTATE, OF ANY APPLICABLE RETAINED INTEREST WHICH WAS VALUED UNDER THE RULES OF SUBSECTION (A), APPROPRIATE ADJUSTMENTS SHALL BE MADE FOR PURPOSES OF CHAPTER 11, 12, OR 13 TO REFLECT THE INCREASE IN THE AMOUNT OF ANY PRIOR TAXABLE GIFT MADE BY THE TRANSFEROR OR DECEDENT BY REASON OF SUCH VALUATION OR TO REFLECT THE APPLICATION OF SUBSECTION (D).
(7) TREATMENT AS SEPARATE INTERESTS. THE SECRETARY MAY BY REGULATION PROVIDE THAT ANY APPLICABLE RETAINED INTEREST SHALL BE TREATED AS 2 OR MORE SEPARATE INTERESTS FOR PURPOSES OF THIS SECTION.
S 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN TRUSTS. (A) VALUATION RULES. (1) IN GENERAL. SOLELY FOR PURPOSES OF DETERMINING WHETHER A TRANSFER OF AN INTEREST IN TRUST TO (OR FOR THE BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY IS A GIFT (AND THE VALUE OF SUCH TRANSFER), THE VALUE OF ANY INTEREST IN SUCH TRUST RETAINED BY THE TRANSFEROR OR ANY APPLICABLE FAMILY MEMBER (AS DEFINED IN SECTION 2701(E)(2)) SHALL BE DETERMINED AS PROVIDED IN PARAGRAPH (2).
(2) VALUATION OF RETAINED INTERESTS. (A) IN GENERAL. THE VALUE OF ANY RETAINED INTEREST WHICH IS NOT A QUALIFIED INTEREST SHALL BE TREATED AS BEING ZERO.
(B) VALUATION OF QUALIFIED INTEREST. THE VALUE OF ANY RETAINED INTEREST WHICH IS A QUALIFIED INTEREST SHALL BE DETERMINED UNDER SECTION 7520.
(3) EXCEPTIONS. (A) IN GENERAL. THIS SUBSECTION SHALL NOT APPLY TO ANY TRANSFER-
--(I) IF SUCH TRANSFER IS AN INCOMPLETE GIFT,
--(II) IF SUCH TRANSFER INVOLVES THE TRANSFER OF AN INTEREST IN TRUST ALL THE PROPERTY IN WHICH CONSISTS OF A RESIDENCE TO BE USED AS A PERSONAL RESIDENCE BY PERSONS HOLDING TERM INTERESTS IN SUCH TRUST, OR
--(III) TO THE EXTENT THAT REGULATIONS PROVIDE THAT SUCH TRANSFER IS NOT INCONSISTENT WITH THE PURPOSES OF THIS SECTION.
(B) INCOMPLETE GIFT. FOR PURPOSES OF SUBPARAGRAPH (A), THE TERM "INCOMPLETE GIFT" MEANS ANY TRANSFER WHICH WOULD NOT BE TREATED AS A GIFT WHETHER OR NOT CONSIDERATION WAS RECEIVED FOR SUCH TRANSFER.
(B) QUALIFIED INTEREST. FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED INTEREST" MEANS-
(1) ANY INTEREST WHICH CONSISTS OF THE RIGHT TO RECEIVE FIXED AMOUNTS PAYABLE NOT LESS FREQUENTLY THAN ANNUALLY,
(2) ANY INTEREST WHICH CONSISTS OF THE RIGHT TO RECEIVE AMOUNTS WHICH ARE PAYABLE NOT LESS FREQUENTLY THAN ANNUALLY AND ARE A FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY IN THE TRUST (DETERMINED ANNUALLY), AND
(3) ANY NONCONTINGENT REMAINDER INTEREST IF ALL OF THE OTHER INTERESTS IN THE TRUST CONSIST OF INTERESTS DESCRIBED IN PARAGRAPH (1) OR (2).
(C) CERTAIN PROPERTY TREATED AS HELD IN TRUST. FOR PURPOSES OF THIS SECTION- (1) IN GENERAL. THE TRANSFER OF AN INTEREST IN PROPERTY WITH RESPECT TO WHICH THERE IS 1 OR MORE TERM INTERESTS SHALL BE TREATED AS A TRANSFER OF AN INTEREST IN A TRUST.
(2) JOINT PURCHASES. IF 2 OR MORE MEMBERS OF THE SAME FAMILY ACQUIRE INTERESTS IN ANY PROPERTY DESCRIBED IN PARAGRAPH (1) IN THE SAME TRANS-

ACTION (OR A SERIES OF RELATED TRANSACTIONS), THE PERSON (OR PERSONS) ACQUIRING THE TERM INTERESTS IN SUCH PROPERTY SHALL BE TREATED AS HAVING ACQUIRED THE ENTIRE PROPERTY AND THEN TRANSFERRED TO THE OTHER PERSONS THE INTERESTS ACQUIRED BY SUCH OTHER PERSONS IN THE TRANSACTION (OR SERIES OF TRANSACTIONS). SUCH TRANSFER SHALL BE TREATED AS MADE IN EXCHANGE FOR THE CONSIDERATION (IF ANY) PROVIDED BY SUCH OTHER PERSONS FOR THE ACQUISITION OF THEIR INTERESTS IN SUCH PROPERTY.

(3) TERM INTEREST. THE TERM "TERM INTEREST" MEANS-

(A) A LIFE INTEREST IN PROPERTY, OR

(B) AN INTEREST IN PROPERTY FOR A TERM OF YEARS.

(4) VALUATION RULE FOR CERTAIN TERM INTERESTS. IF THE NONEXERCISE OF RIGHTS UNDER A TERM INTEREST IN TANGIBLE PROPERTY WOULD NOT HAVE A SUBSTANTIAL EFFECT ON THE VALUATION OF THE REMAINDER INTEREST IN SUCH PROPERTY-

(A) SUBPARAGRAPH (A) OF SUBSECTION (A)(2) SHALL NOT APPLY TO SUCH TERM INTEREST, AND

(B) THE VALUE OF SUCH TERM INTEREST FOR PURPOSES OF APPLYING SUBSECTION (A)(1) SHALL BE THE AMOUNT WHICH THE HOLDER OF THE TERM INTEREST ESTABLISHES AS THE AMOUNT FOR WHICH SUCH INTEREST COULD BE SOLD TO AN UNRELATED THIRD PARTY.

(D) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST. IN THE CASE OF A TRANSFER OF AN INCOME OR REMAINDER INTEREST WITH RESPECT TO A SPECIFIED PORTION OF THE PROPERTY IN A TRUST, ONLY SUCH PORTION SHALL BE TAKEN INTO ACCOUNT IN APPLYING THIS SECTION TO SUCH TRANSFER.

(E) MEMBER OF THE FAMILY. FOR PURPOSES OF THIS SECTION, THE TERM "MEMBER OF THE FAMILY" SHALL HAVE THE MEANING GIVEN SUCH TERM BY SECTION 2704(C)(2).

S 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED

(A) GENERAL RULE. FOR PURPOSES OF THIS SUBTITLE, THE VALUE OF ANY PROPERTY SHALL BE DETERMINED WITHOUT REGARD TO-

(1) ANY OPTION, AGREEMENT, OR OTHER RIGHT TO ACQUIRE OR USE THE PROPERTY AT A PRICE LESS THAN THE FAIR MARKET VALUE OF THE PROPERTY (WITHOUT REGARD TO SUCH OPTION, AGREEMENT, OR RIGHT), OR

(2) ANY RESTRICTION ON THE RIGHT TO SELL OR USE SUCH PROPERTY.

(B) EXCEPTIONS. SUBSECTION (A) SHALL NOT APPLY TO ANY OPTION, AGREEMENT, RIGHT, OR RESTRICTION WHICH MEETS EACH OF THE FOLLOWING REQUIREMENTS:

(1) IT IS A BONA FIDE BUSINESS ARRANGEMENT.

(2) IT IS NOT A DEVICE TO TRANSFER SUCH PROPERTY TO MEMBERS OF THE DECEDENT'S FAMILY FOR LESS THAN FULL AND ADEQUATE CONSIDERATION IN MONEY OR MONEY'S WORTH.

(3) ITS TERMS ARE COMPARABLE TO SIMILAR ARRANGEMENTS ENTERED INTO BY PERSONS IN AN ARMS' LENGTH TRANSACTION

S 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS. (A) TREATMENT OF LAPSED VOTING OR LIQUIDATION RIGHTS. (1) IN GENERAL. FOR PURPOSES OF THIS SUBTITLE, IF-

--(A) THERE IS A LAPSE OF ANY VOTING OR LIQUIDATION RIGHT IN A CORPORATION OR PARTNERSHIP, AND

--(B) THE INDIVIDUAL HOLDING SUCH RIGHT IMMEDIATELY BEFORE THE LAPSE AND MEMBERS OF SUCH INDIVIDUAL'S FAMILY HOLD, BOTH BEFORE AND AFTER THE LAPSE, CONTROL OF THE ENTITY,

SUCH LAPSE SHALL BE TREATED AS A TRANSFER BY SUCH INDIVIDUAL BY GIFT, OR A TRANSFER WHICH IS INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT, WHICHEVER IS APPLICABLE, IN THE AMOUNT DETERMINED UNDER PARAGRAPH (2).

(2) AMOUNT OF TRANSFER. FOR PURPOSES OF PARAGRAPH (1), THE AMOUNT DETERMINED UNDER THIS PARAGRAPH IS THE EXCESS (IF ANY) OF-

--(A) THE VALUE OF ALL INTERESTS IN THE ENTITY HELD BY THE INDIVIDUAL DESCRIBED IN PARAGRAPH (1) IMMEDIATELY BEFORE THE LAPSE (DETERMINED AS IF THE VOTING AND LIQUIDATION RIGHTS WERE NONLAPSING), OVER
--(B) THE VALUE OF SUCH INTERESTS IMMEDIATELY AFTER THE LAPSE.
(3) SIMILAR RIGHTS. THE SECRETARY MAY BY REGULATIONS APPLY THIS SUBSECTION TO RIGHTS SIMILAR TO VOTING AND LIQUIDATION RIGHTS.
(B) CERTAIN RESTRICTIONS ON LIQUIDATION DISREGARDED. (1) IN GENERAL. FOR PURPOSES OF THIS SUBTITLE, IF-
--(A) THERE IS A TRANSFER OF AN INTEREST IN A CORPORATION OR PARTNERSHIP TO (OR FOR THE BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY, AND
--(B) THE TRANSFEROR AND MEMBERS OF THE TRANSFEROR'S FAMILY HOLD, IMMEDIATELY BEFORE THE TRANSFER, CONTROL OF THE ENTITY,
--ANY APPLICABLE RESTRICTION SHALL BE DISREGARDED IN DETERMINING THE VALUE OF THE TRANSFERRED INTEREST.
(2) APPLICABLE RESTRICTION. FOR PURPOSES OF THIS SUBSECTION, THE TERM "APPLICABLE RESTRICTION" MEANS ANY RESTRICTION-
(A) WHICH EFFECTIVELY LIMITS THE ABILITY OF THE CORPORATION OR PARTNERSHIP TO LIQUIDATE, AND
(B) WITH RESPECT TO WHICH EITHER OF THE FOLLOWING APPLIES:
--(I) THE RESTRICTION LAPSES, IN WHOLE OR IN PART, AFTER THE TRANSFER REFERRED TO IN PARAGRAPH (1).
--(II) THE TRANSFEROR OR ANY MEMBER OF THE TRANSFEROR'S FAMILY, EITHER ALONE OR COLLECTIVELY, HAS THE RIGHT AFTER SUCH TRANSFER TO REMOVE, IN WHOLE OR IN PART, THE RESTRICTION.
(3) EXCEPTIONS. THE TERM "APPLICABLE RESTRICTION" SHALL NOT INCLUDE-
--(A) ANY COMMERCIALLY REASONABLE RESTRICTION WHICH ARISES AS PART OF ANY FINANCING BY THE CORPORATION OR PARTNERSHIP WITH A PERSON WHO IS NOT RELATED TO THE TRANSFEROR OR TRANSFEREE, OR A MEMBER OF THE FAMILY OF EITHER, OR
--(B) ANY RESTRICTION IMPOSED, OR REQUIRED TO BE IMPOSED, BY ANY FEDERAL OR STATE LAW.
(4) OTHER RESTRICTIONS. THE SECRETARY MAY BY REGULATIONS PROVIDE THAT OTHER RESTRICTIONS SHALL BE DISREGARDED IN DETERMINING THE VALUE OF THE TRANSFER OF ANY INTEREST IN A CORPORATION OR PARTNERSHIP TO A MEMBER OF THE TRANSFEROR'S FAMILY IF SUCH RESTRICTION HAS THE EFFECT OF REDUCING THE VALUE OF THE TRANSFERRED INTEREST FOR PURPOSES OF THIS SUBTITLE BUT DOES NOT ULTIMATELY REDUCE THE VALUE OF SUCH INTEREST TO THE TRANSFEREE.
(C) DEFINITIONS AND SPECIAL RULES. FOR PURPOSES OF THIS SECTION-
(1) CONTROL. THE TERM "CONTROL" HAS THE MEANING GIVEN SUCH TERM BY SECTION 2701(B)(2).
(2) MEMBER OF THE FAMILY. THE TERM "MEMBER OF THE FAMILY" MEANS, WITH RESPECT TO ANY INDIVIDUAL-
(A) SUCH INDIVIDUAL'S SPOUSE,
(B) ANY ANCESTOR OR LINEAL DESCENDANT OF SUCH INDIVIDUAL OR SUCH INDIVIDUAL'S SPOUSE,
(C) ANY BROTHER OR SISTER OF THE INDIVIDUAL, AND
(D) ANY SPOUSE OF ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (B) OR (C).
(3) ATTRIBUTION. THE RULE OF SECTION 2701(E)(3) SHALL APPLY FOR PURPOSES OF DETERMINING THE INTERESTS HELD BY ANY INDIVIDUAL.
S 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES
(A) TREATMENT OF GIFT LOANS AND DEMAND LOANS. (1) IN GENERAL. FOR PURPOSES OF THIS TITLE, IN THE CASE OF ANY BELOW-MARKET LOAN TO WHICH THIS SECTION APPLIES AND WHICH IS A GIFT LOAN OR A DEMAND LOAN, THE FORGONE INTEREST SHALL BE TREATED AS-
--(A) TRANSFERRED FROM THE LENDER TO THE BORROWER, AND

--(B) RETRANSFERRED BY THE BORROWER TO THE LENDER AS INTEREST.

(2) TIME WHEN TRANSFERS MADE. EXCEPT AS OTHERWISE PROVIDED IN REGULATIONS PRESCRIBED BY THE SECRETARY, ANY FORGONE INTEREST ATTRIBUTABLE TO PERIODS DURING ANY CALENDAR YEAR SHALL BE TREATED AS TRANSFERRED (AND RETRANSFERRED) UNDER PARAGRAPH (1) ON THE LAST DAY OF SUCH CALENDAR YEAR.

(B) TREATMENT OF OTHER BELOW-MARKET LOANS. (1) IN GENERAL. FOR PURPOSES OF THIS TITLE, IN THE CASE OF ANY BELOW-MARKET LOAN TO WHICH THIS SECTION APPLIES AND TO WHICH SUBSECTION (A)(1) DOES NOT APPLY, THE LENDER SHALL BE TREATED AS HAVING TRANSFERRED ON THE DATE THE LOAN WAS MADE (OR, IF LATER, ON THE FIRST DAY ON WHICH THIS SECTION APPLIES TO SUCH LOAN), AND THE BORROWER SHALL BE TREATED AS HAVING RECEIVED ON SUCH DATE, CASH IN AN AMOUNT EQUAL TO THE EXCESS OF-

--(A) THE AMOUNT LOANED, OVER

--(B) THE PRESENT VALUE OF ALL PAYMENTS WHICH ARE REQUIRED TO BE MADE UNDER THE TERMS OF THE LOAN.

(2) OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT. FOR PURPOSES OF THIS TITLE-

(A) IN GENERAL. ANY BELOW-MARKET LOAN TO WHICH PARAGRAPH (1) APPLIES SHALL BE TREATED AS HAVING ORIGINAL ISSUE DISCOUNT IN AN AMOUNT EQUAL TO THE EXCESS DESCRIBED IN PARAGRAPH (1).

(B) AMOUNT IN ADDITION TO OTHER ORIGINAL ISSUE DISCOUNT. ANY ORIGINAL ISSUE DISCOUNT WHICH A LOAN IS TREATED AS HAVING BY REASON OF SUBPARAGRAPH (A) SHALL BE IN ADDITION TO ANY OTHER ORIGINAL ISSUE DISCOUNT ON SUCH LOAN (DETERMINED WITHOUT REGARD TO SUBPARAGRAPH (A)).

(C) BELOW-MARKET LOANS TO WHICH SECTION APPLIES. (1) IN GENERAL. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBSECTION (G), THIS SECTION SHALL APPLY TO-

(A) GIFTS. ANY BELOW-MARKET LOAN WHICH IS A GIFT LOAN.

