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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, the general municipal law, the urban development corporation act, the business corporation law, and the general associations law, 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); Intentionally omitted (Part F); to amend part I of chapter 58 of the laws of 2006, amending the tax law relating to providing an enhanced earned income tax credit, in relation to the effectiveness thereof (Part G); Intentionally omitted (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 (Part K); to amend the tax law, in relation to establishing the renter's circuit breaker credit (Part L); to amend the tax law, in relation to the prepayment element of the family tax relief credit (Part M); Inten-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
tionally omitted (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); Intentionally omitted (Part Q); to amend the tax law, in relation to eliminating the income tax on Upstate manufacturers (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 and the tax 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 there-to; 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); Intentionally omitted (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, the tax law and the racing, pari-mutuel wagering and breeding law, in relation to moneys appropriated or transferred from the commercial gaming revenue fund (Part EE); Intentionally omitted (Part FF); to amend the tax law, in relation to the temporary exemption from sales and use taxes for premises used for commercial office space in lower Manhattan; and to amend part C of chapter 2 of the laws of 2005 amending the tax law relating to exemptions from sales and use taxes, in relation to the effectiveness thereof (Subpart A); to amend the real property tax law and the administrative code of the city of New York, in relation to extending a real estate tax abatement program for certain commercial properties in cities having a population of one million or more and in relation to extending a special reduction under the commercial rent tax in the city of New York (Subpart B); to amend the real property tax law and the administrative code of the city of New York, in relation to applications for tax abatements for industrial and commercial construction work on properties in a city of one million or more persons (Subpart C); to amend the general city law and the administrative code of the city of New York, in relation to extending the relocation and employment assistance program and the Lower Manhattan relocation and employment assistance program (Subpart D); to amend the general city law and the administrative code of the city of New York, in relation to extending the special rebates and discounts provided pursuant to the energy cost savings program and the Lower Manhattan energy program (Subpart E); to amend the administrative code of the city of New York, in relation to the amount of special reduction allowed (Subpart F); and to amend the real property tax law, in relation to a real estate tax abatement program for certain commercial, industrial and manufacturing properties in a city of one million or more persons (Subpart G) (Part GG); to amend the tax law, in relation to requiring that services eligible for the empire state film production tax credit take place in certain counties (Part HH); to amend the tax law, in relation to the sale of food and beverages through vending machines (Part II); to repeal part EE of chapter 59 of the laws of 2013 amending the tax law relating to adding a minimum wage reimbursement credit (Part JJ); to amend the tax law, in relation to tax cuts to manufacturers (Part KK); to amend the environmental conservation law and the tax law, in relation to bioheating fuel (Part LL); to amend the tax law, in relation to establishing business franchise and personal income tax credits for certain musical and theatrical production expenses (Part MM); to amend the tax law in relation to the disposition of revenue from video lottery gaming (Part NN); to amend the tax law and the administrative code of the city of New York, in relation to authorizing and imposing a tax surcharge on the personal income of certain high-income residents of such city in order to fund universal prekindergarten and middle school after-school programs (Part OO); and to amend the tax law, in relation to free play at video lottery machines (Part PP)
THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2014-2015 state fiscal year. Each component is wholly contained within a Part identified as Parts A through PP. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, 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 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, subpar-
agraph 12 of paragraph (a), subparagraph 4-a of paragraph (b) and
subparagraph 2 of paragraph (h) of subdivision 9 as amended and subpara-
graph 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 para-
graph (a) of subdivision 9 as added by section 1 of part K3, subpara-
graph 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 03, and paragraphs (o), (p) and (q) of subdivision 9 as
added by section 3 of part 03 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, subpara-
graph 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, subpara-
graph 19 of paragraph (b) of subdivision 9 as added by section 1 of part
HH1 of chapter 57 of the laws of 2008, subparagraph 20-a of paragraph
(b) of subdivision 9 as added by section 2-a of part T of this act,
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 subdivi-
sion 9 as amended by chapter 606 of the laws of 1984, paragraph (n) of
subdivision 9 as added by section 1 of part 0 of chapter 85 of the laws
of 2002, subdivision 12 as added by chapter 828 of the laws of 1977 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 mean-
ing 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 trad-
ed 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 require-
ments of subsection (a) of section nine hundred ninety-two of the inter-
nal 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 THREE 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
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.

(C) Investment income shall not include any amount treated as dividends pursuant to section seventy-eight of the internal revenue code.

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
1. TO ENTIRE NET INCOME. IN NO CASE SHALL OTHER EXEMPT INCOME EXCEED ENTIRE
2. NET INCOME.

(E) OTHER EXEMPT INCOME SHALL NOT INCLUDE ANY AMOUNT TREATED AS DIVI-
3. DENDS PURSUANT TO SECTION SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE.

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

(b) Provided, however, "business capital" shall not include assets to
1 the extent employed for the purpose of generating income which is
0 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
19 operating in the foreign country or countries in which the taxpayer has
22 its major base of operations and in which it is organized, resident or
23 headquartered (if not in the same country as its major base of oper-
24 ations) are not subject to any tax based on or measured by capital
19 imposed by such foreign country or countries or any political subdivi-
26 sion thereof, or if taxed, are provided an exemption, equivalent to that
provided for herein, from any tax based on or measured by capital
19 imposed by such foreign country or countries and from such tax
20 imposed by any political subdivision thereof[;].

8. The term "business income" means entire net income minus investment
31 income[;] AND OTHER EXEMPT INCOME. IN NO EVENT SHALL THE SUM OF INVEST-
32 MENT INCOME AND OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME. IF THE
33 TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARA-
34 GRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTI-
35 CLE, THEN ALL INCOME FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL CONSI-
36 TUTE BUSINESS INCOME.

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

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

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

(c) any gain recognized for federal income tax purposes on the dispo-
3 sition of stock in a DISC, and any gain recognized on the disposition of
5 stock in a former DISC, includible in gross income as a dividend pursu-
4 ant to subsection (c) of section nine hundred ninety-five of the inter-
5 nal revenue code of nineteen hundred fifty-four, shall be treated as
6 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 paragraph (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 paragraph (d) 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 presumed to be the same as the entire taxable income [(but not alternative minimum taxable income)], WHICH, EXCEPT AS HEREIN-AFTER 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 modifica-
tion 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 COUN-
TRY 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 share-
holder 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 elev-
en 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 subpar-
agraphs one and two of this paragraph];

(7) that portion of wages and salaries paid or incurred for the taxa-
ble 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 proper-
ty 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
A. 8559--C  14

(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 OBIL-
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, includ-
ing 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 deter-
mining 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 mort-
gage recording tax credit is allowed under [paragraph (a) of] subdivi-
sion [seventeen] NINE of section two hundred [ten] TEN-B of this arti-
cle, 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-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 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.

(20-a) The amount of any federal deduction for the excise tax on telecommunication services to the extent such taxes are used as the basis of the calculation of the tax-free NY area excise tax on telecommunication services credit allowed under subdivision [forty-eight] FORTY-FOUR of section two hundred [ten] TEN-B of this article.
[(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 pipe-
line 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 regu-
laratory 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 prop-
erty, 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 produc-
er, 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.
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 pursu-
ant 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 treat-
ment 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 commis-
sion 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 certif-
icate of compliance issued pursuant to the environmental conserva-
tion 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 carry-
over 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 environ-
mental 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 recompu-
(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 elimi-
nated 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,
(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 taxpay-
er.
(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 termi-
nation shall be made on such form and in such manner as the commissioner
may prescribe by regulation or instruction.
(1) Emerging technology investment deferral. In the case of any sale
of a qualified emerging technologies investment held for more than thrir-
ty-six months and with respect to which the taxpayer elects the applica-
tion 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 follow-
ing shall apply:
(A) 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 qualify-
ing 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 para-
graph 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 subpara-
ex.29 graph (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 prop-
erty 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 manage-
ment, 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] TEN-C 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 combina-
tion 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 trans-
action 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 jurisdic-
tions 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 south-easterly 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 intersects 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 INTAN-
GIBLE 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 CORPO-
RATIONS 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 APPLICA-
TION OF THE RULE IN ITEM (XIII). IF THE TAXPAYER IS A MEMBER OF A
COMBINED GROUP, THE DETERMINATION OF WHETHER THERE IS A QUALIFIED RESI-
DENTIAL 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 IMPROVE-
MENT 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 TRAN-
SIENT 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 PRINCI-
PLES 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.

(5) SUBTRACTION MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS.

(1) A TAXPAYER THAT IS A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH OR A SMALL THRIFT INSTITUTION AS DEFINED IN SUBPARAGRAPH TWO-A OF THIS PARAGRAPH 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.

(2-A) TO BE A SMALL THRIFT INSTITUTION, A TAXPAYER MUST SATISFY THE FOLLOWING CONDITIONS.

(A) IT IS A SAVINGS BANK, A SAVINGS AND LOAN ASSOCIATION, OR OTHER SAVINGS INSTITUTION CHARTERED AND SUPERVISED AS SUCH UNDER FEDERAL OR STATE LAW.

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

(II) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN, THE PRINCIPAL AMOUNT OF WHICH LOAN IS ONE MILLION DOLLARS OR LESS, AND 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, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN NEW YORK.

(III) A LOAN THAT HAS BEEN DETERMINED TO BE A QUALIFYING LOAN IN A PRIOR TAXABLE YEAR REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED GROUP.

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 its 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 direc-
tor shall be considered an elected or appointed officer only if he
performs duties ordinarily performed by an officer.

[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,
telex or internet;
(b) responses to consumer correspondence or inquiries electronically
or by mail, telephone, telex or internet;
(c) billing and collection activities; or
(d) the shipment of orders from an inventory of products offered for
sale by the purchaser.]

§ 5. Subdivisions 1, 2, 2-a, 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, subdi-
vision 2-a as added by chapter 340 of the laws of 1998, subdivision 4 as
amended by section 27 of part S of this act, 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 0 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 proper-
ty 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,
only 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 APPOR-
TIONMENT FACTOR DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTI-
CLE. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT
CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED
BY THE CORPORATION.

(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
A. 8559--C                         35

1 SUBPARAGRAPH (II) OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED
2 IN THIS SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAV-
3 EL AND ENTERTAINMENT CARDS.
4
5 (D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST
6 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THIS STATE IN A TAXABLE YEAR
7 THAT IS PART OF A COMBINED REPORTING GROUP IS DERIVING RECEIPTS FROM
8 ACTIVITY IN THIS STATE IF THE RECEIPTS WITHIN THIS STATE OF THE MEMBERS
9 OF THE COMBINED REPORTING GROUP THAT HAVE AT LEAST TEN THOUSAND DOLLARS
10 OF RECEIPTS WITHIN THIS STATE IN THE AGGREGATE MEET THE THRESHOLD SET
11 FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.
12
13 (II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH
14 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR
15 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C) OF
16 THIS SUBDIVISION, AND IS PART OF A COMBINED REPORTING GROUP THAT IS
17 DOING BUSINESS IN THIS STATE IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR
18 CUSTOMERS AND LOCATIONS, WITHIN THIS STATE OF THE MEMBERS OF THE
19 COMBINED REPORTING GROUP THAT HAVE AT LEAST TEN CUSTOMERS, LOCATIONS, OR
20 CUSTOMERS AND LOCATIONS, WITHIN THIS STATE IN THE AGGREGATE MEETS ANY OF
21 THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION.
22
23 (E) AT THE END OF EACH YEAR, THE COMMISSIONER SHALL REVIEW THE CUMULA-
24 TIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. THE COMMISSIONER
25 SHALL ADJUST THE RECEIPT THRESHOLDS SET FORTH IN THIS SUBDIVISION IF THE
26 CONSUMER PRICE INDEX HAS CHANGED BY TEN PERCENT OR MORE SINCE JANUARY
27 FIRST, TWO THOUSAND FIFTEEN, OR SINCE THE DATE THAT THE THRESHOLDS WERE
28 LAST ADJUSTED UNDER THIS SUBDIVISION. THE THRESHOLDS SHALL BE ADJUSTED
29 TO REFLECT THAT CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE
30 INDEX. THE ADJUSTED THRESHOLDS SHALL BE ROUNDED TO THE NEAREST ONE THOU-
31 SAND DOLLARS. AS USED IN THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS
32 THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) AVAILABLE FORM
33 THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.
34 ANY ADJUSTMENT SHALL APPLY TO TAX PERIODS THAT BEGIN AFTER THE ADJUST-
35 MENT IS MADE.
36
37 (F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR
38 LEASING PROPERTY IN THIS STATE, MAINTAINING AN OFFICE IN THE STATE, OR
39 DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, ANY CORPORATION THAT IS A
40 PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO TAX UNDER THIS ARTICLE
41 AS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER.
42
43 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 affil-iated 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.]

2-a. An alien corporation shall not be deemed to be doing business,
employing capital, owning or leasing property, or maintaining an office
in this state, for the purposes of this article, if its activities in
this state are limited solely to (a) investing or trading in stocks and
securities for its own account within the meaning of clause (ii) of
subparagraph (A) of paragraph (2) of subsection (b) of section eight
hundred sixty-four of the internal revenue code or (b) investing or
trading in commodities for its own account within the meaning of clause
(ii) of subparagraph (B) of paragraph (2) of subsection (b) of section
eight hundred sixty-four of the internal revenue code or (c) any combi-
nation of activities described in paragraphs (a) and (b) of this subdi-
vision. 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 SHALL NOT
BE SUBJECT TO TAX UNDER THIS ARTICLE FOR THAT TAXABLE YEAR. For purposes
of this subdivision, an alien corporation is a corporation organized
under the laws of a country, or any political subdivision thereof, other
than the United States.

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 hous-
ing 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) [or (c)] or (d) of subdivision one of
section two hundred ten of this chapter, whichever is [greater]
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
1. 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 fran-
chise, 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 fidu-
 ciary, 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 addi-
tion 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, nine-
teen 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 commen-
sing 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 METROPOL-
ITAN 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. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE CORPORATION.

(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. 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 REPORTING 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 THAT 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, subparagraph 2 of paragraph (b) as amended by section 1 of part GG-1 of chapter 57 of the laws of 2008, subparagraph 3 of paragraph (b) as added by section 2 of part Z of chapter 59 of the laws of 2013, 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, subparagraph (vi) of paragraph (a) as amended by section 1 of part C of chapter 56 of the laws of 2011, subparagraph (vii) of paragraph (a) as added by section 1 of part Z of chapter 59 of the laws of 2013, subparagraph (iii) of paragraph (c) as added by section 3 of part Z of chapter 59 of the laws of 2013, 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, and paragraph (f) as amended by section 2 of part E of chapter 61 of the laws of 2005, 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 subdi-
tion, 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 twen-
ty-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 THOUS-
AND 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 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 thou-
sand 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 January first, two thou-
sand seven, 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. 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 thou-
sand dollars, (1) for taxable years beginning before July first, nine-
teen hundred ninety-nine, the amount shall be eight percent of the
entire net income base; (2) for taxable years beginning after June thir-
tieth, 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 the sum of (a) fifteen thousand dollars, (b) seven 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; (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 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) seven and one-quarter 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) 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, 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 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 distribution 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 one of section two hundred ten-b 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 fifteen.

(VIII) For an upstate New York manufacturer, 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. An upstate New York manufacturer is a qualified New York manufacturer: (A) that does not own or lease any tangible personal property or real property in any one of the following cities or counties: the city of New York or the counties of Nassau, Putnam, Rockland, Suffolk or Westchester; and (B) does not pay any wages, salaries or other personal service compensation within such city or county described in clause (A) of this subparagraph.

(IX) (A) In computing the business income base, taxpayers shall be allowed both a prior net operating loss conversion subtraction under this subparagraph and a net operating loss deduction under subparagraph (IX) of this paragraph. The prior net operating loss conversion subtraction computed under this subparagraph shall be applied against the business income base before the net operating loss deduction computed under subparagraph (IX) of this paragraph.

(B) Prior net operating loss conversion subtraction.

(I) "Base year" means the last taxable year beginning on or after January first, two thousand fourteen and before January first, two thousand fifteen.

(II) "Unabsorbed net operating loss" means the 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 this chapter 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.

(III) "Base year BAP" means the taxpayer's business allocation percentage as calculated under paragraph (A) of subdivision three of this section for the base year, or the taxpayer's allocation percentage as calculated under section fourteen hundred fifty-four of this chapter for purposes of calculating entire net income for the base year, as such sections were in effect on December thirty-first, two thousand fourteen.

(IV) "Base year tax rate" means the taxpayer's tax rate for the base year as calculated under this paragraph or subsection (A) of section fourteen hundred fifty-five of this chapter, as such provisions were in effect on December thirty-first, two thousand fourteen.
(2) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE CALCULATED AS FOLLOWS:

(I) THE TAXPAYER SHALL FIRST CALCULATE THE TAX VALUE OF ITS UNABSORBED NET OPERATING LOSS FOR THE BASE YEAR. THE VALUE IS EQUAL TO THE PRODUCT OF (I) THE AMOUNT OF THE TAXPAYER'S UNABSORBED NET OPERATING LOSS, (II) THE TAXPAYER'S BASE YEAR BAP, AND (III) THE TAXPAYER'S BASE YEAR TAX RATE.

(II) THE PRODUCT DETERMINED UNDER ITEM (I) OF THIS SUBCLAUSE IS THEN DIVIDED BY SEVEN AND ONE-TENTH PERCENT, OR IN THE CASE OF A QUALIFIED NEW YORK MANUFACTURER, FIVE AND SEVEN-TENTHS PERCENT. THIS RESULT SHALL EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL.

(III) THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION FOR THE TAXABLE YEAR SHALL EQUAL ONE-TENTH OF ITS NET OPERATING LOSS CONVERSION SUBTRACTION POOL PLUS ANY AMOUNT OF UNUSED PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION FROM PRECEDING TAXABLE YEARS. PROVIDED, HOWEVER, THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION OF A SMALL BUSINESS CORPORATION, AS DEFINED IN PARAGRAPH (F) OF THIS SUBDIVISION, AS OF THE LAST DAY OF THE BASE YEAR, SHALL NOT BE SUBJECT TO THE ONE-TENTH LIMITATION IN THE PREVIOUS SENTENCE.

(3) COMBINED GROUPS. (I) WHERE A TAXPAYER WAS PROPERLY INCLUDED OR REQUIRED TO BE INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR PURSUANT TO SECTION TWO HUNDRED ELEVEN OF THIS ARTICLE OR A COMBINED RETURN UNDER SECTION FOURTEEN HUNDRED SIXTY-TWO OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, AND THE MEMBERS OF THE COMBINED GROUP FOR THE BASE YEAR ARE THE SAME AS THE MEMBERS OF THE COMBINED GROUP FOR THE TAXABLE YEAR IMMEDIATELY SUCCEEDING THE BASE YEAR, THE COMBINED GROUP SHALL CALCULATE ITS PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL USING THE COMBINED GROUP'S TOTAL UNABSORBED NET OPERATING LOSS, BASE YEAR BAP, AND BASE YEAR TAX RATE.


(III) 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 PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE PROPORTIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND THE REMAININGPRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDingly.

(4) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF THE TAX ON THE CAPITAL BASE UNDER PARAGRAPH (B) OF THIS SUBDIVISION OR THE FIXED DOLLAR MINIMUM UNDER PARAGRAPH (D) OF THIS SUBDIVISION. ANY AMOUNT OF UNUSED SUBTRACTION SHALL BE CARRIED FORWARD TO SUBSEQUENT TAX YEAR OR YEARS UNTIL TAX YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTY-SIX, AND SHALL NOT BE SUBJECT TO THE ONE-TENTH LIMITATION IN THE SUBSEQUENT TAX YEAR OR YEARS.
NET OPERATING LOSS DEDUCTION. 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 MAXI-
MUM 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 OPER-
ATING 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 OPER-
ATING 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 DETERMIN-
ING 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 ther-
eof 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 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 ONE OF SECTION TWO HUNDRED TEN-B 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 sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen 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 sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen 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 sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen 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 sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen 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 sixteen, fifteen and four-tenths percent for taxable years commencing on or after January first, two thousand sixteen 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, twent-five percent for taxable years beginning on or after January first, two thousand fifteen, [eighteen] FIFTEEN.

[(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 allocated within the state as hereinafter provided, subject to any modifica-
tions 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:

<table>
<thead>
<tr>
<th>If New York receipts are:</th>
<th>The fixed dollar minimum tax is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>not more than $100,000</td>
<td>$  25</td>
</tr>
<tr>
<td>more than $100,000 but not over $250,000</td>
<td>$  50</td>
</tr>
<tr>
<td>more than $250,000 but not over $500,000</td>
<td>$ 175</td>
</tr>
<tr>
<td>more than $500,000 but not over $1,000,000</td>
<td>$ 300</td>
</tr>
<tr>
<td>more than $1,000,000 but not over $5,000,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>more than $5,000,000 but not over $25,000,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>Over $25,000,000</td>
<td>$4,500</td>
</tr>
</tbody>
</table>

[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, a qualified New York agricultural business, as defined in clause (c) of subparagraph (ii) of paragraph (b) of subdivision one of section two hundred ten-b of this article, and a qualified New York mining business, as defined in clause (d) of subparagraph (ii) of paragraph (b) of subdivision one of section two hundred ten-b 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:

<p>| 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 |</p>
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than $500,000 but not over $1,000,000</td>
<td>$439</td>
</tr>
<tr>
<td>More than $1,000,000 but not over $5,000,000</td>
<td>$1,316</td>
</tr>
<tr>
<td>More than $5,000,000 but not over $25,000,000</td>
<td>$3,070</td>
</tr>
<tr>
<td>Over $25,000,000</td>
<td>$4,385</td>
</tr>
</tbody>
</table>

For tax years beginning on or after January 1, 2016 and before January 1, 2018:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than $500,000 but not over $1,000,000</td>
<td>$439</td>
</tr>
<tr>
<td>More than $1,000,000 but not over $5,000,000</td>
<td>$1,316</td>
</tr>
<tr>
<td>More than $5,000,000 but not over $25,000,000</td>
<td>$3,070</td>
</tr>
<tr>
<td>Over $25,000,000</td>
<td>$4,385</td>
</tr>
</tbody>
</table>

For tax years beginning on or after January 1, 2018:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>More than $500,000 but not over $1,000,000</td>
<td>$439</td>
</tr>
<tr>
<td>More than $1,000,000 but not over $5,000,000</td>
<td>$1,316</td>
</tr>
<tr>
<td>More than $5,000,000 but not over $25,000,000</td>
<td>$3,070</td>
</tr>
<tr>
<td>Over $25,000,000</td>
<td>$4,385</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not more than $100,000</td>
<td>$21</td>
</tr>
<tr>
<td>More than $100,000 but not over $250,000</td>
<td>$63</td>
</tr>
<tr>
<td>More than $250,000 but not over $500,000</td>
<td>$148</td>
</tr>
<tr>
<td>More than $500,000 but not over $1,000,000</td>
<td>$423</td>
</tr>
<tr>
<td>More than $1,000,000 but not over $5,000,000</td>
<td>$1,269</td>
</tr>
<tr>
<td>More than $5,000,000 but not over $25,000,000</td>
<td>$2,961</td>
</tr>
<tr>
<td>Over $25,000,000</td>
<td>$4,230</td>
</tr>
</tbody>
</table>

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 thou-
sand 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 manufactur-
er" 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 manufactur-
ers 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 para-
graph 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 nine-
ty-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 subpara-
graph (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 affil-
lated 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 taxpay-
er" 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 first fifty thousand dollars in excess of the entire net income base over two hundred fifty thousand dollars.
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.

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, and subdivision 48 as added by section 3 of part T of this act of section 210 of the tax law are REPEALED.

S 15-a. Section 210 of the tax law is amended by adding a new subdivision 3 to read as follows:

3. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE TAX UNDER THIS ARTICLE USING THE AGGREGATE METHOD AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER, UNLESS ANOTHER METHOD FOR COMPUTING SUCH TAX IS REQUIRED OR ALLOWED BY SUCH REGULATIONS. UNDER THE AGGREGATE METHOD, A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP IS VIEWED AS HAVING AN UNDIVIDED INTEREST IN THE PARTNERSHIP'S ASSETS, LIABILITIES, AND ITEMS OF RECEIPTS, INCOME, GAIN, LOSS AND DEDUCTION. UNDER THE AGGREGATE METHOD, THE CORPORATION THAT IS A PARTNER IN A PARTNERSHIP IS TREATED AS PARTICIPATING IN THE PARTNERSHIP'S TRANSACTIONS AND ACTIVITIES.

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
A. 8559--C

1. OUT 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, TRADEMARKS, 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. A PATENT, COPYRIGHT, TRADEMARK OR SIMILAR INTANGIBLE PROPERTY IS USED IN THE STATE TO THE EXTENT THAT THE ACTIVITIES THEREUNDER ARE CARRIED ON IN THE STATE.

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.

(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, MICRO-WAVE, 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 LOCATED 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 GROSS RECEIPTS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED WITHIN AND WITHOUT THE STATE. GROSS RECEIPTS 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 AND OTHER GOVERNMENT AGENCY DEBT. EIGHT PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES OR OTHER SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), THE FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC), OR THE SMALL BUSINESS ADMINISTRATION SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION.
TION. EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) FROM (I) SALES OF ASSET BACKED SECURITIES OR OTHER SECURITIES ISSUED BY GOVERNMENT AGENCIES ISSUED BY GNMA, FNMA, OR FHLMC, THE SMALL BUSINESS ADMINISTRATION OR OTHER GOVERNMENT AGENCY, OR (II) 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 REFERENCED IN CLAUSE (II) 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.

(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 than 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 of a registered securities broker or dealer 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 frac-

(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 BROKER-AGE 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 SUBPARAGRAPH (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 A 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 SUBPARA-
GRAPH 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 APPORTION-
MENT FRACTION.

(C) RECEIPTS FROM CREDIT CARD AND SIMILAR ACTIVITIES. RECEIPTS RELAT-
ING 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 herein-
after) 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 denomi-
nator 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 or information that would be known upon reasonable inquiry: (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 a broker or dealer registered as
SUCH BY 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 NUMER-
ATOR 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 MULTI-
PLYING 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 TRUCK-
ING BUSINESS ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-
TION.

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 APPOR-
TIONMENT FRACTION.

