

5238

2013-2014 Regular Sessions

I N S E N A T E

May 15, 2013

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

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

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

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

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

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1 RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES, AS REFERRED TO IN
2 SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW, WHICH
3 EQUALS OR EXCEEDS SIX PERCENT DURING ITS TAXABLE YEAR, AND HAS GROSS
4 REVENUES, ALONG WITH THE GROSS REVENUES OF ITS AFFILIATES AND RELATED
5 MEMBERS, NOT EXCEEDING TWENTY MILLION DOLLARS FOR THE TAXABLE YEAR IMME-
6 DIATELY PRECEDING THE YEAR THE TAXPAYER IS ALLOWED A CREDIT UNDER THIS
7 SUBDIVISION; AND (D) OWNS LESS THAN FIFTY PERCENT OF THE QUALIFIED
8 EMERGING TECHNOLOGY COMPANY OR MEDICAL TECHNOLOGY COMPANY AFTER THE
9 QUALIFIED INVESTMENT; PROVIDED, HOWEVER, NO CREDIT AUTHORIZED BY THIS
10 SUBDIVISION FOR A QUALIFIED INVESTMENT SHALL BE GRANTED TO A TAXPAYER IF
11 SUCH TAXPAYER IS GRANTED AN ANGEL INVESTOR CREDIT AGAINST THE TAXES
12 IMPOSED PURSUANT TO ARTICLE THIRTY OF THIS CHAPTER FOR SUCH QUALIFIED
13 INVESTMENT. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO THE SUM OF THE
14 AMOUNTS SPECIFIED IN PARAGRAPH TWO OF THIS SUBDIVISION. FOR THE PURPOSES
15 OF THIS SUBDIVISION, A "QUALIFIED INVESTMENT" SHALL MEAN THE CONTRIB-
16 UTION OF PROPERTY TO A CORPORATION IN EXCHANGE FOR ORIGINAL ISSUE CAPI-
17 TAL STOCK OR OTHER OWNERSHIP INTEREST, THE CONTRIBUTION OF PROPERTY TO A
18 PARTNERSHIP IN EXCHANGE FOR AN INTEREST IN THE PARTNERSHIP, AND SIMILAR
19 CONTRIBUTIONS IN THE CASE OF A BUSINESS ENTITY NOT IN CORPORATE OR PART-
20 NERSHIP FORM IN EXCHANGE FOR AN OWNERSHIP INTEREST IN SUCH ENTITY;
21 PROVIDED, HOWEVER, A QUALIFIED INVESTMENT SHALL NOT INCLUDE INVESTMENTS
22 MADE BY OR ON BEHALF OF AN OWNER OF THE BUSINESS, INCLUDING, BUT NOT
23 LIMITED TO, A STOCKHOLDER, PARTNER OR SOLE PROPRIETOR, OR ANY RELATED
24 PERSON, AS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION
25 (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE. FOR
26 PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED MEMBER" SHALL MEAN A
27 PERSON, CORPORATION, OR OTHER ENTITY, INCLUDING AN ENTITY THAT IS TREAT-
28 ED AS A PARTNERSHIP OR OTHER PASS-THROUGH VEHICLE FOR PURPOSES OF FEDER-
29 AL TAXATION, WHETHER SUCH PERSON, CORPORATION OR ENTITY IS A TAXPAYER OR
30 NOT, WHERE ONE SUCH PERSON, CORPORATION, OR ENTITY, OR SET OF RELATED
31 PERSONS, CORPORATIONS OR ENTITIES, DIRECTLY OR INDIRECTLY OWNS OR
32 CONTROLS A CONTROLLING INTEREST IN ANOTHER ENTITY. SUCH ENTITY OR ENTI-
33 TIES MAY INCLUDE ALL TAXPAYERS UNDER ARTICLES NINE, NINE-A, THIRTEEN,
34 TWENTY-TWO, THIRTY-TWO, THIRTY-THREE OR THIRTY-THREE-A OF THIS CHAPTER.
35 FOR PURPOSES OF THIS SUBDIVISION, THE TERM "AFFILIATES" SHALL MEAN THOSE
36 CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP, AS DEFINED
37 IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, AS THE
38 TAXPAYER.

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

BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11-526 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (6) THE NEW YORK CITY DEPARTMENT OF FINANCE SHALL ESTABLISH BY RULE BY
53 OCTOBER THIRTY-FIRST, TWO THOUSAND THIRTEEN PROCEDURES FOR THE ALLO-
54 CATION OF TAX CREDITS AS REQUIRED BY PARAGRAPHS TWO AND THREE OF THIS
55 SUBSECTION. SUCH RULES SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICA-
56 TION PROCESS, THE DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS THAT

1 SHALL BE USED TO EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL
2 BE PROVIDED TO TAXPAYERS TO SUBSTANTIATE THE AMOUNT OF TAX CREDITS ALLO-
3 CATED TO SUCH TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECESSARY
4 AND APPROPRIATE.

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

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

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

25 S 5. This act shall take effect immediately.