(B) COMPENSATION-RELATED LOANS. ANY BELOW-MARKET LOAN DIRECTLY OR INDIRECTLY BETWEEN-

--(I) AN EMPLOYER AND AN EMPLOYEE, OR

--(II) AN INDEPENDENT CONTRACTOR AND A PERSON FOR WHOM SUCH INDEPENDENT CONTRACTOR PROVIDES SERVICES.

(C) CORPORATION-SHAREHOLDER LOANS. ANY BELOW-MARKET LOAN DIRECTLY OR INDIRECTLY BETWEEN A CORPORATION AND ANY SHAREHOLDER OF SUCH CORPORATION.

(D) TAX AVOIDANCE LOANS. ANY BELOW-MARKET LOAN 1 OF THE PRINCIPAL PURPOSES OF THE INTEREST ARRANGEMENTS OF WHICH IS THE AVOIDANCE OF ANY FEDERAL TAX.

(E) OTHER BELOW-MARKET LOANS. TO THE EXTENT PROVIDED IN REGULATIONS, ANY BELOW-MARKET LOAN WHICH IS NOT DESCRIBED IN SUBPARAGRAPH (A), (B), (C), OR (F) IF THE INTEREST ARRANGEMENTS OF SUCH LOAN HAVE A SIGNIFICANT EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.

(F) LOANS TO QUALIFIED CONTINUING CARE FACILITIES. ANY LOAN TO ANY QUALIFIED CONTINUING CARE FACILITY PURSUANT TO A CONTINUING CARE CONTRACT.

(2) $10,000 DE MINIMIS EXCEPTION FOR GIFT LOANS BETWEEN INDIVIDUALS. (A) IN GENERAL. IN THE CASE OF ANY GIFT LOAN DIRECTLY BETWEEN INDIVIDUALS, THIS SECTION SHALL NOT APPLY TO ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF LOANS BETWEEN SUCH INDIVIDUALS DOES NOT EXCEED $10,000.

(B) DE MINIMIS EXCEPTION NOT TO APPLY TO LOANS ATTRIBUTABLE TO ACQUISITION OF INCOME-PRODUCING ASSETS.

--SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY GIFT LOAN DIRECTLY ATTRIBUTABLE TO THE PURCHASE OR CARRYING OF INCOME-PRODUCING ASSETS.

(C) CROSS REFERENCE. FOR LIMITATION ON AMOUNT TREATED AS INTEREST WHERE LOANS DO NOT EXCEED $100,000, SEE SUBSECTION (D)(1).

(3) $10,000 DE MINIMIS EXCEPTION FOR COMPENSATION-RELATED AND CORPORATE-SHAREHOLDER LOANS. (A) IN GENERAL. IN THE CASE OF ANY LOAN DESCRIBED IN SUBPARAGRAPH (B) OR (C) OF PARAGRAPH (1), THIS SECTION SHALL NOT APPLY TO ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF LOANS BETWEEN THE BORROWER AND LENDER DOES NOT EXCEED $10,000.

(B) EXCEPTION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE. SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY LOAN THE INTEREST ARRANGEMENTS OF WHICH HAVE AS 1 OF THEIR PRINCIPAL PURPOSES THE AVOIDANCE OF ANY FEDERAL TAX.

(D) SPECIAL RULES FOR GIFT LOANS. (1) LIMITATION ON INTEREST ACCRUAL FOR PURPOSES OF INCOME TAXES WHERE LOANS DO NOT EXCEED $100,000. (A) IN GENERAL. FOR PURPOSES OF SUBTITLE A, IN THE CASE OF A GIFT LOAN DIRECTLY BETWEEN INDIVIDUALS, THE AMOUNT TREATED AS RETRANSFERRED BY THE BORROWER TO THE LENDER AS OF THE CLOSE OF ANY YEAR SHALL NOT EXCEED THE BORROWER'S NET INVESTMENT INCOME FOR SUCH YEAR.

(B) LIMITATION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE. SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY LOAN THE INTEREST ARRANGEMENTS OF WHICH HAVE AS 1 OF THEIR PRINCIPAL PURPOSES THE AVOIDANCE OF ANY FEDERAL TAX.

(C) SPECIAL RULE WHERE MORE THAN 1 GIFT LOAN OUTSTANDING. FOR PURPOSES OF SUBPARAGRAPH (A), IN ANY CASE IN WHICH A BORROWER HAS OUTSTANDING MORE THAN 1 GIFT LOAN, THE NET INVESTMENT INCOME OF SUCH BORROWER SHALL BE ALLOCATED AMONG SUCH LOANS IN PROPORTION TO THE RESPECTIVE AMOUNTS WHICH WOULD BE TREATED AS RETRANSFERRED BY THE BORROWER WITHOUT REGARD TO THIS PARAGRAPH.

(D) LIMITATION NOT TO APPLY WHERE AGGREGATE AMOUNT OF LOANS EXCEED $100,000. THIS PARAGRAPH SHALL NOT APPLY TO ANY LOAN MADE BY A LENDER TO A BORROWER FOR ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF LOANS BETWEEN THE BORROWER AND LENDER EXCEEDS $100,000.

(E) NET INVESTMENT INCOME. FOR PURPOSES OF THIS PARAGRAPH-

(I) IN GENERAL. THE TERM "NET INVESTMENT INCOME" HAS THE MEANING GIVEN SUCH TERM BY SECTION 163(D)(4).

(II) DE MINIMIS RULE. IF THE NET INVESTMENT INCOME OF ANY BORROWER FOR ANY YEAR DOES NOT EXCEED $1,000, THE NET INVESTMENT INCOME OF SUCH BORROWER FOR SUCH YEAR SHALL BE TREATED AS ZERO.

(III) ADDITIONAL AMOUNTS TREATED AS INTEREST. IN DETERMINING THE NET INVESTMENT INCOME OF A PERSON FOR ANY YEAR, ANY AMOUNT WHICH WOULD BE INCLUDED IN THE GROSS INCOME OF SUCH PERSON FOR SUCH YEAR BY REASON OF SECTION 1272 IF SUCH SECTION APPLIED TO ALL DEFERRED PAYMENT OBLIGATIONS SHALL BE TREATED AS INTEREST RECEIVED BY SUCH PERSON FOR SUCH YEAR.

(IV) DEFERRED PAYMENT OBLIGATIONS. THE TERM "DEFERRED PAYMENT OBLIGATION" INCLUDES ANY MARKET DISCOUNT BOND, SHORT-TERM OBLIGATION, UNITED STATES SAVINGS BOND, ANNUITY, OR SIMILAR OBLIGATION.

(2) SPECIAL RULE FOR GIFT TAX. IN THE CASE OF ANY GIFT LOAN WHICH IS A TERM LOAN, SUBSECTION (B)(1) (AND NOT SUBSECTION (A)) SHALL APPLY FOR PURPOSES OF CHAPTER 12.

(E) DEFINITIONS OF BELOW-MARKET LOAN AND FORGONE INTEREST. FOR PURPOSES OF THIS SECTION-

(1) BELOW-MARKET LOAN. THE TERM "BELOW-MARKET LOAN" MEANS ANY LOAN IF--(A) IN THE CASE OF A DEMAND LOAN, INTEREST IS PAYABLE ON THE LOAN AT A RATE LESS THAN THE APPLICABLE FEDERAL RATE, OR

--(B) IN THE CASE OF A TERM LOAN, THE AMOUNT LOANED EXCEEDS THE PRESENT VALUE OF ALL PAYMENTS DUE UNDER THE LOAN.

(2) FORGONE INTEREST. THE TERM "FORGONE INTEREST" MEANS, WITH RESPECT TO ANY PERIOD DURING WHICH THE LOAN IS OUTSTANDING, THE EXCESS OF-
--(A) THE AMOUNT OF INTEREST WHICH WOULD HAVE BEEN PAYABLE ON THE LOAN FOR THE PERIOD IF INTEREST ACCRUED ON THE LOAN AT THE APPLICABLE FEDERAL RATE AND WERE PAYABLE ANNUALLY ON THE DAY REFERRED TO IN SUBSECTION (A)(2), OVER
--(B) ANY INTEREST PAYABLE ON THE LOAN PROPERLY ALLOCABLE TO SUCH PERIOD.

(F) OTHER DEFINITIONS AND SPECIAL RULES. FOR PURPOSES OF THIS SECTION-

(1) PRESENT VALUE. THE PRESENT VALUE OF ANY PAYMENT SHALL BE DETERMINED IN THE MANNER PROVIDED BY REGULATIONS PRESCRIBED BY THE SECRETARY-
--(A) AS OF THE DATE OF THE LOAN, AND
--(B) BY USING A DISCOUNT RATE EQUAL TO THE APPLICABLE FEDERAL RATE.

(2) APPLICABLE FEDERAL RATE. (A) TERM LOANS. IN THE CASE OF ANY TERM LOAN, THE APPLICABLE FEDERAL RATE SHALL BE THE APPLICABLE FEDERAL RATE IN EFFECT UNDER SECTION 1274(D) (AS OF THE DAY ON WHICH THE LOAN WAS MADE), COMPOUNDED SEMIANNUALLY.

(B) DEMAND LOANS. IN THE CASE OF A DEMAND LOAN, THE APPLICABLE FEDERAL RATE SHALL BE THE FEDERAL SHORT-TERM RATE IN EFFECT UNDER SECTION 1274(D) FOR THE PERIOD FOR WHICH THE AMOUNT OF FORGONE INTEREST IS BEING DETERMINED, COMPOUNDED SEMIANNUALLY.

(3) GIFT LOAN. THE TERM "GIFT LOAN" MEANS ANY BELOW-MARKET LOAN WHERE THE FORGOING OF INTEREST IS IN THE NATURE OF A GIFT.

(4) AMOUNT LOANED. THE TERM "AMOUNT LOANED" MEANS THE AMOUNT RECEIVED BY THE BORROWER.

(5) DEMAND LOAN. THE TERM "DEMAND LOAN" MEANS ANY LOAN WHICH IS PAYABLE IN FULL AT ANY TIME ON THE DEMAND OF THE LENDER. SUCH TERM ALSO INCLUDES (FOR PURPOSES OTHER THAN DETERMINING THE APPLICABLE FEDERAL RATE UNDER PARAGRAPH (2)) ANY LOAN IF THE BENEFITS OF THE INTEREST ARRANGEMENTS OF SUCH LOAN ARE NOT TRANSFERABLE AND ARE CONDITIONED ON THE FUTURE PERFORMANCE OF SUBSTANTIAL SERVICES BY AN INDIVIDUAL. TO THE EXTENT PROVIDED IN REGULATIONS, SUCH TERM ALSO INCLUDES ANY LOAN WITH AN INDEFINITE MATURITY.

(6) TERM LOAN. THE TERM "TERM LOAN" MEANS ANY LOAN WHICH IS NOT A DEMAND LOAN.

(7) HUSBAND AND WIFE TREATED AS 1 PERSON. A HUSBAND AND WIFE SHALL BE TREATED AS 1 PERSON.

(8) LOANS TO WHICH SECTION 483, 643(I), OR 1274 APPLIES. THIS SECTION SHALL NOT APPLY TO ANY LOAN TO WHICH SECTION 483, 643(I), OR 1274 APPLIES.

(9) NO WITHHOLDING. NO AMOUNT SHALL BE WITHHELD UNDER CHAPTER 24 WITH RESPECT TO-
--(A) ANY AMOUNT TREATED AS TRANSFERRED OR RETRANSFERRED UNDER SUBSECTION (A), AND
--(B) ANY AMOUNT TREATED AS RECEIVED UNDER SUBSECTION (B).

(10) SPECIAL RULE FOR TERM LOANS. IF THIS SECTION APPLIES TO ANY TERM LOAN ON ANY DAY, THIS SECTION SHALL CONTINUE TO APPLY TO SUCH LOAN NOTWITHSTANDING PARAGRAPHS (2) AND (3) OF SUBSECTION (C). IN THE CASE OF A GIFT LOAN, THE PRECEDING SENTENCE SHALL ONLY APPLY FOR PURPOSES OF CHAPTER 12.

(11) TIME FOR DETERMINING RATE APPLICABLE TO EMPLOYEE RELOCATION LOANS. (A) IN GENERAL. IN THE CASE OF ANY TERM LOAN MADE BY AN EMPLOYER TO AN EMPLOYEE THE PROCEEDS OF WHICH ARE USED BY THE EMPLOYEE TO PURCHASE A PRINCIPAL RESIDENCE (WITHIN THE MEANING OF SECTION 121), THE DETERMINATION OF THE APPLICABLE FEDERAL RATE SHALL BE MADE AS OF THE DATE THE WRITTEN CONTRACT TO PURCHASE SUCH RESIDENCE WAS ENTERED INTO.

(B) PARAGRAPH ONLY TO APPLY TO CASES TO WHICH SECTION 217 APPLIES. SUBPARAGRAPH (A) SHALL ONLY APPLY TO THE PURCHASE OF A PRINCIPAL RESIDENCE IN CONNECTION WITH THE COMMENCEMENT OF WORK BY AN EMPLOYEE OR A CHANGE IN THE PRINCIPAL PLACE OF WORK OF AN EMPLOYEE TO WHICH SECTION 217 APPLIES.

(G) EXCEPTION FOR CERTAIN LOANS TO QUALIFIED CONTINUING CARE FACILITIES. (1) IN GENERAL. THIS SECTION SHALL NOT APPLY FOR ANY CALENDAR YEAR TO ANY BELOW-MARKET LOAN MADE BY A LENDER TO A QUALIFIED CONTINUING CARE FACILITY PURSUANT TO A CONTINUING CARE CONTRACT IF THE LENDER (OR THE LENDER'S SPOUSE) ATTAINS AGE 65 BEFORE THE CLOSE OF SUCH YEAR.

(2) $90,000 LIMIT. PARAGRAPH (1) SHALL APPLY ONLY TO THE EXTENT THAT THE AGGREGATE OUTSTANDING AMOUNT OF ANY LOAN TO WHICH SUCH PARAGRAPH APPLIES (DETERMINED WITHOUT REGARD TO THIS PARAGRAPH), WHEN ADDED TO THE AGGREGATE OUTSTANDING AMOUNT OF ALL OTHER PREVIOUS LOANS BETWEEN THE LENDER (OR THE LENDER'S SPOUSE) AND ANY QUALIFIED CONTINUING CARE FACILITY TO WHICH PARAGRAPH (1) APPLIES, DOES NOT EXCEED $90,000.

(3) CONTINUING CARE CONTRACT. FOR PURPOSES OF THIS SECTION, THE TERM "CONTINUING CARE CONTRACT" MEANS A WRITTEN CONTRACT BETWEEN AN INDIVIDUAL AND A QUALIFIED CONTINUING CARE FACILITY UNDER WHICH-

--(A) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE MAY USE A QUALIFIED CONTINUING CARE FACILITY FOR THEIR LIFE OR LIVES,

--(B) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE-

--(I) WILL FIRST-

--(I) RESIDE IN A SEPARATE, INDEPENDENT LIVING UNIT WITH ADDITIONAL FACILITIES OUTSIDE SUCH UNIT FOR THE PROVIDING OF MEALS AND OTHER PERSONAL CARE, AND

--(II) NOT REQUIRE LONG-TERM NURSING CARE, AND

--(II) THEN WILL BE PROVIDED LONG-TERM AND SKILLED NURSING CARE AS THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES, AND

--(C) NO ADDITIONAL SUBSTANTIAL PAYMENT IS REQUIRED IF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES INCREASED PERSONAL CARE SERVICES OR LONG-TERM AND SKILLED NURSING CARE.

(4) QUALIFIED CONTINUING CARE FACILITY. (A) IN GENERAL. FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED CONTINUING CARE FACILITY" MEANS 1 OR MORE FACILITIES-

--(I) WHICH ARE DESIGNED TO PROVIDE SERVICES UNDER CONTINUING CARE CONTRACTS, AND

--(II) SUBSTANTIALLY ALL OF THE RESIDENTS OF WHICH ARE COVERED BY CONTINUING CARE CONTRACTS.

(B) SUBSTANTIALLY ALL FACILITIES MUST BE OWNED OR OPERATED BY BORROWER. A FACILITY SHALL NOT BE TREATED AS A QUALIFIED CONTINUING CARE FACILITY UNLESS SUBSTANTIALLY ALL FACILITIES WHICH ARE USED TO PROVIDE SERVICES WHICH ARE REQUIRED TO BE PROVIDED UNDER A CONTINUING CARE CONTRACT ARE OWNED OR OPERATED BY THE BORROWER.

(C) NURSING HOMES EXCLUDED. THE TERM "QUALIFIED CONTINUING CARE FACILITY" SHALL NOT INCLUDE ANY FACILITY WHICH IS OF A TYPE WHICH IS TRADITIONALLY CONSIDERED A NURSING HOME.