(B) OTHER AVIATION SERVICES. (1)(A) THE PORTION OF RECEIPTS OF A
TAXPAYER FROM AVIATION SERVICES (OTHER THAN SERVICES DESCRIBED IN PARA-
GRAPH (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 ARITH-
METIC 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 EMER-
GENCY 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 REVEN-
UE TONS HANDLED BY THE TAXPAYER AT AIRPORTS WITHIN THIS STATE DURING

1. SUCH PERIOD BY THE TOTAL REVENUE TONS HANDLED BY IT AT AIRPORTS WITHIN
2. AND WITHOUT THIS STATE DURING SUCH PERIOD; AND
3. (III) THE PERCENTAGE DETERMINED BY DIVIDING SIXTY PERCENT OF THE
4. TAXPAYER'S ORIGINATING REVENUE WITHIN THIS STATE FOR SUCH PERIOD BY ITS
5. TOTAL ORIGINATING REVENUE WITHIN AND WITHOUT THIS STATE FOR SUCH PERIOD.
6. (B) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS
7. THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND
8. THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAY-
9. ER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM
10. THE TRANSPORTATION OR REVENUE PASSENGERS AND REVENUE PROPERTY FIRST
11. RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT
12. AIRPORTS; AND THE TERM "REVENUE TONS HANDLED" BY THE TAXPAYER AT
13. AIRPORTS MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED
14. POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGI-
15. NATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT
16. AIRPORTS;
17. (2) ALL SUCH RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES DESCRIBED
18. IN THIS PARAGRAPH ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT
19. FRACTION.
20. 8. RECEIPTS FROM SALES OF ADVERTISING. (A) THE AMOUNT OF RECEIPTS FROM
21. SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS INCLUDED IN THE NUMER-
22. TOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE
23. TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE
24. NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN THE
25. STATE AND THE DENOMINATOR OF WHICH IS THE NUMBER OF NEWSPAPERS AND PERI-
26. ODICALS DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE. THE TOTAL OF
27. SUCH RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS IS
28. INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.
29. (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR
30. RADIO INCLUDED IN THE APPORTIONMENT FRACTION IS DETERMINED BY  MULTIPLY-
31. NG THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS
32. THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE  DENOMINATOR
33. OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE
34. STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING ON TELE-
35. VISION AND RADIO IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT
36. FRACTION.
37. (C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN
38. PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR
39. DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF
40. WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR
41. SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE
42. NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE
43. TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE
44. NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR OF
45. WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE
46. STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING DESCRIBED IN
47. THIS PARAGRAPH IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-
48. TION.
49. 9. RECEIPTS FROM TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES.
50. RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES
51. ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS.
52. THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS
53. THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS
54. DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY A FRAC-
55. TION, THE NUMERATOR OF WHICH IS THE TAXPAYER'S TRANSPORTATION UNITS
56. WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE TAXPAYER'S TRANS-
PORTATION 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 SUBDIVI-
sIONS 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) INCLUD-
ing 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 PER CENT 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 CONSTIT-
UTES 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 that percentage appearing in column two which is opposite the appropriate period in column one in which the tangible personal property was acquired, constructed, reconstructed or erected, as the case may be:

<table>
<thead>
<tr>
<th>COLUMN 1</th>
<th>COLUMN 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>After December 31, 1968 and</td>
<td>One per cent</td>
</tr>
<tr>
<td>Prior to January 1, 1974</td>
<td>Two per cent</td>
</tr>
<tr>
<td>After December 31, 1973 and</td>
<td>Three per cent</td>
</tr>
<tr>
<td>Prior to January 1, 1978</td>
<td>Four per cent</td>
</tr>
<tr>
<td>After December 31, 1977 and</td>
<td>Five per cent</td>
</tr>
<tr>
<td>Prior to January 1, 1979</td>
<td>Six per cent</td>
</tr>
<tr>
<td>For taxable years beginning</td>
<td></td>
</tr>
<tr>
<td>In 1987, 1988 and 1989</td>
<td></td>
</tr>
<tr>
<td>For taxable years beginning</td>
<td></td>
</tr>
<tr>
<td>In 1990</td>
<td></td>
</tr>
<tr>
<td>For taxable years beginning</td>
<td></td>
</tr>
<tr>
<td>After 1990</td>
<td></td>
</tr>
</tbody>
</table>

For taxable years beginning

In 1990

For taxable years beginning

After 1990

Five percent with respect to the first four hundred twenty-five million dollars of the investment credit base, and four percent with respect to the investment credit base in excess of four hundred twenty-five million dollars, except that in the case of research and development property at the option of the taxpayer the applicable percentage shall be nine.
CREDIT BASE IN EXCESS OF THREE
HUNDRED FIFTY MILLION DOLLARS,
EXCEPT THAT IN THE CASE OF
RESEARCH AND DEVELOPMENT
PROPERTY AT THE OPTION OF THE
TAXPAYER THE APPLICABLE
PERCENTAGE SHALL BE NINE

Provided, however, that in the case of an acquisition, construction, reconstruction or erection which was commenced in any one period and continued or completed in any subsequent period the credit shall be the sum of the portions of the investment credit base attributable to each such period, which portion with respect to each such period shall be ascertained by multiplying such investment credit base 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, multiplied by the allowable percentage for each such period.

(B) (I) 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 ARE: DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL REVENUE CODE, HAVE A SITUS IN THIS STATE AND 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 ORGANIZATION 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 SHALL INCLUDE
A. 8559--C

1. MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY
2. USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER
3. TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL
4. INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STOR-
5. AGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE
6. PRODUCED.

7. (B) RESEARCH AND DEVELOPMENT PROPERTY SHALL MEAN PROPERTY WHICH IS
8. USED FOR PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR
9. LABORATORY SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDI-
10. NARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL,
11. EFFICIENCY SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING,
12. PROMOTIONS, OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMI-
13. LAR PROJECTS.

14. (C) INDUSTRIAL WASTE TREATMENT FACILITIES SHALL MEAN PROPERTY CONSTI-
15. TUTING FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF
16. INDUSTRIAL WASTE AND OTHER WASTES (AS THE TERMS "INDUSTRIAL WASTE" AND
17. "OTHER WASTES" ARE DEFINED IN SECTION 17-0105 OF THE ENVIRONMENTAL
18. CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT OF SUCH
19. TREATMENT, NEUTRALIZATION OR STABILIZATION TO THE POINT OF DISPOSAL,
20. INCLUDING THE NECESSARY PUMPING AND TRANSMITTING FACILITIES, BUT EXCLUD-
21. ING SUCH FACILITIES INSTALLED FOR THE PRIMARY PURPOSE OF SALVAGING MATE-
22. RIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE.

23. (D) AIR POLLUTION CONTROL FACILITIES SHALL MEAN PROPERTY CONSTITUTING
24. FACILITIES WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS
25. EMITTED FROM AN AIR CONTAMINATION SOURCE (AS THE TERMS "AIR CONTAMINANT"
26. AND "AIR CONTAMINATION SOURCE" ARE DEFINED IN SECTION 19-0107 OF THE
27. ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE
28. POINT OF SUCH REMOVAL, REDUCTION OR RENDERING TO THE POINT OF DISCHARGE
29. OF AIR, MEETING EMISSION STANDARDS AS ESTABLISHED BY THE DEPARTMENT OF
30. ENVIRONMENTAL CONSERVATION, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR
31. THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANU-
32. FACTURING PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH
33. RELY FOR THEIR EFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR
34. CONTAMINANTS IN THE AMBIENT AIR AFTER EMISSION. SUCH TERM SHALL FURTHER
35. INCLUDE FLUE GAS DESULFURIZATION EQUIPMENT AND ATTENDANT SLUDGE DISPOSAL
36. FACILITIES, FLUIDIZED BED BOILERS, PRECOMBUSTION COAL CLEANING FACILI-
37. TIES OR OTHER FACILITIES THAT CONFORM WITH THIS SUBDIVISION AND WHICH
38. COMPLY WITH THE PROVISIONS OF THE STATE ACID DEPOSITION CONTROL ACT SET
39. FORTH IN TITLE NINE OF ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVA-
40. TION LAW.

41. (E) THE TERMS "QUALIFIED FILM PRODUCTION FACILITY" AND "QUALIFIED FILM
42. PRODUCTION COMPANY" SHALL HAVE THE SAME MEANING AS IN SECTION
43. TWENTY-FOUR OF THIS CHAPTER.

44. (III) HOWEVER, SUCH CREDIT SHALL BE ALLOWED WITH RESPECT TO INDUSTRIAL
45. WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES ONLY ON
46. CONDITION THAT SUCH FACILITIES HAVE BEEN CERTIFIED BY THE STATE COMMIS-
47. SIONER OF ENVIRONMENTAL CONSERVATION OR HIS DESIGNATED REPRESENTATIVE,
48. PURSUANT TO SUBDIVISION ONE OF SECTION 17-0707 OR SUBDIVISION ONE OF
49. SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, AS COMPLYING WITH
50. APPLICABLE PROVISIONS OF THE ENVIRONMENTAL CONSERVATION LAW, THE PUBLIC
51. HEALTH LAW, THE STATE SANITARY CODE AND CODES, RULES, REGULATIONS,
52. PERMITS OR ORDERS ISSUED PURSUANT THEREO.

53. (D) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION
54. WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY,
55. INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH IT
56. 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.

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 AMOUNTS 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 COMMENCING PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEVEN AND 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 BUT IN NO EVENT SHALL SUCH CREDIT BE CARRIED OVER TO TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWO, AND ANY AMOUNT OF CREDIT ALLOWED FOR A TAXABLE YEAR COMMENCING ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEVEN 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 (J) 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 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.

AT THE OPTION OF THE TAXPAYER, AIR OR WATER POLLUTION CONTROL OR CONTROLLED PROCESS FACILITIES WHICH QUALIFY FOR ELECTIVE DEDUCTIONS UNDER PARAGRAPH (G) OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE MAY BE TREATED AS PROPERTY 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, PROVIDED THE PROPERTY OTHERWISE QUALIFIES UNDER PARAGRAPH (B) OF THIS SUBDIVISION, IN WHICH EVENT, A DEDUCTION SHALL NOT BE ALLOWED UNDER SUCH PARAGRAPH (G).

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.

(2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR 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 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.

(3) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR 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.

(4) 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 INTER-

(5) FOR PURPOSES OF THIS PARAGRAPH, PROPERTY (I) WHICH IS DESCRIBED IN SUBPARAGRAPH TWO, THREE OR FOUR 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 CHAPTER, 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.

(6) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-

(7) FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEVEN, 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 OF TAXATION AND FINANCE PURSUANT TO SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX, IN EFFECT ON THE LAST DAY OF THE TAXABLE YEAR.

(8) 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 NONQUAL-

(11) (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
A. 8559--C

1. SUCH CREDIT BE ADDED BACK BY THE TRANSFEROR, THEN CLAUSE (B) OR CLAUSE (C) OF THIS SUBPARAGRAPH SHALL APPLY.

2. (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:

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

4. (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

5. (III) THE AMOUNT OF UNUSED CREDIT SHALL BE TREATED AS AN AMOUNT OF CREDIT OF THE TAXPAYER UNDER THIS SUBDIVISION TO BE CARRIED FORWARD TO THE TAXABLE YEAR OF 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.

6. 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.

7. (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.

8. (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.

9. (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.

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

11. (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.

12. (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
A. 8559--C  76

1 OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER,
2 THE PROVISIONS OF SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF
3 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. SUCH
4 CREDIT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS ARTICLE WITH
5 RESPECT TO THE SECOND SUCCEEDING TAXABLE YEAR NEXT FOLLOWING THE TRANS-
6 ACTION YEAR, PROVIDED THAT NOT MORE THAN ONE-FOURTH OF THE AMOUNT OF
7 SUCH CREDIT MAY BE APPLIED BY THE TAXPAYER, WHETHER TO REDUCE TAX OTHER-
8 WISE DUE OR TO BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED,
9 WITH RESPECT TO SUCH SECOND SUCCEEDING TAXABLE YEAR AND EACH OF THE NEXT
10 THREE TAXABLE YEARS FOLLOWING SUCH SECOND SUCCEEDING TAXABLE YEAR.
11 (J) FOR PURPOSES OF PARAGRAPH (E) OF THIS SUBDIVISION, A NEW BUSINESS
12 SHALL INCLUDE ANY CORPORATION, EXCEPT A CORPORATION WHICH:
13 (1) OVER FIFTY PERCENT OF THE NUMBER OF SHARES OF STOCK ENTITLING THE
14 HOLDERS THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES IS
15 OWNED OR CONTROLLED, EITHER DIRECTLY OR INDIRECTLY, BY A TAXPAYER
16 SUBJECT TO TAX UNDER THIS ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE, ONE
17 HUNDRED EIGHTY-FOUR OR ONE HUNDRED EIGHTY-FIVE OF ARTICLE NINE; ARTICLE
18 THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER; OR
19 (2) IS SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSI-
20 NESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY TAXABLE, UNDER THIS
21 ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR, ONE
22 HUNDRED EIGHTY-FIVE OR ONE HUNDRED EIGHTY-SIX OF ARTICLE NINE; ARTICLE
23 THIRTY-TWO OR THIRTY-THREE OF THIS CHAPTER; ARTICLE TWENTY-THREE OF THIS
24 CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE TWEN-
25 TY-THREE (AS SUCH ARTICLE WAS IN EFFECT ON JANUARY FIRST, NINETEEN
26 HUNDRED EIGHTY) OR THE INCOME (OR LOSSES) OF WHICH IS (OR WAS) INCLUDA-
27 BLE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER WHEREBY THE INTENT AND
28 PURPOSE OF THIS PARAGRAPH AND PARAGRAPH (E) OF THIS SUBDIVISION WITH
29 RESPECT TO REFUNDING OF CREDIT TO NEW BUSINESS WOULD BE EVADED; OR
30 (3) HAS BEEN SUBJECT TO TAX UNDER THIS ARTICLE FOR MORE THAN FIVE
31 TAXABLE YEARS (EXCLUDING SHORT TAXABLE YEARS).
32 (K) RETAIL ENTERPRISE TAX CREDIT. A RETAIL ENTERPRISE NOT ELIGIBLE FOR
33 THE CREDIT PROVIDED FOR UNDER PARAGRAPH (A) OF THIS SUBDIVISION, BUT ELIGIBLE FOR THE
34 CREDIT PROVIDED FOR UNDER SECTION THIRTY-EIGHT OF THE INTERNAL REVENUE
35 CODE PURSUANT SOLELY TO THE PROVISIONS OF SUBPARAGRAPH (E) OF PARAGRAPH
36 ONE OF SUBSECTION (A) OF SECTION FORTY-EIGHT OF SUCH CODE, SHALL BE
37 ALLOWED A CREDIT AS HEREINAFTER COMPUTED. THE AMOUNT OF THE CREDIT SHALL
38 BE THE PERCENTAGE APPEARING IN PARAGRAPH (A) OF THIS SUBDIVISION FOR THE
39 PERIODS DESCRIBED THEREIN FOR THE AMOUNT OF QUALIFIED REHABILITATION
40 EXPENDITURES, AS DEFINED IN SUBSECTION (G) OF SECTION FORTY-EIGHT OF
41 SUCH CODE, PAID OR INCURRED WITH RESPECT TO A QUALIFIED REHABILITATED
42 BUILDING, AS DEFINED IN SUCH SUBSECTION (G), LOCATED IN THIS STATE AND
43 SUCH EXPENDITURES SHALL FURTHER BE LIMITED TO ONLY THE PORTION THEREOF
44 PAID OR INCURRED WITH RESPECT TO THAT PART OF A QUALIFIED REHABILITATED
45 BUILDING EMPLOYED BY SUCH TAXPAYER IN THE RETAIL SALES ACTIVITY OF SUCH
46 RETAIL ENTERPRISE. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM
47 "RETAIL ENTERPRISE" MEANS A TAXPAYER WHICH IS: (I) A REGISTERED VENDOR
48 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, (II) PRIMARILY ENGAGED IN
49 THE RETAIL SALE, AS THE TERM "RETAIL SALE" IS DEFINED IN SUBPARAGRAPH
50 (I) OF PARAGRAPH FOUR OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE
51 OF THIS CHAPTER, OF TANGIBLE PERSONAL PROPERTY, AND (III) OTHERWISE
52 ELIGIBLE FOR THE CREDIT ALLOWED PURSUANT TO SECTION THIRTY-EIGHT OF THE
53 INTERNAL REVENUE CODE.
54 (L) REHABILITATION CREDIT FOR HISTORIC BARNs. A TAXPAYER SHALL BE
55 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
56 TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE
TWENTY-FIVE PERCENT OF THE TAXPAYER'S QUALIFIED REHABILITATION EXPENDITURES, AS DEFINED IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION FORTY-SEVEN OF THE INTERNAL REVENUE CODE, WHICH QUALIFY AS THE BASIS FOR THE CREDIT PROVIDED FOR UNDER PARAGRAPH ONE OF SUBSECTION (B) OF SECTION THIRTY-EIGHT OF SUCH CODE BY REASON OF SUBSECTION ONE OF SECTION FORTY-SIX OF SUCH CODE, PAID OR INCURRED WITH RESPECT TO ANY BARN LOCATED IN THIS STATE WHICH IS A QUALIFIED REHABILITATED BUILDING, AS SUCH TERM IS DEFINED IN PARAGRAPH ONE OF SUBSECTION (C) OF SUCH SECTION FORTY-SEVEN. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "BARN" MEANS A BUILDING ORIGINALLY DESIGNED AND USED FOR STORING FARM EQUIPMENT OR AGRICULTURAL PRODUCTS, OR FOR HOUSING LIVESTOCK. PROVIDED, HOWEVER, SUCH QUALIFIED REHABILITATION EXPENDITURES SHALL NOT INCLUDE ANY SUCH EXPENDITURES WHICH ARE INCLUDED, DIRECTLY OR INDIRECTLY, IN THE COMPUTATION OF A CREDIT CLAIMED BY THE TAXPAYER PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION. PROVIDED FURTHER THAT NO REHABILITATION CREDIT SHALL BE ALLOWED FOR ANY REHABILITATION THAT CONVERTS SUCH BARN TO A RESIDENTIAL PURPOSE, NOR SHALL A REHABILITATION CREDIT BE ALLOWED FOR ANY REHABILITATION THAT MATERIALLY ALTERS THE HISTORIC APPEARANCE OF THE BARN.

(M)(1)(I) IF A TAXPAYER IS REQUIRED BY PARAGRAPH (G) OF THIS SUBDIVISION TO ADD BACK A PORTION OF THE CREDIT TAKEN BECAUSE PROPERTY WAS DESTROYED OR CEASED TO BE IN QUALIFIED USE AS A DIRECT RESULT OF THE SEPTEMBER ELEVENTH, TWO THOUSAND ONE TERRORIST ATTACKS, SUCH TAXPAYER MAY ELECT TO DEFER THE AMOUNT TO BE RECAPTURED FOR ALL SUCH PROPERTY TO THE TAXABLE YEAR NEXT SUCCEEDING THE TAXABLE YEAR IN WHICH THE DESTRUCTION OR CESSATION OF QUALIFIED USE OCCURRED. THE TAXABLE YEAR IN WHICH THE DESTRUCTION OR CESSATION OF QUALIFIED USE OCCURRED SHALL BE HEREINAFTER REFERRED TO AS THE "RECAPTURE EVENT TAXABLE YEAR". IF THE TAXPAYER'S TOTAL EMPLOYMENT NUMBER IN THE STATE ON THE LAST DAY OF THE TAXABLE YEAR NEXT SUCCEEDING THE RECAPTURE EVENT TAXABLE YEAR IS A SIGNIFICANT PERCENTAGE OF THE TAXPAYER'S AVERAGE TOTAL EMPLOYMENT NUMBER IN THE STATE FOR THE TAXPAYER'S RECAPTURE EVENT TAXABLE YEAR AND THE TWO TAXABLE YEARS IMMEDIATELY PRECEDING THE RECAPTURE EVENT TAXABLE YEAR, THEN THE TAXPAYER SHALL NOT BE REQUIRED TO RECAPTURE ANY CREDIT WITH RESPECT TO SUCH PROPERTY. IF THE TAXPAYER'S TOTAL EMPLOYMENT NUMBER IN THE STATE ON THE LAST DAY OF THE TAXABLE YEAR NEXT SUCCEEDING THE RECAPTURE EVENT TAXABLE YEAR IS NOT A SIGNIFICANT PERCENTAGE OF THE TAXPAYER'S AVERAGE TOTAL EMPLOYMENT NUMBER IN THE STATE FOR THE RECAPTURE EVENT TAXABLE YEAR AND THE TWO TAXABLE YEARS IMMEDIATELY PRECEDING THE RECAPTURE EVENT TAXABLE YEAR, THE TAXPAYER SHALL BE REQUIRED TO RECAPTURE THE PORTION OF THE CREDIT TAKEN UNDER THIS SUBDIVISION, AS REQUIRED BY PARAGRAPH (G) OF THIS SUBDIVISION, FOR ALL OF ITS PROPERTY DESTROYED OR WHICH CEASED TO BE IN QUALIFIED USE AS A DIRECT RESULT OF THE SEPTEMBER ELEVENTH, TWO THOUSAND ONE TERRORIST ATTACKS. THE AMOUNT REQUIRED TO BE RECAPTURED SHALL BE AUGMENTED AS REQUIRED PURSUANT TO SUBPARAGRAPH SEVEN OF PARAGRAPH (G) OF THIS SUBDIVISION BY USING AN INTEREST RATE EQUAL TO TWO TIMES THE RATE OF INTEREST SPECIFIED IN SUCH SUBPARAGRAPH SEVEN APPLICABLE FOR THE TAXABLE YEAR IN WHICH THE RECAPTURE OCCURS.

1. THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH
2. APPLICABLE TAXABLE YEARS. HOWEVER, IN THE CASE OF THE TAXABLE YEAR WHICH
3. INCLUDED SEPTEMBER ELEVENTH, TWO THOUSAND ONE, THE AVERAGE TOTAL EMPLOY-
4. MENT NUMBER FOR SUCH TAXABLE YEAR SHALL BE DETERMINED BY USING THE TOTAL
5. EMPLOYMENT NUMBER ON SEPTEMBER FIRST, TWO THOUSAND ONE IN LIEU OF
6. SEPTEMBER THIRTIETH, TWO THOUSAND ONE AND, IF SUCH TAXABLE YEAR INCLUDED
7. DECEMBER THIRTY-FIRST, TWO THOUSAND ONE, BY EXCLUDING THE TOTAL EMPLOY-
8. MENT NUMBER ON DECEMBER THIRTY-FIRST, TWO THOUSAND ONE.
9. (2) IN LIEU OF SUBPARAGRAPH ONE OF THIS PARAGRAPH, A TAXPAYER MAY
10. ELECT TO RECAPTURE THE PORTION OF THE CREDIT TAKEN UNDER THIS SUBDIVI-
11. SION, AS REQUIRED BY PARAGRAPH (G) OF THIS SUBDIVISION, FOR ALL OF ITS
12. PROPERTY WHICH WAS DESTROYED OR CEASED TO BE IN QUALIFIED USE AS A
13. DIRECT RESULT OF THE SEPTEMBER ELEVENTH, TWO THOUSAND ONE TERRORIST
14. ATTACKS, IN THE TAXABLE YEAR IN WHICH THE DESTRUCTION OR CESSATION OF
15. USE OCCURRED. IF THE TAXPAYER MAKES SUCH ELECTION AND ACQUIRES PROPERTY
16. (HEREINAFTER REFERRED TO AS "REPLACEMENT PROPERTY") TO REPLACE ANY PROP-
17. ERTY DESTROYED AS A DIRECT RESULT OF THE SEPTEMBER ELEVENTH, TWO THOU-
18. SAND ONE TERRORIST ATTACKS (REGARDLESS OF WHEN SUCH PROPERTY WAS PLACED
19. IN SERVICE AND WHETHER A CREDIT WAS CLAIMED ON THAT PROPERTY PURSUANT TO
20. THIS SUBDIVISION), AND SUCH REPLACEMENT PROPERTY IS SIMILAR OR RELATED
21. IN SERVICE OR USE TO SUCH DESTROYED PROPERTY, THE INVESTMENT CREDIT BASE
22. OF THE REPLACEMENT PROPERTY SHALL BE DETERMINED WITHOUT REGARD TO ANY
23. BASIS REDUCTION REQUIRED PURSUANT TO SECTION 1033 OF THE INTERNAL REVENUE
24. CODE.
25. (3) THE ELECTION MADE BY THE TAXPAYER UNDER SUBPARAGRAPH ONE OR TWO OF
26. THIS PARAGRAPH SHALL BE MADE IN THE MANNER AND FORM PRESCRIBED BY THE
27. COMMISSIONER.
28. (4) A TAXPAYER, OVER FIFTY PERCENT OF WHOSE EMPLOYEES DIED AS A DIRECT
29. RESULT OF THE SEPTEMBER ELEVENTH, TWO THOUSAND ONE TERRORIST ATTACKS,
30. MAY MAKE THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF THIS PARA-
31. GRAPH, AND SHALL NOT BE REQUIRED TO RECAPTURE ANY CREDIT WITH RESPECT TO
32. PROPERTY WHICH WAS DESTROYED OR WHICH CEASED TO BE IN QUALIFIED USE AS A
33. DIRECT RESULT OF SUCH ATTACKS, WHETHER OR NOT IT MEETS THE EMPLOYMENT
34. TEST SPECIFIED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF THIS PARAGRAPH.
2. EMPLOYMENT INCENTIVE CREDIT (EIC). APPLICATION OF CREDIT. WHERE A
36. TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION ONE OF THIS SECTION,
37. OTHER THAN AT THE OPTIONAL RATE APPLICABLE TO RESEARCH AND DEVELOPMENT
38. PROPERTY, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE TWO
39. YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH
40. SUBDIVISION ONE IS ALLOWED WITH RESPECT TO SUCH PROPERTY, WHETHER OR NOT
41. DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS PURSUANT
42. TO PARAGRAPH (D) OF SUCH SUBDIVISION ONE. PROVIDED, HOWEVER, THAT THE
43. CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE
44. ALLOWED ONLY IF THE AVERAGE NUMBER OF EMPLOYEES DURING SUCH TAXABLE YEAR
45. IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF EMPLOYEES
46. DURING THE EMPLOYMENT BASE YEAR. THE EMPLOYMENT BASE YEAR SHALL BE THE
47. TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT
48. UNDER SUCH SUBDIVISION ONE IS ALLOWED EXCEPT THAT IF THE TAXPAYER WAS
49. NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE YEAR IMMEDIATELY PRECEDING
50. THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE OF THIS
51. SECTION IS ALLOWED, THE EMPLOYMENT BASE YEAR SHALL BE THE TAXABLE YEAR
52. IN WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE IS ALLOWED.
3. EMPIRE ZONE INVESTMENT TAX CREDIT (EZ-ITC). (A) A TAXPAYER SHALL
54. BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREIN PROVIDED, AGAINST THE TAX
55. IMPOSED BY THIS ARTICLE IF THE TAXPAYER HAS BEEN CERTIFIED PURSUANT TO
56. ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW. THE AMOUNT OF THE
A. 8559--C

1 CREDIT SHALL BE TEN PERCENT OF THE COST OR OTHER BASIS FOR FEDERAL
2 INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE
3 PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS,
4 DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION, WHICH IS LOCATED WITHIN
5 AN EMPIRE ZONE DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF SUCH
6 LAW, BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR
7 ERECTION OF SUCH PROPERTY OCCURRED OR WAS COMMENCED ON OR AFTER THE DATE
8 OF SUCH DESIGNATION AND PRIOR TO THE EXPIRATION THEREOF. PROVIDED,
9 HOWEVER, THAT IN THE CASE OF AN ACQUISITION, CONSTRUCTION, RECON-
10 STRUCTION OR ERECTION WHICH WAS COMMENCED DURING SUCH PERIOD AND CONTIN-
11 UED OR COMPLETED SUBSEQUENTLY, SUCH CREDIT SHALL BE TEN PERCENT OF THE
12 PORTION OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES
13 ATTRIBUTABLE TO SUCH PERIOD, WHICH PORTION SHALL BE ASCERTAINED BY
14 MULTIPLYING SUCH COST OR BASIS BY A FRACTION THE NUMERATOR OF WHICH
15 SHALL BE THE EXPENDITURES PAID OR INCURRED DURING SUCH PERIOD FOR SUCH
16 PURPOSES AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL OF ALL EXPENDI-
17 TURES PAID OR INCURRED FOR SUCH ACQUISITION, CONSTRUCTION, RECON-
18 STRUCTION OR ERECTION.