(5) ADJUSTMENT OF LIMIT FOR INFLATION. (A) IN GENERAL. IN THE CASE OF ANY LOAN MADE DURING ANY CALENDAR YEAR AFTER 1986 TO WHICH PARAGRAPH (1) APPLIES, THE DOLLAR AMOUNT IN PARAGRAPH (2) SHALL BE INCREASED BY THE INFLATION ADJUSTMENT FOR SUCH CALENDAR YEAR. ANY INCREASE UNDER THE PRECEDING SENTENCE SHALL BE ROUNDED TO THE NEAREST MULTIPLE OF $100 (OR, IF SUCH INCREASE IS A MULTIPLE OF $50, SUCH INCREASE SHALL BE INCREASED TO THE NEAREST MULTIPLE OF $100).

(B) INFLATION ADJUSTMENT. FOR PURPOSES OF SUBPARAGRAPH (A), THE INFLATION ADJUSTMENT FOR ANY CALENDAR YEAR IS THE PERCENTAGE (IF ANY) BY WHICH-
--(I) THE CPI FOR THE PRECEDING CALENDAR YEAR EXCEEDS
--(II) THE CPI FOR CALENDAR YEAR 1985.
1. FOR PURPOSES OF THE PRECEDING SENTENCE, THE CPI FOR ANY CALENDAR YEAR IS THE AVERAGE OF THE CONSUMER PRICE INDEX AS OF THE CLOSE OF THE 12-MONTH PERIOD ENDING ON SEPTEMBER 30 OF SUCH CALENDAR YEAR.
(6) SUSPENSION OF APPLICATION. PARAGRAPH (1) SHALL NOT APPLY FOR ANY CALENDAR YEAR TO WHICH SUBSECTION (H) APPLIES.
(H) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES. (1) IN GENERAL. THIS SECTION SHALL NOT APPLY FOR ANY CALENDAR YEAR TO ANY BELOW-MARKET LOAN OWED BY A FACILITY WHICH ON THE LAST DAY OF SUCH YEAR IS A QUALIFIED CONTINUING CARE FACILITY, IF SUCH LOAN WAS MADE PURSUANT TO A CONTINUING CARE CONTRACT AND IF THE LENDER (OR THE LENDER'S SPOUSE) ATTAINS AGE 62 BEFORE THE CLOSE OF SUCH YEAR.
(2) CONTINUING CARE CONTRACT. FOR PURPOSES OF THIS SECTION, THE TERM "CONTINUING CARE CONTRACT" MEANS A WRITTEN CONTRACT BETWEEN AN INDIVIDUAL AND A QUALIFIED CONTINUING CARE FACILITY UNDER WHICH-
--(A) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE MAY USE A QUALIFIED CONTINUING CARE FACILITY FOR THEIR LIFE OR LIVES,
--(B) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE WILL BE PROVIDED WITH HOUSING, AS APPROPRIATE FOR THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE-
--(I) IN AN INDEPENDENT LIVING UNIT (WHICH HAS ADDITIONAL AVAILABLE FACILITIES OUTSIDE SUCH UNIT FOR THE PROVISION OF MEALS AND OTHER PERSONAL CARE), AND
--(II) IN AN ASSISTED LIVING FACILITY OR A NURSING FACILITY, AS IS AVAILABLE IN THE CONTINUING CARE FACILITY, AND
--(C) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE WILL BE PROVIDED ASSISTED LIVING OR NURSING CARE AS THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES, AND AS IS AVAILABLE IN THE CONTINUING CARE FACILITY.
--THE SECRETARY SHALL ISSUE GUIDANCE WHICH LIMITS SUCH TERM TO CONTRACTS WHICH PROVIDE ONLY FACILITIES, CARE, AND SERVICES DESCRIBED IN THIS PARAGRAPH.
(3) QUALIFIED CONTINUING CARE FACILITY. (A) IN GENERAL. FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED CONTINUING CARE FACILITY" MEANS 1 OR MORE FACILITIES-
--(I) WHICH ARE DESIGNED TO PROVIDE SERVICES UNDER CONTINUING CARE CONTRACTS,
--(II) WHICH INCLUDE AN INDEPENDENT LIVING UNIT, PLUS AN ASSISTED LIVING OR NURSING FACILITY, OR BOTH, AND
--(III) SUBSTANTIALLY ALL OF THE INDEPENDENT LIVING UNIT RESIDENTS OF WHICH ARE COVERED BY CONTINUING CARE CONTRACTS.
(B) NURSING HOMES EXCLUDED. THE TERM "QUALIFIED CONTINUING CARE FACILITY" SHALL NOT INCLUDE ANY FACILITY WHICH IS OF A TYPE WHICH IS TRADITIONALLY CONSIDERED A NURSING HOME.
(I) REGULATIONS. (1) IN GENERAL. THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES OF THIS SECTION, INCLUDING-
--(A) REGULATIONS PROVIDING THAT WHERE, BY REASON OF VARYING RATES OF INTEREST, CONDITIONAL INTEREST PAYMENTS, WAIVERS OF INTEREST, DISPOSITION OF THE LENDER'S OR BORROWER'S INTEREST IN THE LOAN, OR OTHER CIRCUMSTANCES, THE PROVISIONS OF THIS SECTION DO NOT CARRY OUT THE PURPOSES OF THIS SECTION, ADJUSTMENTS TO THE PROVISIONS OF THIS SECTION

WILL BE MADE TO THE EXTENT NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION,

--(B) REGULATIONS FOR THE PURPOSE OF ASSURING THAT THE POSITIONS OF THE BORROWER AND LENDER ARE CONSISTENT AS TO THE APPLICATION (OR NONAPPLICATION) OF THIS SECTION, AND

--(C) REGULATIONS EXEMPTING FROM THE APPLICATION OF THIS SECTION ANY CLASS OF TRANSACTIONS THE INTEREST ARRANGEMENTS OF WHICH HAVE NO SIGNIFICANT EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.

(2) ESTATE TAX COORDINATION. UNDER REGULATIONS PRESCRIBED BY THE SECRETARY, ANY LOAN WHICH IS MADE WITH DONATIVE INTENT AND WHICH IS A TERM LOAN SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF CHAPTER 11 IN A MANNER CONSISTENT WITH THE PROVISIONS OF SUBSECTION (B).

S 6166. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS. (A) 5-YEAR DEFERRAL; 10-YEAR INSTALLMENT PAYMENT.--

(1) IN GENERAL.--IF THE VALUE OF AN INTEREST IN A CLOSELY HELD BUSINESS WHICH IS INCLUDED IN DETERMINING THE GROSS ESTATE OF A DECEDENT WHO WAS (AT THE DATE OF HIS DEATH) A CITIZEN OR RESIDENT OF THE UNITED STATES EXCEEDS 35 PERCENT OF THE ADJUSTED GROSS ESTATE, THE EXECUTOR MAY ELECT TO PAY PART OR ALL OF THE TAX IMPOSED BY SECTION 2001 IN 2 OR MORE (BUT NOT EXCEEDING 10) EQUAL INSTALLMENTS.

(2) LIMITATION.--THE MAXIMUM AMOUNT OF TAX WHICH MAY BE PAID IN INSTALLMENTS UNDER THIS SUBSECTION SHALL BE AN AMOUNT WHICH BEARS THE SAME RATIO TO THE TAX IMPOSED BY SECTION 2001 (REDUCED BY THE CREDITS AGAINST SUCH TAX) AS--

(A) THE CLOSELY HELD BUSINESS AMOUNT, BEARS TO

(B) THE AMOUNT OF THE ADJUSTED GROSS ESTATE.

(3) DATE FOR PAYMENT OF INSTALLMENTS.--IF AN ELECTION IS MADE UNDER PARAGRAPH (1), THE FIRST INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE SELECTED BY THE EXECUTOR WHICH IS NOT MORE THAN 5 YEARS AFTER THE DATE PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX, AND EACH SUCCEEDING INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE WHICH IS 1 YEAR AFTER THE DATE PRESCRIBED BY THIS PARAGRAPH FOR PAYMENT OF THE PRECEDING INSTALLMENT.

(B) DEFINITIONS AND SPECIAL RULES.--

(1) INTEREST IN CLOSELY HELD BUSINESS.--FOR PURPOSES OF THIS SECTION, THE TERM "INTEREST IN A CLOSELY HELD BUSINESS" MEANS--

(A) AN INTEREST AS A PROPRIETOR IN A TRADE OR BUSINESS CARRIED ON AS A PROPRIETORSHIP;

(B) AN INTEREST AS A PARTNER IN A PARTNERSHIP CARRYING ON A TRADE OR BUSINESS, IF--

(I) 20 PERCENT OR MORE OF THE TOTAL CAPITAL INTEREST IN SUCH PARTNERSHIP IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

(II) SUCH PARTNERSHIP HAD 45 OR FEWER PARTNERS; OR

(C) STOCK IN A CORPORATION CARRYING ON A TRADE OR BUSINESS IF--

(I) 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK OF SUCH CORPORATION IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

(II) SUCH CORPORATION HAD 45 OR FEWER SHAREHOLDERS.

(2) RULES FOR APPLYING PARAGRAPH (1).--FOR PURPOSES OF PARAGRAPH (1)--

(A) TIME FOR TESTING.--DETERMINATIONS SHALL BE MADE AS OF THE TIME IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

(B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.--STOCK OR A PARTNERSHIP INTEREST WHICH--

(I) IS COMMUNITY PROPERTY OF A HUSBAND AND WIFE (OR THE INCOME FROM WHICH IS COMMUNITY INCOME) UNDER THE APPLICABLE COMMUNITY PROPERTY LAW OF A STATE, OR

(II) IS HELD BY A HUSBAND AND WIFE AS JOINT TENANTS, TENANTS BY THE ENTIRETY, OR TENANTS IN COMMON, SHALL BE TREATED AS OWNED BY ONE SHAREHOLDER OR ONE PARTNER, AS THE CASE MAY BE.

(C) INDIRECT OWNERSHIP.--PROPERTY OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR A CORPORATION, PARTNERSHIP, ESTATE, OR TRUST SHALL BE CONSIDERED AS BEING OWNED PROPORTIONATELY BY OR FOR ITS SHAREHOLDERS, PARTNERS, OR BENEFICIARIES. FOR PURPOSES OF THE PRECEDING SENTENCE, A PERSON SHALL BE TREATED AS A BENEFICIARY OF ANY TRUST ONLY IF SUCH PERSON HAS A PRESENT INTEREST IN THE TRUST.

(D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.--ALL STOCK AND ALL PARTNERSHIP INTERESTS HELD BY THE DECEDENT OR BY ANY MEMBER OF HIS FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) SHALL BE TREATED AS OWNED BY THE DECEDENT.

(3) FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.--FOR PURPOSES OF THE 35-PERCENT REQUIREMENT OF SUBSECTION (A)(1), AN INTEREST IN A CLOSELY HELD BUSINESS WHICH IS THE BUSINESS OF FARMING INCLUDES AN INTEREST IN RESIDENTIAL BUILDINGS AND RELATED IMPROVEMENTS ON THE FARM WHICH ARE OCCUPIED ON A REGULAR BASIS BY THE OWNER OR LESSEE OF THE FARM OR BY PERSONS EMPLOYED BY SUCH OWNER OR LESSEE FOR PURPOSES OF OPERATING OR MAINTAINING THE FARM.

(4) VALUE.--FOR PURPOSES OF THIS SECTION, VALUE SHALL BE VALUE DETERMINED FOR PURPOSES OF CHAPTER 11 (RELATING TO ESTATE TAX).

(5) CLOSELY HELD BUSINESS AMOUNT.--FOR PURPOSES OF THIS SECTION, THE TERM "CLOSELY HELD BUSINESS AMOUNT" MEANS THE VALUE OF THE INTEREST IN A CLOSELY HELD BUSINESS WHICH QUALIFIES UNDER SUBSECTION (A)(1).

(6) ADJUSTED GROSS ESTATE.--FOR PURPOSES OF THIS SECTION, THE TERM, "ADJUSTED GROSS ESTATE" MEANS THE VALUE OF THE GROSS ESTATE REDUCED BY THE SUM OF THE AMOUNTS ALLOWABLE AS A DEDUCTION UNDER SECTION 2053 OR 2054. SUCH SUM SHALL BE DETERMINED ON THE BASIS OF THE FACTS AND CIRCUMSTANCES IN EXISTENCE ON THE DATE (INCLUDING EXTENSIONS) FOR FILING THE RETURN OF TAX IMPOSED BY SECTION 2001 (OR, IF EARLIER, THE DATE ON WHICH SUCH RETURN IS FILED).

(7) PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.--

(A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARAGRAPH (AT SUCH TIME AND IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE), THEN--

(I) FOR PURPOSES OF PARAGRAPH (1)(B)(I) OR (1)(C)(I) (WHICHEVER IS APPROPRIATE) AND FOR PURPOSES OF SUBSECTION (C), ANY CAPITAL INTEREST IN A PARTNERSHIP AND ANY NON-READILY-TRADABLE STOCK WHICH (AFTER THE APPLICATION OF PARAGRAPH (2)) IS TREATED AS OWNED BY THE DECEDENT SHALL BE TREATED AS INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS ESTATE,

(II) THE EXECUTOR SHALL BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE PRESCRIBED BY SECTION 6151(A), AND

(III) FOR PURPOSES OF APPLYING SECTION 6601(J), THE 2-PERCENT PORTION (AS DEFINED IN SUCH SECTION) SHALL BE TREATED AS BEING ZERO.

(B) NON-READILY-TRADABLE STOCK DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "NON-READILY-TRADABLE STOCK" MEANS STOCK FOR WHICH, AT THE TIME OF THE DECEDENT'S DEATH, THERE WAS NO MARKET ON A STOCK EXCHANGE OR IN AN OVER-THE-COUNTER MARKET.

(8) STOCK IN HOLDING COMPANY TREATED AS BUSINESS COMPANY STOCK IN CERTAIN CASES.--

(A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARAGRAPH, THEN--

(I) HOLDING COMPANY STOCK TREATED AS BUSINESS COMPANY STOCK.--FOR PURPOSES OF THIS SECTION, THE PORTION OF THE STOCK OF ANY HOLDING COMPA-

NY WHICH REPRESENTS DIRECT OWNERSHIP (OR INDIRECT OWNERSHIP THROUGH 1 OR MORE OTHER HOLDING COMPANIES) BY SUCH COMPANY IN A BUSINESS COMPANY SHALL BE DEEMED TO BE STOCK IN SUCH BUSINESS COMPANY.

(II) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.--THE EXECUTOR SHALL BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE PRESCRIBED BY SECTION 6151(A).

(III) 2-PERCENT INTEREST RATE NOT TO APPLY.--FOR PURPOSES OF APPLYING SECTION 6601(J), THE 2-PERCENT PORTION (AS DEFINED IN SUCH SECTION) SHALL BE TREATED AS BEING ZERO.

(B) ALL STOCK MUST BE NON-READILY-TRADABLE STOCK.--

(I) IN GENERAL.--NO STOCK SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF APPLYING THIS PARAGRAPH UNLESS IT IS NON-READILY-TRADABLE STOCK

(WITHIN THE MEANING OF PARAGRAPH (7)(B)).

(II) SPECIAL APPLICATION WHERE ONLY HOLDING COMPANY STOCK IS NON-READILY-TRADABLE STOCK.--IF THE REQUIREMENTS OF CLAUSE (I) ARE NOT MET, BUT ALL OF THE STOCK OF EACH HOLDING COMPANY TAKEN INTO ACCOUNT IS NON-READILY-TRADABLE, THEN THIS PARAGRAPH SHALL APPLY, BUT SUBSECTION (A)(1) SHALL BE APPLIED BY SUBSTITUTING "5" FOR "10".

(C) APPLICATION OF VOTING STOCK REQUIREMENT OF PARAGRAPH (1)(C)(I).--FOR PURPOSES OF CLAUSE (I) OF PARAGRAPH (1)(C), THE DEEMED STOCK RESULTING FROM THE APPLICATION OF SUBPARAGRAPH (A) SHALL BE TREATED AS VOTING STOCK TO THE EXTENT THAT VOTING STOCK IN THE HOLDING COMPANY OWNS DIRECTLY (OR THROUGH THE VOTING STOCK OF 1 OR MORE OTHER HOLDING COMPANIES) VOTING STOCK IN THE BUSINESS COMPANY.

(D) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

(I) HOLDING COMPANY.--THE TERM "HOLDING COMPANY" MEANS ANY CORPORATION HOLDING STOCK IN ANOTHER CORPORATION.

(II) BUSINESS COMPANY.--THE TERM "BUSINESS COMPANY" MEANS ANY CORPORATION CARRYING ON A TRADE OR BUSINESS.

(9) DEFERRAL NOT AVAILABLE FOR PASSIVE ASSETS.--

(A) IN GENERAL.--FOR PURPOSES OF SUBSECTION (A)(1) AND DETERMINING THE CLOSELY HELD BUSINESS AMOUNT (BUT NOT FOR PURPOSES OF SUBSECTION (G)), THE VALUE OF ANY INTEREST IN A CLOSELY HELD BUSINESS SHALL NOT INCLUDE THE VALUE OF THAT PORTION OF SUCH INTEREST WHICH IS ATTRIBUTABLE TO PASSIVE ASSETS HELD BY THE BUSINESS.