(B) A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO
19 TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILD-
20 INGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH (I) ARE DEPRECIABLE
21 PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE
22 CODE, (II) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, (III) ARE ACQUIRED
23 BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE
24 INTERNAL REVENUE CODE, (IV) HAVE A SITUS IN AN EMPIRE ZONE DESIGNATED AS
25 SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW, AND
26 (V) ARE (A) PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS
27 BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING, EXTRACTING,
28 FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICULTURE OR COMMER-
29 CIAL FISHING, (B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION
30 CONTROL FACILITIES USED IN THE TAXPAYER'S TRADE OR BUSINESS, (C)
31 RESEARCH AND DEVELOPMENT PROPERTY, (D) PRINCIPALLY USED IN THE ORDINARY
32 COURSE OF THE TAXPAYER'S TRADE OR BUSINESS AS A BROKER OR DEALER IN
33 CONNECTION WITH THE PURCHASE OR SALE (WHICH SHALL INCLUDE BUT NOT BE
34 LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMPTION, OFFSET, ASSIGNMENT,
35 TERMINATION, OR TRANSFER) OF STOCKS, BONDS OR OTHER SECURITIES AS
36 DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL
37 REVENUE CODE, OR OF COMMODITIES AS DEFINED IN SECTION FOUR HUNDRED
38 SEVENTY-FIVE (E) OF THE INTERNAL REVENUE CODE, (E) PRINCIPALLY USED IN
39 THE ORDINARY COURSE OF THE TAXPAYER'S TRADE OR BUSINESS OF PROVIDING
40 INVESTMENT ADVISORY SERVICES FOR A REGULATED INVESTMENT COMPANY AS
41 DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE,
42 OR LENDING, LOAN ARRANGEMENT, OR LOAN ORIGINATION SERVICES TO CUSTOMERS
43 IN CONNECTION WITH THE PURCHASE OR SALE (WHICH SHALL INCLUDE BUT NOT BE
44 LIMITED TO THE ISSUANCE, ENTERING INTO, ASSUMPTION, OFFSET, ASSIGNMENT,
45 TERMINATION OR TRANSFER) OF SECURITIES AS DEFINED IN SECTION FOUR
46 HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE, OR (F) PRINCI-
47 PALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS AS AN
48 EXCHANGE REGISTERED AS A NATIONAL SECURITIES EXCHANGE WITHIN THE MEANING
49 OF SECTIONS 3(A)(1) AND 6(A) OF THE SECURITIES EXCHANGE ACT OF 1934 OR A
50 BOARD OF TRADE AS DEFINED IN SUBDIVISION ONE OF PARAGRAPH (A) OF SECTION
51 FOURTEEN HUNDRED TEN OF THE NOT-FOR-PROFIT CORPORATION LAW OR AS AN
52 ENTITY THAT IS WHOLLY OWNED BY ONE OR MORE SUCH NATIONAL SECURITIES
53 EXCHANGES OR BOARDS OF TRADE AND THAT PROVIDES AUTOMATION OR TECHNICAL
54 SERVICES THERETO. FOR PURPOSES OF CLAUSES (D), (E) AND (F) OF SUBPARA-
55 GRAPH (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) AND (E) OF SUBPARAGRAPH
(V) OF THIS PARAGRAPH MAY BE AGGREGATED. IN ADDITION, THE USES BY THE
TAXPAYER, ITS AFFILIATED REGULATED BROKER, DEALER AND REGISTERED INVEST-
MENT 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 RESULT-
ING 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 NINE-
TY-EIGHT OR, IF THE TAXPAYER WAS NOT A CALENDAR YEAR TAXPAYER IN NINE-
TEEN 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 THE PURPOSE OF
THIS SUBDIVISION, THE TERM "GOODS" SHALL NOT INCLUDE ELECTRICITY. FOR
PURPOSES OF THIS PARAGRAPH, 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, APPLI-
ANCES 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 OPERA-
TION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE
PRODUCTS THAT ARE PRODUCED. FOR PURPOSES OF THIS PARAGRAPH, THE TERMS
"RESEARCH AND DEVELOPMENT PROPERTY", "INDUSTRIAL WASTE TREATMENT FACILI-
TIES", AND "AIR POLLUTION CONTROL FACILITIES" SHALL HAVE THE MEANINGS
ASCRIBED THERETO BY CLAUSES (B), (C) AND (D), RESPECTIVELY, OF SUBPARA-
A. 8559--C

1. Graph (II) of Paragraph (B) of Subdivision One of this Section, and the
2. Provisions of Subparagraph (III) of such Paragraph (B) shall apply.
3. (C) A taxpayer shall not be allowed a credit under this Subdivision
4. with respect to any tangible personal property and other tangible prop-
5. erty, including buildings and structural components of buildings, which
6. it leases to any other person or corporation except where a taxpayer
7. leases property to an affiliated regulated broker, dealer, registered
8. investment adviser, national securities exchange or board of trade (or
9. other entity described in clause (F) of Subparagraph (V) of Paragraph
10. (B) of this Subdivision that uses such property in accordance with
11. clause (D), (E) or (F) of Subparagraph (V) of Paragraph (B) of this
12. Subdivision. For purposes of the preceding sentence, any contract or
13. agreement to lease or rent or for a license to use such property shall
14. be considered a lease. Provided, however, in determining whether a
15. taxpayer shall be allowed a credit under this Subdivision with respect
16. to such property, any election made with respect to such property pursuant
17. to the provisions of Paragraph Eight of Subsection (F) of Section
18. One Hundred Sixty-Eight of the Internal Revenue Code, as such Paragraph
19. was in effect for agreements entered into prior to January First, Nine-
20. teen Hundred Eighty-Four, shall be disregarded.
21. (D) The credit allowed under this Subdivision for any taxable year
22. shall not reduce the tax due for such year to less than the higher of
23. the amounts prescribed in Paragraphs (C) and (D) of Subdivision One of
24. this Section. Provided, however, that if the amount of credit allowed
25. under this Subdivision for any taxable year reduces the tax to such
26. amount, any amount of credit not deductible in such taxable year may be
27. carried over to the following year or years and may be deducted from the
28. taxpayer's tax for such year or years. In lieu of such carryover, any
29. such taxpayer which qualifies as a new business under Paragraph (J) of
30. Subdivision One of this Section may elect, on its report for its taxable
31. year with respect to which such credit is allowed, to treat fifty
32. percent of the amount of such carryover as an overpayment of tax to be
33. credited or refunded in accordance with the provisions of Section Ten
34. Hundred Eighty-Six of this Chapter. In addition, any taxpayer which is
35. approved as the owner of a qualified investment project or a significant
36. capital investment project pursuant to Subdivision (W) of Section Nine
37. Hundred Fifty-Nine of the General Municipal Law, on its report for its
38. taxable year with respect to which such credit is allowed, in lieu of
39. such carryover, may elect to treat fifty percent of the amount of such
40. carryover which is attributable to the credit allowed under this Subdi-
41. vision for property which is part of such project as an overpayment of
42. tax to be credited or refunded in accordance with the provisions of
43. Section Ten Hundred Eighty-Six of this Chapter. Provided, however, such
44. owner shall be allowed such refund for a maximum of ten taxable years
45. with respect to such qualified investment project and each significant
46. capital investment project, starting with the first taxable year in
47. which property comprising such project is placed in service. Provided,
48. further, however, the provisions of Subsection (C) of Section Ten
49. Hundred Eighty-Eight of this Chapter notwithstanding, no interest shall
50. be paid thereon.
51. (D-1) Any carry over of a credit from prior taxable years will not be
52. allowed if an Empire Zone Retention Certificate is not issued pursuant
53. to Subdivision (W) of Section Nine Hundred Fifty-Nine of the General
54. Municipal Law to the Empire Zone Enterprise which is the basis of the
55. credit.
(E) At the option of the taxpayer, air or water pollution control facilities which qualify for elective deductions under paragraph (G) of subdivision nine of section two hundred eight of this article, or property which qualifies for the credit provided under subdivision one of this section, may be treated as property principally used by the taxpayer in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, viticulture or commercial fishing, provided the property otherwise qualifies under paragraph (B) of this subdivision, in which event a deduction shall not be allowed under such paragraph (G), and a credit shall not be allowed under subdivision one of this section.

(F) (1) 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.

(2) Except with respect to property to which subparagraph four 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.

(3) Except with respect to that property to which subparagraph four 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.

(4) 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 SIXTY. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION.

(5) 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.

(6)(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 AUGMENTED BY AN AMOUNT EQUAL TO THE PRODUCT OF THE AMOUNT OF CREDIT, WITH RESPECT TO 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 (SUBJECT TO THE LIMIT SET FORTH IN THIS SUBPARAGRAPH) AND THE UNDERPAYMENT RATE OF INTEREST (WITHOUT REGARD TO COMPOUNDING) SET BY THE COMMISSIONER OF TAXATION AND FINANCE PURSUANT TO SUBDIVISION (E) OF SECTION ONE THOUSAND NINETY-SIX OF THIS CHAPTER, IN EFFECT ON THE LAST DAY OF THE TAXABLE YEAR. THE LIMIT 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.

(7) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH
RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-
ICATE 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 MANU-
FACTURING PROCESS OR ARE MARKETABLE SHALL CONSTITUTE A CESSATION OF
QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR COMPRIS-
ING SUCH FACILITY WHICH IS DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARA-
GRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION.

(8) 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 PART-
NERSHIP IN AN EMPIRE ZONE THE BASIS FOR FEDERAL INCOME TAX PURPOSES OF
SUCH PROPERTY (OR A PROJECT THAT INCLUDES SUCH PROPERTY) EQUALED OR
EXCEEDED THREE HUNDRED MILLION DOLLARS AND SUCH PARTNER OWNED ITS PART-
NERSHIP 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 PART-
NER IN THE YEAR SUCH PROPERTY CEASES TO BE IN QUALIFYING USE.

(9) IF A TAXPAYER, WHICH IS APPROVED BY THE COMMISSIONER OF ECONOMIC
DEVELOPMENT AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIF-
ICANT 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 EXCEED-
ING THE APPLICABLE MINIMUM REQUIRED BASIS AS PROVIDED IN SUCH SUBDIVI-
SION (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 COMPRIZES 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 COMPRIZES 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 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.

(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 Zones 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 subdivision 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
A. 8559--C  86

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 OR IF THE TAXPAYER OTHERWISE PAYS
TAX BASED ON THE FIXED DOLLAR MINIMUM 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 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 NOTWITHSTAND-
ING, 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 SUCCEED-
ING 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
A. 8559--C  87

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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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


(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 TAXA-
BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN SUBPARAGRAPH (D) OF SUBDIVI-
SION 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON
THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCT-
IBLE 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 QUALI-
FIED 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 TECH-
NOLOGY 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 SUBPAR-
AGRAPHER (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 SUBPAR-
AGRAPHER (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 CONTRIB-
UTION 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 PART-
nership 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 the taxpayer otherwise pays tax based on the fixed dollar minimum 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 eighty 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;

(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 eighty 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 ANNUALLY 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 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 MET THE REQUIREMENTS UNDER THIS PARAGRAPH.


(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.


(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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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
(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
A. 8559--C                         95

1    (2) WHO HAS WORKED ON A FULL-TIME BASIS FOR THE EMPLOYER WHO IS CLAIM-
2  ING THE CREDIT FOR AT LEAST ONE HUNDRED EIGHTY DAYS OR FOUR HUNDRED
3  HOURS.
4    (C) AMOUNT OF CREDIT. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS
5  SUBDIVISION, THE AMOUNT OF CREDIT SHALL BE THIRTY-FIVE PERCENT OF THE
6  FIRST SIX THOUSAND DOLLARS IN QUALIFIED FIRST-YEAR WAGES EARNED BY EACH
7  QUALIFIED EMPLOYEE. "QUALIFIED FIRST-YEAR WAGES" MEANS WAGES PAID OR
8  INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO QUALIFIED EMPLOYEES
9  WHICH ARE ATTRIBUTABLE, WITH RESPECT TO ANY SUCH EMPLOYEE, TO SERVICES
10  RENDERED DURING THE ONE-YEAR PERIOD BEGINNING WITH THE DAY THE EMPLOYEE
11  BEGINS WORK FOR THE TAXPAYER.
12    (D) CREDIT WHERE FEDERAL WORK OPPORTUNITY TAX CREDIT APPLIES. WITH
13  RESPECT TO ANY QUALIFIED EMPLOYEE WHOSE QUALIFIED FIRST-YEAR WAGES UNDER
14  PARAGRAPH (C) OF THIS SUBDIVISION ALSO CONSTITUTE QUALIFIED FIRST-YEAR
15  WAGES FOR PURPOSES OF THE WORK OPPORTUNITY TAX CREDIT FOR VOCATIONAL
16  REHABILITATION REFERRALS UNDER SECTION FIFTY-ONE OF THE INTERNAL REVENUE
17  CODE, THE AMOUNT OF CREDIT UNDER THIS SUBDIVISION SHALL BE THIRTY-FIVE
18  PERCENT OF THE FIRST SIX THOUSAND DOLLARS IN QUALIFIED SECOND-YEAR WAGES
19  EARNED BY EACH SUCH EMPLOYEE. "QUALIFIED SECOND-YEAR WAGES" MEANS WAGES
20  PAID OR INCURRED BY THE TAXPAYER DURING THE TAXABLE YEAR TO QUALIFIED
21  EMPLOYEES WHICH ARE ATTRIBUTABLE, WITH RESPECT TO ANY SUCH EMPLOYEE, TO
22  SERVICES RENDERED DURING THE ONE-YEAR PERIOD BEGINNING ONE YEAR AFTER
23  THE EMPLOYEE BEGINS WORK FOR THE TAXPAYER.
24    (E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
25  BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
26  FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
27  ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT
28  OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES
29  THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON
30  THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN
31  SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS,
32  AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.
33    (F) COORDINATION WITH FEDERAL WORK OPPORTUNITY TAX CREDIT. THE
34  PROVISIONS OF SECTION FIFTY-ONE AND FIFTY-TWO OF THE INTERNAL REVENUE
35  CODE, AS SUCH SECTIONS APPLIED ON OCTOBER FIRST, NINETEEN HUNDRED NINE-
36  TY-SIX, THAT APPLY TO THE FEDERAL WORK OPPORTUNITY TAX CREDIT FOR VOCA-
37  TIONAL REHABILITATION REFERRALS SHALL APPLY TO THE CREDIT UNDER THIS
38  SUBDIVISION TO THE EXTENT THAT SUCH SECTIONS ARE CONSISTENT WITH THE
39  SPECIFIC PROVISIONS OF THIS SUBDIVISION, PROVIDED THAT IN THE EVENT OF A
40  CONFLICT THE PROVISIONS OF THIS SUBDIVISION SHALL CONTROL.
41  13. CREDIT FOR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR. A
42  TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
43  PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR THE PURCHASE,
44  OTHER THAN FOR RESALE, OF AN AUTOMATED EXTERNAL DEFIBRILLATOR, AS SUCH
45  TERM IS DEFINED IN SECTION THREE THOUSAND-B OF THE PUBLIC HEALTH LAW.
46  THE AMOUNT OF CREDIT SHALL BE THE COST TO THE TAXPAYER OF AUTOMATED
47  EXTERNAL DEFIBRILLATORS PURCHASED DURING THE TAXABLE YEAR, SUCH CREDIT
48  NOT TO EXCEED FIVE HUNDRED DOLLARS WITH RESPECT TO EACH UNIT PURCHASED.
49  THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT
50  REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM
51  AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
52  HUNDRED TEN OF THIS CHAPTER.
53  14. CREDIT FOR PURCHASE OF LONG-TERM CARE INSURANCE. (A) GENERAL. A
54  TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-
55  CLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR
56  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
ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXA-
BLE 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 CRED-
IT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION
FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER
OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT
OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXA-
BLE 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 CARRY-
OVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY
TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE
PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 OR IF THE TAXPAYER OTHERWISE PAYS
TAX BASED ON THE FIXED DOLLAR MINIMUM 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX
BASED ON THE FIXED DOLLAR MINIMUM 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 CRED-
IT. 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. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-
SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE
TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 SUBDIVI-
SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE
TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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.
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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN.

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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 RECAPPED 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 OR IF THE TAXPAYER OTHERWISE OBTAINS CREDIT FOR THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THAT WOULD OTHERWISE BE DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE RECCREDITED 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.

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
A. 8559--C

1 NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD OR NEW YORK NAVAL
2 MILITIA; WHO WAS RELEASED FROM ACTIVE DUTY BY GENERAL OR HONORABLE
3 DISCHARGE AFTER SEPTEMBER ELEVENTH, TWO THOUSAND ONE;
4 (2) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER
5 JANUARY FIRST, TWO THOUSAND FOURTEEN, AND BEFORE JANUARY FIRST, TWO
6 THOUSAND SIXTEEN; AND
7 (3) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT
8 HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY
9 WEEK IN THE ONE HUNDRED EIGHTY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR
10 HER EMPLOYMENT BY THE TAXPAYER.
11 (C) EMPLOYER PROHIBITION. AN EMPLOYER SHALL NOT DISCHARGE AN EMPLOYEE
12 AND HIRE A QUALIFYING VETERAN SOLELY FOR THE PURPOSE OF QUALIFYING FOR
13 THIS CREDIT.
14 (D) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF
15 THE TOTAL AMOUNT OF WAGES PAID TO THE QUALIFIED VETERAN DURING THE
16 VETERAN'S FIRST FULL YEAR OF EMPLOYMENT. PROVIDED, HOWEVER, THAT, IF THE
17 QUALIFIED VETERAN IS A DISABLED VETERAN, AS DEFINED IN PARAGRAPH (B) OF
18 SUBDIVISION ONE OF SECTION EIGHTY-FIVE OF THE CIVIL SERVICE LAW, THE
19 AMOUNT OF THE CREDIT SHALL BE FIFTEEN PERCENT OF THE TOTAL AMOUNT OF
20 WAGES PAID TO THE QUALIFIED VETERAN DURING THE VETERAN'S FIRST FULL YEAR
21 OF EMPLOYMENT. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT
22 EXCEED IN ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED
23 VETERAN AND FIFTEEN THOUSAND DOLLARS FOR ANY QUALIFIED VETERAN WHO IS A
24 DISABLED VETERAN.
25 (E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
26 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
27 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
28 HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE
29 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
30 AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR
31 MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
32 MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED
33 FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.
34 30. ALTERNATIVE FUELS AND ELECTRIC VEHICLE RECHARGING PROPERTY CREDIT.
35 (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS
36 HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ALTER-
37 NATIVE FUEL VEHICLE REFUELING AND ELECTRIC VEHICLE RECHARGING PROPERTY
38 PLACED IN SERVICE DURING THE TAXABLE YEAR.
39 (B) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE
40 RECHARGING PROPERTY. THE CREDIT UNDER THIS SUBDIVISION FOR ALTERNATIVE
41 FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE RECHARGING PROPERTY
42 SHALL EQUAL FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOU-
43 SAND DOLLARS OR FIFTY PERCENT OF THE COST OF ANY SUCH PROPERTY:
44 (I) WHICH IS LOCATED IN THIS STATE;
45 (II) WHICH CONSTITUTES ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY OR
46 ELECTRIC VEHICLE RECHARGING PROPERTY; AND
47 (III) FOR WHICH NONE OF THE COST HAS BEEN PAID FOR FROM THE PROCEEDS
48 OF GRANTS, INCLUDING GRANTS FROM THE NEW YORK STATE ENERGY RESEARCH AND
49 DEVELOPMENT AUTHORITY OR THE NEW YORK POWER AUTHORITY.
50 (C) DEFINITIONS. (I) THE TERM "ALTERNATIVE FUEL VEHICLE REFUELING
51 PROPERTY" MEANS ALL OF THE EQUIPMENT NEEDED TO DISPENSE ANY FUEL AT
52 LEAST EIGHTY-FIVE PERCENT OF THE VOLUME OF WHICH CONSISTS OF ONE OR MORE
53 OF THE FOLLOWING: NATURAL GAS, LIQUIFIED NATURAL GAS, LIQUIFIED PETROLE-
54 UM, 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 or if the taxpayer otherwise pays tax based on the fixed dollar minimum 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 allowable under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum 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 OR IF THE TAXPAYER OTHERWISE PAYS
TAX BASED ON THE FIXED DOLLAR MINIMUM 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 EIGHT-
Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-
EON.

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 CRED-
IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
DOLLAR MINIMUM 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 CRED-
IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
DOLLAR MINIMUM 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.

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 CRED-
IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT 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-EIGHT 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.

(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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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 OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM 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-EIGHT 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.

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
1 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
2 AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR
3 MINIMUM AMOUNT, ANY AMOUNT OF CREDIT Thus NOT DEDUCTIBLE IN SUCH TAXABLE
4 YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE
5 DEDUCTED FROM THE TAXPAYER’S TAX FOR SUCH YEAR OR YEARS.
6 43. INTENTIONALLY OMITTED.
7 44. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES
8 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS
9 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF
10 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE
11 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED
12 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING
13 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING
14 ENTIRE NET INCOME UNDER THIS ARTICLE. HOWEVER, ANY AMOUNT OF CREDIT NOT
15 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF
16 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF
17 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE
18 CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED
19 EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF
20 TELECOMMUNICATION SERVICES AND PAID BY SUCH BUSINESS WITH RESPECT TO
21 SUCH SERVICES RENDERED WITHIN A TAX-FREE NY AREA DURING THE TAXABLE
22 YEAR. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF
23 ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY
24 TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
25 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
26 HUNDRED TEN OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
27 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
28 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.
29 45. ORDER OF CREDITS. (A) CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH
30 CANNOT BE CARRIED OVER AND WHICH ARE NOT REFUNDABLE SHALL BE DEDUCTED
31 FIRST. THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION SHALL
32 BE DEDUCTED IMMEDIATELY AFTER THE DEDUCTION OF ALL CREDITS ALLOWABLE
33 UNDER THIS ARTICLE WHICH CANNOT BE CARRIED OVER AND WHICH ARE NOT
34 REFUNDABLE, WHETHER OR NOT A PORTION OF SUCH CREDIT IS REFUNDABLE.
35 CREDITS ALLOWABLE UNDER THIS ARTICLE WHICH CAN BE CARRIED OVER, AND
36 CARRYOVERS OF SUCH CREDITS, SHALL BE DEDUCTED NEXT AFTER THE DEDUCTION
37 OF THE CREDIT ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION, AND AMONG
38 SUCH CREDITS, THOSE WHOSE CARRYOVER IS OF LIMITED DURATION SHALL BE
39 DEDUCTED BEFORE THOSE WHOSE CARRYOVER IS OF UNLIMITED DURATION. CREDITS
40 ALLOWABLE UNDER THIS ARTICLE WHICH ARE REFUNDABLE (OTHER THAN THE CREDIT
41 ALLOWABLE UNDER SUBDIVISION SIX OF THIS SECTION) SHALL BE DEDUCTED LAST.
42 46. NOTWITHSTANDING THE REPEAL OF THE CREDIT PROVISIONS CONTAINED IN
43 SECTION TWO HUNDRED TEN OF THIS ARTICLE OR IN ARTICLE THIRTY-TWO OF THIS
44 CHAPTER AND THE ENACTMENT OF THIS SECTION BY A CHAPTER OF THE LAWS OF
45 TWO THOUSAND FOURTEEN:
46 (A) A TAXPAYER SHALL BE ALLOWED TO UTILIZE ANY CARRYFORWARD AMOUNTS OF
47 CREDITS TO WHICH THE TAXPAYER WAS ENTITLED AS OF THE CLOSE OF THE TAXA-
48 BLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND
49 BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, OTHER THAN THE CARRYFORWARD
50 AMOUNT OF THE MINIMUM TAX CREDIT PROVIDED UNDER SUBDIVISION THIRTEEN OF
51 SECTION TWO HUNDRED TEN, AS THAT SUBDIVISION WAS IN EFFECT ON DECEMBER
52 THIRTY-FIRST, TWO THOUSAND FOURTEEN.
53 (B) A TAXPAYER SHALL BE REQUIRED IN A TAXABLE YEAR BEGINNING ON OR
54 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, TO RECAPTURE ALL OR A PORTION
55 OF A CREDIT ALLOWED UNDER A CREDIT PROVISION IN SECTION TWO HUNDRED TEN
56 OR ARTICLE THIRTY-TWO OF THIS CHAPTER FOR A TAXABLE YEAR BEGINNING PRIOR
A. 8559--C  109

1. TO JANUARY FIRST, TWO THOUSAND FIFTEEN IF RECAPTURE WOULD HAVE BEEN
2. REQUIRED UNDER SUCH CREDIT PROVISION.

47. (A) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVI-
3. SION, IN ANY TAXABLE YEAR, A TAXPAYER MUST FIRST CLAIM ANY OF THE CRED-
4. ITS SPECIFIED IN THIS SECTION ON ITS ORIGINALLY FILED REPORT FOR SUCH
5. TAXABLE YEAR. A TAXPAYER SHALL NOT FIRST CLAIM A CREDIT ON AN AMENDED
6. REPORT.

(B) A TAXPAYER MAY FIRST CLAIM A CREDIT ON AN AMENDED REPORT ONLY
UNDER THE FOLLOWING CIRCUMSTANCES:
(1) THE TAXPAYER’S ELIGIBILITY FOR THE CREDIT OR THE AMOUNT OF THE
CREDIT THE TAXPAYER IS ALLOWED IS DETERMINED BY A GOVERNMENT AGENCY
OTHER THAN THE DEPARTMENT.
(II) THE INFORMATION NECESSARY TO DETERMINE THE TAXPAYER’S ELIGIBILITY
FOR A CREDIT OR THE AMOUNT OF THE CREDIT ALLOWED IS CONTAINED IN AN
INFORMATION RETURN THE TAXPAYER RECEIVES AFTER THE ORIGINAL RETURN FOR
THE TAXABLE YEAR IS FILED.
(III) THE TAXPAYER IS REQUIRED TO FILE AN AMENDED REPORT FOR A TAXABLE
YEAR PURSUANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED ELEVEN OF THIS
ARTICLE AND THE CHANGES OR CORRECTIONS THAT NECESSITATE THE FILING OF
SUCH AMENDED REPORT IMPACT THE TAXPAYER’S ELIGIBILITY FOR A CREDIT OR
THE AMOUNT OF CREDIT THAT MAY BE CLAIMED IN THAT TAXABLE YEAR.

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

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 SUBDIVI-
SION 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 INDI-
RECTLY 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 MEAN-
ING 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
A. 8559--C                         110

1. THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION IF
2. (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT CORPORATION
3. IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOU-
4. SAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II) IT HAS
5. EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE
6. (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED
7. EIGHT OF THIS ARTICLE.
8. (C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT
9. UNDER THIS SECTION DOES NOT INCLUDE (I) A CORPORATION THAT IS SUBJECT TO
10. FRANCHISE TAX UNDER ARTICLE NINE OR THIRTY-THREE OF THIS CHAPTER; (II) A
11. REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE RIC;
12. (III) A NEW YORK S CORPORATION; (IV) A CORPORATION THAT IS SUBJECT TO
13. TAX UNDER THIS ARTICLE SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED
14. PARTNER INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSINESS,
15. EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, MAINTAINING AN OFFICE IN
16. THIS STATE, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, PROVIDED
17. THAT THE CORPORATION IS NOT OTHERWISE REQUIRED TO FILE A COMBINED REPORT
18. PURSUANT TO THIS SECTION; OR (V) AN ALIEN CORPORATION THAT HAS NO EFFECT-
19. IVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (IV) OF
20. THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT
21. OF THIS ARTICLE.
22. (D) A COMBINED REPORT SHALL BE FILED BY THE DESIGNATED AGENT OF THE
23. 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 CAPI-
TAL, 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 United States Treasury regulations 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. To the extent that a provision of section two hundred ten-b of this article limits a credit to the fixed dollar minimum amount prescribed in paragraph (D) of subdivision one of section two hundred ten of this article, such fixed dollar minimum amount shall be the fixed dollar minimum amount that is attributable to the designated agent of the combined 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 factor 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. Apporportionment on a combined report. (A) In determining the apporportionment 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 apporportion 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 FF 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 E 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 share-
holders owning, directly or indirectly, individually or in the aggre-
gate, more than fifty percent of the issued capital stock of the taxpay-
er, 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 TAXPAY-
ER 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 intercorpo-
rate 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, howev-
er, 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 trans-
actions, 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 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
A. 8559--C  

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 inter-corporate 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; 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 return or 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 para-
graph. 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 agree-
ment, understanding, arrangement or transaction requirement of subpara-
graph 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 corpo-
ration 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 para-
graph (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 mini-

mum 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 elimi-
nated, 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 busi-
ness 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 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 COMMISSIONER is authorized and empowered, in such manner as 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 COMMISSIONER may include in the entire net income[, minimum taxable 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 insur-
ance, 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, associ-
ation, 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 insur-
ance law, (2) the state insurance fund and (3) a corporation, associ-
ation, 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 bene-
fit 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 "insur-
ance 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 trans-
portation 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 insur-
ance law, each of which is expressly exempt from the payment of fees, taxes or assessments whether state or local, and other than [an overcapitalized] COMBINATION 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, 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.] 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 VI 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 before December thirty-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 busi-
ness 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 enter-
prise 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 enter-
prise'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 revoca-
tion of its certification under article eighteen-B of the general munic-
ipal 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 busi-
ness 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 qual-
ify as an owner of a new business unless the business of which the indi-
vidual is an owner is substantially similar in operation and in owner-
ship 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[, thir-
ty-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 FOURTEEN or the income (or
losses) of which is (or was) includable under article twenty-two of
this chapter.
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.