(B) PASSIVE ASSET DEFINED.--FOR PURPOSES OF THIS PARAGRAPH--

(I) IN GENERAL.--THE TERM "PASSIVE ASSET" MEANS ANY ASSET OTHER THAN AN ASSET USED IN CARRYING ON A TRADE OR BUSINESS.

(II) STOCK TREATED AS PASSIVE ASSET.--THE TERM "PASSIVE ASSET" INCLUDES ANY STOCK IN ANOTHER CORPORATION UNLESS--

(I) SUCH STOCK IS TREATED AS HELD BY THE DECEDENT BY REASON OF AN ELECTION UNDER PARAGRAPH (8), AND

(II) SUCH STOCK QUALIFIED UNDER SUBSECTION (A)(1).

(III) EXCEPTION FOR ACTIVE CORPORATIONS.--IF--

(I) A CORPORATION OWNS 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK OF ANOTHER CORPORATION, OR SUCH OTHER CORPORATION HAS 45 OR FEWER SHAREHOLDERS, AND

(II) 80 PERCENT OR MORE OF THE VALUE OF THE ASSETS OF EACH SUCH CORPORATION IS ATTRIBUTABLE TO ASSETS USED IN CARRYING ON A TRADE OR BUSINESS, THEN SUCH CORPORATIONS SHALL BE TREATED AS 1 CORPORATION FOR PURPOSES OF CLAUSE (II). FOR PURPOSES OF APPLYING SUBCLAUSE (II) TO THE CORPORATION HOLDING THE STOCK OF THE OTHER CORPORATION, SUCH STOCK SHALL NOT BE TAKEN INTO ACCOUNT.

(10) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK IN AN ACTIVE TRADE OR BUSINESS COMPANY.--

(A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARAGRAPH, THEN--

(I) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK IN AN ACTIVE TRADE OR BUSINESS COMPANY.--FOR PURPOSES OF THIS SECTION, ANY ASSET USED IN A QUALIFYING LENDING AND FINANCE BUSINESS SHALL BE TREATED AS AN ASSET WHICH IS USED IN CARRYING ON A TRADE OR BUSINESS.

(II) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.--THE EXECUTOR SHALL BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE PRESCRIBED BY SECTION 6151(A).

(III) 5 EQUAL INSTALLMENTS ALLOWED.--FOR PURPOSES OF APPLYING SUBSECTION

(A)(1), "5" SHALL BE SUBSTITUTED FOR "10".

(B) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

(I) QUALIFYING LENDING AND FINANCE BUSINESS.--THE TERM "QUALIFYING LENDING AND FINANCE BUSINESS" MEANS A LENDING AND FINANCE BUSINESS, IF--

(I) BASED ON ALL THE FACTS AND CIRCUMSTANCES IMMEDIATELY BEFORE THE DATE OF THE DECEDENT'S DEATH, THERE WAS SUBSTANTIAL ACTIVITY WITH RESPECT TO THE LENDING AND FINANCE BUSINESS, OR

(II) DURING AT LEAST 3 OF THE 5 TAXABLE YEARS ENDING BEFORE THE DATE OF THE DECEDENT'S DEATH, SUCH BUSINESS HAD AT LEAST 1 FULL-TIME EMPLOYEE SUBSTANTIALLY ALL OF WHOSE SERVICES WERE THE ACTIVE MANAGEMENT OF SUCH BUSINESS, 10 FULL-TIME, NONOWNER EMPLOYEES SUBSTANTIALLY ALL OF WHOSE SERVICES WERE DIRECTLY RELATED TO SUCH BUSINESS, AND $5,000,000 IN GROSS RECEIPTS FROM ACTIVITIES DESCRIBED IN CLAUSE (II).

(II) LENDING AND FINANCE BUSINESS.--THE TERM "LENDING AND FINANCE BUSINESS" MEANS A TRADE OR BUSINESS OF--

(I) MAKING LOANS,

(II) PURCHASING OR DISCOUNTING ACCOUNTS RECEIVABLE, NOTES, OR INSTALLMENT OBLIGATIONS,

(III) ENGAGING IN RENTAL AND LEASING OF REAL AND TANGIBLE PERSONAL PROPERTY, INCLUDING ENTERING INTO LEASES AND PURCHASING, SERVICING, AND DISPOSING OF LEASES AND LEASED ASSETS,

(IV) RENDERING SERVICES OR MAKING FACILITIES AVAILABLE IN THE ORDINARY COURSE OF A LENDING OR FINANCE BUSINESS, AND

(V) RENDERING SERVICES OR MAKING FACILITIES AVAILABLE IN CONNECTION WITH ACTIVITIES DESCRIBED IN SUBCLAUSES (I) THROUGH (IV) CARRIED ON BY THE CORPORATION RENDERING SERVICES OR MAKING FACILITIES AVAILABLE, OR ANOTHER CORPORATION WHICH IS A MEMBER OF THE SAME AFFILIATED GROUP (AS DEFINED IN SECTION 1504 WITHOUT REGARD TO SECTION 1504(B)(3)).

(III) LIMITATION.--THE TERM "QUALIFYING LENDING AND FINANCE BUSINESS" SHALL NOT INCLUDE ANY INTEREST IN AN ENTITY, IF THE STOCK OR DEBT OF SUCH ENTITY OR A CONTROLLED GROUP (AS DEFINED IN SECTION 267(F)(1)) OF WHICH SUCH ENTITY WAS A MEMBER WAS READILY TRADABLE ON AN ESTABLISHED SECURITIES MARKET OR SECONDARY MARKET (AS DEFINED BY THE SECRETARY) AT ANY TIME WITHIN 3 YEARS BEFORE THE DATE OF THE DECEDENT'S DEATH.

(C) SPECIAL RULE FOR INTEREST IN 2 OR MORE CLOSELY HELD BUSINESSES.--FOR PURPOSES OF THIS SECTION, INTEREST IN 2 OR MORE CLOSELY HELD BUSINESSES, WITH RESPECT TO EACH OF WHICH THERE IS INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS ESTATE 20 PERCENT OR MORE OF THE TOTAL VALUE OF EACH SUCH BUSINESS, SHALL BE TREATED AS AN INTEREST IN A SINGLE CLOSELY HELD BUSINESS. FOR PURPOSES OF THE 20-PERCENT REQUIREMENT OF THE PRECEDING SENTENCE, AN INTEREST IN A CLOSELY HELD BUSINESS WHICH REPRESENTS THE SURVIVING SPOUSE'S INTEREST IN PROPERTY HELD BY THE DECEDENT AND THE SURVIVING SPOUSE AS COMMUNITY PROPERTY OR AS JOINT TENANTS, TENANTS BY THE ENTIRETY, OR TENANTS IN COMMON SHALL BE TREATED AS HAVING BEEN INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS ESTATE.

(D) ELECTION.--ANY ELECTION UNDER SUBSECTION (A) SHALL BE MADE NOT LATER THAN THE TIME PRESCRIBED BY SECTION 6075(A) FOR FILING THE RETURN OF TAX IMPOSED BY SECTION 2001 (INCLUDING EXTENSIONS THEREOF), AND SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. IF AN ELECTION UNDER SUBSECTION (A) IS MADE, THE PROVISIONS OF THIS SUBTITLE SHALL APPLY AS THOUGH THE SECRETARY WERE EXTENDING THE TIME FOR PAYMENT OF THE TAX.

(E) PRORATION OF DEFICIENCY TO INSTALLMENTS.--IF AN ELECTION IS MADE UNDER SUBSECTION (A) TO PAY ANY PART OF THE TAX IMPOSED BY SECTION 2001 IN INSTALLMENTS AND A DEFICIENCY HAS BEEN ASSESSED, THE DEFICIENCY SHALL (SUBJECT TO THE LIMITATION PROVIDED BY SUBSECTION (A)(2)) BE PRORATED TO THE INSTALLMENTS PAYABLE UNDER SUBSECTION (A). THE PART OF THE DEFICIENCY SO PRORATED TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS NOT ARRIVED SHALL BE COLLECTED AT THE SAME TIME AS, AND AS A PART OF, SUCH INSTALLMENT. THE PART OF THE DEFICIENCY SO PRORATED TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS ARRIVED SHALL BE PAID UPON NOTICE AND DEMAND FROM THE SECRETARY. THIS SUBSECTION SHALL NOT APPLY IF THE DEFICIENCY IS DUE TO NEGLIGENCE, TO INTENTIONAL DISREGARD OF RULES AND REGULATIONS, OR TO FRAUD WITH INTENT TO EVADE TAX.

(F) TIME FOR PAYMENT OF INTEREST.--IF THE TIME FOR PAYMENT OF ANY AMOUNT OF TAX HAS BEEN EXTENDED UNDER THIS SECTION--

(1) INTEREST FOR FIRST 5 YEARS.--INTEREST PAYABLE UNDER SECTION 6601 OF ANY UNPAID PORTION OF SUCH AMOUNT ATTRIBUTABLE TO THE FIRST 5 YEARS AFTER THE DATE PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX SHALL BE PAID ANNUALLY.

(2) INTEREST FOR PERIODS AFTER FIRST 5 YEARS.--INTEREST PAYABLE UNDER SECTION 6601 ON ANY UNPAID PORTION OF SUCH AMOUNT ATTRIBUTABLE TO ANY PERIOD AFTER THE 5-YEAR PERIOD REFERRED TO IN PARAGRAPH (1) SHALL BE PAID ANNUALLY AT THE SAME TIME AS, AND AS A PART OF, EACH INSTALLMENT PAYMENT OF THE TAX.

(3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.--IN THE CASE OF A DEFICIENCY TO WHICH SUBSECTION (E) APPLIES WHICH IS ASSESSED AFTER THE CLOSE OF THE 5-YEAR PERIOD REFERRED TO IN PARAGRAPH (1), INTEREST ATTRIBUTABLE TO SUCH 5-YEAR PERIOD, AND INTEREST ASSIGNED UNDER PARAGRAPH (2) TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS ARRIVED ON OR BEFORE THE DATE OF THE ASSESSMENT OF THE DEFICIENCY, SHALL BE PAID UPON NOTICE AND DEMAND FROM THE SECRETARY.

(4) SELECTION OF SHORTER PERIOD.--IF THE EXECUTOR HAS SELECTED A PERIOD SHORTER THAN 5 YEARS UNDER SUBSECTION (A)(3), SUCH SHORTER PERIOD SHALL BE SUBSTITUTED FOR 5 YEARS IN PARAGRAPHS (1), (2), AND (3) OF THIS SUBSECTION.

(G) ACCELERATION OF PAYMENT.--

(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.--

(A) IF--

(I)(I) ANY PORTION OF AN INTEREST IN A CLOSELY HELD BUSINESS WHICH QUALIFIES UNDER SUBSECTION (A)(1) IS DISTRIBUTED, SOLD, EXCHANGED, OR OTHERWISE DISPOSED OF, OR

(II) MONEY AND OTHER PROPERTY ATTRIBUTABLE TO SUCH AN INTEREST IS WITHDRAWN FROM SUCH TRADE OR BUSINESS, AND

(II) THE AGGREGATE OF SUCH DISTRIBUTIONS, SALES, EXCHANGES, OR OTHER DISPOSITIONS AND WITHDRAWALS EQUALS OR EXCEEDS 50 PERCENT OF THE VALUE OF SUCH INTEREST, THEN THE EXTENSION OF TIME FOR PAYMENT OF TAX PROVIDED IN SUBSECTION (A) SHALL CEASE TO APPLY, AND THE UNPAID PORTION OF THE TAX PAYABLE IN INSTALLMENTS SHALL BE PAID UPON NOTICE AND DEMAND FROM THE SECRETARY.

(B) IN THE CASE OF A DISTRIBUTION IN REDEMPTION OF STOCK TO WHICH SECTION 303 (OR SO MUCH OF SECTION 304 AS RELATES TO SECTION 303) APPLIES--

(I) THE REDEMPTION OF SUCH STOCK, AND THE WITHDRAWAL OF MONEY AND OTHER PROPERTY DISTRIBUTED IN SUCH REDEMPTION, SHALL NOT BE TREATED AS A DISTRIBUTION OR WITHDRAWAL FOR PURPOSES OF SUBPARAGRAPH (A), AND

(II) FOR PURPOSES OF SUBPARAGRAPH (A), THE VALUE OF THE INTEREST IN THE CLOSELY HELD BUSINESS SHALL BE CONSIDERED TO BE SUCH VALUE REDUCED BY THE VALUE OF THE STOCK REDEEMED.

THIS SUBPARAGRAPH SHALL APPLY ONLY IF, ON OR BEFORE THE DATE PRESCRIBED BY SUBSECTION (A)(3) FOR THE PAYMENT OF THE FIRST INSTALLMENT WHICH BECOMES DUE AFTER THE DATE OF THE DISTRIBUTION (OR, IF EARLIER, ON OR BEFORE THE DAY WHICH IS 1 YEAR AFTER THE DATE OF THE DISTRIBUTION), THERE IS PAID AN AMOUNT OF THE TAX IMPOSED BY SECTION 2001 NOT LESS THAN THE AMOUNT OF MONEY AND OTHER PROPERTY DISTRIBUTED.

(C) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO AN EXCHANGE OF STOCK PURSUANT TO A PLAN OF REORGANIZATION DESCRIBED IN SUBPARAGRAPH (D), (E), OR (F) OF SECTION 368(A)(1) NOR TO AN EXCHANGE TO WHICH SECTION 355 (OR SO MUCH OF SECTION 356 AS RELATES TO SECTION 355) APPLIES; BUT ANY STOCK RECEIVED IN SUCH AN EXCHANGE SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A)(I) AS AN INTEREST QUALIFYING UNDER SUBSECTION (A)(1).

(D) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO A TRANSFER OF PROPERTY OF THE DECEDENT TO A PERSON ENTITLED BY REASON OF THE DECEDENT'S DEATH TO RECEIVE SUCH PROPERTY UNDER THE DECEDENT'S WILL, THE APPLICABLE LAW OF DESCENT AND DISTRIBUTION, OR A TRUST CREATED BY THE DECEDENT. A SIMILAR RULE SHALL APPLY IN THE CASE OF A SERIES OF SUBSEQUENT TRANSFERS OF THE PROPERTY BY REASON OF DEATH SO LONG AS EACH TRANSFER IS TO A MEMBER OF THE FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) OF THE TRANSFEROR IN SUCH TRANSFER.

(E) CHANGES IN INTEREST IN HOLDING COMPANY.--IF ANY STOCK IN A HOLDING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF SUBSECTION (B)(8)(A)--

(I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN SUCH HOLDING COMPANY WHICH WAS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

(II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH HOLDING COMPANY ATTRIBUTABLE TO ANY INTEREST INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT,

SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

(F) CHANGES IN INTEREST IN BUSINESS COMPANY.--IF ANY STOCK IN A HOLDING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF SUBSECTION (B)(8)(A)--

(I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN THE BUSINESS COMPANY BY SUCH HOLDING COMPANY, OR

(II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH BUSINESS COMPANY ATTRIBUTABLE TO SUCH STOCK BY SUCH HOLDING COMPANY OWNING SUCH STOCK,

SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

(2) UNDISTRIBUTED INCOME OF ESTATE.--

(A) IF AN ELECTION IS MADE UNDER THIS SECTION AND THE ESTATE HAS UNDISTRIBUTED NET INCOME FOR ANY TAXABLE YEAR ENDING ON OR AFTER THE DUE DATE FOR THE FIRST INSTALLMENT, THE EXECUTOR SHALL, ON OR BEFORE THE

DATE PRESCRIBED BY LAW FOR FILING THE INCOME TAX RETURN FOR SUCH TAXABLE YEAR (INCLUDING EXTENSIONS THEREOF), PAY AN AMOUNT EQUAL TO SUCH UNDISTRIBUTED NET INCOME IN LIQUIDATION OF THE UNPAID PORTION OF THE TAX PAYABLE IN INSTALLMENTS.

(B) FOR PURPOSES OF SUBPARAGRAPH (A), THE UNDISTRIBUTED NET INCOME OF THE ESTATE FOR ANY TAXABLE YEAR IS THE AMOUNT BY WHICH THE DISTRIBUTABLE NET INCOME OF THE ESTATE FOR SUCH TAXABLE YEAR (AS DEFINED IN SECTION 643) EXCEEDS THE SUM OF--

(I) THE AMOUNTS FOR SUCH TAXABLE YEAR SPECIFIED IN PARAGRAPHS (1) AND (2) OF SECTION 661(A) (RELATING TO DEDUCTIONS FOR DISTRIBUTIONS, ETC.);

(II) THE AMOUNT OF TAX IMPOSED FOR THE TAXABLE YEAR ON THE ESTATE UNDER CHAPTER 1; AND

(III) THE AMOUNT OF THE TAX IMPOSED BY SECTION 2001 (INCLUDING INTEREST) PAID BY THE EXECUTOR DURING THE TAXABLE YEAR (OTHER THAN ANY AMOUNT PAID PURSUANT TO THIS PARAGRAPH).