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.

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:

(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 2 of part GG of chapter 63 of the laws of 2000, 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),

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. (1) Article nine: Section one hundred eighty-seven-d;
2. (2) Article nine-A: Subdivision [thirty-one] SIXTEEN of section two hundred [ten] TEN-B;
3. (3) Article twenty-two: Subsections (i) and (y) of section six hundred six;
4. (4) [Article thirty-two: Subsection (m) of section fourteen hundred fifty-six;
5. (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[,, 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[,, 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 (s).

(v) Article 33: Section 1511: subdivision (v).

§ 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[,, 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.

§ 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).

§ 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
(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 regu-
lations promulgated thereunder, related to a reportable transaction or a
listed transaction, as those terms are defined in such section or regu-
lations, 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 partic-
ipation 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.
(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:

(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.
(3) article 22: section 606: subdivision (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:

(2) article 22: section 606: subdivision (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-o
(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(4q)
(4) [Article 32: section 1456(w)
(5)] Article 33: section 1511(2)

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 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;
A. 8559--C

(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:

(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:

(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 part T of this act, are amended to read as follows:

[(2) Article 9: section 180, subdivision 3.
(3) Article 9: section 181, subdivision 3.]

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
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 [chap-
ter] 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 over-
payment 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,
ine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thir-
ty-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 overpay-
ment of tax imposed by article twenty-two of this chapter and the inter-
est on such amount which has been credited pursuant to section one
1 hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-
2 one-e, one hundred seventy-one-f or one hundred seventy-one-l of this
3 article and which is certified to the comptroller by the commissioner as
4 the amount due such non-obligated spouse pursuant to paragraph six of
5 subsection (b) of section six hundred fifty-one of this chapter; and
6 (vi) the comptroller shall deduct a like amount which the comptroller
7 shall pay into the treasury to the credit of the general fund from
8 amounts subsequently payable to the department of social services, the
9 state university of New York, the city university of New York, or the
10 higher education services corporation, or the revenue arrearage account
11 or special offset fiduciary account pursuant to section ninety-one-a or
12 ninety-one-c of the state finance law, as the case may be, whichever had
13 been credited the amount originally withheld from such overpayment, and
14 (vii) with respect to amounts originally withheld from such overpayment
15 pursuant to section one hundred seventy-one-l of this article and paid
16 to the city of New York, the comptroller shall collect a like amount
17 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 reven-
ue collected or received under such sections of this chapter, the comp-
troller 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, part-
nership, estate, trust, liquidator, fiduciary or other entity or indi-
vidual 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, thir-
ty-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 corpo-
ration; 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 thr-
ty-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 chap-
ter 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,
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 coordi-
nation of debt collection pursuant to this section and subdivision twen-
ty-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, part-
nership, estate, trust, liquidator, fiduciary or other entity or indi-
vidual 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, thir-
ty-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 corpo-
ration 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, thir-
ty-two, thirty, thirty-A, twenty-six, 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 proper-
ty 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 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 prin-
cipally 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 adminis-
tration (or the successor thereto) or (ii) the international civil
aviation organization (or the successor thereto), relating to the exist-
ence 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 naviga-
tion [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 Janu-
ary first, nineteen hundred eighty-two but ending before December thir-
ty-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 calcu-
lated 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 cover-
ing 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 calcu-
lated 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-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-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-
ty-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 taxpay-
er, 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 arti-
cle.

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 (includ-
ing 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
local calling plan service) and (ii) one hundred percent of separate-
ly charged inter-LATA, interstate or international telecommunications
service; and except that [corporations, joint-stock companies or associ-
ations formed for or principally engaged in the conduct of surface rail-
road, whether or not operated by steam, subway railroad, elevated rail-
road, 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] corpo-
rations, joint-stock companies or associations formed for or principally
engaged in the conduct of canal, steamboat, ferry (except a ferry compa-
ny 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 there-
after, 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 inter-state 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 corpo-
A. 8559--C                         143

ration, 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 telecommunications 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 on or after 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 eight-
y-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 of 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 transpor-
A. 8559--C                         145

1  taxation district[; and provided, further, that the tax surcharge imposed
2  by this section shall not be imposed upon any taxpayer for more than
3  four hundred thirty-two months].

4    (2)  Provided however, that [commencing January first, two thousand,]
5  in the case of the tax imposed under paragraph (a) of subdivision one of
6  section one hundred eighty-six-a of this article (relating to providers
7  of telecommunications services) such tax surcharge shall be calculated
8  as if the tax imposed under section one hundred eighty-six-a of this
9  article were imposed at a rate of three and one-half percent.

10    (b)  In addition to the surcharge imposed by paragraph (a) of this
11  subdivision, there is hereby imposed a surcharge on the gross receipts
12  from telecommunication services relating to the metropolitan commuter
13  transportation district at the rate of seventeen percent of the state
14  tax rate under section one hundred eighty-six-e of this article [for all
15  or part of taxable years commencing on and after January first, nineteen
16  hundred ninety-five but ending before December thirty-first, two thou-
17  sand thirteen]. All the definitions and other provisions of section one
18  hundred eighty-six-e of this article shall apply to the tax imposed by
19  this paragraph with such modification and limitation as may be necessary
20  (including substituting the words "metropolitan commuter transportation
21  district" for "state" where appropriate) in order to adapt the language
22  of such section one hundred eighty-six-e of this article to the
23  surcharge imposed by this paragraph within such metropolitan commuter
24  transportation district so as to include (1) any intra-district telecom-
25  munication services, except any telecommunications services the gross
26  receipts from which are subject to tax under subparagraph four of this
27  paragraph, (2) any inter-district telecommunication services which orig-
28  inate or terminate in such district and are charged to a service address
29  therein regardless of where the amounts charged for such services are
30  billed or ultimately paid, except any telecommunications services the
31  gross receipts from which are subject to tax under subparagraph four of
32  this paragraph, (3) as apportioned to such district, private telecommu-
33  nication services, except any telecommunications services the gross
34  receipts from which are subject to tax under subparagraph four of this
35  paragraph, and (4) mobile telecommunications service provided by a home
36  service provider where the place of primary use is within such metropol-
37  itan commuter transportation district. Provided however, [commencing
38  October first, nineteen hundred ninety-eight] such tax surcharge shall
39  be calculated as if the tax imposed under section one hundred eighty-
40  six-e of this article were imposed at a rate of three and one-half
41  percent.

S 66. Clause (iii) of subparagraph (D) of paragraph 3 of subsection
42  (b) of section 605 of the tax law, as added by chapter 658 of the laws
43  of 2003, is amended to read as follows:

44    (iii)  Provided further, that for the purposes of item (I) of clause
45  (i) of this subparagraph, a trustee which is a banking corporation as
46  defined in subsection (a) of section fourteen hundred fifty-two of this
47  chapter, AS SUCH SECTION WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
48  THOUSAND FOURTEEN, and which is domiciled outside the state of New York
49  at the time it becomes a trustee of the trust shall be deemed to contin-
50  ue to be a trustee domiciled outside the state of New York notwithstanding
51  that it thereafter otherwise becomes a trustee domiciled in the
52  state of New York by virtue of being acquired by, or becoming an office
53  or branch of, a corporate trustee domiciled within the state of New
54  York.
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

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 (xxxix) as added by section 5 of part MM of chapter 59 of the laws of 2010, clause (xxxix) 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 15 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 (xxxvii) as added by section 8 of part A of chapter 68 of the laws of 2013, and clause (xxxvii) as added by section 5 of part T of this act, 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:

(i) Investment tax credit under subsection (a)

(ii) Empire zone investment tax credit under subsection (j)

[(iii) Empire zone wage tax credit under subsection (k)]

The corporation's credit base under section two hundred [ten or section fourteen hundred fifty-six] TEN-B of this chapter is:

Investment credit base or qualified rehabilitation expenditures under subdivision [twelve] ONE of section two hundred [ten] TEN-B

Cost or other basis under subdivision [twelve-B] THREE of section two hundred [ten] TEN-B

Eligible wages under subdivision nineteen of section two hundred ten or subsection (e) of section fourteen hundred fifty-six
1 (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

6 (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

11 (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

17 (vii) Employment incentive credit under subsection (a-1)
Applicable investment credit base under subdivision [twelve-D] TWO of section two hundred [ten] TEN-B

21 (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

25 (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

29 (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

32 (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

35 (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

41 (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]
For taxable years beginning
improvement contributions under subsection (z) 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 Amount of credit under subdivision [twenty-seven] FIVE of section two hundred [ten or subsection (o) of section fourteen hundred fifty-six] TEN-B

taxes under subsection (bb)

(xvi) QEZE tax reduction credit 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 Amount of credit under subdivision [thirty-five] NINETEEN
of section two hundred
[ten or subsection (s) of section fourteen hundred fifty-six]
TEN-B

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

Qualifying expenditures and development activities under subdivision twelve-G of section two hundred ten

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

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

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

Amount of credit under subdivision [thirty-eight] TWENTY-FOUR of section two hundred [ten] TEN-B

Amount of credit under subdivision [thirty-nine] TWENTY-FIVE of section two hundred [ten] TEN-B

Amount of credit under subdivision [forty] TWENTY-SIX of section two hundred [ten] TEN-B

Amount of credit under subdivision [forty-one] THIRTY-ONE of section two hundred [ten] TEN-B
or under subdivision (u) of section fourteen hundred fifty-six] TEN-B

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

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

Amount of credit under subdivision [forty-four] THIRTY-SIX of section two hundred [ten] TEN-B

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

Amount of credit under subdivision [forty-four] THIRTY-EIGHT of section two hundred [ten] TEN-B

Amount of credit under subdivision [forty-five] THIRTY-NINE of section two hundred [ten] TEN-B

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

Amount of credit under subdivision [forty-six] FORTY of section two hundred [ten or subsection (z) of section fourteen hundred fifty-six] TEN-B
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.

Section 606 of the tax law is amended by adding a new subsection (yy-1) to read as follows:

(YY-1) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH TWO OF THIS SUBSECTION, IN ANY TAXABLE YEAR, A TAXPAYER MUST FIRST CLAIM ANY OF THE CREDITS SPECIFIED IN THIS SECTION ON ITS ORIGINALLY FILED RETURN FOR SUCH TAXABLE YEAR. A TAXPAYER SHALL NOT FIRST CLAIM A CREDIT ON AN AMENDED RETURN.

(2) A TAXPAYER MAY FIRST CLAIM A CREDIT ON AN AMENDED RETURN ONLY UNDER THE FOLLOWING CIRCUMSTANCES:

(I) THE TAXPAYER'S ELIGIBILITY FOR THE CREDIT OR THE AMOUNT OF THE CREDIT THE TAXPAYER IS ALLOWED IS DETERMINED BY A GOVERNMENT AGENCY OTHER THAN THE DEPARTMENT.

(II) THE INFORMATION NECESSARY TO DETERMINE THE TAXPAYER'S ELIGIBILITY FOR A CREDIT OR THE AMOUNT OF THE CREDIT ALLOWED IS CONTAINED IN AN INFORMATION RETURN THE TAXPAYER RECEIVES AFTER THE ORIGINAL RETURN FOR THE TAXABLE YEAR IS FILED.

(III) THE TAXPAYER IS REQUIRED TO FILE AN AMENDED RETURN FOR A TAXABLE YEAR PURSUANT TO SECTION SIX HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE CHANGES OR CORRECTIONS THAT NECESSITATE THE FILING OF SUCH AMENDED RETURN IMPACT THE TAXPAYER'S ELIGIBILITY FOR A CREDIT OR THE AMOUNT OF CREDIT THAT MAY BE CLAIMED IN THAT TAXABLE YEAR.

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
demeaned 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 public-
ly 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 indi-
vidual, shall pay estimated tax on such income on behalf of such part-
ners, 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[, thir-
ty-two,] or thirty-three of this chapter, and reduced by the distribu-
tive 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 thir-
teen 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 sharehold-
ers 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 fifteen and fifteen hundred twenty 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 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:
...
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 para-
graph 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 thou-
sand 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 underpay-
ment 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 legisla-
tive body, is hereby authorized to adopt and amend local laws to allow a
credit against the general corporation tax and the unincorporated busi-
ness 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 unincor-
porated 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 unincorporat-
ed 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 commer-
cial 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 metro-
politan 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 allow-
able 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, proce-
dures 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 meth-
odology, 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 metropol-
itan 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 corpo-
rations was two and six-tenths percent.
§ 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:
§ 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 compo-
nents of buildings, described in subparagraphs (i), (ii), (iii), (iv)
and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivi-
sion [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. Intentionally omitted.
S 92. Intentionally omitted.
S 93. Intentionally omitted.
S 94. Intentionally omitted.
S 95. Intentionally omitted.
S 96. Intentionally omitted.
S 97. Intentionally omitted.
S 98. Intentionally omitted.
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 preser-
vation of records for the purposes of such tax, the secrecy of returns,
the disposition of revenues, and the civil and criminal penalties appli-
cable 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 Janu-
ary 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 subdi-
vision one-a of section two hundred fifty-three of this chapter on mort-
gages recorded on and after January first, nineteen hundred seventy-
ine. Provided, however, that the amount of such credit allowable
against the tax imposed by section one hundred eighty-four of this chap-
ter 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 transporta-
tion 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 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; 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 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 interest 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 adjuges 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 adjuges 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 subdivision (a), subparagraph (B) of paragraph 2 of subsection (g), 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 estab-
lished 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 exot-
ic 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 twen-
ty-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 reason-
able 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 regu-
lar 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-quar-
ter 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 phys-
ical plant, structures, and equipment used in its racing or wagering
operations as certified by the [state racing and wagering board] COMMISS-
SION 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 ordi-
nary 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 simulcasting 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 on-track pari-mutuel 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 pari-mutuel 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] COMMISS-
ION 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

Intentionally Omitted

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.
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 FOURTY-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 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, EXCEPT THAT, IN COMPUTING THE AMOUNT TO BE ADDED UNDER THIS PARAGRAPH, SUCH BENEFICIARY SHALL DISREGARD INCOME EARNED BY A TRUST IN A TAXABLE YEAR PRIOR TO WHEN THE BENEFICIARY FIRST BECAME A RESIDENT OF THE STATE OR IN ANY TAXABLE YEAR STARTING BEFORE JANUARY FIRST, TWO THOUSAND ELEVEN.

Section 2. Subsection (b) of section 612 of the tax law is amended by adding a new paragraph 41 to read as follows:


Section 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 TAXABLE 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.

5. 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 INCOM-
PLETE 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 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, EXCEPT THAT, IN COMPUTING THE AMOUNT TO
BE ADDED UNDER THIS PARAGRAPH, SUCH BENEFICIARY SHALL DISREGARD INCOME
EARNED BY A TRUST IN A TAXABLE YEAR PRIOR TO WHEN THE BENEFICIARY FIRST
BECAME A RESIDENT OF THE STATE OR IN ANY TAXABLE YEAR STARTING BEFORE
JANUARY FIRST, TWO THOUSAND ELEVEN.

6. 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 INCOM-
PLETE 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 SEVEN-
TY-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 TWEN-
TY FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS
THEREUNDER.

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 propor-
tionate 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 FOR THE TAXABLE YEAR OR ANY PRIOR
TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL SUBDIVI-
SION 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 OTHER-
WISE 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.

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 a nonresident trust or
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.

Section 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 deter-
mined 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 deter-
mind 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 appli-
cation, 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 numerar-
tor of which is federal adjusted gross income for the period of resi-
dence, 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.

Section 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 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 iden-
tifying information with respect to such partner or shareholder as may
be prescribed by the commissioner.

§ 9. Subsection (d) of section 683 of the tax law, as amended by chap-
ter 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.

§ 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 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 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 includable 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 includable 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 VETER-
ANS' 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' COMPEN-
SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
NEEDED, 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 HOUSE-
HOLD 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
COORDINATORIAL 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 PENAL-
TIES AND INTEREST, LEVIED ON THE RESIDENCE OF A QUALIFIED TAXPAYER AND
PAID DURING THE TAXABLE YEAR. IN ADDITION, 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, QUAL-
IFYING REAL PROPERTY TAXES SHALL BE THE SUM OF THE PRORATED QUALIFYING
REAL PROPERTY TAXES ATTRIBUTABLE TO THE HOUSEHOLD DURING THE PERIODS
A. 8559--C                         183

1  SUCH HOUSEHOLD OCCUPIES EACH OF SUCH RESIDENCES. IF THE HOUSEHOLD OWNS
2  AND OCCUPIES A RESIDENCE FOR PART OF THE TAXABLE YEAR AND RENTS A RESI-
3  DENCE FOR PART OF THE SAME TAXABLE YEAR, IT MAY INCLUDE ONLY THE
4  PRORATION OF QUALIFYING REAL PROPERTY TAXES ON THE RESIDENCE OWNED.
5  PROVIDED, HOWEVER, FOR PURPOSES OF THE CREDIT ALLOWED UNDER THIS
6  SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY BE INCLUDED BY A QUALI-
7  FIED TAXPAYER ONLY TO THE EXTENT THAT SUCH TAXPAYER OR THE SPOUSE OF
8  SUCH TAXPAYER OCCUPYING SUCH RESIDENCE FOR SIX MONTHS OR MORE OF THE
9  TAXABLE YEAR OWNS OR HAS OWNED THE RESIDENCE AND PAID SUCH TAXES.
10  PROVIDED, HOWEVER, FOR PURPOSES OF THE CREDIT ALLOWED UNDER THIS
11  SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY BE INCLUDED BY A QUALI-
12  FIED TAXPAYER ONLY TO THE EXTENT SUCH TAXPAYER OR THE SPOUSE OF SUCH
13  TAXPAYER, OCCUPYING SUCH RESIDENCE FOR ONE HUNDRED EIGHT-THREE DAYS OR
14  MORE OF THE TAXABLE YEAR, OWNS OR HAS OWNED THE RESIDENCE AND PAID SUCH
15  TAXES. PROVIDED, HOWEVER, FOR A QUALIFIED TAXPAYER WHO RESIDES IN THE
16  CITY OF NEW YORK, AND PAID THE NEW YORK CITY PERSONAL INCOME TAX AS
17  PROVIDED IN ARTICLE THIRTY OF THIS CHAPTER FOR A TAXABLE YEAR, SUCH
18  QUALIFYING REAL PROPERTY TAX SHALL INCLUDE THE CITY PERSONAL INCOME TAX
19  FOR THE TAXABLE YEAR. IN ADDITION, FOR A QUALIFIED TAXPAYER WHO RESIDES
20  IN THE CITY OF YONKERS, AND PAID THE YONKERS CITY TAX AS PROVIDED IN
21  ARTICLE THIRTY-A OF THIS CHAPTER FOR A TAXABLE YEAR, SUCH QUALIFYING
22  REAL PROPERTY TAX SHALL INCLUDE THE YONKERS CITY FOR THE TAXABLE YEAR.
23  (2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN
24  PARAGRAPH THREE HEREOF AGAINST THE TAXES IMPOSED BY THIS ARTICLE REDUCED
25  BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT EXCEEDS THE TAX
26  AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL BE
27  TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED, WITHOUT INTEREST.
28  IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT TO
29  SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER MAY
30  NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CREDIT TO BE CREDITED OR
31  REFUNDED AS AN OVERPAYMENT, WITHOUT INTEREST.
32  (3) (A) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FOURTEEN, THE
33  AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED
34  AS FOLLOWS:
35  IF THE HOUSEHOLD EXCESS REAL PROPERTY THE CREDIT AMOUNT IS
36  GROSS INCOME FOR THE TAXES ARE THE EXCESS THE FOLLOWING
37  TAXABLE YEAR IS: OF QUALIFYING REAL PERCENTAGE OF THE
38  PROPERTY TAXES OVER EXCESS REAL PROPERTY
39  THE FOLLOWING TAXES:
40  PERCENTAGE OF
41  HOUSEHOLD GROSS INCOME:
42  LESS THAN $120,000 2.4% 6.25%
43  $120,000 TO LESS
44  THAN $150,000 3.2% 4.75%
45  $150,000 TO LESS
46  THAN $200,000 4.0% 3.25%
47  NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETER-
48  MINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED FIVE HUNDRED DOLLARS.
49  (B) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE AMOUNT OF
50  THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED AS
51  FOLLOWS:
52  IF THE HOUSEHOLD EXCESS REAL PROPERTY THE CREDIT AMOUNT IS
53  GROSS INCOME FOR THE TAXES ARE THE EXCESS THE FOLLOWING
54  TAXABLE YEAR IS: OF QUALIFYING REAL PERCENTAGE OF THE
55  PROPERTY TAXES OVER EXCESS REAL PROPERTY
56  THE FOLLOWING TAXES:
A. 8559--C  

PERCENTAGE OF
HOUSEHOLD GROSS INCOME:

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 EXCESS REAL PROPERTY TAXES ARE THE EXCESS OF QUALIFYING REAL PROPERTY TAXES OVER THE FOLLOWING PERCENTAGE OF HOUSEHOLD GROSS INCOME:

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) 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) 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) 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.

(13) THE COMMISSIONER SHALL PREPARE A WRITTEN REPORT AFTER DECEMBER THIRTY-FIRST OF EACH CALENDAR YEAR, WHICH SHALL CONTAIN STATISTICAL INFORMATION REGARDING THE CREDITS GRANTED ON OR BEFORE SUCH DATES UNDER THIS SUBSECTION DURING SUCH CALENDAR YEAR. SUCH REPORTS SHALL CONTAIN THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS IN EACH COUNTY; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE HOUSEHOLD GROSS INCOME FALLS WITHIN EACH OF THE HOUSEHOLD GROSS INCOME RANGES SET FORTH IN PARAGRAPH THREE OF THIS SUBSECTION; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE CREDIT AMOUNT FALLS WITHIN CREDIT AMOUNT RANGES SET FORTH IN ONE HUNDRED DOLLAR INCREMENTS.

S 3. 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 (xx) to read as follows:

(XX) RENTER'S CIRCUIT BREAKER CREDIT. (1) FOR 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 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...
A. 8559--C                         187

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 PROP-
ERTY 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 VETER-
ANS' 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' COMPEN-
SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
NEEDEY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
OF HIS 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 RENTED IN THIS STATE AND MAY CONSIST
OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A
COORDINATE OR CONDOMINIUM AND RENTAL UNITS WITHIN A SINGLE DWELLING.
RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY FOR RESI-
DENTIAL 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) "REAL PROPERTY TAX EQUIVALENT" MEANS TEN PERCENT OF THE ADJUSTED
RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A HOUSEHOLD SOLELY FOR THE
RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR THE TAXABLE YEAR. IF
(I) A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS COTENANTS, OR
SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR THE RIGHT OF
OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH OF SUCH INDIVIDUALS IS A
MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF WHICH INDIVIDUALS SHARES
SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION OF TEN
PERCENT OF THE ADJUSTED RENT PAID IN THE TAXABLE YEAR WHICH REFLECTS
THAT PORTION OF THE RENT ATTRIBUTABLE TO THE QUALIFIED TAXPAYER AND THE
MEMBERS OF HIS HOUSEHOLD.

PROVIDED, HOWEVER, FOR A QUALIFIED TAXPAYER WHO RESIDES IN THE CITY OF
NEW YORK, AND PAID THE NEW YORK CITY PERSONAL INCOME TAX AS PROVIDED IN
ARTICLE THIRTY OF THIS CHAPTER FOR A TAXABLE YEAR, SUCH QUALIFYING REAL
PROPERTY TAX SHALL INCLUDE THE CITY PERSONAL INCOME TAX PAID FOR THE
TAXABLE YEAR. IN ADDITION, FOR A QUALIFIED TAXPAYER WHO RESIDES IN THE
TAXABLE YEAR. IN ADDITION, FOR A QUALIFIED TAXPAYER WHO RESIDES IN THE
TAXABLE YEAR. IN ADDITION, FOR A QUALIFIED TAXPAYER WHO RESIDES IN THE
CITY OF YONKERS, AND PAID THE YONKERS CITY TAX AS PROVIDED IN ARTICLE
THIRTY-A OF THIS CHAPTER FOR A TAXABLE YEAR, SUCH QUALIFYING REAL PROP-
ERTY TAX SHALL INCLUDE YONKERS CITY TAX PAID FOR THE TAXABLE YEAR.
(F) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF A RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHING OR BOARD ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THEREOF ARE NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR PURPOSES OF DETERMINING ADJUSTED RENT THE QUALIFIED TAXPAYER SHALL REDUCE RENTAL PAID AS FOLLOWS:

(I) FOR HEAT, OR HEAT AND GAS, DEDUCT SIX PERCENT OF RENTAL PAID.

(II) FOR HEAT, GAS AND ELECTRICITY, DEDUCT EIGHT PERCENT OF RENTAL PAID.

(III) FOR HEAT, GAS, ELECTRICITY AND FURNISHINGS, DEDUCT TEN PERCENT OF RENTAL PAID.

(IV) FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND BOARD, DEDUCT TWENTY PERCENT OF RENTAL PAID.

IF THE DEPARTMENT DETERMINES THAT THE ADJUSTED RENT SHOWN ON THE RETURN IS EXCESSIVE, THE DEPARTMENT MAY REDUCE SUCH RENT, FOR PURPOSES OF THE COMPUTATION OF THE CREDIT, TO AN AMOUNT SUBSTANTIALLY EQUIVALENT TO RENT FOR A COMPARABLE ACCOMMODATION.

(2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION 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 QUALIFIED TAXPAYER MAY RECEIVE, AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT, WITHOUT INTEREST, ANY EXCESS BETWEEN SUCH TAX AS SO REDUCED AND THE AMOUNT OF THE CREDIT.

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 AND THE COMPTROLLER, SUBJECT TO A CERTIFICATE OF THE DEPARTMENT, SHALL PAY AS AN OVERPAYMENT THE FULL AMOUNT OF THE CREDIT, WITHOUT INTEREST.

(3) FOR TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND THEREAFTER,

HOUSEHOLD GROSS INCOME                      EXCESS REAL PROPERTY TAXES
MEANS THE EXCESS OF QUALIFYING REAL PROPERTY TAX OVER THE FOLLOWING PERCENTAGE OF HOUSEHOLD INCOME:

LESS THAN $100,000                      4
$100,000 OR MORE, BUT LESS THAN $150,000 5
$150,000 OR MORE, BUT LESS THAN $200,000 6

(4) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE EQUAL TO FIFTEEN PERCENT OF THE AMOUNT WHICH THE TAXPAYER'S QUALIFYING REAL PROPERTY TAX EXCEEDS THE EXCESS REAL PROPERTY TAX FOR QUALIFIED TAXPAYERS. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE EQUAL TO THIRTY PERCENT OF THE AMOUNT WHICH THE TAXPAYER'S QUALIFYING REAL PROPERTY TAX EXCEEDS THE EXCESS REAL PROPERTY TAX FOR QUALIFIED TAXPAYERS. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION SHALL BE EQUAL TO SIXTY PERCENT OF THE AMOUNT WHICH THE TAXPAYER'S QUALIFYING REAL PROPERTY TAX EXCEEDS THE EXCESS REAL PROPERTY TAX FOR QUALIFIED TAXPAYERS. NOTWITHSTANDING THE FOREGOING, THE MAXIMUM CREDIT DETERMINED UNDER THIS PARAGRAPH MAY NOT EXCEED
FIVE HUNDRED DOLLARS FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, SEVEN HUNDRED FIFTY FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND ONE THOUSAND DOLLARS FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN.

(5) 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 TAX COMMISSION MAY, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESIDENCES AND SUCH PERIOD OR PERIODS.

(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 DEPARTMENT A WRITTEN AGREEMENT AMONG SUCH INDIVIDUALS SETTING FORTH A DIFFERENT DIVISION.

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 HUSBAND AND WIFE ARE ENTITLED SHALL BE APPLIED AGAINST THE TAX OF BOTH SPOUSES AND ANY OVERPAYMENT SHALL BE MADE TO BOTH SPOUSES.

(7) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

(A) 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.

(B) 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.

(C) WITH RESPECT TO A RESIDENCE THAT IS WHOLLY EXEMPTED FROM REAL PROPERTY TAXATION.

(D) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF THE STATE FOR THE ENTIRE TAXABLE YEAR.

(E) IF HOUSEHOLD GROSS INCOME FOR THE TAXABLE YEAR EQUALS OR EXCEEDS TWO HUNDRED THOUSAND DOLLARS.

(8) THE COMMISSIONER SHALL PREPARE A WRITTEN REPORT AFTER DECEMBER THIRTY-FIRST OF EACH CALENDAR YEAR, WHICH SHALL CONTAIN STATISTICAL INFORMATION REGARDING THE CREDITS GRANTED ON OR BEFORE SUCH DATES UNDER THIS SUBSECTION DURING SUCH CALENDAR YEAR. SUCH REPORTS SHALL CONTAIN, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS IN EACH COUNTY; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE HOUSEHOLD GROSS INCOME FALLS WITHIN EACH OF THE HOUSEHOLD GROSS INCOME RANGES SET FORTH IN PARAGRAPH THREE OF THIS SUBSECTION; AND OF THOSE, THE NUMBER OF CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE CREDIT AMOUNT FALLS WITHIN CREDIT AMOUNT RANGES SET FORTH IN ONE HUNDRED DOLLAR INCREMENTS.

(9) 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. RETURN 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) 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 LAW, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND OTHER QUALIFYING TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDENTIFYING 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) THE PROVISIONS OF THIS ARTICLE, INCLUDING 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 OF THIS ARTICLE 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 OF THIS ARTICLE, 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 OF THIS ARTICLE, 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 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014.

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

Intentionally Omitted

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

Intentionally Omitted

PART R

Section 1. Paragraph (a) of subdivision 1 of section 210 of the tax law is amended by adding a new subparagraph (viii) to read as follows:

(VIII) FOR AN UPSTATE NEW YORK MANUFACTURER, 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. AN UPSTATE NEW YORK MANUFACTURER IS A QUALIFIED NEW YORK MANUFACTURER: (A) THAT DOES NOT OWN OR LEASE ANY TANGIBLE PERSONAL PROPERTY OR REAL PROPERTY IN ANY ONE OF THE FOLLOWING CITY OR COUNTIES: THE CITY OF NEW YORK OR THE COUNTIES OF NASSAU, PUTNAM, ROCKLAND, SUFFOLK OR WESTCHESTER; AND (B) DOES NOT PAY ANY WAGES, SALARIES OR OTHER PERSONAL SERVICE COMPENSATION WITHIN SUCH CITY OR COUNTY DESCRIBED IN CLAUSE (A) OF THIS SUBPARAGRAPH.
S 2. 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 twenty-three of the tax law 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 amended 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[,] or former section one
hundred eighty-six of article nine, or under article nine-A, twenty-two,
three-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 revoca-
tion of its certification under article eighteen-B of the general munic-
ipal 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 qual-
ify as an owner of a new business unless the business of which the indi-
vidual is an owner is substantially similar in operation and in owner-
ship 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; arti-
cle 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 Janu-
ary 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 busi-
ness 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 oper-
ation 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 (or was) 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-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 chap-
ter, 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 cred-
ited 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 nine-
teen 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, howev-
er, 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 cred-
it 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 eight-
y-three[, one hundred eighty-five] or FORMER SECTION one hundred eight-
y-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 accord-
ance with the provisions of section ten hundred eighty-six of this chap-
ter. 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 eight-
y-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 credited or refunded in accord-
ance with the provisions of section ten hundred eighty-six of this chap-
ter. 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 twen-
ty-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 eight-
y-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:

1. 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.
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 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 subdivision (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
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, FORMER SECTION 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, 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 thir- ty-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 twen- ty-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, deter- mination, 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 reve- nues, 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 subdi- vision (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 TELE- COMMUNICATION 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:


(6) Article 22: section 606, subsection (ww) AND SUBSECTION (XX).

S 2-a. Paragraph (b) of subdivision 9 of section 208 of the tax law is amended by adding a new subparagraph 20-a to read as follows:
A. 8559--C                         207

(20-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELE-
COMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF
THE CALCULATION OF THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION
SERVICES CREDIT ALLOWED UNDER SUBDIVISION FORTY-EIGHT OF SECTION TWO
HUNDRED TEN OF THIS ARTICLE.

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 WITH RESPECT TO SUCH SERVICES RENDERED WITHIN A
TAX-FREE NY AREA 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 SEPA-
RATELY STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES
AND PAID BY SUCH TAXPAYER WITH RESPECT TO SUCH SERVICES RENDERED WITHIN
A TAX-FREE NY AREA DURING THE TAXABLE YEAR. IF THE AMOUNT OF THE CREDIT
ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAY-
ER'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 AMOUNT OF CREDIT UNDER
AMOUNT OF CREDIT UNDER SUBDIVISION FORTY-EIGHT
CREDIT UNDER SUBSECTION (XX) OF SECTION TWO HUNDRED TEN

S 5-a. Subsection (b) of section 612 of the tax law is amended by
adding a new paragraph 39-a to read as follows:
(39-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELECOMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES CREDIT ALLOWED UNDER SUBSECTION (XX) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

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 qualified employer'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 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. Paragraph (c) of subdivision 44 of section 210 of the tax law, as added by section 2 of part D of chapter 56 of the laws of 2011, is amended to read as follows:

(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] SHALL ANNUALLY PUBLISH A REPORT. SUCH REPORT MUST
CONTAIN 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.

S 5. Paragraph 3 of subsection (tt) of section 606 of the tax law, as 
added by section 3 of part D of chapter 56 of the laws of 2011, is 
амended to read as follows:

(3) 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 taxpay-
er 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 desig-
nees [may release] SHALL ANNUALLY PUBLISH A REPORT. SUCH REPORT MUST 
CONTAIN 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, a partner in a partnership, or a shareholder in a 
subchapter S corporation, only the amount of credit earned by the entity 
and not the amount of credit claimed by the taxpayer may be released.

S 6. 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 distrib-
ution 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.
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 frac-
tion, 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, AND THEREAFTER.
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 BUT NOT OVER $10,100,000 $930,800 PLUS 15.2% OF EXCESS OVER
$9,100,000
OVER $10,100,000 $1,082,800 PLUS 16% OF EXCESS OVER
$10,100,000
(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 DECEASED'S NEW YORK TAXABLE
ESTATE. IN THE CASE OF A DECEASED 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) FOR PURPOSES OF THIS SECTION, THE BASIC EXCLUSION AMOUNT SHALL BE AS FOLLOWS:

IN THE CASE OF DECEDEMENTS DYING ON OR AFTER: THE BASIC EXCLUSION AMOUNT IS:

APRIL 1, 2014 AND BEFORE APRIL 1, 2015 $ 2,062,500
APRIL 1, 2015 AND THEREAFTER 3,000,000

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 purposes to a public gallery or museum. But only if no part of the net earnings of 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 situs 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 April first, two thousand fourteen, who at his or her death was a resident of New York state, 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 DECEDEENTS DYING THE EXCLUSION LIMITATION IS:

<table>
<thead>
<tr>
<th>Year</th>
<th>Limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>100,000</td>
</tr>
<tr>
<td>1999</td>
<td>200,000</td>
</tr>
<tr>
<td>2000</td>
<td>300,000</td>
</tr>
<tr>
<td>2001</td>
<td>400,000</td>
</tr>
<tr>
<td>2002 OR THEREAFTER</td>
<td>500,000</td>
</tr>
</tbody>
</table>

(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 ACQUI-
SION,
(III) THE INDEBTEDNESS INCURRED AFTER THE ACQUISITION OF SUCH PROPERTY
IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUI-
SION 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 INDEBT-
EDNESS.

(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 MEAN-
ing 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 IRREVOKEABLE.

(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 CONVEY-
ANCE 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--
A. 8559--C                         220

(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 SUBPARA-
GRAPH IF SUCH INDIVIDUAL IS--

1. THE DECEDENT,
2. A MEMBER OF THE DECEDENT'S FAMILY,
3. THE EXECUTOR OF THE DECEDENT'S ESTATE, OR
4. 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, CORPOR-
ATIONS, AND TRUSTS.--THIS SECTION SHALL APPLY TO AN INTEREST IN A PART-
NERSHIP, 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,


(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 SUB PARAGRAPHS (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


(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 FAIL-
URE BY THE QUALIFIED HEIR TO SO USE SUCH PROPERTY BEFORE THE COMMENCE-
MENT 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 MANAGE-
MENT 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 ELIGI-
BLE QUALIFIED HEIR DESCRIBED IN CLAUSE (II), (III), OR (IV) OF SUBPARA-
GRAPH (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 PROP-
ERTY 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 QUAL-
IFIED 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 DECEASED'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 FARMING 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 DECEDEENT.--PROPERTY SHALL BE CONSIDERED TO HAVE BEEN ACQUIRED FROM OR TO HAVE PASSED FROM THE DECEDEENT IF--
(A) SUCH PROPERTY IS SO CONSIDERED UNDER SECTION 1014(B) (RELATING TO BASIS OF PROPERTY ACQUIRED FROM A DECEDEENT),
(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 DECEDEENT).

(10) COMMUNITY PROPERTY.--IF THE DECEDEENT 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.


(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 DECEDEENT 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
A. 8559--C                         229

1 DATE OF ITS ACQUISITION) EXCEEDS THE FAIR MARKET VALUE OF THE REPLACED
2 PROPERTY (AS OF THE DATE OF ITS DISPOSITION).
3 (C) DEFINITIONS.—FOR PURPOSES OF THIS PARAGRAPH—
4 (I) QUALIFIED REPLACEMENT PROPERTY.—THE TERM "QUALIFIED REPLACEMENT
5 PROPERTY" MEANS ANY REAL PROPERTY WHICH IS—
6 (I) ACQUIRED IN AN EXCHANGE WHICH QUALIFIES UNDER SECTION 1031, OR
7 (II) THE ACQUISITION OF WHICH RESULTS IN THE NONRECOGNITION OF GAIN
8 UNDER SECTION 1033.
9 SUCH TERM SHALL ONLY INCLUDE PROPERTY WHICH IS USED FOR THE SAME QUAL-
10 IFIED USE AS THE REPLACED PROPERTY WAS BEING USED BEFORE THE EXCHANGE.
11 (II) REPLACED PROPERTY.—THE TERM "REPLACED PROPERTY" MEANS—
12 (I) THE PROPERTY TRANSFERRED IN THE EXCHANGE WHICH QUALIFIES UNDER
13 SECTION 1031, OR
14 (II) THE PROPERTY COMPULSORILY OR INVOLUNTARILY CONVERTED (WITHIN THE
15 MEANING OF SECTION 1033).
16 (F) STATUTE OF LIMITATIONS.—IF QUALIFIED REAL PROPERTY IS DISPOSED OF
17 OR CEASES TO BE USED FOR A QUALIFIED USE, THEN—
18 (1) THE STATUTORY PERIOD FOR THE ASSESSMENT OF ANY ADDITIONAL TAX
19 UNDER SUBSECTION (C) ATTRIBUTABLE TO SUCH DISPOSITION OR CESSATION SHALL
20 NOT EXPIRE BEFORE THE EXPIRATION OF 3 YEARS FROM THE DATE THE SECRETARY
21 IS NOTIFIED (IN SUCH MANNER AS THE SECRETARY MAY BY REGULATIONS
22 PRESCRIBE) OF SUCH DISPOSITION OR CESSATION (OR IF LATER IN THE CASE OF
23 AN INVOLUNTARY CONVERSION OR EXCHANGE TO WHICH SUBSECTION (H) OR (I)
24 APPLIES, 3 YEARS FROM THE DATE THE SECRETARY IS NOTIFIED OF THE REPLACE-
25 MENT OF THE CONVERTED PROPERTY OR OF AN INTENTION NOT TO REPLACE OR OF
26 THE EXCHANGE OF PROPERTY), AND
27 (2) SUCH ADDITIONAL TAX MAY BE ASSESSED BEFORE THE EXPIRATION OF SUCH
28 3-YEAR PERIOD NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW OR RULE OF
29 LAW WHICH WOULD OTHERWISE PREVENT SUCH ASSESSMENT.
30 (G) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN
31 PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—THE SECRETARY SHALL PRESCRIBE
32 REGULATIONS SETTING FORTH THE APPLICATION OF THIS SECTION AND SECTION
33 6324B IN THE CASE OF AN INTEREST IN A PARTNERSHIP, CORPORATION, OR TRUST
34 WHICH, WITH RESPECT TO THE DECEDENT, IS AN INTEREST IN A CLOSELY HELD
35 BUSINESS (WITHIN THE MEANING OF PARAGRAPH (1) OF SECTION 6166(B)). FOR
36 PURPOSES OF THE PRECEDING SENTENCE, AN INTEREST IN A DISCRETIONARY TRUST
37 ALL THE BENEFICIARIES OF WHICH ARE QUALIFIED HEIRS SHALL BE TREATED AS A
38 PRESENT INTEREST.
39 (H) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROP-
40 ERTY.—
41 (1) TREATMENT OF CONVERTED PROPERTY.—
42 (A) IN GENERAL.—IF THERE IS AN INVOLUNTARY CONVERSION OF AN INTEREST
43 IN QUALIFIED REAL PROPERTY—
44 (I) NO TAX SHALL BE IMPOSED BY SUBSECTION (C) ON SUCH CONVERSION IF
45 THE COST OF THE QUALIFIED REPLACEMENT PROPERTY EQUALS OR EXCEEDS THE
46 AMOUNT REALIZED ON SUCH CONVERSION, OR
47 (II) IF CLAUSE (I) DOES NOT APPLY, THE AMOUNT OF THE TAX IMPOSED BY
48 SUBSECTION (C) ON SUCH CONVERSION SHALL BE THE AMOUNT DETERMINED UNDER
49 SUBPARAGRAPH (B).
50 (B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.—THE
51 AMOUNT DETERMINED UNDER THIS SUBPARAGRAPH WITH RESPECT TO ANY INVOLUN-
52 TARY CONVERSION IS THE AMOUNT OF THE TAX WHICH (BUT FOR THIS SUBSECTION)
53 WOULD HAVE BEEN IMPOSED ON SUCH CONVERSION REDUCED BY AN AMOUNT WHICH—
54 (I) BEARS THE SAME RATIO TO SUCH TAX, AS
55 (II) THE COST OF THE QUALIFIED REPLACEMENT PROPERTY BEARS TO THE
56 AMOUNT REALIZED ON THE CONVERSION.
A. 8559--C 230

(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 PROPER-
TY 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 CONVER-
SION AND BEFORE THE ACQUISITION OF THE QUALIFIED REPLACEMENT PROPERTY,

(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 QUALI-
FIED 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 QUALI-
FIED 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 SUBPARA-
GRAPH) 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).

§ 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.

§ 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.

§ 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 DECEASED'S DEATH, THE DECEASED 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 CESSION OF VOTING RIGHTS SHALL BE TREATED AS A TRANSFER OF PROPERTY MADE BY THE DECEASED.

(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 TRANS-
FER 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 PROP-
ERTY 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 TRANS-
FER 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.
(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 transfer, action, 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 DECEDED OF PART OR ALL OF SUCH PROPERTY.

(C) PROPERTY TREATED AS HAVING PASSED FROM DECEDED.—FOR PURPOSES OF THIS CHAPTER AND CHAPTER 13, PROPERTY INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDED UNDER SUBSECTION (A) SHALL BE TREATED AS PROPERTY PASSING FROM THE DECEDED.

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.


(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 DECEDED'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 FOUND 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 FOUND ON A PROMISE OR AGREEMENT OF THE DECEDED 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 DECEDED, OR PROPERTY TAXES NOT ACCRUED BEFORE HIS DEATH, OR ANY ESTATE, SUCCESION, 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 REMANDEE 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.


(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 DECEDED 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.


(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 JURISDIC-
TION 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 INTER-
EST,

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 ALLOW-
ABLE 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 REFORM-
ABLE 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 CHAR-
ITABLE 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 SUBPARA-
GRAPH (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.


(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 PROP-
ERTY, 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 REGU-
LATIONS, 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 PROP-
ERTY 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 QUALI-
FYING 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 OTHER-
WISE 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 CHAR-
ITABLE BENEFICIARY NOR AN ESOP BENEFICIARY, PARAGRAPH (1) SHALL NOT
APPLY TO ANY INTEREST IN SUCH TRUST WHICH PASSES OR HAS PASSED FROM THE
DECEDEANT 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 BENEFI-
CIARY WHICH IS AN EMPLOYEE STOCK OWNERSHIP PLAN (AS DEFINED IN SECTION
4975(E)(7)) THAT HOLDS A REMAINDER INTEREST IN QUALIFIED EMPLOYER SECU-
RITIES (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 CHAR-
ITABLE 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 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,
A. 8559--C 249

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 DECEDE NT 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 DECEDE NT 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 DECEDE NT 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 DECEDE NT 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 SUBTITLE, 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 IS 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,
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, ORGANIZA-
TIONS, 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.

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 DISQUALI-
FIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING
TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTER-
VENE 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 INTER-
VENE 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, ORGANIZA-
TIONS, 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—

(1) described in paragraph (3) or (4) of subsection (a), or

(2) 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—
(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

--(iii) 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 organization's 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
(3) 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--

(1) 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),

(2) IS NONLAPSING,

(3) IS SUBJECT TO PROPORTIONATE ADJUSTMENTS FOR SPLITS, COMBINATIONS, RECLASSIFICATIONS, AND SIMILAR CHANGES IN THE CAPITAL STOCK, AND

(4) 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):

(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) 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) 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 TRANSFER-
EE 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 FAMI-
LY 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 REGU-
LATIONS, 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 TRANS-
ACTION, 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 VALU-
ATION 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 INTER-
EST 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 "QUALI-
FIED 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 ANNU-
ALLY), 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 LAPSIDING 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.

--(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 COMMERCIAL 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 TRANSFEE, 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 TRANSFEE.

(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 REGU-
LATIONS 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 SUBPARA-
GRAPH (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 INDEPEND
ENT CONTRACTOR PROVIDES SERVICES.

--(C) CORPORATION-SHAREHOLDER LOANS. ANY BELOW-MARKET LOAN DIRECTLY OR
INDIRECTLY BETWEEN A CORPORATION AND ANY SHAREHOLDER OF SUCH CORPO
RATION.

--(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 INDIVIDU
ALS, 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.


(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,

--(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
1 WILL BE MADE TO THE EXTENT NECESSARY TO CARRY OUT THE PURPOSES OF THIS
2 SECTION,
3 --(B) REGULATIONS FOR THE PURPOSE OF ASSURING THAT THE POSITIONS OF THE
4 BORROWER AND LENDER ARE CONSISTENT AS TO THE APPLICATION (OR NONAPPLICA-
5 TION) OF THIS SECTION, AND
6 --(C) REGULATIONS EXEMPTING FROM THE APPLICATION OF THIS SECTION ANY
7 CLASS OF TRANSACTIONS THE INTEREST ARRANGEMENTS OF WHICH HAVE NO SIGNIF-
8 ICANT EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.
9 (2) ESTATE TAX COORDINATION. UNDER REGULATIONS PRESCRIBED BY THE
10 SECRETARY, ANY LOAN WHICH IS MADE WITH DONATIVE INTENT AND WHICH IS A
11 TERM LOAN SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF CHAPTER 11 IN A
12 MANNER CONSISTENT WITH THE PROVISIONS OF SUBSECTION (B).
13 S 6166. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE
14 CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS. (A) 5-YEAR DEFER-
15 RAL; 10-YEAR INSTALLMENT PAYMENT.--
16 (1) IN GENERAL.--IF THE VALUE OF AN INTEREST IN A CLOSELY HELD BUSI-
17 NESS WHICH IS INCLUDED IN DETERMINING THE GROSS ESTATE OF A DECEDENT WHO
18 WAS (AT THE DATE OF HIS DEATH) A CITIZEN OR RESIDENT OF THE UNITED
19 STATES EXCEEDS 35 PERCENT OF THE ADJUSTED GROSS ESTATE, THE EXECUTOR MAY
20 ELECT TO PAY PART OR ALL OF THE TAX IMPOSED BY SECTION 2001 IN 2 OR MORE
21 (BUT NOT EXCEEDING 10) EQUAL INSTALLMENTS.
22 (2) LIMITATION.--THE MAXIMUM AMOUNT OF TAX WHICH MAY BE PAID IN
23 INSTALLMENTS UNDER THIS SUBSECTION SHALL BE AN AMOUNT WHICH BEARS THE
24 SAME RATIO TO THE TAX IMPOSED BY SECTION 2001 (REDUCED BY THE CREDITS
25 AGAINST SUCH TAX) AS--
26 (A) THE CLOSELY HELD BUSINESS AMOUNT, BEARS TO
27 (B) THE AMOUNT OF THE ADJUSTED GROSS ESTATE.
28 (3) DATE FOR PAYMENT OF INSTALLMENTS.--IF AN ELECTION IS MADE UNDER
29 PARAGRAPH (1), THE FIRST INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE
30 SELECTED BY THE EXECUTOR WHICH IS NOT MORE THAN 5 YEARS AFTER THE DATE
31 PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX, AND EACH SUCCEED-
32 ING INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE WHICH IS 1 YEAR
33 AFTER THE DATE PRESCRIBED BY THIS PARAGRAPH FOR PAYMENT OF THE PRECEDING
34 INSTALLMENT.
35 (B) DEFINITIONS AND SPECIAL RULES.--
36 (1) INTEREST IN CLOSELY HELD BUSINESS.--FOR PURPOSES OF THIS SECTION,
37 THE TERM "INTEREST IN A CLOSELY HELD BUSINESS" MEANS--
38 (A) AN INTEREST AS A PROPRIETOR IN A TRADE OR BUSINESS CARRIED ON AS A
39 PROPRIETORSHIP;
40 (B) AN INTEREST AS A PARTNER IN A PARTNERSHIP CARRYING ON A TRADE OR
41 BUSINESS, IF--
42 (I) 20 PERCENT OR MORE OF THE TOTAL CAPITAL INTEREST IN SUCH PARTNER-
43 SHIP IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR
44 (II) SUCH PARTNERSHIP HAD 45 OR FEWER PARTNERS; OR
45 (C) STOCK IN A CORPORATION CARRYING ON A TRADE OR BUSINESS IF--
46 (I) 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK OF SUCH CORPO-
47 RATION IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR
48 (II) SUCH CORPORATION HAD 45 OR FEWER SHAREHOLDERS.
49 (2) RULES FOR APPLYING PARAGRAPH (1).--FOR PURPOSES OF PARAGRAPH (1)--
50 (A) TIME FOR TESTING.--DETERMINATIONS SHALL BE MADE AS OF THE TIME
51 IMMEDIATELY BEFORE THE DECEDENT'S DEATH.
52 (B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.--STOCK OR A PARTNER-
53 SHIP INTEREST WHICH--
54 (I) IS COMMUNITY PROPERTY OF A HUSBAND AND WIFE (OR THE INCOME FROM
55 WHICH IS COMMUNITY INCOME) UNDER THE APPLICABLE COMMUNITY PROPERTY LAW
56 OF A STATE, OR
(II) IS HELD BY A HUSBAND AND WIFE AS JOINT TENANTS, TENANTS IN 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).


(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-READ-
ILY-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-READ-
ILY-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 TREAT-
ED AS VOTING STOCK TO THE EXTENT THAT VOTING STOCK IN THE HOLDING COMPA-
NY 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 CORPO-
RATION 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 DECEDEENT 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 SHARE-
HOLDERS, AND

(II) 80 PERCENT OR MORE OF THE VALUE OF THE ASSETS OF EACH SUCH CORPO-
RATION IS ATTRIBUTABLE TO ASSETS USED IN CARRYING ON A TRADE OR BUSI-
NESS, 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--

(A) 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

(B) 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 WHOM SERVICES WERE THE ACTIVE MANAGEMENT OF SUCH BUSINESS, 10 FULL-TIME, NONOWNER EMPLOYEES SUBSTANTIALLY ALL OF WHOM 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.