(C) FOR PURPOSES OF THIS PARAGRAPH, IF ANY STOCK IN A CORPORATION IS TREATED AS STOCK IN ANOTHER CORPORATION BY REASON OF SUBSECTION (B)(8)(A), ANY DIVIDENDS PAID BY SUCH OTHER CORPORATION TO THE CORPORATION SHALL BE TREATED AS PAID TO THE ESTATE OF THE DECEDENT TO THE EXTENT ATTRIBUTABLE TO THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

(3) FAILURE TO MAKE PAYMENT OF PRINCIPAL OR INTEREST.--

(A) IN GENERAL.--EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), IF ANY PAYMENT OF PRINCIPAL OR INTEREST UNDER THIS SECTION IS NOT PAID ON OR BEFORE THE DATE FIXED FOR ITS PAYMENT BY THIS SECTION (INCLUDING ANY EXTENSION OF TIME), THE UNPAID PORTION OF THE TAX PAYABLE IN INSTALLMENTS SHALL BE PAID UPON NOTICE AND DEMAND FROM THE SECRETARY.

(B) PAYMENT WITHIN 6 MONTHS.--IF ANY PAYMENT OF PRINCIPAL OR INTEREST UNDER THIS SECTION IS NOT PAID ON OR BEFORE THE DATE DETERMINED UNDER SUBPARAGRAPH (A) BUT IS PAID WITHIN 6 MONTHS OF SUCH DATE--

(I) THE PROVISIONS OF SUBPARAGRAPH (A) SHALL NOT APPLY WITH RESPECT TO SUCH PAYMENT,

(II) THE PROVISIONS OF SECTION 6601(J) SHALL NOT APPLY WITH RESPECT TO THE DETERMINATION OF INTEREST ON SUCH PAYMENT, AND

(III) THERE IS IMPOSED A PENALTY IN AN AMOUNT EQUAL TO THE PRODUCT OF--

(I) 5 PERCENT OF THE AMOUNT OF SUCH PAYMENT, MULTIPLIED BY

(II) THE NUMBER OF MONTHS (OR FRACTIONS THEREOF) AFTER SUCH DATE AND BEFORE PAYMENT IS MADE. THE PENALTY IMPOSED UNDER CLAUSE (III) SHALL BE TREATED IN THE SAME MANNER AS A PENALTY IMPOSED UNDER SUBCHAPTER B OF CHAPTER 68.

(H) ELECTION IN CASE OF CERTAIN DEFICIENCIES.--

(1) IN GENERAL.--IF--

(A) A DEFICIENCY IN THE TAX IMPOSED BY SECTION 2001 IS ASSESSED,

(B) THE ESTATE QUALIFIES UNDER SUBSECTION (A)(1), AND

(C) THE EXECUTOR HAS NOT MADE AN ELECTION UNDER SUBSECTION (A), THE EXECUTOR MAY ELECT TO PAY THE DEFICIENCY IN INSTALLMENTS. THIS SUBSECTION SHALL NOT APPLY IF THE DEFICIENCY IS DUE TO NEGLIGENCE, TO INTENTIONAL DISREGARD OF RULES AND REGULATIONS, OR TO FRAUD WITH INTENT TO EVADE TAX.

(2) TIME OF ELECTION.--AN ELECTION UNDER THIS SUBSECTION SHALL BE MADE NOT LATER THAN 60 DAYS AFTER ISSUANCE OF NOTICE AND DEMAND BY THE SECRETARY FOR THE PAYMENT OF THE DEFICIENCY, AND SHALL BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.

(3) EFFECT OF ELECTION ON PAYMENT.--IF AN ELECTION IS MADE UNDER THIS SUBSECTION, THE DEFICIENCY SHALL (SUBJECT TO THE LIMITATION PROVIDED BY SUBSECTION (A)(2)) BE PRORATED TO THE INSTALLMENTS WHICH WOULD HAVE BEEN

DUE IF AN ELECTION HAD BEEN TIMELY MADE UNDER SUBSECTION (A) AT THE TIME THE ESTATE TAX RETURN WAS FILED. THE PART OF THE DEFICIENCY SO PRORATED TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH WOULD HAVE ARRIVED SHALL BE PAID AT THE TIME OF THE MAKING OF THE ELECTION UNDER THIS SUBSECTION. THE PORTION OF THE DEFICIENCY SO PRORATED TO INSTALLMENTS THE DATE FOR PAYMENT OF WHICH WOULD NOT HAVE SO ARRIVED SHALL BE PAID AT THE TIME SUCH INSTALLMENTS WOULD HAVE BEEN DUE IF SUCH AN ELECTION HAD BEEN MADE.

(I) SPECIAL RULE FOR CERTAIN DIRECT SKIPS.--TO THE EXTENT THAT AN INTEREST IN A CLOSELY HELD BUSINESS IS THE SUBJECT OF A DIRECT SKIP (WITHIN THE MEANING OF SECTION 2612(C)) OCCURRING AT THE SAME TIME AS AND AS A RESULT OF THE DECEDENT'S DEATH, THEN FOR PURPOSES OF THIS SECTION ANY TAX IMPOSED BY SECTION 2601 ON THE TRANSFER OF SUCH INTEREST SHALL BE TREATED AS IF IT WERE ADDITIONAL TAX IMPOSED BY SECTION 2001.

(J) REGULATIONS.--THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS MAY BE NECESSARY TO THE APPLICATION OF THIS SECTION.

(K) CROSS REFERENCES.--

(1) SECURITY.-- FOR AUTHORITY OF THE SECRETARY TO REQUIRE SECURITY IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6165.

(2) LIEN.--FOR SPECIAL LIEN (IN LIEU OF BOND) IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6324A.

(3) PERIOD OF LIMITATION.--FOR EXTENSION OF THE PERIOD OF LIMITATION IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6503(D).

(4) INTEREST.--FOR PROVISIONS RELATING TO INTEREST ON TAX PAYABLE IN INSTALLMENTS UNDER THIS SECTION, SEE SUBSECTION (J) OF SECTION 6601.

(5) TRANSFERS WITHIN 3 YEARS OF DEATH.--FOR SPECIAL RULE FOR QUALIFYING AN ESTATE UNDER THIS SECTION WHERE PROPERTY HAS BEEN TRANSFERRED WITHIN 3 YEARS OF DECEDENT'S DEATH, SEE SECTION 2035(C)(2).

S 11. This act shall take effect April 1, 2014 and shall apply to estates of decedents dying on and after that date; provided, however, that the amendments to subsection (c) of section 951 of the tax law made by section one of this act shall not affect the repeal of such subsection and shall be deemed repealed therewith.

PART Y

Section 1. Article 19 of the tax law is REPEALED.

S 2. Section 1820 of the tax law is REPEALED.

S 3. 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 revenue 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] ARTICLE, (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] ARTICLE, (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 4. Section 29 of chapter 912 of the laws of 1920 relating to the regulation of boxing, sparring and wrestling matches, as amended by chapter 833 of the laws of 1987, the section heading and subdivision 1 as amended by chapter 437 of the laws of 2002, is amended to read as follows:

S 29. Notice of contest or exhibition[; collection of tax]. 1. Every individual, corporation, association or club holding any professional or amateur boxing, sparring or professional wrestling match or exhibition, for which an admission fee is charged or received, shall notify the athletic commission ten days in advance of the holding of such contest. All tickets of admission to any such boxing, sparring or professional wrestling match or exhibition shall be procured from a printer duly authorized by the state athletic commission to print such tickets and shall bear clearly upon the face thereof the purchase price and location of same. Any individual, corporation, association or club failing to fully comply with this section shall be subject to a penalty of fifty dollars to be collected by and paid to the department of state. Any individual, corporation, association or club is prohibited from operating any shows or exhibitions until all penalties due pursuant to this section [and taxes, interest and penalties due pursuant to article nineteen of the tax law] have been paid.

2. [Pursuant to direction by the commissioner of taxation and finance, employees or officers of the athletic commission shall act as agents of the commissioner of taxation and finance to collect the tax imposed by article nineteen of the tax law.] The athletic commission shall provide the commissioner of taxation and finance with such information and technical assistance as may be necessary for the proper administration of [such tax] STATE AND LOCAL SALES TAXES IMPOSED ON CHARGES FOR ADMISSION TO A PLACE OF AMUSEMENT WHERE ANY SUCH MATCH OR EXHIBITION WILL BE HELD.

S 5. Section 30 of chapter 912 of the laws of 1920 relating to the regulation of boxing, sparring and wrestling matches, as amended by chapter 833 of the laws of 1987, is amended to read as follows:

S 30. Disposition of receipts. All receipts of the commission shall be paid into the state treasury. [Provided, however, that receipts from the tax imposed by article nineteen of the tax law shall be deposited as provided by section one hundred seventy-one-a of the tax law.]

S 6. Notwithstanding the repeal of article 19 and section 1820 of the tax law by this act, all provisions of such article 19 and section 1820,

in respect to the imposition, exemption, assessment, payment, payment over, determination, collection, and credit or refund of tax imposed thereunder, the filing of forms and returns, the preservation of records for the purposes of such tax, the secrecy of returns, the disposition of revenues, and the civil and criminal penalties applicable to the violation of the provisions of such article 19, shall continue in full force and effect with respect to all such tax accrued up to September 1, 2014; all actions and proceedings, civil or criminal, commenced or authorized to be commenced under or by virtue of any provision of such article 19 so repealed, and pending or able to be commenced prior to the effective date of this act, may be commenced, prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

S 7. This act shall take effect September 1, 2014 and the state and local sales taxes arising on the date this act shall have taken effect shall apply to any admission to or the use of facilities of a place of amusement occurring on or after that date, whether or not the admission charge has been paid prior to such date, unless the tickets were actually sold and delivered prior to such date to a person entering such place of amusement on or after such date.

PART Z

Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subparagraph, when a vendor track, is located in Sullivan county and within sixty miles from any gaming facility in a contiguous state such vendor fee shall, for a period of [six] SEVEN years commencing April first, two thousand eight, be at a rate of forty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, after which time such rate shall be as for all tracks in clause (C) of this subparagraph.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

PART AA

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year

payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The [board] COMMISSION may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the [board] COMMISSION. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [fourteen] FIFTEEN; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the [board] COMMISSION to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [fourteen] FIFTEEN; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

(iii) Of the sums retained by a receiving track located in Westchester county on races received from a franchised corporation, for the period commencing January first, two thousand eight and continuing through June thirtieth, two thousand [fourteen] FIFTEEN, the amount used exclusively for purses to be awarded at races conducted by such receiving track shall be computed as follows: of the sums so retained, two and one-half percent of the total pools. Such amount shall be increased or decreased in the amount of fifty percent of the difference in total commissions determined by comparing the total commissions available after July twenty-first, nineteen hundred ninety-five to the total commissions that

would have been available to such track prior to July twenty-first, nineteen hundred ninety-five.

S 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [fourteen] FIFTEEN and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [fourteen] FIFTEEN. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that have entered into a written agreement with such facility's representative horsemen's organization, as approved by the [board] COMMISSION), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

1. The provisions of this section shall govern the simulcasting of races conducted at harness tracks located in another state or country during the period July first, nineteen hundred ninety-four through June thirtieth, two thousand [fourteen] FIFTEEN. This section shall supersede all inconsistent provisions of this chapter.

S 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [fourteen] FIFTEEN. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the [board] COMMISSION, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

S 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

Notwithstanding any other provision of this chapter, for the period July twenty-fifth, two thousand one through September eighth, two thousand [thirteen] FOURTEEN, when a franchised corporation is conducting a race meeting within the state at Saratoga Race Course, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that has entered into a written agreement with such facility's representative horsemen's organization as approved by the [board] COMMISSION), one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state, provided that such facility shall accept wagers on races run at all in-state thoroughbred tracks which are conducting racing programs subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article.

S 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

S 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [2014] 2015; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

S 8. Section 54 of chapter 346 of the laws of 1990, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, as amended by section 8 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

S 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [2014] 2015; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

S 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part U of chapter 59 of the laws of 2013, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one per centum of the total deposits in pools resulting

from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the [racing and wagering board] GAMING COMMISSION. Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [fourteen] FIFTEEN, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [fourteen] FIFTEEN, such payment shall be seven-tenths of one per centum of such pools.

S 10. This act shall take effect immediately.

PART BB

Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by chapters 174 and 175 of the laws of 2013, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligi-

ble for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall be no vendor's capital awards. Except for tracks having less than one thousand one hundred video gaming machines, and except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand [fourteen] FIFTEEN. Any amount attributable to a capital expenditure approved prior to April first, two thousand [fourteen] FIFTEEN and completed before April first, two thousand [sixteen] SEVENTEEN; or approved prior to April first, two thousand [eighteen] NINETEEN and completed before April first, two thousand [twenty] TWENTY-ONE for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York, shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand [fourteen] FIFTEEN and completed prior to April first, two thousand [sixteen] SEVENTEEN, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand [fourteen] FIFTEEN, the vendor shall continue to receive the capital award after April first, two thousand [fourteen] FIFTEEN until such approved capital expenditures are paid to the vendor track subject to any required co-investment. In no event shall any vendor track that receives a vendor fee pursuant to clause (F) or (G) of this subparagraph be eligible for a vendor's capital award under this section. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to the full depreciation of the capital improvement in accordance with generally accepted accounting principles, shall reimburse the state in amounts equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand [fourteen] FIFTEEN shall be deposited into the state lottery fund for education aid; and

S 2. This act shall take effect immediately.

PART CC

Section 1. Article 12 of the tax law is REPEALED.

S 2. Subdivision fourth of section 171 of the tax law is REPEALED.

S 3. Subparagraph (iii) of paragraph (b) of subdivision 1 of section 173-a of the tax law is REPEALED.

S 4. Section 176 of the tax law, as amended by chapter 267 of the laws of 1987, is amended to read as follows:

S 176. Transfer of the powers and duties of the comptroller in relation to the assessment or collection of certain taxes. On and after July first, nineteen hundred twenty-one, all the powers and duties now conferred or imposed upon the state comptroller in relation to the taxation of corporations under articles nine and nine-A of this chapter, in relation to the taxation of transfers of property, under article ten of this chapter, [in relation to the taxation of transfers of stock, under article twelve of this chapter,] and in relation to taxation upon and with respect to personal income, under article sixteen of this chapter (as such article was in effect on December thirtieth, nineteen hundred sixty), shall be transferred to and thereafter shall be exercised and performed by the commissioner, except as powers and duties under any such article are expressly conferred upon or continued in the state comptroller by acts of the legislature of nineteen hundred twenty-one, enacted subsequent to chapter ninety of the laws of nineteen hundred twenty-one.

S 5. Subparagraph 5 of paragraph (a) and subparagraph 4-a of paragraph (b) of subdivision 9 of section 208 of the tax law, subparagraph 5 of paragraph (a) as amended by chapter 61 of the laws of 1989, clause (i) of subparagraph 5 as amended by section 2 of part C of chapter 25 of the laws of 2009, and subparagraph 4-a of paragraph (b) of subdivision 9 of section 208 of the tax law, as amended by chapter 760 of the laws of 1992, are amended to read as follows:

(5) (i) any refund or credit of a tax imposed under this article, article twenty-three, or article thirty-two of this chapter, for which tax no exclusion or deduction was allowed in determining the taxpayer's entire net income under this article, article twenty-three, or article thirty-two of this chapter for any prior year, OR (ii) [a refund or credit of general corporation tax allowed by subdivision eleven of section 11-604 of the administrative code of the city of New York, or (iii)] any refund or credit of a tax imposed under sections one hundred eighty-three, one hundred eighty-three-a, one hundred eighty-four or one hundred eighty-four-a of this chapter, and

(4-a)(A) [the entire amount allowable as an exclusion or deduction for stock transfer taxes imposed by article twelve of this chapter in determining the entire taxable income which the taxpayer is required to report to the United States treasury department but only to the extent that such taxes are incurred and paid in market making transactions, (B)] in those instances where a credit for the special additional mortgage recording tax credit is allowed under paragraph (a) of subdivision seventeen of section two hundred ten of this article, the amount allowed as an exclusion or deduction for the special additional mortgage recording tax imposed by subdivision one-a of section two hundred fifty-three of this chapter in determining the entire taxable income which the taxpayer is required to report to the United States treasury department, and [(C)] (B) unless the credit allowed pursuant to subdivision seventeen of section two hundred ten of this article is reflected in the computation of the gain or loss so as to result in an increase in such gain or decrease of such loss, for federal income tax purposes, from the sale or other disposition of the property with respect to which the special additional mortgage recording tax imposed pursuant to subdivi-

sion one-a of section two hundred fifty-three of this chapter was paid, the amount of the special additional mortgage recording tax imposed by subdivision one-a of section two hundred fifty-three of this chapter which was paid and which is reflected in the computation of the basis of the property so as to result in a decrease in such gain or increase in such loss for federal income tax purposes from the sale or other disposition of the property with respect to which such tax was paid.

S 6. Subdivision 1 of section 472 of the tax law, as amended by chapter 629 of the laws of 1996, and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

1. The commissioner shall prescribe, prepare and furnish stamps of such denominations and quantities as may be necessary for the payment of the tax on cigarettes imposed by this article, and may from time to time and as often as he deems advisable provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design[, in the manner and with the effect provided in section two hundred seventy-four of this chapter]. THE COMMISSIONER MAY MAKE, ENTER INTO AND EXECUTE FOR AND IN BEHALF OF THE STATE SUCH CONTRACT OR CONTRACTS FOR DIES, PLATES AND PRINTING NECESSARY FOR THE MANUFACTURE OF THE STAMPS PROVIDED FOR BY THIS ARTICLE, AND HIRE STAFF AND PROVIDE SUCH STATIONARY TOGETHER WITH SUCH BOOKS AND BLANKS AS IN HIS OR HER DISCRETION MAY BE NECESSARY FOR PUTTING INTO OPERATION THE PROVISIONS OF THIS ARTICLE; THE COMMISSIONER SHALL BE THE CUSTODIAN OF ALL STAMPS, DIES, PLATES OR OTHER MATERIAL OR THING FURNISHED AND USED IN THE MANUFACTURE OF SUCH STATE TAX STAMPS, AND ALL EXPENSES INCURRED UNDER THE COMMISSIONER'S DIRECTION IN CARRYING OUT THE PROVISIONS OF THIS ARTICLE SHALL BE PAID TO THE COMMISSIONER BY THE STATE TREASURER FROM ANY MONEYS APPROPRIATED FOR SUCH PURPOSE. The commissioner shall make provisions for the sale of such stamps at such places and at such times as he may deem necessary and may license agents for such purpose. The commissioner may license dealers in cigarettes, who maintain separate warehousing facilities for the purpose of receiving and distributing cigarettes and conducting their business, who have received commitments from at least two cigarette manufacturers whose aggregate market share is at least forty percent of the New York state cigarette market, and importers, exporters and manufacturers of cigarettes, and other persons within or without the state as agents to buy or affix stamps to be used in paying the tax herein imposed, but an agent shall at all times have the right to appoint the person in his employ who is to affix the stamps to any cigarettes under the agent's control. The fee for filing such application for an agent's license shall be one thousand five hundred dollars, unless such fee has been paid during the preceding twelve months, in which case, the fee for a new license shall be one thousand dollars. All of the provisions of section four hundred eighty relating to wholesale dealers' licenses, including the procedure for suspension, revocation, refusal to license and for hearings, except for paragraphs (c) and (g) of subdivision one of such section, shall be applicable to agents' licenses applied for or granted pursuant to this section, as if such provisions had been set forth in full in this subdivision and had expressly referred to the applicant for, or the holder of, an agent's license. Whenever the commissioner shall sell and deliver to any such agent any such stamps, such agent shall be entitled to receive as compensation for his services and expenses as such agent in selling or affixing such stamps, and to retain out of the moneys to be paid by him for such stamps, a commission on the par value thereof. The commissioner is hereby authorized to prescribe a schedule of commissions, not exceed-

ing five per centum, allowable to such agent for buying and affixing such stamps. Such schedule shall be uniform with respect to the different types of stamps used, and may be on a graduated scale with respect to the number of stamps purchased. The commissioner may, in his discretion, permit an agent to pay for such stamps within thirty days after the date of purchase and may require any such agent to file with the department of taxation and finance a bond issued by a surety company approved by the superintendent of financial services as to solvency and responsibility and authorized to transact business in the state or other security acceptable to the commissioner, in such amount as the commissioner may fix, to secure the payment of any sums due from such agent pursuant to this article. If securities are deposited as security under this subdivision, such securities shall be kept in the custody of the commissioner and may be sold by the commissioner if it becomes necessary so to do in order to recover any sums due from such agent pursuant to this article, but no such sale shall be had until after such agent shall have had opportunity to litigate the validity of any tax if it elects so to do. Upon any such sale, the surplus, if any, above the sums due under this article shall be returned to such agent.

S 7. Section 463 of the banking law, as added by chapter 608 of the laws of 1996, is amended to read as follows:

S 463. [Exemptions and individual] INDIVIDUAL liability of shareholders. [The transfer of the shares of any credit union shall not be taxable under the provisions of article twelve of the tax law.]

The shareholders of a credit union shall not be individually liable for the payment of the credit union's debts.

S 8. Subdivision 6 of section 3012 of the public authorities law, as amended by chapter 868 of the laws of 1975, is amended to read as follows:

6. Anything in this article ten to the contrary notwithstanding, any agreement or agreements with the holders of notes or bonds issued by any municipal assistance corporation created by or pursuant to any title of this article shall contain a clause stating in substance that any provision in this article or in any such agreement or agreements which relate to taxes imposed under [article twelve or] sections eleven hundred seven or eleven hundred eight of the tax law of the state or to the funds created by sections ninety-two-b, ninety-two-d or ninety-two-e of the state finance law shall be deemed executory only to the extent of the moneys available to the state in such funds from time to time and no liability on account thereof shall be incurred by the state beyond the moneys available in such funds.

S 9. Section 92-b of the state finance law is REPEALED.

S 10. Section 92-i of the state finance law is REPEALED.

S 11. Subparagraph 6 of paragraph j of subdivision 1 of section 54 of the state finance law is REPEALED.

S 12. Subdivision (c) of section 11-503 of the administrative code of the city of New York is REPEALED.

S 13. Paragraph 4 of subdivision (b) of section 11-506 of the administrative code of the city of New York is REPEALED.

S 14. Subdivision (g) of section 11-512 of the administrative code of the city of New York is REPEALED.

S 15. Subdivision (g) of section 11-514 of the administrative code of the city of New York is REPEALED.

S 16. Clause (A) of subparagraph 4-a of paragraph (b) of subdivision 8 of section 11-602 of the administrative code of the city of New York is REPEALED.

S 17. Subdivision 11 of section 11-604 of the administrative code of the city of New York is REPEALED.

S 18. Paragraph (a) of subdivision 12 of section 11-604 of the administrative code of the city of New York is amended to read as follows:

(a) [In addition to the credit allowed by subdivision eleven of this section, a] A taxpayer shall be allowed a credit against the tax imposed by this subchapter to be credited or refunded in the manner hereinafter provided in this section. The amount of such credit shall be the excess of (A) the amount of sales and compensating use taxes imposed by section eleven hundred seven of the tax law during the taxpayer's taxable year which became legally due on or after and was paid on or after July first, nineteen hundred seventy-seven, less any credits or refunds of such taxes, with respect to the purchase or use by the taxpayer of machinery or equipment for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam for sale, by manufacturing, processing, generating, assembling, refining, mining or extracting, or telephone central office equipment or station apparatus or comparable telegraph equipment for use directly and predominantly in receiving at destination or initiating and switching telephone or telegraph communication, but not including parts with a useful life of one year or less or tools or supplies used in connection with such machinery, equipment or apparatus over (B) the amount of any credit for such sales and compensating use taxes allowed or allowable against the taxes imposed by subchapter two of chapter eleven of this title for any periods embraced within the taxable year of the taxpayer under this subchapter.

S 19. Subdivision 3 of section 11-606 of the administrative code of the city of New York is REPEALED.

S 20. Subdivision 11 of section 11-608 of the administrative code of the city of New York is REPEALED.

S 21. (a) Notwithstanding the repeal of article 12 of the tax law by this act, all provisions of such article 12 and any regulations adopted thereunder, in respect to the assessment, payment, payment over, determination, collection and refund of tax imposed thereunder, the rebates provided for in section 280-a of the tax law, the filing of forms and returns and the preservation of records for the purposes of the tax imposed by article 12, the secrecy of returns, the disposition of revenues, and the civil and criminal penalties applicable to the violation of the provisions of such article 12, shall continue in full force and effect with respect to all such tax accrued up to the date this act takes effect; all actions and proceedings, civil or criminal, commenced or authorized to be commenced under or by virtue of any provision of such article 12 so repealed, and pending or able to be commenced prior to the taking effect of such repeal, may be commenced, prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

(b) Notwithstanding any provision of law in article 12 of the tax law or subdivision (a) of this section to the contrary, any application for a rebate of tax paid under such article 12 must be filed within two years from the effective date of this act.

S 22. This act shall take effect June 1, 2014; provided that section ten of this act shall take effect January 1, 2016.

PART DD

Section 1. Subsection (b) of section 804 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(b) Individuals with net earnings from self-employment. Individuals with earnings from self-employment must make estimated tax payments of the tax imposed by this article for the taxable year on the same dates specified in [subsection (a) of this section for the quarterly payments of the tax imposed on the payroll expense of employers] PARAGRAPH ONE OF SUBSECTION (C) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER. In addition, these self-employed individuals must file a return for the taxable year by the [thirtieth] FIFTEENTH day of the fourth month following the close of the taxable year. Paragraph one of subsection (d) of section six hundred eighty-five of this chapter shall not apply to the estimated tax payments required by this subsection.

S 2. Section 806 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

S 806. Procedural provisions. (A) GENERAL. All provisions of article twenty-two of this chapter will apply to the provisions of this article in the same manner and with the same force and effect as if the language of article twenty-two of this chapter had been incorporated in full into this article and had been specifically adjusted for and expressly referred to the tax imposed by this article, except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to this article. Notwithstanding the preceding sentence, no credit against tax in article twenty-two of this chapter can be used to offset the tax due under this article.

(B) COMBINED FILINGS. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE:

(1) THE COMMISSIONER MAY REQUIRE THE FILING OF A COMBINED RETURN WHICH, IN ADDITION TO THE RETURN PROVIDED FOR IN SUBSECTION (B) OF SECTION EIGHT HUNDRED FOUR OF THIS ARTICLE, MAY ALSO INCLUDE ANY OF THE RETURNS REQUIRED TO BE FILED BY A RESIDENT INDIVIDUAL OF NEW YORK STATE PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS CHAPTER AND WHICH MAY BE REQUIRED TO BE FILED BY SUCH INDIVIDUAL PURSUANT TO ANY LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

(2) WHERE A COMBINED RETURN IS REQUIRED, AND WITH RESPECT TO THE PAYMENT OF ESTIMATED TAX, THE COMMISSIONER MAY ALSO REQUIRE THE PAYMENT TO IT OF A SINGLE AMOUNT WHICH SHALL EQUAL THE TOTAL OF THE AMOUNTS (TOTAL TAXES LESS ANY CREDITS OR REFUNDS) WHICH WOULD HAVE BEEN REQUIRED TO BE PAID WITH THE RETURNS OR IN PAYMENT OF ESTIMATED TAX PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE PROVISIONS OF ARTICLE TWENTY-TWO OF THIS CHAPTER, AND THE PROVISIONS OF LOCAL LAWS ENACTED UNDER THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

(3) Notwithstanding any other law to the contrary, the commissioner may require that all filings of forms or returns under this article must be filed electronically and all payments of tax must be paid electronically.

S 3. The tax law is amended by adding a new section 807 to read as follows:

S 807. ENFORCEMENT WITH OTHER TAXES. (A) JOINT ASSESSMENT. IF THERE IS ASSESSED A TAX UNDER THIS ARTICLE AND THERE IS ALSO ASSESSED A TAX AGAINST THE SAME TAXPAYER PURSUANT TO ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, ARTICLE THIRTY-A, OR ARTICLE THIRTY-B OF THIS CHAPTER, AND PAYMENT OF A SINGLE AMOUNT IS REQUIRED UNDER THE PROVISIONS OF THIS ARTICLE,

SUCH PAYMENT SHALL BE DEEMED TO HAVE BEEN MADE WITH RESPECT TO THE TAXES SO ASSESSED IN PROPORTION TO THE AMOUNTS OF SUCH TAXES DUE, INCLUDING TAX, PENALTIES, INTERESTED AND ADDITIONS TO TAX.

(B) JOINT ACTION. IF THE COMMISSIONER TAKES ACTION UNDER SUCH ARTICLE TWENTY-TWO OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER WITH RESPECT TO THE ENFORCEMENT AND COLLECTION OF THE TAX OR TAXES ASSESSED UNDER SUCH ARTICLES, THE COMMISSIONER SHALL, WHENEVER POSSIBLE AND NECESSARY, ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER SIMILAR ENFORCEMENT AND COLLECTION PROVISIONS OF THE TAX IMPOSED BY THIS ARTICLE.

(C) APPORTIONMENT OF MONEYS COLLECTED BY JOINT ACTION. ANY MONEYS COLLECTED AS A RESULT OF SUCH JOINT ACTION SHALL BE DEEMED TO HAVE BEEN COLLECTED IN PROPORTION TO THE AMOUNTS DUE, INCLUDING TAX, PENALTIES, INTEREST AND ADDITIONS TO TAX, UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER AND THE TAX IMPOSED BY THIS ARTICLE.

(D) JOINT DEFICIENCY ACTION. WHENEVER THE COMMISSIONER TAKES ANY ACTION WITH RESPECT TO A DEFICIENCY OF INCOME TAX UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER, OTHER THAN THE ACTION SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IN HIS OR HER DISCRETION ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER THIS ARTICLE.

S 4. This act shall take effect immediately and apply to taxable years beginning on or after January 1, 2015.

PART EE

Section 1. Subdivision 4 of section 97-nnnn of the state finance law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

4. a. As used in this section, the term "base year gaming revenue" shall mean the sum of all revenue generated to support education from video lottery gaming as defined by section sixteen hundred seventeen-a of the tax law in the twelve months preceding the operation of any gaming facility pursuant to either article thirteen of the racing, pari-mutuel wagering and breeding law or pursuant to paragraph four of SUBDIVISION A OF section [one thousand six] SIXTEEN hundred seventeen-a of the tax law.

b. Amounts APPROPRIATED OR transferred in any year to support elementary and secondary education shall be calculated as follows:

(i) an amount equal to the positive difference, if any, between the base year gaming revenue amount and the sum of all revenue generated to support education from video lottery gaming as defined by section sixteen hundred seventeen-a of the tax law in the current fiscal year provided that such positive amount, if any, shall be transferred to the state lottery fund[;]. FOR THE PURPOSES OF THIS PARAGRAPH, THE CALCULATION OF THIS POSITIVE DIFFERENCE SHALL BE ESTIMATED AND TRANSFERRED MONTHLY BASED ON THE CUMULATIVE POSITIVE DIFFERENCE, IF ANY, IN THE SAME CUMULATIVE MONTHS OF THE BASE YEAR AND THE CUMULATIVE MONTHS OF THE CURRENT FISCAL YEAR TO DATE, LESS AMOUNTS PREVIOUSLY TRANSFERRED IN THE CURRENT FISCAL YEAR. PROVIDED, HOWEVER, IF THE AMOUNT PREVIOUSLY TRANSFERRED IN THE CURRENT FISCAL YEAR EXCEEDS THE CUMULATIVE POSITIVE DIFFERENCE, AN AMOUNT EQUAL TO THE EXCESS TRANSFERRED MAY BE TRANSFERRED BACK FROM THE STATE LOTTERY FUND; and

(ii) the amount of revenue collected [in the prior state fiscal year,] to be distributed pursuant to paragraph a of subdivision three of this section, and in excess of any amounts transferred pursuant to subparagraph (i) of this paragraph [in such prior fiscal year], if any.

c. Notwithstanding any provision of law to the contrary, amounts appropriated or transferred from the commercial gaming revenue fund pursuant to subparagraph (ii) of this paragraph shall not be included in: (i) the allowable growth amount computed pursuant to paragraph dd of subdivision one of section thirty-six hundred two of the education law, (ii) the preliminary growth amount computed pursuant to paragraph ff of subdivision one of section thirty-six hundred two of the education law, and (iii) the allocable growth amount computed pursuant to paragraph gg of subdivision one of section thirty-six hundred two of the education law.

S 2. Subdivision 5 of section 97-nnnn of the state finance law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

5. Notwithstanding the foregoing, monies received pursuant to:

a. sections one thousand three hundred forty-five and one thousand three hundred forty-eight of [this article] THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively appropriated to the office of alcoholism and substance abuse services to be used for problem gambling education and treatment purposes.

b. section one thousand three hundred forty-nine of [this article] THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively appropriated to the commission for regulatory investigations.

c. section one thousand three hundred fifty of [this article] THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively appropriated to the commission for costs regulation.