(IV) 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 DECE- DENT 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 DEFICIEN-
CY 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 DEFI-
CIENCY IS DUE TO NEGLIGENCE, TO INTENTIONAL DISREGARD OF RULES AND REGU-
LATIONS, 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 PARA-
GRAPH (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 PERI-
OD 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) 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.
A. 8559--C                         278

1 (B) IN THE CASE OF A DISTRIBUTION IN REDEMPTION OF STOCK TO WHICH
2 SECTION 303 (OR SO MUCH OF SECTION 304 AS RELATES TO SECTION 303) 
3 APPLIES--
4 (I) THE REDEMPTION OF SUCH STOCK, AND THE WITHDRAWAL OF MONEY AND 
5 OTHER PROPERTY DISTRIBUTED IN SUCH REDEMPTION, SHALL NOT BE TREATED AS A 
6 DISTRIBUTION OR WITHDRAWAL FOR PURPOSES OF SUBPARAGRAPH (A), AND 
7 (II) FOR PURPOSES OF SUBPARAGRAPH (A), THE VALUE OF THE INTEREST IN 
8 THE CLOSELY HELD BUSINESS SHALL BE CONSIDERED TO BE SUCH VALUE REDUCED 
9 BY THE VALUE OF THE STOCK REDEEMED.
10 THIS SUBPARAGRAPH SHALL APPLY ONLY IF, ON OR BEFORE THE DATE 
11 PRESCRIBED BY SUBSECTION (A)(3) FOR THE PAYMENT OF THE FIRST INSTALLMENT 
12 WHICH BECOMES DUE AFTER THE DATE OF THE DISTRIBUTION (OR, IF EARLIER, ON 
13 OR BEFORE THE DAY WHICH IS 1 YEAR AFTER THE DATE OF THE DISTRIBUTION), 
14 THERE IS PAID AN AMOUNT OF THE TAX IMPOSED BY SECTION 2001 NOT LESS THAN 
15 THE AMOUNT OF MONEY AND OTHER PROPERTY DISTRIBUTED.
16 (C) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO AN EXCHANGE OF STOCK PURSU-
17 ANT TO A PLAN OF REORGANIZATION DESCRIBED IN SUBPARAGRAPH (D), (E), OR 
18 (F) OF SECTION 368(A)(1) NOR TO AN EXCHANGE TO WHICH SECTION 355 (OR SO 
19 MUCH OF SECTION 356 AS RELATES TO SECTION 355) APPLIES; BUT ANY STOCK 
20 RECEIVED IN SUCH AN EXCHANGE SHALL BE TREATED FOR PURPOSES OF SUBPARA-
21 GRAPH (A)(I) AS AN INTEREST QUALIFYING UNDER SUBSECTION (A)(1).
22 (D) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO A TRANSFER OF PROPERTY OF 
23 THE DECEDENT TO A PERSON ENTITLED BY REASON OF THE DECEDEANT'S DEATH TO 
24 RECEIVE SUCH PROPERTY UNDER THE DECEDEANT'S WILL, THE APPLICABLE LAW OF 
25 DESCENT AND DISTRIBUTION, OR A TRUST CREATED BY THE DECEDEANT. A SIMILAR 
26 RULE SHALL APPLY IN THE CASE OF A SERIES OF SUBSEQUENT TRANSFERS OF THE 
27 PROPERTY BY REASON OF DEATH SO LONG AS EACH TRANSFER IS TO A MEMBER OF 
28 THE FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) OF THE TRANSFEROR 
29 IN SUCH TRANSFER.
30 (E) CHANGES IN INTEREST IN HOLDING COMPANY.--IF ANY STOCK IN A HOLD-
31 ING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF 
32 SUBSECTION (B)(8)(A)--
33 (I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN SUCH HOLDING 
34 COMPANY WHICH WAS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECE-
35 DENT, OR 
36 (II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH HOLDING 
37 COMPANY ATTRIBUTABLE TO ANY INTEREST INCLUDED IN DETERMINING THE GROSS 
38 ESTATE OF THE DECEDEANT,
39 SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF 
40 (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION 
41 (A)(1).
42 (F) CHANGES IN INTEREST IN BUSINESS COMPANY.--IF ANY STOCK IN A HOLD-
43 ING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF 
44 SUBSECTION (B)(8)(A)--
45 (I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN THE BUSINESS 
46 COMPANY BY SUCH HOLDING COMPANY, OR 
47 (II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH BUSINESS 
48 COMPANY ATTRIBUTABLE TO SUCH STOCK BY SUCH HOLDING COMPANY OWNING SUCH 
49 STOCK, 
50 SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF 
51 (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION 
52 (A)(1).
53 (2) UNDISTRIBUTED INCOME OF ESTATE.--
54 (A) IF AN ELECTION IS MADE UNDER THIS SECTION AND THE ESTATE HAS 
55 UNDISTRIBUTED NET INCOME FOR ANY TAXABLE YEAR ENDING ON OR AFTER THE DUE 
56 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 UNDIS-
TRIBUTED 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 INTER-
EST) 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 CORPO-
RATION 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 INSTALL-
MENTS 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 SECRE-
TARY 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
A. 8559--C

1. 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 exten-
sion 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 qualify-
ing an estate under this section where property has been transferred
within 3 years of decedent's death, see section 2035(c)(2).

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 arti-
cles 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 there-
of), 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,

52. 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 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 3-a. Paragraph 1 of subdivision (f) of section 1105 of the tax law, as amended by section 100 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(1) Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state, except charges for admission to (I) race tracks[, boxing, sparring or wrestling matches or exhibitions] which charges are taxed under any other law of this state, [or] (II) dramatic or musical arts performances, [or] (III) live circus performances, or (IV) motion picture theaters, and except charges to a patron for admission to, or use of, facilities for sporting activities in which such patron is to be a participant, such as bowling alleys and swimming pools. For any person having the permanent use or possession of a box or seat or a lease or a license, other than a season ticket, for the use of a box or seat at a place of amusement, the tax shall be upon the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by the holder, licensee or lessee, and shall be paid by the holder, licensee or lessee.

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
finace, 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 infor-
mation 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 actual-
ly 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 subdivi-
sion 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 subpar-
agraph, 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 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 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 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
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 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 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 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, 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. "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 here-by 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 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 subdivi-
sion 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, enter-
tainment 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 Pennsylva-
nia 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
A. 8559--C

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

Intentionally Omitted

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.
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 AUTHOR-
ITY 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 electron-
ically.

§ 3. The tax law is amended by adding a new section 807 to read as
follows:

§ 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 THIR-
TY, 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 ENFORCE-
MENT 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 THIR-
TY, 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 AUTHOR-
ITY 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.

§ 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
A. 8559--C

1. Gaming facility pursuant to either article thirteen of the racing, pari-
2. mutuel wagering and breeding law or pursuant to paragraph four of SUBDI-
3. vision A of section [one thousand six] SIXTEEN hundred seventeen-a of
4. the tax law.

b. Amounts APPROPRIATED OR transferred in any year to support elemen-
5. tary and secondary education shall be calculated as follows:
6. (i) an amount equal to the positive difference, if any, between the
7. base year gaming revenue amount and the sum of all revenue generated to
8. support education from video lottery gaming as defined by section
9. sixteen hundred seventeen-a of the tax law[. FOR THE PURPOSES OF THIS PARAGRAPH, THE CALCU-
10. LATION OF THIS POSITIVE DIFFERENCE SHALL BE ESTIMATED AND TRANSFERRED
11. MONTHLY BASED ON THE CUMULATIVE POSITIVE DIFFERENCE, IF ANY, IN THE SAME
12. CUMULATIVE MONTHS OF THE BASE YEAR AND THE CUMULATIVE MONTHS OF THE
13. CURRENT FISCAL YEAR TO DATE, LESS AMOUNTS PREVIOUSLY TRANSFERRED IN THE
14. CURRENT FISCAL YEAR. PROVIDED, HOWEVER, IF THE AMOUNT PREVIOUSLY TRANS-
15. FERRED IN THE CURRENT FISCAL YEAR EXCEEDS THE CUMULATIVE POSITIVE
16. DIFFERENCE, AN AMOUNT EQUAL TO THE EXCESS TRANSFERRED MAY BE TRANSFERRED
17. BACK FROM THE STATE LOTTERY FUND; and
18. (ii) the amount of revenue collected [in the prior state fiscal year,]
19. to be distributed pursuant to paragraph a of subdivision three of this
20. section, and in excess of any amounts transferred pursuant to subpara-
21. graph (i) of this paragraph [in such prior fiscal year], if any.

c. Notwithstanding any provision of law to the contrary, amounts
22. appropriated or transferred from the commercial gaming revenue fund
23. pursuant to subparagraph (ii) of this paragraph shall not be included
24. in: (i) the allowable growth amount computed pursuant to paragraph dd of
25. subdivision one of section thirty-six hundred two of the education law,
26. (ii) the preliminary growth amount computed pursuant to paragraph ff of
27. subdivision one of section thirty-six hundred two of the education law,
28. and (iii) the allocable growth amount computed pursuant to paragraph gg
29. of subdivision one of section thirty-six hundred two of the education
30. law.

S 2. Subdivision 5 of section 97-nnnn of the state finance law, as
31. added by chapter 174 of the laws of 2013, is amended to read as follows:
32. 5. Notwithstanding the foregoing, monies received pursuant to:
33. a. sections one thousand three hundred forty-five and one thousand
34. three hundred forty-eight of [this article] THE RACING, PARI-MUTUEL
35. WAGERING AND BREEDING LAW shall be exclusively appropriated to the
36. office of alcoholism and substance abuse services to be used for problem
37. gambling education and treatment purposes.
38. b. section one thousand three hundred forty-nine of [this article] THE
39. RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively
40. appropriated to the commission for regulatory investigations.
41. c. section one thousand three hundred fifty of [this article] THE
42. RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively
43. appropriated to the commission for costs regulation.

S 3. Subdivisions (b) and (c) of section 52 of chapter 174 of the laws
44. of 2013 enacting the upstate New York gaming economic development act of
45. 2013, are amended to read as follows:
46. (b) sections six, seven, fourteen and sixteen of this act shall take
47. effect on the same date as the agreement between the Oneida Nation of
48. New York and the state of New York entered into on the sixteenth day of
49. May, 2013 takes effect; provided, further, that the amendments to subdi-
50. vision 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 subdi-
vision 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 amend-
ment 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 breed-
ing 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 subdi-
vision 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 chap-
ter 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 stockhold-
ers, 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. Subdivision 5 of section 1301 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

5. "Board". The New York state RESORT gaming facility location board established by the commission pursuant to section one hundred nine-a of this chapter.

S 7. The opening paragraph of section 109-a of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

The commission shall establish a separate board to be known as the New York STATE RESORT gaming facility location board to perform designated functions under article thirteen of this chapter, the following provisions shall apply to the board:

S 8. Subparagraph (iii) 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:

(iii) less an additional vendor's marketing allowance at a rate of ten percent for the first one hundred million dollars annually and eight percent thereafter of the total revenue wagered at the vendor track after payout for prizes to be used by the vendor track for the marketing and promotion and associated costs of its video lottery gaming operations and pari-mutuel horse racing operations, as long as any such costs associated with pari-mutuel horse racing operations simultaneously encourage increased attendance at such vendor's video lottery gaming facilities, consistent with the customary manner of marketing comparable operations in the industry and subject to the overall supervision of the division; provided, however, that the additional vendor's marketing allowance shall not exceed eight percent in any year for any operator of a racetrack located in the county of Westchester or Queens; [provided, however, a vendor track that receives a vendor fee pursuant to clause (G) of subparagraph (ii) of this paragraph shall not receive the additional vendor's marketing allowance;] provided, however, except for a vendor track located west of State Route 14 from Sodus Point to the Pennsylvania border within New York shall continue to receive a marketing allowance of ten percent on total revenue wagered at the vendor track after payout for prizes in excess of one hundred million dollars annually provided, however, a vendor that receives a vendor fee pursuant to clause (G-1) of subparagraph (ii) of this paragraph shall receive an additional marketing allowance at a rate of ten percent of the total

In establishing the vendor fee, THE DIVISION SHALL ENSURE THE MAXIMUM LOTTERY SUPPORT FOR EDUCATION WHILE ALSO ENSURING THE EFFECTIVE IMPLEMENTATION OF SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THIS ARTICLE.
THROUGH THE PROVISION OF REASONABLE REIMBURSEMENTS AND COMPENSATION TO VENDOR TRACKS FOR PARTICIPATION IN SUCH PROGRAM. WITHIN TWENTY DAYS AFTER ANY AWARD OF LOTTERY PRIZES, THE DIVISION SHALL PAY INTO THE STATE TREASURY, TO THE CREDIT OF THE STATE LOTTERY FUND, THE BALANCE OF ALL MONEYS RECEIVED FROM THE SALE OF ALL TICKETS FOR THE LOTTERY IN WHICH SUCH PRIZES WERE AWARDED REMAINING AFTER PROVISION FOR THE PAYMENT OF PRIZES AS HEREEIN PROVIDED. ANY REVENUES DERIVED FROM THE SALE OF ADVERTISING ON LOTTERY TICKETS SHALL BE DEPOSITED IN THE STATE LOTTERY FUND.

S 9. 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 eligible 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. Any amount attributable to a capital expenditure approved prior to April first, two thousand fourteen and completed before April first, two thousand sixteen; or approved prior to April first, two thousand eighteen and completed before April first, two thousand twenty 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 and completed prior to April first, two thousand sixteen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand fourteen, the vendor shall continue to receive the capital award after April first, two thousand fourteen 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 depre-
1. 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 shall be deposited into the state lottery fund for education aid; and

S 10. The opening paragraph of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as separately amended by sections 30 and 40 of chapter 174 of the laws of 2013, is amended to read as follows:

less a vendor's fee the amount of which is to be paid for serving as a lottery agent to the track operator of a vendor track or the operator of a [resort] GAMING facility or the operator of any other video lottery gaming facility authorized pursuant to section one thousand six hundred [seventeen a] SEVENTEEN-A of this article:

S 11. Paragraph (c) of subdivision 2 of section 103 of the racing, pari-mutuel wagering and breeding law, as added by section 1 of part A of chapter 60 of the laws of 2012, is amended to read as follows:

(c) Gaming. The division of gaming shall be responsible for the appropriate administration, regulation or oversight of Indian gaming as defined by tribal-state compacts in effect pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, et seq., [and] operation and administration of video lottery gaming, as prescribed by article thirty-four of the tax law, AND OPERATION AND ADMINISTRATION OF GAMING FACILITIES AS PRESCRIBED BY ARTICLE THIRTEEN OF THIS CHAPTER.

S 12. Subdivision 4 of section 1365 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

4. During the period of temporary management of the gaming facility, the commission shall initiate proceedings under this article to award a new gaming facility license, THROUGH A COMPETITIVE PROCESS CONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, to a qualified applicant whose gaming facility shall be located at the site of the preexisting gaming facility.

S 13. Paragraph (e) of subdivision 2 of section 1307 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

(e) prescribing the manner and procedure of all hearings conducted by the commission or any presiding officer IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT;

S 14. The opening paragraph of section 1306 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

The New York state resort gaming facility location board shall select, following a competitive process and subject to the restrictions of this article, no more than four entities to apply to the commission for gaming facility licenses. THE BOARD MAY SELECT ANOTHER APPLICANT FOR AUTHORIZATION TO BE LICENSED AS A GAMING FACILITY IF A PREVIOUS SELECTEE FAILS TO MEET LICENSING THRESHOLDS, IS REVOKED OR SURRENDERS A LICENSE OPPORTUNITY. In exercising its authority, the board shall have all powers necessary or convenient to fully carry out and effectuate its purposes including, but not limited to, the following powers. The board shall:

S 15. Section 1304 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:
Commission reporting. The commission shall report monthly to the governor, the TEMPORARY PRESIDENT OF THE senate [and], the SPEAKER OF THE assembly, the CHAIR OF THE senate finance committee [and], the CHAIR OF THE assembly ways and means committee, [and] the [chairs] CHAIR of the senate racing, gaming and wagering committee and the CHAIR OF THE assembly racing and wagering committee on economic development and emerging technologies on the total gaming revenues, prize disbursements and other expenses for the preceding month and shall make an annual report to the same recipients which shall include a full and complete statement of gaming revenues, prize disbursements and other expenses, including such recommendations as the commission considers necessary or advisable. The commission shall also report immediately to the aforementioned on any matter which requires immediate changes in the laws in order to prevent abuses or evasions of the laws, rules or regulations related to gaming or to rectify undesirable conditions in connection with the administration or operation of gaming in the state.

Subdivision 1 of section 1371 of the racing, pari-mutuel wagering and breeding law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

Every commission officer or employee shall report promptly to the state gaming inspector general OR APPROPRIATE LAW ENFORCEMENT OFFICIAL any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another [state] GAMING COMMISSION officer or employee relating to his or her office or employment, or by a person having business dealings with the commission relating to those dealings. The knowing failure of any COMMISSION officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty under this article SUBJECT TO NOTICE AND OPPORTUNITY FOR A HEARING. Any COMMISSION officer or employee who acts pursuant to this subdivision by reporting to the state gaming inspector general or other appropriate law enforcement official ACTUAL OR REASONABLY BELIEVED improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.

This act shall take effect immediately; provided, however that section one of this act shall take effect April 1, 2015; provided, however that the amendments made by section three of this act shall be deemed to have been in full force and effect on the same date and in the same manner as chapter 174 of the laws of 2013, took effect and provided, further that section eight of this act shall be deemed to have been in full force and effect on and after January 1, 2014.

PART FF
Intentionally Omitted

PART GG
Section 1. This act enacts into law major components of legislation relating to lower Manhattan and the city of New York. Each component is wholly contained within a Subpart identified as Subparts A through G. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when
used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. Subparagraph (A) of paragraph 7 of subdivision (ee) of section 1115 of the tax law, as amended by section 2 of chapter 203 of the laws of 2009, is amended to read as follows:

(A) "Tenant" means a person who, as lessee, enters into a space lease with a landlord for a term of ten years or more commencing on or after September first, two thousand five, but not later than, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph, September first, two thousand [thirteen] FIFTEEN and, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph not later than September first, two thousand [fifteen] SEVENTEEN, of premises for use as commercial office space in buildings located or to be located in the eligible areas. A person who currently occupies premises for use as commercial office space in buildings located or to be located in the eligible areas shall not be eligible for exemption under this subdivision unless such existing lease, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph expires according to its terms before September first, two thousand [thirteen] FIFTEEN or such existing lease, in the case of a space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph and such person enters into a space lease, for a term of ten years or more commencing on or after September first, two thousand five, of premises for use as commercial office space in a building located or to be located in the eligible areas, provided that such space lease with respect to leased premises located in eligible areas as defined in clause (i) of subparagraph (D) of this paragraph commences no later than September first, two thousand [thirteen] FIFTEEN, and provided that such space lease with respect to leased premises located in eligible areas as defined in clause (ii) of subparagraph (D) of this paragraph commences no later than September first, two thousand [fifteen] SEVENTEEN and provided, further, that such space lease shall expire no earlier than ten years after the expiration of the original lease.

S 2. This act shall take effect September 1, 2005 and shall expire and be deemed repealed on December 1, [2016] 2018, and shall apply to sales made, uses occurring and services rendered on or after such effective date, in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law; except that clause (i) of subparagraph (D) of paragraph seven of subdivision (ee) of section 1115 of the tax law, as added by section one of this act, shall expire and be deemed repealed December 1, [2014] 2016.

S 3. The commissioner of taxation and finance shall prescribe the methods to allow the tenants, landlord and contractors, who have made qualified purchases on or after September 1, 2013 and before the date
this act became law to receive a credit or refund of the tax paid even if a person did not receive an exemption for a qualifying purchase made between September 1, 2013 and the date this act became law.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 1, 2013; provided, however, that the amendments to subparagraph (A) of paragraph 7 of subdivision (ee) of section 1115 of the tax law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

SUBPART B

Section 1. Subdivisions 5 and 9 of section 499-a of the real property tax law, as amended by chapter 22 of the laws of 2010, are amended to read as follows:

5. "Benefit period." The period commencing with the first day of the month immediately following the rent commencement date and terminating no later than sixty months thereafter, provided, however, that with respect to a lease commencing on or after April first, nineteen hundred ninety-seven with an initial lease term of less than five years, but not less than three years, the period commencing with the first day of the month immediately following the rent commencement date and terminating no later than thirty-six months thereafter. Notwithstanding the foregoing sentence, a benefit period shall expire no later than March thirty-first, two thousand twenty-two.

9. "Eligibility period." The period commencing April first, nineteen hundred ninety-five and terminating March thirty-first, two thousand [fourteen] SIXTEEN.

S 2. Paragraph (a) of subdivision 3 of section 499-c of the real property tax law, as amended by chapter 22 of the laws of 2010, is amended to read as follows:

(a) For purposes of determining whether the amount of expenditures required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after April first, nineteen hundred ninety-five and on or before September thirtieth, two thousand [fourteen] SIXTEEN; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

S 3. Subdivision 8 of section 499-d of the real property tax law, as amended by chapter 22 of the laws of 2010, is amended to read as follows:

8. Leases commencing on or after April first, nineteen hundred ninety-seven shall be subject to the provisions of this title as amended by chapter six hundred twenty-nine of the laws of nineteen hundred ninety-seven, chapter one hundred eighteen of the laws of two thousand one, chapter four hundred forty of the laws of two thousand three, chapter sixty of the laws of two thousand seven [and the], chapter TWENTY-TWO of the laws of two thousand ten [that added this phrase] AND THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS PHRASE. Notwithstanding any other provision of law to the contrary, with respect to leases commencing on or after April first, nineteen hundred ninety-seven, an application for a certificate of abatement shall be considered timely filed if filed within one hundred eighty days following the lease commencement date or within sixty days following the date chapter six
1 hundred twenty-nine of the laws of nineteen hundred ninety-seven became a law, whichever is later.

S 4. Subparagraph (a) of paragraph 2 of subdivision i of section 11-704 of the administrative code of the city of New York, as amended by chapter 22 of the laws of 2010, is amended to read as follows:
(a) An eligible tenant of eligible taxable premises shall be allowed a special reduction in determining the taxable base rent for such eligible taxable premises. Such special reduction shall be allowed with respect to the rent for such eligible taxable premises for a period not exceeding sixty months or, with respect to a lease commencing on or after April first, nineteen hundred ninety-seven with an initial lease term of less than five years, but not less than three years, for a period not exceeding thirty-six months, commencing on the rent commencement date applicable to such eligible taxable premises, provided, however, that in no event shall any special reduction be allowed for any period beginning after March thirty-first, two thousand twenty-two. For purposes of applying such special reduction, the base rent for the base year shall, where necessary to determine the amount of the special reduction allowable with respect to any number of months falling within a tax period, be prorated by dividing the base rent for the base year by twelve and multiplying the result by such number of months.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2014.

SUBPART C

Section 1. Paragraph (a) of subdivision 1 of section 489-ddddddd of the real property tax law, as amended by chapter 28 of the laws of 2011, is amended to read as follows:
(a) Application for benefits pursuant to this title may be made immediately following the effective date of a local law enacted pursuant to this title and continuing until March first, two thousand fifteen.

S 2. Subdivision 3 of section 489-ddddddd of the real property tax law, as added by chapter 28 of the laws of 2011, is amended to read as follows:
3. (a) No benefits pursuant to this title shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand fifteen.
(b) If no building permit was required, then no benefits pursuant to this title shall be granted for construction work that is commenced after April first, two thousand fifteen.

S 3. Paragraph 1 of subdivision a of section 11-271 of the administrative code of the city of New York, as amended by chapter 28 of the laws of 2011, is amended to read as follows:
(1) Application for benefits pursuant to this part may be made immediately following the effective date of the local law that added this section and continuing until March first, two thousand fifteen.

S 4. Subdivision c of section 11-271 of the administrative code of the city of New York, as added by chapter 28 of the laws of 2011, is amended to read as follows:
c. (1) No benefits pursuant to this part shall be granted for construction work performed pursuant to a building permit issued after April first, two thousand fifteen.
(2) If no building permit was required, then no benefits pursuant to this part shall be granted for construction work that is commenced after April first, two thousand [fifteen] SEVENTEEN.

S 5. This act shall take effect immediately.

SUBPART D

Section 1. Subdivision (b) of section 25-z of the general city law, as amended by chapter 131 of the laws of 2008, is amended to read as follows:

(b) No eligible business shall be authorized to receive a credit under any local law enacted pursuant to this article until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor of such city or an agency designated by such mayor, and an annual certification from such mayor or an agency designated by such mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to such mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Such local law may provide for application fees to be determined by such mayor or such agency or agencies. No such certification of eligibility shall be issued under any local law enacted pursuant to this article to an eligible business on or after July first, two thousand [thirteen] FIFTEEN unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section twenty-five-y of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

S 2. Subdivision (b) of section 25-ee of the general city law, as amended by chapter 131 of the laws of 2008, is amended to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under any local law enacted pursuant to this article until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor of such city or any agency designated by such mayor, and an annual certification from such mayor or an agency designated by such mayor as to the number of eligible aggregate employment shares maintained by such eligible business or such special eligible business that
may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this article unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section twenty-five-dd of this article is equal to or greater than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section and two hundred fifty employment shares. Any written documentation submitted to such mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Such local law may provide for application fees to be determined by such mayor or such agency or agencies. No certification of eligibility shall be issued under any local law enacted pursuant to this article to an eligible business on or after July first, two thousand [thirteen] FIFTEEN unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section twenty-five-dd of this article relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises as provided in subdivision (j) of section twenty-five-dd of this article not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

S 3. Subdivision (b) of section 22-622 of the administrative code of the city of New York, as amended by chapter 131 of the laws of 2008, is amended to read as follows:

(b) No eligible business shall be authorized to receive a credit against tax or a reduction in base rent subject to tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [thirteen] FIFTEEN unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease particular premises or a parcel on which will be constructed such premises or already owned such premises or parcel;
(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivision (e) of section 22-621 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(4) such business relocates to such particular premises not later than thirty-six months or, in a case in which the expenditures made for improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.

§ 4. Subdivision (b) of section 22-624 of the administrative code of the city of New York, as amended by chapter 131 of the laws of 2008, is amended to read as follows:

(b) No eligible business or special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter, and of title eleven of the code as described in subdivision (a) of this section, until the premises with respect to which it is claiming the credit meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such eligible business or special eligible business that may qualify for obtaining a tax credit for the eligible business' taxable year. No special eligible business shall be authorized to receive a credit against tax under the provisions of this chapter and of title eleven of the code unless the number of relocated employee base shares calculated pursuant to subdivision (o) of section 22-623 of this chapter is equal to or greater than the lesser of twenty-five percent of the number of New York city base shares calculated pursuant to subdivision (p) of such section 22-623, and two hundred fifty employment shares. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, two thousand [thirteen] FIFTEEN unless:

(1) prior to such date such business has purchased, leased or entered into a contract to purchase or lease premises in the eligible Lower Manhattan area or a parcel on which will be constructed such premises;

(2) prior to such date improvements have been commenced on such premises or parcel, which improvements will meet the requirements of subdivision (e) of section 22-623 of this chapter relating to expenditures for improvements;

(3) prior to such date such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such premises; and

(4) such business relocates to such premises not later than thirty-six months or, in a case in which the expenditures made for the improvements specified in paragraph two of this subdivision are in excess of fifty million dollars within seventy-two months from the date of submission of such preliminary application.
S 5. Notwithstanding any provisions of law to the contrary, an eligible business or special business that has met the requirements pursuant to subdivision (b) of section 22-624 or subdivision (b) of section 22-622 of the administrative code of the city of New York, or subdivision (b) of section 25-a or subdivision (b) of section 25-ee of the general city law, on or after July 1, 2013 and before the date this act shall become law shall be deemed to be eligible for the certification of eligibility.

S 6. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2013.

SUBPART E

Section 1. Paragraph 1 of subdivision (b) of section 25-s of the general city law, as amended by chapter 406 of the laws of 2010, is amended to read as follows:

(1) non-residential premises that are wholly contained in property that is eligible to obtain benefits under title two-D or two-F of article four of the real property tax law, or would be eligible to receive benefits under such article except that such property is exempt from real property taxation and the requirements of paragraph (b) of subdivision seven of section four hundred eighty-nine-dddd of such title two-D, or the requirements of subparagraph (ii) of paragraph (b) of subdivision five of section four hundred eighty-nine-cccccc of such title two-F, whichever is applicable, have not been satisfied, provided that application for such benefits was made after May third, nineteen hundred eighty-five and prior to July first, two thousand [thirteen] FIFTEEN, that construction or renovation of such premises was described in such application, that such premises have been substantially improved by such construction or renovation so described, that the minimum required expenditure as defined in such title two-D or two-F, whichever is applicable, has been made, and that such real property is located in an eligible area; or

S 2. Paragraph 3 of subdivision (b) of section 25-s of the general city law, as amended by chapter 406 of the laws of 2010, is amended to read as follows:

(3) non-residential premises that are wholly contained in real property that has obtained approval after October thirty-first, two thousand and prior to July first, two thousand [thirteen] FIFTEEN for financing by an industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises (by construction or renovation), and that expenditures have been made for improvements to such real property in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the earlier of (i) the issuance by such agency of bonds for such financing, or (ii) the conveyance of title to such property to such agency, and that such real property is located in an eligible area; or

S 3. Paragraph 5 of subdivision (b) of section 25-s of the general city law, as amended by chapter 406 of the laws of 2010, is amended to read as follows:

(5) non-residential premises that are wholly contained in real property owned by such city or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in
accordance with the applicable provisions of the charter of such city or
by the board of directors of such corporation, and such approval was
obtained after October thirty-first, two thousand and prior to July
first, two thousand [thirteen] FIFTEEN, provided, however, that such
premises were constructed or renovated subsequent to such approval, that
expenditures have been made subsequent to such approval for improvements
to such real property (by construction or renovation) in excess of ten
per centum of the value at which such real property was assessed for tax
purposes for the tax year in which such improvements commenced, that
such expenditures have been made within thirty-six months after the
effective date of such lease, and that such real property is located in
an eligible area; or

S 4. Paragraph 2 of subdivision (c) of section 25-t of the general
city law, as amended by chapter 406 of the laws of 2010, is amended to
read as follows:

(2) No eligible energy user, qualified eligible energy user, on-site
cogenerator, or clean on-site cogenerator shall receive a rebate pursu-
ant to this article until it has obtained a certification from the
appropriate city agency in accordance with a local law enacted pursuant
to this section. No such certification for a qualified eligible energy
user shall be issued on or after November first, two thousand. No such
certification of any other eligible energy user, on-site cogenerator, or
clean on-site cogenerator shall be issued on or after July first, two
thousand [thirteen] FIFTEEN.