S 3. Subdivisions (b) and (c) of section 52 of chapter 174 of the laws of 2013 enacting the upstate New York gaming economic development act of 2013, are amended to read as follows:

(b) sections six, seven, fourteen and sixteen of this act shall take effect on the same date as the agreement between the Oneida Nation of New York and the state of New York entered into on the sixteenth day of May, 2013 takes effect; provided, further, that the amendments to subdivision 2 of section 99-h of the state finance law made by section six of this act shall take effect on the same date as the reversion of such section as provided in section 2 of chapter 747 of the laws of 2006, as amended; provided, further, that the amendments to subdivision 3 of section 99-h of the state finance law made by section seven of this act shall be subject to the expiration and reversion of such subdivision as provided in section 3 of part W of chapter 60 of the laws of 2011, as amended when upon such date the provisions of section seven-a of this act shall take effect; provided, further, that the amendments to subdivision 3 of section 99-h of the state finance law made by section seven-a of this act shall be subject to the the expiration and reversion of such section as provided in section 2 of chapter 747 of the laws of 2006, as amended when upon such date the provisions of section eight of this act shall take effect; [provided, further, however, that the amendment to section 99-h of the state finance law made by section nine of this act shall not affect the expiration of such section and shall be deemed repealed therewith;] provided, further, that the state gaming commission shall notify the legislative bill drafting commission upon the occurrence of such agreement between the Oneida Nation and the state of New York becoming effective in order that the commission may maintain an accurate and timely effective data base of the official text of the

laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law;

(c) section [1368] 1367 of the racing, pari-mutuel wagering and breeding law, as added by section two of this act, shall take effect upon a change in federal law authorizing the activity permitted by such section or upon a ruling by a court of competent jurisdiction that such activity is lawful. The state gaming commission shall notify the legislative bill drafting commission upon the occurrence of the change in federal law or upon the ruling of a court of competent jurisdiction in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law;

S 4. Subdivision 3-a of section 99-h of the state finance law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

3-a. Ten percent of any of the funds actually received by the state pursuant to the tribal-state compacts and agreements described in subdivision two of this section [that are retained in the fund after the distributions required by subdivision three of this section, but] prior to the transfer of unsegregated moneys to the general fund required by such subdivision, shall be distributed to counties in each respective exclusivity zone provided they do not otherwise receive a share of said revenues pursuant to this section. Such distribution shall be made among such counties on a per capita basis, excluding the population of any municipality that receives a distribution pursuant to subdivision three of this section.

S 5. Subdivision g of section 1617-a of the tax law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

g. Every video lottery gaming license, and every renewal license, shall be valid for a period of five years, except that video gaming licenses issued before the effective date of this subdivision shall be for a term expiring on THE APPLICANT'S NEXT BIRTHDAY FOLLOWING June thirtieth, two thousand fourteen.

The gaming commission may decline to renew any license after notice and an opportunity for hearing if it determines that:

(1) the licensee has violated section one thousand six hundred seven of this article;

(2) the licensee has violated any rule, regulation or order of the gaming commission;

(3) the applicant or its officers, directors or significant stockholders, as determined by the gaming commission, have been convicted of a crime involving moral turpitude; or

(4) that the character or fitness of the licensee and its officers, directors, and significant stockholders, as determined by the gaming commission is such that the participation of the applicant in video lottery gaming or related activities would be inconsistent with the public interest, convenience or necessity or with the best interests of video gaming generally.

S 6. This act shall take effect immediately; provided, that section one of this act shall take effect April 1, 2015; provided, further, that the amendments made to section three of this act shall be deemed to have taken effect on the same date and in the same manner as chapter 174 of the laws of 2013.

PART FF

Section 1. Subsections (yy) and (zz) of section 606 of the tax law, as relettered by section 5 of part H of chapter 1 of the laws of 2003, are relettered (yyy) and (zzz) and a new subsection (bbb) is added to read as follows:

(BBB) REAL PROPERTY TAX FREEZE CREDIT. (1) AS USED IN THIS SUBSECTION:

(A) THE TERM "FREEZE-COMPLIANT BUDGET" MEANS A BUDGET OF A TAXING JURISDICTION THAT HAS MET THE REQUIREMENTS OF SECTION TWO THOUSAND TWENTY-THREE-B OF THE EDUCATION LAW OR SECTION THREE-D OF THE GENERAL MUNICIPAL LAW, WHICHEVER IS APPLICABLE.

(B) THE TERMS "INDEPENDENT SPECIAL DISTRICT" AND "DEPENDENT SCHOOL DISTRICT" HAVE THE SAME MEANING AS SET FORTH IN SECTION THREE-D OF THE GENERAL MUNICIPAL LAW.

(C) THE TERM "STAR EXEMPTION" MEANS THE SCHOOL TAX RELIEF EXEMPTION AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW.

(D) THE TERM "TAXING JURISDICTION" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT OR AN INDEPENDENT SPECIAL DISTRICT, EXCEPT THAT SUCH TERM SHALL NOT INCLUDE A CITY WITH A POPULATION OF ONE MILLION OR MORE, NOR SHALL IT INCLUDE A COUNTY WHOLLY LOCATED WITHIN SUCH A CITY.

(2) AN INDIVIDUAL TAXPAYER WHO MEETS THE ELIGIBILITY STANDARDS SET FORTH IN PARAGRAPH THREE OF THIS SUBSECTION AND WHOSE PRIMARY RESIDENCE IS LOCATED IN A TAXING JURISDICTION THAT HAS A FREEZE-COMPLIANT BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, TWO THOUSAND FIFTEEN OR TWO THOUSAND SIXTEEN, WHICHEVER IS APPLICABLE, SHALL BE ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE. SUBJECT TO THE PROVISIONS OF PARAGRAPH SIX OF THIS SUBSECTION, SUCH CREDIT SHALL BE DETERMINED AS FOLLOWS:

(A) IF A SCHOOL DISTRICT OTHER THAN A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FOURTEEN TAXABLE YEAR IN THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN.

(B) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

(C) IF A SCHOOL DISTRICT OTHER THAN A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR IDENTIFIED AS FOLLOWS:

(I) IF THE SCHOOL DISTRICT'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN WAS FREEZE-COMPLIANT, THE EXCESS SHALL BE DETERMINED WITH RESPECT TO THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN.

(II) IF THE SCHOOL DISTRICT'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN WAS NOT FREEZE-COMPLIANT, THE EXCESS SHALL BE

DETERMINED WITH RESPECT TO THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

(D) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR IDENTIFIED AS FOLLOWS:

(I) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN WAS FREEZE-COMPLIANT, THE EXCESS SHALL BE DETERMINED WITH RESPECT TO THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

(II) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN WAS NOT FREEZE-COMPLIANT, THE EXCESS SHALL BE DETERMINED WITH RESPECT TO THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN.

(E) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, A TAX CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FOURTEEN TAXABLE YEAR IN THE AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN.

(F) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, A TAX CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR AS FOLLOWS:

(I) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN WAS FREEZE-COMPLIANT, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN, TOGETHER WITH AN AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN; AND A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN.

(II) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN WAS NOT FREEZE-COMPLIANT, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN; AND A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY

THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

(G) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN BUT DOES NOT HAVE A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, A TAX CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR AN AMOUNT REPRESENTING THIRTY-THREE PERCENT OF THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN.

(3) TO BE ELIGIBLE FOR SUCH CREDIT, THE TAXPAYER (OR TAXPAYERS FILING JOINT RETURNS) MUST MEET THE FOLLOWING CRITERIA:

(A) FOR THE TWO THOUSAND FOURTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALIFIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY MANNER.

(B) FOR THE TWO THOUSAND FIFTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALIFIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY MANNER.

(C) FOR THE TWO THOUSAND SIXTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALIFIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY MANNER.

(4) FOR EACH YEAR THIS CREDIT IS ALLOWED, THE COMMISSIONER SHALL DETERMINE THE TAXPAYER'S ELIGIBILITY FOR THIS CREDIT UTILIZING THE INFORMATION AVAILABLE TO THE COMMISSIONER. WHEN THE COMMISSIONER HAS DETERMINED A TAXPAYER TO BE ELIGIBLE FOR THIS CREDIT, THE COMMISSIONER SHALL ADVANCE A PAYMENT OF THE AMOUNT DETERMINED IN ACCORDANCE WITH THIS SUBSECTION. THE TAXPAYER SHALL NOT APPLY FOR SUCH CREDIT IN CONJUNCTION WITH THE FILING OF HIS OR HER RETURN. A TAXPAYER WHO HAS FAILED TO RECEIVE AN ADVANCE PAYMENT THAT HE OR SHE BELIEVES WAS DUE TO HIM OR HER, OR WHO HAS RECEIVED AN ADVANCE PAYMENT THAT HE OR SHE BELIEVES IS LESS THAN THE AMOUNT THAT WAS DUE TO HIM OR HER, MAY REQUEST PAYMENT OF THE CLAIMED DEFICIENCY IN A MANNER PRESCRIBED BY THE COMMISSIONER.

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

(6) THE FOLLOWING PROVISIONS SHALL APPLY TO THE CALCULATION OF THE CREDIT PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION:

(A) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE INCLUDES TAXES LEVIED BY OR ON BEHALF OF MULTIPLE TAXING JURISDICTIONS, THE CREDIT SHALL BE BASED UPON THE CHANGE IN THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE, PROVIDED THAT ANY TAX APPEARING ON THE TAX BILL THAT IS NOT ATTRIBUTABLE TO A FREEZE-COMPLIANT BUDGET SHALL BE DISREGARDED WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

(B) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE INCLUDES RELEVIED TAXES OR OTHER TAXES THAT WERE PREVIOUSLY

BILLED BUT NOT PAID, THOSE TAXES SHALL BE DISREGARDED WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

(C) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE INCLUDES USAGE CHARGES, UNIT CHARGES OR OTHER CHARGES THAT ARE BASED UPON THE CONSUMPTION OF A SERVICE, THOSE CHARGES SHALL BE DISREGARDED WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

(D) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, NO CREDIT SHALL BE ALLOWED TO THE EXTENT THAT THE TAX LIABILITY OF THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE INCREASED DUE TO ONE OR MORE OF THE FOLLOWING EVENTS:

(I) A PHYSICAL IMPROVEMENT TO THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE.

(II) A REMOVAL OR REDUCTION OF AN EXEMPTION ON THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE, INCLUDING A REDUCTION OF THE STAR EXEMPT AMOUNT CALCULATED PURSUANT TO SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW.

(III) A REVALUATION THAT CAUSED THE ASSESSMENT OF THE ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE TO INCREASE BY A PERCENTAGE THAT IS GREATER THAN THE APPLICABLE CHANGE IN LEVEL OF ASSESSMENT. AS USED HEREIN, THE TERMS "REVALUATION" AND "CHANGE IN LEVEL OF ASSESSMENT" SHALL HAVE THE SAME MEANINGS AS SET FORTH IN SECTIONS ONE HUNDRED TWO AND TWELVE HUNDRED TWENTY OF THE REAL PROPERTY TAX LAW, RESPECTIVELY.

(E) IN THE CASE OF PROPERTY CONSISTING OF A COOPERATIVE APARTMENT CORPORATION THAT IS DESCRIBED BY PARAGRAPH (K) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AN ELIGIBLE OWNER SHALL BE ALLOWED A CREDIT IN THE AMOUNT EQUAL TO SIXTY PERCENT OF THE AVERAGE TAX CREDIT IN THAT TAXING JURISDICTION FOR THAT FISCAL YEAR, AS DETERMINED BY THE COMMISSIONER, OR IN THE CASE OF A COOPERATIVE APARTMENT CORPORATION THAT IS DESCRIBED BY SUBPARAGRAPH (IV) OF PARAGRAPH (K) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, A CREDIT OF TWENTY PERCENT OF SUCH AVERAGE TAX CREDIT.

(F) IN THE CASE OF PROPERTY CONSISTING OF A MOBILE HOME THAT IS DESCRIBED BY PARAGRAPH (L) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AN ELIGIBLE OWNER SHALL BE ALLOWED A CREDIT IN THE AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE AVERAGE TAX CREDIT IN THAT TAXING JURISDICTION FOR THAT FISCAL YEAR, AS DETERMINED BY THE COMMISSIONER.

(G) IN THE CASE OF A CITY WITH A DEPENDENT SCHOOL DISTRICT, IT SHALL BE PRESUMED THAT SIXTY-SEVEN PERCENT OF THE CITY TAX BILL IS FOR SCHOOL DISTRICT PURPOSES AND THAT THIRTY-THREE PERCENT IS FOR GENERAL CITY PURPOSES.

(H) THE AMOUNT OF THE CREDIT SHALL BE ROUNDED TO THE NEAREST DOLLAR, EXCEPT WHERE SUCH AMOUNT IS GREATER THAN ZERO AND LESS THAN ONE DOLLAR AND FIFTY CENTS, IN WHICH CASE THE AMOUNT OF THE CREDIT SHALL BE ROUNDED UP TO TWO DOLLARS.

(7) NO CREDIT SHALL BE ALLOWED UNDER THIS SUBSECTION IN RELATION TO PROPERTY LOCATED WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE.

S 2. The education law is amended by adding a new section 2023-b to read as follows:

S 2023-B. CERTIFICATION OF COMPLIANCE WITH PROPERTY TAX FREEZE REQUIREMENTS. A SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL

YEAR STARTING IN TWO THOUSAND FOURTEEN. A SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN.

1. DEFINITIONS. AS USED IN THIS SECTION:

A. "CONSOLIDATION ACTIONS" MEANS: REORGANIZATIONS OF ELIGIBLE SCHOOL DISTRICTS PURSUANT TO SECTIONS FIFTEEN HUNDRED FIVE, FIFTEEN HUNDRED ELEVEN THROUGH FIFTEEN HUNDRED THIRTEEN, FIFTEEN HUNDRED TWENTY-FOUR, FIFTEEN HUNDRED TWENTY-SIX, SEVENTEEN HUNDRED FIVE, EIGHTEEN HUNDRED ONE THROUGH EIGHTEEN HUNDRED THREE, OR TWENTY-TWO HUNDRED EIGHTEEN OF THE EDUCATION LAW; OR REORGANIZATIONS, CONSOLIDATIONS, OR DISSOLUTIONS OF ELIGIBLE SCHOOL DISTRICTS IN WHICH ONE OR MORE ELIGIBLE SCHOOL DISTRICTS ARE TERMINATED AND ANOTHER ELIGIBLE SCHOOL DISTRICT ASSUMES JURISDICTION OVER THE TERMINATED SCHOOL DISTRICT OR DISTRICTS PURSUANT TO ANY OTHER PROVISION OF LAW.

B. "ELIGIBLE SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT IS SUBJECT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART, BUT SHALL NOT MEAN A SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THIS CHAPTER.

C. "EFFICIENCY PLAN" MEANS A PLAN THAT IDENTIFIES SHARED SERVICES ACTIONS AND/OR CONSOLIDATION ACTIONS TO BE FULLY IMPLEMENTED BY ALL ELIGIBLE SCHOOL DISTRICTS IN A BOARD OF COOPERATIVE EDUCATIONAL SERVICES DISTRICT THAT ARE SIGNATORIES TO THE PLAN.

D. "LEAD DISTRICT" MEANS THE INDEPENDENT SCHOOL DISTRICT IN EACH BOARD OF COOPERATIVE EDUCATIONAL SERVICES DISTRICT WITH THE HIGHEST PUPIL ENROLLMENT AS REPORTED TO THE STATE EDUCATION DEPARTMENT FOR THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR THAT HAS ELECTED TO PARTICIPATE IN THE PREPARATION OF AN EFFICIENCY PLAN.

E. "SHARED SERVICES ACTIONS" MEANS FUNCTIONAL CONSOLIDATIONS BY WHICH ONE ELIGIBLE SCHOOL DISTRICT COMPLETELY PROVIDES A SERVICE OR FUNCTION FOR ANOTHER ELIGIBLE SCHOOL DISTRICT, WHICH NO LONGER ENGAGES IN THAT FUNCTION OR SERVICE; SHARED OR COOPERATIVE SERVICES BETWEEN AND AMONG ELIGIBLE SCHOOL DISTRICTS; AND REGIONALIZED DELIVERY OF SERVICES BETWEEN AND AMONG ELIGIBLE SCHOOL DISTRICTS. THESE SHARED SERVICES ACTIONS MAY BE FOR SERVICES OR FUNCTIONS INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTATION SERVICES, FACILITIES AND FUNCTIONS, HUMAN SERVICES FACILITIES AND FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION TECHNOLOGY INFRASTRUCTURE, PROCESSES, SERVICES AND FUNCTIONS.

2. CERTIFICATION OF COMPLIANCE WITH TAX LEVY LIMIT. A. UPON THE ADOPTION OF THE BUDGET OF AN ELIGIBLE SCHOOL DISTRICT, THE CHIEF EXECUTIVE OFFICER OF SUCH SCHOOL DISTRICT SHALL CERTIFY TO THE STATE COMPTROLLER, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED BY SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART. SUCH CERTIFICATION SHALL BE MADE IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER.

B. IN ORDER FOR SUCH CERTIFICATION TO GIVE RISE TO A REAL PROPERTY TAX FREEZE CREDIT UNDER SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE

TAX LAW, SUCH CERTIFICATION SHALL BE MADE NO LATER THAN THE TWENTY-FIRST DAY OF THE FISCAL YEAR TO WHICH IT APPLIES.

C. IF SUCH A CERTIFICATION HAS BEEN MADE AND THE ACTUAL TAX LEVY OF THE SCHOOL DISTRICT EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY SUBDIVISION FIVE OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART, EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN DULY AUTHORIZED FOR THE APPLICABLE FISCAL YEAR BY THE SCHOOL DISTRICT VOTERS.

D. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EVERY SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART SHALL REPORT BOTH ITS PROPOSED BUDGET AND ITS ADOPTED BUDGET TO THE OFFICE OF THE STATE COMPTROLLER AND THE COMMISSIONER AT THE TIME AND IN THE MANNER AS THEY MAY PRESCRIBE, WHETHER OR NOT SUCH BUDGET HAS BEEN OR WILL BE CERTIFIED AS PROVIDED BY THIS SUBDIVISION.

3. SCHOOL DISTRICT EFFICIENCY PLANS. A. THE SUPERINTENDENT OF EACH LEAD DISTRICT SHALL SUBMIT TO THE SECRETARY OF STATE BY JUNE FIRST, TWO THOUSAND FIFTEEN, AN EFFICIENCY PLAN THAT IF FULLY IMPLEMENTED WILL RESULT IN SAVINGS OVER THE AGGREGATE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVIES FOR ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN OF (1) AT LEAST ONE PERCENT IN THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR; (2) AT LEAST TWO PERCENT IN THE TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN SCHOOL YEAR; AND (3) AT LEAST THREE PERCENT IN THE TWO THOUSAND EIGHTEEN--TWO THOUSAND NINETEEN SCHOOL YEAR.

(I) THE SUPERINTENDENT OF EACH ELIGIBLE SCHOOL DISTRICT THAT IS A SIGNATORY TO AN EFFICIENCY PLAN SHALL SUBMIT TO THE SUPERINTENDENT OF THE LEAD DISTRICT BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT THE ELIGIBLE SCHOOL DISTRICT AGREES TO UNDERTAKE ITS BEST EFFORTS TO FULLY IMPLEMENT BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR THE CONSOLIDATION ACTIONS AND/OR SHARED SERVICES ACTIONS SPECIFIED FOR THE ELIGIBLE SCHOOL DISTRICT IN SUCH PLAN.

(II) THE CHIEF FINANCIAL OFFICER OF A SCHOOL DISTRICT THAT IS A SIGNATORY TO AN EFFICIENCY PLAN SHALL SUBMIT TO THE SUPERINTENDENT OF THE LEAD DISTRICT BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR OF THE CONSOLIDATION AND/OR SHARED SERVICES ACTIONS THAT ARE TO BE TAKEN BY SUCH SCHOOL DISTRICT ITSELF AS SPECIFIED IN SUCH PLAN WILL RESULT IN THE SAVINGS SET FORTH IN SUCH PLAN ATTRIBUTABLE TO SUCH SCHOOL DISTRICT.

(III) THE CHIEF FINANCIAL OFFICER OF EACH ELIGIBLE SCHOOL DISTRICT THAT IS A SIGNATORY TO AN EFFICIENCY PLAN SHALL SUBMIT TO THE LEAD DISTRICT BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF THE CONSOLIDATION AND/OR SHARED SERVICES ACTIONS AS SPECIFIED FOR ALL OF THE ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN WILL RESULT IN SAVINGS OVER THE AGGREGATE TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVIES FOR ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN OF (1) AT LEAST ONE PERCENT IN THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR; (2) AT LEAST TWO PERCENT IN THE TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN SCHOOL YEAR; AND (3) AT LEAST THREE PERCENT IN THE TWO THOUSAND EIGHTEEN--TWO THOUSAND NINETEEN SCHOOL YEAR.

B. THE CHIEF FINANCIAL OFFICER OF EACH LEAD DISTRICT SHALL SUBMIT THE FOLLOWING DOCUMENTS TO THE SECRETARY OF STATE ON OR BEFORE JULY FIRST,

TWO THOUSAND FIFTEEN: (I) THE EFFICIENCY PLAN; (II) A LIST OF ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN; (III) ALL OF THE CERTIFICATIONS REQUIRED BY PARAGRAPH A OF THIS SUBDIVISION; AND (IV) AN ANALYSIS OF THE AGGREGATE AMOUNT OF SAVINGS SET FORTH IN SUCH PLAN ATTRIBUTABLE TO ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN THAT WILL BE ACHIEVED IF THE SHARED SERVICES ACTIONS AND/OR CONSOLIDATION ACTIONS IDENTIFIED IN SUCH PLAN ARE FULLY IMPLEMENTED BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR. THE SECRETARY OF STATE SHALL REVIEW SUCH DOCUMENTS TO DETERMINE WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT TO EACH ELIGIBLE SCHOOL DISTRICT THAT IS A SIGNATORY TO THE EFFICIENCY PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH DETERMINATIONS NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

S 3. The general municipal law is amended by adding a new section 3-d to read as follows:

S 3-D. CERTIFICATION OF COMPLIANCE WITH PROPERTY TAX FREEZE REQUIREMENTS. A MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN. A MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISIONS TWO AND THREE OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN. PROVIDED HOWEVER, THAT A CITY WITH A DEPENDENT SCHOOL DISTRICT MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN AND COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION, AND BOTH THE CITY AND ITS DEPENDENT SCHOOL DISTRICT MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION, IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN OR TWO THOUSAND SIXTEEN.

1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "CONSOLIDATION ACTIONS" MEANS: CONSOLIDATIONS OR DISSOLUTIONS OF LOCAL GOVERNMENT UNITS IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THIS ARTICLE OR REORGANIZATIONS, CONSOLIDATIONS, OR DISSOLUTIONS OF LOCAL GOVERNMENT UNITS IN WHICH ONE OR MORE LOCAL GOVERNMENT UNITS ARE TERMINATED AND ANOTHER LOCAL GOVERNMENT UNIT ASSUMES JURISDICTION OVER THE TERMINATED LOCAL GOVERNMENT UNIT OR UNITS PURSUANT TO ANY OTHER PROVISION OF LAW.

(B) "DEPENDENT SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW AND THAT HAS A POPULATION OF LESS THAN ONE MILLION.

(C) "EFFICIENCY PLAN" MEANS A PLAN THAT IDENTIFIES SHARED SERVICES ACTIONS AND/OR CONSOLIDATION ACTIONS TO BE FULLY IMPLEMENTED BY ALL LOCAL GOVERNMENT UNITS IN A COUNTY THAT ARE SIGNATORIES TO THE PLAN.

(D) "INDEPENDENT SPECIAL DISTRICT" MEANS A SPECIAL DISTRICT AS DEFINED BY SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW THAT EITHER (I) HAS A SEPARATE INDEPENDENT ELECTED BOARD, AND EITHER HAS THE AUTHORITY

TO LEVY A TAX, OR CAN REQUIRE A MUNICIPAL CORPORATION TO LEVY A TAX ON ITS BEHALF, OR (II) HAS A SEPARATE INDEPENDENT BOARD APPOINTED BY THE GOVERNING BODY OF ANOTHER MUNICIPAL CORPORATION AND EITHER HAS THE AUTHORITY TO LEVY A TAX OR CAN REQUIRE A MUNICIPAL CORPORATION TO LEVY A TAX ON ITS BEHALF.

(E) "LEAD LOCAL GOVERNMENT UNIT" MEANS THE COUNTY, OR IF THE COUNTY HAS ELECTED NOT TO PARTICIPATE IN THE PREPARATION OF AN EFFICIENCY PLAN, THE CITY, TOWN, OR VILLAGE WITHIN THE COUNTY WITH THE LARGEST POPULATION AS OF THE TWO THOUSAND TEN FEDERAL CENSUS THAT HAS ELECTED TO PARTICIPATE IN THE PREPARATION OF AN EFFICIENCY PLAN.

(F) "LOCAL GOVERNMENT UNIT" MEANS A MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE.

(G) "SHARED SERVICES ACTIONS" MEANS FUNCTIONAL CONSOLIDATIONS BY WHICH ONE LOCAL GOVERNMENT UNIT COMPLETELY PROVIDES A SERVICE OR FUNCTION FOR ANOTHER LOCAL GOVERNMENT UNIT, WHICH NO LONGER ENGAGES IN THAT FUNCTION OR SERVICE; SHARED OR COOPERATIVE SERVICES BETWEEN AND AMONG LOCAL GOVERNMENT UNITS; AND REGIONALIZED DELIVERY OF SERVICES BETWEEN AND AMONG LOCAL GOVERNMENT UNITS. THESE SHARED SERVICES ACTIONS MAY BE FOR SERVICES OR FUNCTIONS INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTATION SERVICES, FACILITIES AND FUNCTIONS, HUMAN SERVICES FACILITIES AND FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION TECHNOLOGY INFRASTRUCTURE, PROCESSES, SERVICES AND FUNCTIONS.

2. CERTIFICATION OF COMPLIANCE WITH TAX LEVY LIMIT. (A) UPON THE ADOPTION OF THE BUDGET OF A LOCAL GOVERNMENT UNIT, THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF SUCH LOCAL GOVERNMENT UNIT SHALL CERTIFY TO THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED IN SECTION THREE-C OF THIS ARTICLE AND, IF THE GOVERNING BODY OF THE LOCAL GOVERNMENT UNIT DID ENACT A LOCAL LAW OR APPROVE A RESOLUTION TO OVERRIDE THE TAX LEVY LIMIT, THAT SUCH LOCAL LAW OR RESOLUTION WAS SUBSEQUENTLY REPEALED. SUCH CERTIFICATION SHALL BE MADE IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE.

(B) IN ORDER FOR SUCH CERTIFICATION TO GIVE RISE TO A REAL PROPERTY TAX FREEZE CREDIT UNDER SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, SUCH CERTIFICATION SHALL BE MADE NO LATER THAN THE TWENTY-FIRST DAY OF THE FISCAL YEAR TO WHICH IT APPLIES.

(C) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, IF SUCH A CERTIFICATION HAS BEEN MADE AND THE ACTUAL TAX LEVY OF THE LOCAL GOVERNMENT UNIT EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY SUBDIVISION SIX OF SECTION THREE-C OF THIS ARTICLE, EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN AUTHORIZED FOR THE APPLICABLE FISCAL YEAR BY A DULY ADOPTED LOCAL LAW OR RESOLUTION.

(D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EVERY LOCAL GOVERNMENT UNIT SHALL REPORT BOTH ITS PROPOSED BUDGET AND ITS ADOPTED BUDGET TO THE OFFICE OF THE STATE COMPTROLLER AT THE TIME AND IN THE MANNER AS HE OR SHE MAY PRESCRIBE, WHETHER OR NOT SUCH BUDGET HAS BEEN OR WILL BE CERTIFIED AS PROVIDED BY THIS SUBDIVISION.

3. LOCAL GOVERNMENT EFFICIENCY PLANS. (A) THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF EACH LEAD LOCAL GOVERNMENT UNIT SHALL SUBMIT TO THE

SECRETARY OF STATE BY JUNE FIRST, TWO THOUSAND FIFTEEN, AN EFFICIENCY PLAN THAT IF FULLY IMPLEMENTED WILL RESULT IN SAVINGS OVER THE AGGREGATE TAX LEVIES FOR FISCAL YEARS BEGINNING IN TWO THOUSAND FOURTEEN FOR ALL LOCAL GOVERNMENT UNITS THAT ARE SIGNATORIES TO SUCH PLAN OF (1) AT LEAST ONE PERCENT IN FISCAL YEARS BEGINNING IN TWO THOUSAND SEVENTEEN; (2) AT LEAST TWO PERCENT IN FISCAL YEARS BEGINNING IN TWO THOUSAND EIGHTEEN; AND (3) AT LEAST THREE PERCENT IN FISCAL YEARS BEGINNING IN TWO THOUSAND NINETEEN.

(I) THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF EACH LOCAL GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO AN EFFICIENCY PLAN SHALL SUBMIT TO THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF THE LEAD LOCAL GOVERNMENT UNIT BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT THE LOCAL GOVERNMENT UNIT OR DEPENDENT SCHOOL DISTRICT AGREES TO UNDERTAKE ITS BEST EFFORTS TO FULLY IMPLEMENT BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO THOUSAND SEVENTEEN THE CONSOLIDATION ACTIONS AND/OR SHARED SERVICES ACTIONS SPECIFIED FOR THE LOCAL GOVERNMENT UNIT OR DEPENDENT SCHOOL DISTRICT IN SUCH PLAN.

(II) THE CHIEF FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT AND THE CHIEF FISCAL OFFICER OF THE DEPENDENT SCHOOL DISTRICT, THAT IS A SIGNATORY TO AN EFFICIENCY PLAN SHALL SUBMIT TO THE CHIEF EXECUTIVE OFFICER OF THE LEAD LOCAL GOVERNMENT UNIT BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO THOUSAND SEVENTEEN, OF THE CONSOLIDATION AND/OR SHARED SERVICES ACTIONS THAT ARE TO BE TAKEN BY SUCH LOCAL GOVERNMENT UNIT ITSELF AS SPECIFIED IN SUCH PLAN WILL RESULT IN THE SAVINGS SET FORTH IN THE EFFICIENCY PLAN ATTRIBUTABLE TO SUCH LOCAL GOVERNMENT UNIT OR DEPENDENT SCHOOL DISTRICT.

(III) THE CHIEF FINANCIAL OFFICER OF EACH LOCAL GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO AN EFFICIENCY PLAN SHALL SUBMIT TO THE LEAD LOCAL GOVERNMENT UNIT BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF THE CONSOLIDATION AND/OR SHARED SERVICES ACTIONS AS SPECIFIED FOR ALL OF THE LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN WILL RESULT IN SAVINGS OVER THE AGGREGATE TAX LEVIES FOR FISCAL YEARS BEGINNING IN TWO THOUSAND FOURTEEN FOR ALL LOCAL GOVERNMENT UNITS THAT ARE SIGNATORIES TO SUCH PLAN OF (1) AT LEAST ONE PERCENT IN FISCAL YEARS BEGINNING IN TWO THOUSAND SEVENTEEN; (2) AT LEAST TWO PERCENT IN FISCAL YEARS BEGINNING IN TWO THOUSAND EIGHTEEN; AND (3) AT LEAST THREE PERCENT IN FISCAL YEARS BEGINNING IN TWO THOUSAND NINETEEN.

(B) THE CHIEF FINANCIAL OFFICER OF EACH LEAD LOCAL GOVERNMENT UNIT SHALL SUBMIT THE FOLLOWING DOCUMENTS TO THE SECRETARY OF STATE ON OR BEFORE JULY FIRST, TWO THOUSAND FIFTEEN: (I) THE EFFICIENCY PLAN; (II) A LIST OF ALL LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN; (III) ALL OF THE CERTIFICATIONS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION; AND (IV) AN ANALYSIS OF THE AGGREGATE AMOUNT OF SAVINGS SET FORTH IN SUCH PLAN ATTRIBUTABLE TO ALL LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN THAT WILL BE ACHIEVED IF THE SHARED SERVICES ACTIONS AND/OR CONSOLIDATION ACTIONS IDENTIFIED IN SUCH PLAN ARE FULLY IMPLEMENTED BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO THOUSAND SEVENTEEN. THE SECRETARY OF STATE SHALL REVIEW SUCH DOCUMENTS TO DETERMINE WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT TO EACH LOCAL GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO THE EFFICIENCY PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND

FINANCE OF SUCH DETERMINATIONS NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

S 4. Section 1590 of the real property tax law is amended by adding a new subdivision 3 to read as follows:

3. EACH MUNICIPAL CORPORATION SHALL SUBMIT TO THE COMMISSIONER THE DATA FILES USED TO PREPARE ITS TAX ROLLS AND TAX BILLS NO LATER THAN TEN DAYS AFTER THE ANNEXATION OF THE WARRANT FOR THE COLLECTION OF TAXES FOR THE APPLICABLE FISCAL YEAR, OR WHERE NO SUCH WARRANT IS ANNEXED, NO LATER THAN TEN DAYS AFTER THE LAST DATE PRESCRIBED BY LAW FOR THE LEVY OF TAXES OF THE APPLICABLE FISCAL YEAR, PROVIDED THAT IF ITS TAX ROLLS OR TAX BILLS, OR BOTH, ARE PREPARED BY A DIFFERENT GOVERNMENTAL ENTITY, THAT ENTITY SHALL BE JOINTLY RESPONSIBLE FOR SUBMITTING THE APPLICABLE DATA FILES TO THE COMMISSIONER.

S 5. Notwithstanding any other law to the contrary, the director of the budget may direct the state comptroller to withhold any state aid payments due to a school district that failed to fully implement by the end of the 2016--2017 school year or local government unit that failed to fully implement by the end of the local fiscal year beginning in 2017, the consolidation actions and/or shared services actions specified for such school district or local government unit in an efficiency plan prepared pursuant to section 2023-b of the education law or section 3-d of the general municipal law.

S 6. This act shall take effect immediately, provided that the provisions of subdivision 3 of section 1590 of the real property tax law as added by section four of this act shall apply to tax rolls and tax bills of school districts and cities with a population of 125,000 or more for fiscal years starting on or after July 1, 2013, and to tax rolls and tax bills for other municipal corporations for fiscal years starting on or after January 1, 2014, except that in the case of tax rolls and tax bills for fiscal years that started prior to the effective date of this act, the data files used to prepare tax rolls and tax bills shall be submitted to the commissioner of taxation and finance no later than 60 days after the effective date of this act.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through FF of this act shall be as specifically set forth in the last section of such Parts.