S 5. Paragraph 1 of subdivision (a) of section 25-aa of the general
city law, as amended by chapter 406 of the laws of 2010, is amended to
read as follows:

(1) is eligible to obtain benefits under title two-D or two-F of arti-
cle four of the real property tax law, or would be eligible to receive
benefits under such title except that such property is exempt from real
property taxation and the requirements of paragraph (b) of subdivision
seven of section four hundred eighty-nine-dddd of such title two-D, or
the requirements of subparagraph (ii) of paragraph (b) of subdivision
two of section four hundred eighty-nine-cccccc of such title two-F,
whichever is applicable, of the real property tax law have not been
satisfied, provided that application for such benefits was made after
the thirtieth day of June, nineteen hundred ninety-five and before the
first day of July, two thousand [thirteen] FIFTEEN, that construction or
renovation of such building or structure was described in such applica-
tion, that such building or structure has been substantially improved by
such construction or renovation, and (i) that the minimum required
expenditure as defined in such title has been made, or (ii) where there
is no applicable minimum required expenditure, the building was
constructed within such period or periods of time established by title
two-D or two-F, whichever is applicable, of article four of the real
property tax law for construction of a new building or structure; or

S 6. Paragraphs 2 and 3 of subdivision (a) of section 25-aa of the
general city law, as amended by chapter 406 of the laws of 2010, are
amended to read as follows:

(2) has obtained approval after the thirtieth day of June, nineteen
hundred ninety-five and before the first day of July, two thousand
[thirteen] FIFTEEN, for financing by an industrial development agency
established pursuant to article eighteen-A of the general municipal law,
provided that such financing has been used in whole or in part to
substantially improve such building or structure by construction or
renovation, that expenditures have been made for improvements to such
real property in excess of twenty per centum of the value at which such
real property was assessed for tax purposes for the tax year in which
such improvements commenced, and that such expenditures have been made
within thirty-six months after the earlier of (i) the issuance by such
agency of bonds for such financing, or (ii) the conveyance of title to
such building or structure to such agency; or
(3) is owned by the city of New York or the New York state urban
development corporation, or a subsidiary corporation thereof, a lease
for which was approved in accordance with the applicable provisions of
the charter of such city or by the board of directors of such corpo-
ration, as the case may be, and such approval was obtained after the
thirtieth day of June, nineteen hundred ninety-five and before the first
day of July, two thousand [thirteen] FIFTEEN, provided that expenditures
have been made for improvements to such real property in excess of twen-
ty per centum of the value at which such real property was assessed for
tax purposes for the tax year in which such improvements commenced, and
that such expenditures have been made within thirty-six months after the
effective date of such lease; or
S 7. Subdivision (f) of section 25-bb of the general city law, as
amended by chapter 406 of the laws of 2010, is amended to read as
follows:
(f) Application and certification. An owner or lessee of a building or
structure located in an eligible revitalization area, or an agent of
such owner or lessee, may apply to such department of small business
services for certification that such building or structure is an eligi-
ble building or targeted eligible building meeting the criteria of
subdivision (a) or (q) of section twenty-five-aa of this article.
Application for such certification must be filed after the thirtieth day
of June, nineteen hundred ninety-five and before a building permit is
issued for the construction or renovation required by such subdivisions
and before the first day of July, two thousand [thirteen] FIFTEEN,
provided that no certification for a targeted eligible building shall be
issued after October thirty-first, two thousand. Such application shall
identify expenditures to be made that will affect eligibility under such
subdivision (a) or (q). Upon completion of such expenditures, an appli-
cant shall supplement such application to provide information (i) estab-
lishing that the criteria of such subdivision (a) or (q) have been met;
(ii) establishing a basis for determining the amount of special rebates,
including a basis for an allocation of the special rebate among eligible
revitalization area energy users purchasing or otherwise receiving ener-
gy services from an eligible redistributor of energy or a qualified
eligible redistributor of energy; and (iii) supporting an allocation of
charges for energy services between eligible charges and other charges.
Such department shall certify a building or structure as an eligible
building or targeted eligible building after receipt of such
information and upon a determination that such information establishes
that the building or structure qualifies as an eligible building or
targeted eligible building. Such department shall mail such certif-
ication or notice thereof to the applicant upon issuance. Such certif-
ication shall remain in effect provided the eligible redistributor of
energy or qualified eligible redistributor of energy reports any changes
that materially affect the amount of the special rebates to which it is
entitled or the amount of reduction required by subdivision (c) of this
section in an energy services bill of an eligible revitalization area
energy user and otherwise complies with the requirements of this arti-
cle. Such department shall notify the private utility or public utility
service required to make a special rebate to such redistributor of the amount of such special rebate established at the time of certification and any changes in such amount and any suspension or termination by such department of certification under this subdivision. Such department may require some or all of the information required as part of an application or other report be provided by a licensed engineer.

S 8. Paragraph 1 of subdivision (i) of section 22-601 of the administrative code of the city of New York, as amended by chapter 406 of the laws of 2010, is amended to read as follows:

(1) Non-residential premises that are wholly contained in property that is eligible to obtain benefits under part four or part five of subchapter two of chapter two of title eleven of this code, or would be eligible to receive benefits under such chapter except that such property is exempt from real property taxation and the requirements of paragraph two of subdivision g of section 11-259 of this code, or the requirements of subparagraph (b) of paragraph two of subdivision e of section 11-270 of this code, whichever is applicable, have not been satisfied, provided that application for such benefits was made after May third, nineteen hundred eighty-five and prior to July first, two thousand [thirteen] FIFTEEN, that construction or renovation of such premises was described in such application, that such premises have been substantially improved by such construction or renovation so described, that the minimum required expenditure as defined in such part four or part five, whichever is applicable, has been made, and that such real property is located in an eligible area; or

S 9. Paragraph 3 of subdivision (i) of section 22-601 of the administrative code of the city of New York, as amended by chapter 406 of the laws of 2010, is amended to read as follows:

(3) non-residential premises that are wholly contained in real property that has obtained approval after October thirty-first, two thousand and prior to July first, two thousand [thirteen] FIFTEEN for financing by an industrial development agency established pursuant to article eighteen-A of the general municipal law, provided that such financing has been used in whole or in part to substantially improve such premises (by construction or renovation), and that expenditures have been made for improvements to such real property in excess of ten per centum of the value at which such real property was assessed for tax purposes for the tax year in which such improvements commenced, that such expenditures have been made within thirty-six months after the earlier of (i) the issuance by such agency of bonds for such financing, or (ii) the conveyance of title to such property to such agency, and that such real property is located in an eligible area; or

S 10. Paragraph 5 of subdivision (i) of section 22-601 of the administrative code of the city of New York, as amended by chapter 406 of the laws of 2010, is amended to read as follows:

(5) non-residential premises that are wholly contained in real property owned by such city or the New York state urban development corporation, or a subsidiary thereof, a lease for which was approved in accordance with the applicable provisions of the charter of such city or by the board of directors of such corporation, and such approval was obtained after October thirty-first, two thousand and prior to July first, two thousand [thirteen] FIFTEEN, provided, however, that such premises were constructed or renovated subsequent to such approval, that expenditures have been made subsequent to such approval for improvements to such real property (by construction or renovation) in excess of ten per centum of the value at which such real property was assessed for tax
purposes for the tax year in which such improvements commenced, that
such expenditures have been made within thirty-six months after the
effective date of such lease, and that such real property is located in
an eligible area; or

§ 11. Paragraph 1 of subdivision (c) of section 22-602 of the adminis-
trative code of the city of New York, as amended by chapter 406 of the
laws of 2010, is amended to read as follows:

(1) No eligible energy user, qualified eligible energy user, on-site
cogenerator, clean on-site cogenerator or special eligible energy user
shall receive a rebate pursuant to this chapter until it has obtained a
certification as an eligible energy user, qualified eligible energy
user, on-site cogenerator, clean on-site cogenerator or special eligible
energy user, respectively, from the commissioner of small business
services. No such certification for a qualified eligible energy user
shall be issued on or after July first, two thousand three. No such
certification of any other eligible energy user, on-site cogenerator or
clean on-site cogenerator shall be issued on or after July first, two
thousand [thirteen] FIFTEEN. The commissioner of small business
services, after notice and hearing, may revoke a certification issued
pursuant to this subdivision where it is found that eligibility criteria
have not been met or that compliance with conditions for continued
eligibility has not been maintained. The corporation counsel may main-
tain a civil action to recover an amount equal to any benefits improper-
ly obtained.

§ 12. Notwithstanding any provisions of law to the contrary, an eligi-
ble energy user, qualified energy user, on-site cogenerator, clean
on-site cogenerator, or special eligible energy user, who has met the
requirements under article 2-I or 2-F of the general city law or section
22-601 or section 22-602 of the administrative code of the city of New
York, on or after July 1, 2013, shall be deemed to be certified for
energy rebates.

§ 13. This act shall take effect immediately and shall be deemed to
have been in full force and effect on and after July 1, 2013.

SUBPART F

Section 1. Subparagraph (b-2) of paragraph 2 of subdivision 1 of
section 11-704 of the administrative code of the city of New York, as
amended by chapter 203 of the laws of 2009, is amended to read as
follows:

(b-2) The amount of the special reduction allowed by this subdivision
with respect to a lease other than a sublease commencing between July
first, two thousand five and June thirtieth, two thousand [thirteen]
FIFTEEN with an initial or renewal lease term of at least five years
shall be determined as follows:

(i) For the base year the amount of such special reduction shall be
equal to the base rent for the base year.

(ii) For the first, second, third and fourth twelve-month periods
following the base year the amount of such special reduction shall be
equal to the lesser of (A) the base rent for each such twelve-month
period or (B) the base rent for the base year.

§ 2. This act shall take effect immediately and shall be deemed to
have been in full force and effect on and after June 30, 2013.

SUBPART G
Section 1. Subdivision 9 of section 499-aa of the real property tax law, as amended by chapter 306 of the laws of 2010, is amended to read as follows:

9. "Eligibility period." The period commencing April first, nineteen hundred ninety-five and terminating March thirty-first, two thousand one, provided, however, that with respect to eligible premises defined in subparagraph (i) of paragraph (b) of subdivision ten of this section, the period commencing July first, two thousand and terminating June thirtieth, two thousand [fourteen] SIXTEEN, and provided, further, however, that with respect to eligible premises defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of this section, the period commencing July first, two thousand five and terminating June thirtieth, two thousand [fourteen] SIXTEEN.

S 2. Subparagraph (iii) of paragraph (a) of subdivision 3 of section 499-cc of the real property tax law, as amended by chapter 306 of the laws of 2010, is amended to read as follows:

(iii) With respect to the eligible premises defined in subparagraph (ii) of paragraph (b) or paragraph (c) of subdivision ten of section four hundred ninety-nine-aa of this title and for purposes of determining whether the amount of expenditures required by subdivision one of this section have been satisfied, expenditures on improvements to the common areas of an eligible building shall be included only if work on such improvements commenced and the expenditures are made on or after July first, two thousand five and on or before December thirty-first, two thousand [fourteen] SIXTEEN; provided, however, that expenditures on improvements to the common areas of an eligible building made prior to three years before the lease commencement date shall not be included.

S 3. This act shall take effect immediately.

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 Subparts A through G of this act shall be as specifically set forth in the last section of such Subparts.

PART HH

Section 1. Paragraph 5 of subdivision (a) of section 24 of the tax law, as added by section 7 of part B of chapter 59 of the laws of 2013, is amended to read as follows:

(5) For the period two thousand fifteen through two thousand nineteen, in addition to the amount of credit established in paragraph two of this subdivision, a taxpayer shall be allowed a credit equal to the product (or pro rata share of the product, in the case of a member of a partnership) of ten percent and the amount of wages or salaries paid to individuals directly employed (excluding those employed as writers, directors, music directors, producers and performers, including background actors with no scripted lines) by a qualified film production company or a qualified independent film production company for services performed by those individuals in one of the counties specified in this paragraph.
in connection with a qualified film with a minimum budget of five hundred thousand dollars. For purposes of this additional credit, the services must be performed in one or more of the following counties: ALBANY, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, COLUMBIA, Cortland, Delaware, DUTCHESS, Erie, Essex, Franklin, Fulton, Genesee, GREENE, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, ORANGE, Orleans, Oswego, Otsego, PUTNAM, RENSSELAER, ROCKLAND, SARATOGA, SCHENECTADY, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, SULLIVAN, Tioga, Tompkins, ULSTER, WARREN, WASHINGTON, Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed pursuant to the authority of this paragraph shall be five million dollars each year during the period two thousand fifteen through two thousand nineteen of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. Such aggregate amount of credits shall be allocated by the governor's office for motion picture and television development among taxpayers in order of priority based upon the date of filing an application for allocation of film production credit with such office. If the total amount of allocated credits applied for under this paragraph in any year exceeds the aggregate amount of tax credits allowed for such year under this paragraph, such excess shall be treated as having been applied for on the first day of the next year. If the total amount of allocated tax credits applied for under this paragraph at the conclusion of any year is less than five million dollars, the remainder shall be treated as part of the annual allocation made available to the program pursuant to paragraph four of subdivision (e) of this section. However, in no event may the total of the credits allocated under this paragraph and the credits allocated under paragraph five of subdivision (a) of section thirty-one of this article exceed five million dollars in any year during the period two thousand fifteen through two thousand nineteen.

S 2. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2014.

PART II

Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part O of chapter 63 of the laws of 2000, is amended to read as follows:

(1) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confectionery, (ii) fruit drinks which contain less than seventy percent of natural fruit juice, (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. The food and drink excluded from the exemption provided by this paragraph under subparagraphs (i), (ii) and (iii) of this paragraph shall be exempt under this paragraph when sold for [seventy-five cents] ONE DOLLAR AND FIFTY CENTS or less through any vending machine activated by the use of coin, currency, credit card or debit card. With the exception of the provision in this paragraph providing for an exemption for certain food or drink sold for [seventy-five cents] ONE DOLLAR AND FIFTY CENTS or less through vending machines, nothing herein shall be
 construed as exempting food or drink from the tax imposed under subdivi-
sion (d) of section eleven hundred five OF THIS ARTICLE.

   S 2. This act shall take effect June 1, 2014 and shall apply to sales
made and uses occurring on and after such date, although made or occur-
ing under a prior contract.

PART JJ

Section 1. Part EE of chapter 59 of the laws of 2013 amending the tax
law relating to adding a minimum wage reimbursement credit is REPEALED.
S 2. This act shall take effect immediately and shall be deemed to
have been in full force and effect on and after the same date part EE of
chapter 59 of the laws of 2013 amending the tax law relating to adding a
minimum wage reimbursement credit took effect.

PART KK

Section 1. Subparagraph (vii) of paragraph (a) of subdivision 1 of
section 210 of the tax law, as added by section 1 of part Z of chapter
59 of the laws of 2013, is amended to read as follows:
   (vii) For a qualified New York manufacturer, as defined in subpara-
graph (vi) of this paragraph, the rate at which the tax is computed in
effect for taxable years beginning on or after January first, two thou-
sand thirteen and before January first, two thousand fourteen for quali-
fied 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 taxa-
ble years beginning on or after January first, two thousand [eighteen]
FIFTEEN.

S 2. Subparagraph 3 of paragraph (b) of subdivision 1 of 210
of the tax law, as added by section 2 of part Z of chapter 59 of the
laws of 2013, is amended to read as follows:
   (3) For a qualified New York manufacturer, as defined in subparagraph
two of this paragraph, 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 thou-
sand [eighteen] FIFTEEN.

S 3. 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 subpara-
graph (vi) of paragraph (a) of this subdivision, the rate at which the
tax is computed in effect for taxable years beginning on or after Janu-
A. 8559--C                         311

ary 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] FIFTEEN.

S 4. 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, 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 manufactur-
ers 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 eigh-
ten,] and twenty-five percent for taxable years beginning on or after
January first, two thousand [eighteen] FIFTEEN.

S 5. This act shall take effect immediately and shall apply to taxable
years commencing on and after January 1, 2015.

PART LL

Section 1. The environmental conservation law is amended by adding a
new section 19-0327 to read as follows:

S 19-0327. BIOHEATING FUEL REQUIREMENTS.

(1) DEFINITIONS. FOR THE PURPOSE OF THIS SECTION, THE FOLLOWING TERMS
SHALL HAVE THE FOLLOWING MEANINGS:

(A) "BIODIESEL" SHALL MEAN A FUEL, DESIGNATED B100, THAT MEETS THE
SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS DESIG-
NATION D6751 COMPOSED EXCLUSIVELY OF MONO-ALKYL ESTERS OF LONG CHAIN
FATTY ACIDS DERIVED FROM FEEDSTOCK.

(B) "BIOHEATING FUEL" SHALL MEAN A FUEL COMPRISED OF BIODIESEL BLENDED
WITH PETROLEUM HEATING OIL THAT MEETS THE SPECIFICATIONS OF THE AMERICAN
SOCIETY FOR TESTING AND MATERIALS DESIGNATION D396 OR OTHER SPECIFICA-
TIONS AS DETERMINED BY THE COMMISSIONER.

(C) "HEATING OIL" SHALL MEAN PETROLEUM OIL REFINED FOR THE PURPOSE OF
USE AS FUEL FOR COMBUSTION IN A SPACE AND/OR WATER HEATING SYSTEM THAT
MEETS THE SPECIFICATIONS OF THE AMERICAN SOCIETY FOR TESTING AND MATERI-
ALS DESIGNATION D396 OR OTHER SPECIFICATIONS AS DETERMINED BY THE
COMMISSIONER.

(D) "FEEDSTOCK" SHALL MEAN SOYBEAN OIL, OIL FROM ANNUAL COVER CROPS,
ALGAL OIL, BIOGENIC WASTE OILS, FATS OR GREASES, OR NON-FOOD GRADE CORN
OIL, PROVIDED THAT THE COMMISSIONER MAY, BY RULES AND REGULATIONS, MODI-
FY THE DEFINITION OF FEEDSTOCK BASED ON THE VEGETABLE OILS, ANIMAL FATS
OR CELLULOSIC BIOMASS LISTED IN TABLE 1 OF 40 C.F.R. S 80.1426.
(2) On and after October first, two thousand fourteen, all heating oil
sold for use in any building within the counties of Nassau, Rockland,
Suffolk, Westchester and the counties of the city of New York shall be
bioheating fuel that contains at least two percent biodiesel.
(3) On and after July first, two thousand fifteen, all heating oil
sold for use in any building in the state shall be bioheating fuel that
contains at least two percent biodiesel.
(4) The Governor may, by issuing an executive order, temporarily
suspend the applicability of this section at any time based on the
Governor's determination, after consulting with the New York State En-
ergy research and development authority and the Department, that meeting
the requirement of subdivision two of this section is not feasible due
to lack of adequate supply of biodiesel or that meeting the requirement
would result in undue financial hardship to consumers.
(5) The requirements of this section shall not: (a) prohibit the sale
and use of bioheating fuel with the same or any greater percentage of
biodiesel blended with heating oil, or the sale and use of one hundred
percent biodiesel, for space and/or water heating purposes in the state;
and (b) preempt any laws of the city of New York with respect to
mandated percentage levels of biodiesel blends with heating oil provided
that such laws require the same or greater percentage of biodiesel
blended with heating oil as required by this section.
S 2. Paragraph 1 and subparagraph (b) of paragraph 2 of subdivision
39 of section 210 of the tax law, paragraph 1 as amended by chapter 591
of the laws of 2011 and subparagraph (b) of paragraph 2 as added by
section 1 of part D of chapter 35 of the laws of 2006, are amended to
read as follows:
(1) 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] bioheating fuel, used for space heating or hot
water production for residential purposes within this state purchased on
or after July first, two thousand six and before July first, two thou-
sand seven and on or after January first, two thousand eight and before
January first, two thousand seventeen. Such credit shall be $0.01 per
percent of biodiesel per gallon of [bioheat] bioheating fuel, not to
exceed twenty cents per gallon, purchased by such taxpayer, PROVIDED,
HOWEVER:
(A) On or after October first, two thousand fourteen, bioheating fuel
used within the counties of Nassau, Rockland, Suffolk, Westchester and
the counties of the city of New York, shall be eligible for this credit
only for gallons of bioheating fuel which contain a minimum of five
percent biodiesel and the amount of such credit shall be $.01 per
percent, in excess of two percent, of biodiesel per gallon of bioheating
fuel, not to exceed eighteen cents per gallon, and
(B) On or after July first, two thousand fifteen, bioheating fuel used
within the state shall be eligible for this credit only for gallons of
bioheating fuel which contain a minimum of five percent biodiesel and
the amount of such credit shall be $.01 per percent, in excess of two
percent, of biodiesel per gallon of bioheating fuel, not to exceed eigh-
ten cents per gallon.
(b) ["Bioheat"] "bioheating fuel" shall mean a fuel comprised of biodi-
else blended with conventional home heating oil, which meets the spec-
ifications of the American Society of Testing and Materials designation
D 396 or D 975.
of the laws of 2012 and subparagraph (b) of paragraph 2 as added by section 2 of part D of chapter 35 of the laws of 2006, are amended to read as follows:

(1) 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] BIOHEATING FUEL, used for space heating or hot water production for residential purposes within this state and purchased on or after July first, two thousand six and before July first, two thousand seven and on or after January first, two thousand eight and before January first, two thousand seventeen. Such credit shall be $0.01 per percent of biodiesel per gallon of [bioheat] BIOHEATING FUEL, not to exceed twenty cents per gallon, purchased by such taxpayer, PROVIDED, HOWEVER:

(A) ON OR AFTER OCTOBER FIRST, TWO THOUSAND FOURTEEN, BIOHEATING FUEL USED WITHIN THE COUNTIES OF NASSAU, ROCKLAND, SUFFOLK, WESTCHESTER AND THE COUNTIES OF THE CITY OF NEW YORK, SHALL BE ELIGIBLE FOR THIS CREDIT ONLY FOR GALLONS OF BIOHEATING FUEL WHICH CONTAIN A MINIMUM OF FIVE PERCENT BIODIESEL AND THE AMOUNT OF SUCH CREDIT SHALL BE $.01 PER PERCENT, IN EXCESS OF TWO PERCENT, OF BIODIESEL PER GALLON OF BIOHEATING FUEL, NOT TO EXCEED EIGHTEEN CENTS PER GALLON, AND

(B) ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, BIOHEATING FUEL USED WITHIN THE STATE SHALL BE ELIGIBLE FOR THIS CREDIT ONLY FOR GALLONS OF BIOHEATING FUEL WHICH CONTAIN A MINIMUM OF FIVE PERCENT BIODIESEL AND THE AMOUNT OF SUCH CREDIT SHALL BE $.01 PER PERCENT, IN EXCESS OF TWO PERCENT, OF BIODIESEL PER GALLON OF BIOHEATING FUEL, NOT TO EXCEED EIGHTEEN CENTS PER GALLON.

(b) ["Bioheat"] "BIOHEATING FUEL" 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.

S 4. This act shall take effect immediately.

PART MM

Section 1. The tax law is amended by adding a new section 24-a to read as follows:

S 24-A. MUSICAL AND THEATRICAL PRODUCTION CREDIT. (A) (1) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION COMPANY, OR WHICH IS A SOLE PROPRIETOR OF OR A MEMBER OF A PARTNERSHIP WHICH IS A QUALIFIED MUSICAL AND THEATRICAL 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 REFERRED TO IN SUBDIVISION (C) OF THIS SECTION, AND TO BE COMPUTED AS PROVIDED IN THIS SECTION.


(3) NO QUALIFIED PRODUCTION EXPENDITURES OR TRANSPORTATION EXPENDITURES USED BY A TAXPAYER EITHER AS THE BASIS FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR PURSUANT TO THIS SECTION OR USED IN THE CALCULATION OF THE CREDIT PROVIDED PURSUANT TO THIS SECTION SHALL BE USED BY SUCH TAXPAYER TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THIS CHAPTER.

(B) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
A. 8559--C  314

(1) "ACCREDITED THEATER PRODUCTION" MEANS A FOR-PROFIT LIVE STAGE PRESENTATION IN A QUALIFIED PRODUCTION FACILITY AND CERTIFIED BY THE GOVERNOR'S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT THAT IS EITHER: (I) A PRE-BROADWAY PRODUCTION, OR (II) A POST-BROADWAY PRODUCTION.

(2) "PRE-BROADWAY PRODUCTION" MEANS A LIVE STAGE PRODUCTION THAT, IN ITS ORIGINAL OR ADAPTIVE VERSION, IS PERFORMED IN A QUALIFIED PRODUCTION FACILITY HAVING A PRESENTATION SCHEDULED FOR BROADWAY'S THEATER DISTRICT IN THE CITY OF NEW YORK WITHIN TWELVE MONTHS AFTER ITS PRESENTATION OUTSIDE OF THE CITY OF NEW YORK.

(3) "POST-BROADWAY PRODUCTION" MEANS A LIVE STAGE PRODUCTION THAT, IN ITS ORIGINAL OR ADAPTIVE VERSION, IS PERFORMED IN A QUALIFIED PRODUCTION FACILITY AND OPENS ITS NATIONAL TOUR IN THIS STATE, BUT OUTSIDE OF THE CITY OF NEW YORK, AFTER HAVING BEEN PRESENTED IN BROADWAY'S THEATER DISTRICT IN THE CITY OF NEW YORK.

(4) "QUALIFIED PRODUCTION EXPENDITURE" MEANS ANY COSTS FOR TANGIBLE PROPERTY USED AND SERVICES PERFORMED DIRECTLY AND PREDOMINANTLY IN THE PRE-PRODUCTION AND POST-PRODUCTION OF AN ACCREDITED THEATER PRODUCTION WITHIN THE STATE INCLUDING, BUT NOT LIMITED TO, EXPENDITURES FOR DESIGN, CONSTRUCTION AND OPERATION, INCLUDING SETS, SPECIAL AND VISUAL EFFECTS, COSTUMES, WARDROBES, MAKE-UP, ACCESSORIES AND COSTS ASSOCIATED WITH SOUND, LIGHTING, AND STAGING. SUCH COSTS GENERALLY INCLUDE TECHNICAL AND CREW PRODUCTION COSTS, SUCH AS EXPENDITURES FOR QUALIFIED PRODUCTION FACILITIES, OR ANY PART THEREOF, PROPS, MAKE-UP, WARDROBE, COSTUMES, EQUIPMENT USED FOR SPECIAL AND VISUAL EFFECTS, SOUND RECORDING, SET CONSTRUCTION, AND LIGHTING. QUALIFIED PRODUCTION EXPENDITURES SHALL NOT INCLUDE WAGES OR SALARIES OR OTHER COMPENSATION FOR WRITERS, DIRECTORS, INCLUDING MUSIC DIRECTORS, PRODUCERS AND PERFORMERS (OTHER THAN BACK-GROUND ACTORS WITH NO SCRIPTED LINES).

(5) "QUALIFIED PRODUCTION FACILITY" MEANS A FACILITY LOCATED IN THE STATE BUT OUTSIDE THE CITY OF NEW YORK, IN WHICH LIVE THEATRICAL PRODUCTIONS ARE, OR ARE INTENDED TO BE, EXCLUSIVELY PRESENTED THAT CONTAINS AT LEAST ONE STAGE, A SEATING CAPACITY OF ONE THOUSAND FIVE HUNDRED OR MORE SEATS, AND DRESSING ROOMS, STORAGE AREAS, AND OTHER ANCILLARY AMENITIES NECESSARY FOR THE ACCREDITED THEATER PRODUCTION.

(6) "QUALIFIED MUSICAL AND THEATRICAL PRODUCTION COMPANY" IS A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY OR INDIVIDUAL WHICH OR WHO IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED MUSICAL OR THEATRICAL PRODUCTION AND PERFORMS IN A QUALIFIED PRODUCTION FACILITY.

(7) (I) "TRANSPORTATION EXPENDITURES" MEANS TRANSPORTATION EXPENDITURES INCURRED AND PAID DIRECTLY AND PREDOMINANTLY IN THE PRODUCTION OF AN ACCREDITED THEATER PRODUCTION. SUCH EXPENDITURES SHALL INCLUDE THE PACKAGING, CRATING, AND TRANSPORTATION WITHIN THE STATE FOR USE IN A QUALIFIED THEATER PRODUCTION OF SETS, COSTUMES, OR OTHER TANGIBLE PROPERTY CONSTRUCTED OR MANUFACTURED IN AND OUT OF STATE, AND THE TRANSPORTATION OF THE CAST AND CREW WITHIN THE STATE. SUCH TERM SHALL INCLUDE THE PACKAGING, CRATING, AND TRANSPORTING OF PROPERTY AND EQUIPMENT USED FOR SPECIAL AND VISUAL EFFECTS, SOUND, LIGHTING, AND STAGING, COSTUMES, WARDROBES, MAKE-UP AND RELATED ACCESSORIES AND MATERIALS, AS WELL AS ANY OTHER PERFORMANCE OR PRODUCTION-RELATED PROPERTY AND EQUIPMENT.

(II) TRANSPORTATION EXPENDITURES SHALL NOT INCLUDE ANY COSTS TO TRANSPORT PROPERTY AND EQUIPMENT TO BE USED ONLY FOR FILMING AND NOT IN A QUALIFIED THEATER PRODUCTION, ANY INDIRECT COSTS, AND EXPENDITURES THAT ARE LATER REIMBURSED BY A THIRD PARTY, OR ANY AMOUNTS THAT ARE PAID TO
PERSONS OR ENTITIES AS A RESULT OF THEIR PARTICIPATION IN PROFITS FROM THE EXPLOITATION OF THE PRODUCTION.

(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: SUBDIVISION 36-A.
(2) ARTICLE 22: SECTION 606: SUBSECTION (U).

(D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, EMPLOYEES AND OFFICERS OF THE GOVERNOR’S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT AND THE DEPARTMENT SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION REGARDING THE CREDITS APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS SECTION AND TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO ARE CLAIMING CREDITS, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR CERTIFICATION SUBMITTED TO THE GOVERNOR’S OFFICE OF MOTION PICTURE AND TELEVISION DEVELOPMENT.

S 2. Section 210 of the tax law is amended by adding a new subdivision 36-a to read as follows:

36-A. MUSICAL AND THEATRICAL PRODUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION TWENTY-FOUR-A OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION AGAINST THE TAX IMPOSED BY THIS ARTICLE.
(B) 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, 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 ARTICLE. PROVIDED, FURTHER, 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) MUSICAL AND THEATRICAL PRODUCTION CREDIT UNDER THE SUM OF THE QUALIFIED PRODUCTION EXPENDITURES AND THE TRANSPORTATION EXPENDITURES IN AN ACCREDITED THEATRICAL PRODUCTION UNDER SUBDIVISION THIRTY-SIX-A OF SECTION TWO HUNDRED TEN

S 4. Section 606 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) MUSICAL AND THEATRICAL PRODUCTION CREDIT. (1) ALLOWANCE OF CREDIT. A TAXPAYER WHO IS ELIGIBLE PURSUANT TO SECTION TWENTY-FOUR-A OF THIS CHAPTER SHALL BE ALLOWED A CREDIT TO BE COMPUTED AS PROVIDED IN SUCH SECTION AGAINST THE TAX IMPOSED BY THIS ARTICLE.

(2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

S 5. Maximum amount of credits. (a) The aggregate amount of tax credits allowed under section 24-a, subdivision 36-a of section 210 and subsection (u) of section 606 of the tax law in any calendar year shall
be $1 million. Such aggregate amount of credits shall be allocated by
the governor's office for motion picture and television development
among taxpayers in order of priority based upon the date of filing an
application for allocation of musical and theatrical production credit
with such office. If the total amount of allocated credits applied for
in any particular year exceeds the aggregate amount of tax credits
allowed for such year under this section, such excess shall be treated
as having been applied for on the first day of the subsequent year.
(b) The state commissioner of economic development, after consulting
with the state commissioner of taxation and finance, shall promulgate
regulations by October 31, 2015 to establish procedures for the allo-
cation of tax credits as required by subdivision (a) of this section.
Such rules and regulations shall include provisions describing the
application process, the due dates for such applications, the standards
which shall be used to evaluate the applications, the documentation that
will be provided to taxpayers to substantiate to the New York state
department of taxation and finance the amount of tax credits allocated
to such taxpayers, and such other provisions as deemed necessary and
appropriate. Notwithstanding any other provisions to the contrary in the
state administrative procedure act, such rules and regulations may be
adopted on an emergency basis if necessary to meet such October 31, 2015
deadline.
S 6. The commissioner of the department of taxation and finance, in
conjunction with the director of the governor's office for motion
picture and television development, shall submit to the governor, the
temporary president of the senate, and the speaker of the assembly, an
annual report to be submitted in February of each year evaluating the
effectiveness of the musical and theatrical production tax credit
provided by this act in stimulating the growth of the musical and theat-
rical industry in the state. Such report shall include, but not be
limited to, in total and by qualified musical and theatrical
productions, the number of qualified musicals and theatrical
productions, the qualified production costs, the production costs, the
transportation expenditures, the qualified production expenditures, the
qualified musical and theatrical production facilities, and the credit
amounts claimed by each qualified musical and theatrical production, as
well as the impact on employment and the economy of the state and city
of New York. Such report shall be based on data available from the
application filed with the governor's office for motion picture and
television development for allocation of musical and theatrical
production credits. Notwithstanding any provision of law to the contra-
ry, the information contained in the report shall be public information.
The report may also include any recommendations for changes in the
calculation or administration of the credit, and any other recommenda-
tion of the commissioner of taxation and finance regarding continuing
modification, or repeal of such act, and such other information regard-
ing the act as the commissioner of taxation and finance may feel useful
and appropriate.
S 7. This act shall take effect January 1, 2015.

PART NN

Section 1. Paragraphs 2 and 3 of subdivision b of section 1612 of the
tax law, as amended by chapter 174 of the laws of 2013, the opening
paragraph of paragraph 2 as amended by chapter 175 of the laws of 2013,
are amended to read as follows:
2. As consideration for the operation of a video lottery gaming facility, the division, shall cause the investment in the racing industry of a portion of the vendor fee received pursuant to paragraph one of this subdivision in the manner set forth in this subdivision. With the exception of Aqueduct racetrack or a facility in the county of Nassau or Suffolk operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, each such track shall dedicate a portion of its vendor fees, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this subdivision, solely for the purpose of enhancing purses at such track, in an amount equal to eight and three-quarters percent of the total revenue wagered at the vendor track after pay out for prizes. One percent of such purse enhancement amount shall be paid to the gaming commission to be used exclusively to promote and ensure equine health and safety in New York. TWO PERCENT OF SUCH PURSE ENHANCEMENT AMOUNT FROM A THOROUGHBRED TRACK SHALL BE PAID TO THE JOCKEY'S ORGANIZATION WHICH ON THE EFFECTIVE DATE OF A CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT AMENDED THIS PARAGRAPH REPRESENTS AT LEAST FIFTY-ONE PERCENT OF THE JOCKEYS WHO REGULARLY RACE AT THOROUGHBRED RACE TRACKS IN NEW YORK STATE. SUCH FUNDS DEDICATED TO THE JOCKEY'S ORGANIZATION SHALL BE USED EXCLUSIVELY BY SUCH JOCKEY'S ORGANIZATION TO PROVIDE HEALTH, LIFE, DISABILITY OR PENSION BENEFITS FOR ACTIVE, RETIRED OR DISABLED JOCKEYS WHO REGULARLY RACE AT THOROUGHBRED RACE TRACKS IN NEW YORK STATE. Any portion of such funding to the gaming commission or JOCKEY'S ORGANIZATION unused during a fiscal year shall be returned to the video lottery gaming operators on a pro rata basis in accordance with the amounts originally contributed by each operator and shall be used for the purpose of enhancing purses at such track. In addition, with the exception of Aqueduct racetrack or a facility in the county of Nassau or Suffolk operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, one and one-quarter percent of total revenue wagered at the vendor track after pay out for prizes, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph (ii) of paragraph one of this subdivision, shall be distributed to the appropriate breeding fund for the manner of racing conducted by such track.

Provided, further, that nothing in this paragraph shall prevent each track from entering into an agreement, not to exceed five years, with the organization authorized to represent its horsemen to increase or decrease the portion of its vendor fee dedicated to enhancing purses at such track during the years of participation by such track, or to race fewer dates than required herein.

3. Nothing in paragraph two of this subdivision shall affect any agreement in effect on or before the effective date of this paragraph, except that the obligation to pay funds to the gaming commission to promote and ensure equine health and safety AND TO THE JOCKEY'S ORGANIZATION PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVISION shall supersede any provision to the contrary in any such agreement.

S 2. Paragraph 1 of subdivision f of section 1612 of the tax law, as amended by chapter 174 of the laws of 2013, is amended to read as follows:

1. Six and one-half percent of the total wagered after payout of prizes for the first year of operation of video lottery gaming at Aqueduct racetrack, seven percent of the total wagered after payout of prizes for the second year of operation, and seven and one-half percent of the total wagered after payout of prizes for the third year of opera-
tion and thereafter, for the purpose of enhancing purses at Aqueduct racetrack, Belmont Park racetrack and Saratoga race course. One percent of such purse enhancement amount shall be paid to the gaming commission to be used exclusively to promote and ensure equine health and safety in New York. TWO PERCENT OF SUCH PURSE ENHANCEMENT SHALL BE PAID TO THE JOCKEY’S ORGANIZATION WHICH ON THE EFFECTIVE DATE OF A CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT AMENDED THIS PARAGRAPH REPRESENTS AT LEAST FIFTY-ONE PERCENT OF THE JOCKEYS WHO REGULARLY RACE AT THOROUGHBRED RACE TRACKS IN NEW YORK STATE. SUCH FUNDS DEDICATED TO THE JOCKEY’S ORGANIZATION SHALL BE USED EXCLUSIVELY BY SUCH JOCKEY'S ORGANIZATION TO PROVIDE HEALTH, LIFE, DISABILITY OR PENSION BENEFITS FOR ACTIVE, RETIRED OR DISABLED JOCKEYS WHO REGULARLY RACE AT THOROUGHBRED RACE TRACKS IN NEW YORK STATE. Any portion of such funding to the gaming commission OR JOCKEY’S ORGANIZATION unused during a fiscal year shall be returned on a pro rata basis in accordance with the amounts originally contributed and shall be used for the purpose of enhancing purses at such tracks.

S 3. This act shall take effect immediately.

PART 00

Section 1. The tax law is amended by adding a new section 1304-E to read as follows:
S 1304-E. TAX SURCHARGE FOR UNIVERSAL PREKINDERGARTEN AND MIDDLE SCHOOL AFTERSCHOOL PROGRAMS. (A) IN ADDITION TO THE TAXES AUTHORIZED BY SUBSECTION (A) OF SECTION THIRTEEN HUNDRED ONE OF THIS ARTICLE, ANY CITY IMPOSING SUCH TAXES IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN ANY SUCH CITY BEGINNING JUNE FIRST, TWO THOUSAND FOURTEEN AND ENDING MAY THIRTY-FIRST, TWO THOUSAND NINETEEN, A TAX SURCHARGE ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT INDIVIDUALS, ESTATES AND TRUSTS.

(B) A TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE DETERMINED AS FOLLOWS:

(1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT SURVIVING SPOUSES. THE TAX SURCHARGE UNDER THIS SECTION ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT MARRIED INDIVIDUALS WHO MAKE A SINGLE RETURN JOINTLY WITH HIS OR HER SPOUSE UNDER SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIX OF THIS ARTICLE AND ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT SURVIVING SPOUSES SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

BEGINNING JUNE FIRST, TWO THOUSAND FOURTEEN AND ENDING MAY THIRTY-FIRST, TWO THOUSAND NINETEEN:

<table>
<thead>
<tr>
<th>IF THE CITY TAXABLE INCOME IS:</th>
<th>THE TAX SURCHARGE IS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>OVER $500,000</td>
<td>.534% OF EXCESS OVER $500,000</td>
</tr>
</tbody>
</table>

(2) RESIDENT HEADS OF HOUSEHOLDS. THE TAX SURCHARGE UNDER THIS SECTION ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT HEADS OF HOUSEHOLDS SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

BEGINNING JUNE FIRST, TWO THOUSAND FOURTEEN AND ENDING MAY THIRTY-FIRST, TWO THOUSAND NINETEEN:

<table>
<thead>
<tr>
<th>IF THE CITY TAXABLE INCOME IS:</th>
<th>THE TAX SURCHARGE IS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>OVER $500,000</td>
<td>.534% OF EXCESS OVER $500,000</td>
</tr>
</tbody>
</table>

(3) RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS. THE TAX SURCHARGE UNDER THIS SECTION ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT INDIVIDUALS WHO ARE NOT CITY RESIDENT MARRIED INDIVIDUALS WHO MAKE A SINGLE RETURN JOINTLY WITH HIS OR HER SPOUSE UNDER SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIX OF THIS ARTICLE OR CITY RESIDENT HEADS
OF HOUSEHOLDS OR CITY RESIDENT SURVIVING SPOUSES, AND ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT ESTATES AND TRUSTS SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

BEGINNING JUNE FIRST, TWO THOUSAND FOURTEEN AND ENDING MAY THIRTY-FIRST, TWO THOUSAND NINETEEN:

IF THE CITY TAXABLE INCOME IS: THE TAX SURCHARGE IS:

OVER $500,000 .534% OF EXCESS OVER $500,000

(C) A TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL BE ADMINISTERED, COLLECTED AND DISTRIBUTED IN THE SAME MANNER AS THE TAXES IMPOSED PURSUANT TO THE AUTHORITY OF THIS ARTICLE, AND ALL OF THE PROVISIONS OF THIS ARTICLE, INCLUDING SECTION THIRTEEN HUNDRED TEN, SHALL APPLY TO THE TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION.

(D) OF THE TAX REVENUES REQUIRED TO BE TRANSFERRED BY THE NEW YORK CITY TRANSITIONAL FINANCE AUTHORITY TO THE CITY OF NEW YORK PURSUANT TO SUBDIVISION FIVE OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-HH OF THE PUBLIC AUTHORITIES LAW, THE CITY OF NEW YORK SHALL CREDIT TO AND DEPOSIT IN A UNIVERSAL PREKINDERGARTEN AND MIDDLE SCHOOL AFTER-SCHOOL ACCOUNT ESTABLISHED BY SUCH CITY WITHIN ITS GENERAL FUND AN AMOUNT EQUAL TO THE TOTAL REVENUE (INCLUDING INTEREST AND PENALTIES) FROM THE TAX SURCHARGE IMPOSED PURSUANT TO THE AUTHORITY OF THIS SECTION FOR USE SOLELY FOR THE PURPOSE OF IMPLEMENTATION OF UNIVERSAL PREKINDERGARTEN AND MIDDLE SCHOOL AFTER-SCHOOL PROGRAMS.

S 2. Paragraphs 1 and 2 of subsection (e) of section 1310 of the tax law, as added by chapter 481 of the laws of 1997, are amended to read as follows:

(1) Notwithstanding any other provision of law to the contrary, any city imposing a tax under this article is hereby authorized and empowered to adopt and amend local laws for any taxable year beginning after nineteen hundred ninety-seven, as specified in such local laws, providing for a credit as provided in paragraph two of this subsection against the taxes imposed pursuant to the authority granted by section thirteen hundred one of this article on the city taxable income determined pursuant to sections thirteen hundred four, thirteen hundred four-A [and], thirteen hundred four-B AND THIRTEEN HUNDRED FOUR-E of this article and on the ordinary income portion of a lump sum distribution determined pursuant to section thirteen hundred one-B of this article, to any city resident individual, estate or trust whose city adjusted gross income includes income, gain, loss or deductions from one or more unincorporated businesses conducted by such city resident individual, estate or trust on which a tax is imposed by chapter five of title eleven of the administrative code of the city of New York, or a distributive share of income, gain, loss and deductions of, or guaranteed payments from, one or more partnerships on which a tax is imposed by such chapter. Any such local laws may contain provisions to ensure that such credit shall not reduce the tax paid by a city resident below that which would be paid by such city resident if such city resident were a city nonresident.

(2) (A) Subject to the limitation set forth in subparagraph (B) of this paragraph, the credit allowed to a taxpayer for a taxable year shall be equal to all or a portion of the amount determined in paragraph three of this subsection, provided, however, such portion shall not be less than:

(i) If the city taxable income is forty-two thousand dollars or less, sixty-five percent of the amount determined in paragraph three of this subsection.
(ii) If the city taxable income is greater than forty-two thousand dollars but not greater than one hundred forty-two thousand dollars, a percentage of the amount determined in paragraph three of this subsection to be determined by subtracting from sixty-five percent, one tenth of a percentage point (.001) for every increment of two hundred dollars, or fractional part thereof, of city taxable income in excess of forty-two thousand dollars.

(iii) If the city taxable income is greater than one hundred forty-two thousand dollars, fifteen percent of the amount determined in paragraph three of this subsection.

(B) Notwithstanding anything to the contrary in subparagraph (A) of this paragraph, the credit allowed to a taxpayer for a taxable year under this subsection shall not exceed the sum of the taxes that would otherwise be imposed on such taxpayer for such taxable year pursuant to the authority granted by section thirteen hundred one of this article on the city taxable income determined pursuant to sections thirteen hundred four, thirteen hundred four-A [and], thirteen hundred four-B AND THIRTEEN HUNDRED FOUR-E of this article and on the ordinary income portion of a lump sum distribution determined pursuant to section thirteen hundred one-B of this article, reduced by the credits allowed to such taxpayer pursuant to subsections (a), (c) and (d) of this section.

S 3. The administrative code of the city of New York is amended by adding a new section 11-1704.2 to read as follows:

S 11-1704.2 TAX SURCHARGE FOR UNIVERSAL PREKINDERGARTEN AND MIDDLE SCHOOL AFTER-SCHOOL PROGRAMS. (A) IN ADDITION TO THE TAXES IMPOSED BY SECTIONS 11-1701, 11-1702 AND 11-1703 OF THIS SUBCHAPTER, THERE IS HEREBY IMPOSED BEGINNING JUNE FIRST, TWO THOUSAND FOURTEEN AND ENDING MAY THIRTY-FIRST, TWO THOUSAND NINETEEN, A TAX SURCHARGE ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT INDIVIDUALS, ESTATES AND TRUSTS.

(B) THE TAX SURCHARGE IMPOSED PURSUANT TO THIS SECTION SHALL BE DETERMINED AS FOLLOWS:

(1) RESIDENT MARRIED INDIVIDUALS FILING JOINT RETURNS AND RESIDENT SURVIVING SPOUSES. THE TAX SURCHARGE UNDER THIS SECTION ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT MARRIED INDIVIDUALS WHO MAKE A SINGLE RETURN JOINTLY WITH HIS OR HER SPOUSE UNDER SUBDIVISION (B) OF SECTION 11-1751 OF THIS CHAPTER AND ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT SURVIVING SPOUSES SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

| IF THE CITY TAXABLE INCOME IS: | THE TAX SURCHARGE IS:
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>OVER $500,000</td>
<td>.534% OF EXCESS OVER $500,000</td>
</tr>
</tbody>
</table>

(2) RESIDENT HEADS OF HOUSEHOLDS. THE TAX SURCHARGE UNDER THIS SECTION ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT HEADS OF HOUSEHOLDS SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLE:

| IF THE CITY TAXABLE INCOME IS: | THE TAX SURCHARGE IS:
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>OVER $500,000</td>
<td>.534% OF EXCESS OVER $500,000</td>
</tr>
</tbody>
</table>

(3) RESIDENT UNMARRIED INDIVIDUALS, RESIDENT MARRIED INDIVIDUALS FILING SEPARATE RETURNS AND RESIDENT ESTATES AND TRUSTS. THE TAX SURCHARGE UNDER THIS SECTION ON THE CITY TAXABLE INCOME OF CERTAIN CITY RESIDENT INDIVIDUALS WHO ARE NOT CITY RESIDENT MARRIED INDIVIDUALS WHO MAKE A SINGLE RETURN JOINTLY WITH HIS OR HER SPOUSE UNDER SUBDIVISION (B) OF SECTION 11-1751 OF THIS CHAPTER OR CITY RESIDENT HEADS OF HOUSEHOLDS OR CITY RESIDENT SURVIVING SPOUSES, AND ON THE CITY TAXABLE INCOME...
OF CERTAIN CITY RESIDENT ESTATES AND TRUSTS SHALL BE DETERMINED IN
ACCORDANCE WITH THE FOLLOWING TABLE:

BEGINNING JUNE FIRST, TWO THOUSAND FOURTEEN AND ENDING MAY
THIRTY-FIRST, TWO THOUSAND NINETEEN:

<table>
<thead>
<tr>
<th>IF THE CITY TAXABLE INCOME IS:</th>
<th>THE TAX SURCHARGE IS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>OVER $500,000</td>
<td>.534% OF EXCESS OVER $500,000</td>
</tr>
</tbody>
</table>

(C) THE TAX SURCHARGE IMPOSED PURSUANT TO THIS SECTION SHALL BE ADMIN-
ISTERED, COLLECTED AND DISTRIBUTED IN THE SAME MANNER AS THE TAXES
IMPOSED PURSUANT TO SECTIONS 11-1701, 11-1702 AND 11-1703 OF THIS
SUBCHAPTER, AND ALL OF THE PROVISIONS OF THIS CHAPTER, INCLUDING
SECTIONS 11-1706, 11-1721 AND 11-1773, SHALL APPLY TO THE TAX SURCHARGE
IMPOSED PURSUANT TO THIS SECTION.

(D) OF THE TAX REVENUES REQUIRED TO BE TRANSFERRED BY THE NEW YORK
CITY TRANSITIONAL FINANCE AUTHORITY TO THE CITY OF NEW YORK PURSUANT TO
SUBDIVISION FIVE OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-HH OF THE
PUBLIC AUTHORITIES LAW, THE CITY OF NEW YORK SHALL CREDIT TO AND DEPOSIT
IN A UNIVERSAL PREKINDERGARTEN AND MIDDLE SCHOOL AFTER-SCHOOL ACCOUNT
ESTABLISHED BY SUCH CITY WITHIN ITS GENERAL FUND AN AMOUNT EQUAL TO THE
TOTAL REVENUE (INCLUDING INTEREST AND PENALTIES) FROM THE TAX SURCHARGE
IMPOSED PURSUANT TO THIS SECTION FOR USE SOLELY FOR THE PURPOSE OF
IMPLEMENTATION OF UNIVERSAL PREKINDERGARTEN AND MIDDLE SCHOOL
AFTER-SCHOOL PROGRAMS.

S 4. Paragraphs 1 and 2 of subdivision (c) of section 11-1706 of the
administrative code of the city of New York, as added by chapter 481 of
the laws of 1997, subparagraph (A) of paragraph 2 as amended by local
law number 35 of the city of New York for the year 2007, are amended to
read as follows:

(1) A city resident individual, estate or trust whose city adjusted
gross income includes income, gain, loss or deductions from one or more
unincorporated businesses conducted by such city resident individual,
estate or trust that are subject to the tax imposed by chapter five of
this title, or a distributive share of income, gain, loss and deductions
of, or guaranteed payments from, one or more partnerships that are
subject to the tax imposed by such chapter, shall be allowed a credit as
provided in paragraph two of this subdivision against the tax otherwise
due under sections 11-1701, 11-1703, 11-1704 [and], 11-1704.1 AND
11-1704.2 of this [chapter] SUBCHAPTER.

(2) (A) Subject to the limitation set forth in subparagraph (B) of
this paragraph, the credit allowed to a taxpayer for a taxable year
under this subdivision shall be determined as follows:

(i) For taxable years beginning on or after January first, nineteen
hundred ninety-seven and before January first, two thousand seven:

(II) If the city taxable income is greater than forty-two thousand dollars,
the credit shall be sixty-five percent of the amount determined in para-
graph three of this subdivision.

(II) If the city taxable income is greater than forty-two thousand dollars
but not greater than one hundred forty-two thousand dollars, the
amount of the credit shall be a percentage of the amount determined in
paragraph three of this subdivision, such percentage to be determined by
subtracting from sixty-five percent, one-tenth of a percentage point
(.001) for every increment of two hundred dollars, or fractional part
thereof, of city taxable income in excess of forty-two thousand dollars.

(III) If the city taxable income is greater than one hundred forty-two
thousand dollars, the credit shall be fifteen percent of the amount
determined in paragraph three of this subdivision.
(ii) For taxable years beginning on or after January first, two thousand seven:
(I) If the city taxable income is forty-two thousand dollars or less, the credit shall be one hundred percent of the amount determined in paragraph three of this subdivision.
(II) If the city taxable income is greater than forty-two thousand dollars but less than one hundred forty-two thousand dollars, the amount of the credit shall be a percentage of the amount determined in paragraph three of this subdivision, such percentage to be determined by subtracting from one hundred percent, a percentage determined by subtracting forty-two thousand dollars from city taxable income, dividing the result by one hundred thousand dollars and multiplying by seventy-seven percent.
(III) If the city taxable income is one hundred forty-two thousand dollars or greater, the credit shall be twenty-three percent of the amount determined in paragraph three of this subdivision.

(B) Notwithstanding anything to the contrary in subparagraph (A) of this paragraph, the credit allowed to a taxpayer for a taxable year under this subdivision shall not exceed the sum of the taxes that would otherwise be imposed by sections 11-1701, 11-1703, 11-1704 [and], 11-1704.1 AND 11-1704.2 of this [chapter] SUBCHAPTER on such taxpayer for such taxable year after the allowance of any other credits allowed by this section or section 11-1721 of this chapter.

S 5. This act shall take effect immediately.

PART PP

Section 1. Paragraph 3 of subdivision f of section 1617-a of the tax law, as added by section 2 of part O of chapter 61 of the laws of 2011, is amended to read as follows:
(3) For each video lottery facility, the annual value of the free play allowance credits authorized for use by the operator pursuant to this subdivision shall not exceed an amount equal to [ten] FIFTEEN percent of the total amount wagered on video lottery games after payout of prizes. The division shall establish procedures to assure that free play allowance credits do not exceed such amount.

S 2. This act shall take effect on April 1, 2014.
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 PP of this act shall be as specifically set forth in the last section of such Parts.