

S. 6359--D

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

January 21, 2014

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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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 establishing an enhanced real property tax circuit breaker; and providing for the repeal of such provisions upon expiration thereof (Part K); intentionally omitted (Part L); to amend the tax law, in relation to the prepayment element of the family tax relief credit (Part M); intentionally 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 providing a tax credit for real property taxes to New York manufacturers; and providing for the repeal of certain provisions upon expiration thereof (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 and providing for the repeal of certain provisions upon expiration thereof (Part T); to amend the tax law, in relation to reducing the number of hours of part-time work needed by employees for employer qualification for the New York youth works tax credit; and to amend the labor law, in relation to the New York youth works tax credit (Part U); to amend chapter 109 of the laws of 2006 amending the tax law and other laws relating to providing exemptions, reimbursements and credits from various taxes for certain alternative fuels, in relation to extending the alternative fuels tax exemptions for two years (Part V); to amend chapter 63 of the laws of 2000, amending the tax law and other laws relating to modifying the distribution of funds from the motor vehicle fuel excise tax and the vehicle and traffic law, in relation to simplifying the methodology for distribution of motor vehicle receipts (Part W); to amend the tax law, in relation to the estate tax; to repeal section 2 of chapter 1013 of the laws of 1962, amending the tax law relating to imposing a tax on the transfer of estates of decedents dying on or after April first, nineteen hundred sixty-three, relating to an appendix of applicable internal revenue code provisions, and to repeal article 26-B of the tax law, relating to the generation skipping transfer tax (Part X); intentionally omitted (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 and the tax law, in relation to moneys appropriated or transferred from the commercial gaming revenue fund (Part EE); to amend the tax law, the education law, the general municipal law, and the real property tax law, in relation to a real property tax freeze (Part FF); 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 property 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 and the administrative code of the city of New York, 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 a musical and theatrical production credit; and providing for the repeal of such provisions upon expiration thereof (Part HH); to amend the tax law, in relation to the sale of food and beverages through vending machines (Part II); 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 JJ); to amend the tax law and the administrative code of the city of New York, in relation to exempting the proceeds from service award programs for volunteer firefighters and ambulance workers from personal income

taxes (Part KK); to amend the tax law, in relation to the regions and rate of the prepaid sales tax on fuels (Part LL); to amend the labor law and the tax law, in relation to the creation of the workers with disabilities tax credit program; and providing for the repeal of such provisions upon expiration thereof (Part MM); to amend the real property tax law, in relation to permitting senior citizens whose spouses are deceased to substitute a more recent year's income for purposes of determining eligibility for the enhanced exemption for school tax relief (Part NN); and to amend the tax law and the racing, pari-mutuel wagering and breeding law, in relation to health insurance for jockeys (Part OO)

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

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

12 PART A

13 Section 1. Article 32 of the tax law is REPEALED.
14 S 2. Section 180 of the tax law is REPEALED.
15 S 3. Section 181 of the tax law is REPEALED.
16 S 4. Section 208 of the tax law, as added by chapter 415 of the laws
17 of 1944, subdivision 1 as amended by chapter 576 of the laws of 1994,
18 subdivision 1-A as amended by chapter 166 of the laws of 1991, subdivi-
19 sion 1-B as added by section 45 of part A and paragraph (k) of subdivi-
20 sion 9 as added by section 46 of part A of chapter 389 of the laws of
21 1997, subdivision 3, the opening paragraph, subparagraphs 6 and 11 of
22 paragraph (b), and the opening paragraph of paragraph (g) of subdivision
23 9 as amended and subdivision 8-B and subparagraph 3-a of paragraph (b)
24 of subdivision 9 as added by chapter 817 of the laws of 1987, subdivi-
25 sion 4 as amended by section 1, subdivision 6 as amended by section 2
26 and subparagraph 2 of paragraph (a) of subdivision 9 as amended by
27 section 7 of part M of chapter 407 of the laws of 1999, subdivisions 5
28 and 7, paragraph (a) of subdivision 8-B, subparagraph 10 of paragraph
29 (b) and paragraph (j) of subdivision 9 as amended, paragraph (d) of
30 subdivision 8-B and paragraph (c-1) of subdivision 9 as added and para-
31 graphs (e) and (f) of subdivision 8-B as relettered by chapter 170 of
32 the laws of 1994, subdivisions 8 and 10 as amended by chapter 133 of the
33 laws of 1945, subdivision 8-A as added and subparagraph 1 of paragraph
34 (a) of subdivision 9 as amended by chapter 778 of the laws of 1972,
35 paragraph (b) of subdivision 8-A and paragraph (i) of subdivision 9 as
36 amended by chapter 779 of the laws of 1972, subdivision 9 as amended by
37 chapter 713 of the laws of 1961, paragraph (a) of subdivision 9 as
38 amended by chapter 203 of the laws of 1962, subparagraphs 5, 9 and 10 of

1 paragraph (a) and subparagraphs 8 and 9 of paragraph (b) of subdivision
2 9 as amended by chapter 61 of the laws of 1989 and paragraph (f) of
3 subdivision 9 as separately amended by sections 278 and 347 of chapter
4 61 of the laws of 1989, clause (i) of subparagraph 5 of paragraph (a) of
5 subdivision 9 as amended by section 2 and subparagraph 20 of paragraph
6 (b) of subdivision 9 as added by section 3 of part C of chapter 25 of
7 the laws of 2009, subparagraph 6 of paragraph (a) of subdivision 9 as
8 added by chapter 895 of the laws of 1975 and as renumbered by chapter
9 613 of the laws of 1976, subparagraph 7 of paragraph (a) of subdivision
10 9 as added by chapter 33 of the laws of 1978, subparagraph 8 of para-
11 graph (a) and subparagraph 7 of paragraph (b) of subdivision 9 as
12 amended by chapter 639 of the laws of 1986, subparagraph 11 of paragraph
13 (a) of subdivision 9 as added by chapter 15 of the laws of 1983, subpara-
14 graph 12 of paragraph (a), subparagraph 4-a of paragraph (b) and
15 subparagraph 2 of paragraph (h) of subdivision 9 as amended and subpara-
16 graph 13 of paragraph (a) of subdivision 9 as added by chapter 760 of
17 the laws of 1992, subparagraph 14 of paragraph (a) of subdivision 9 as
18 added by section 101 and paragraphs (l) and (m) of subdivision 9 as
19 added by section 102 of part A of chapter 56 of the laws of 1998,
20 subparagraph 15 of paragraph (a) of subdivision 9 as amended by section
21 1 of part ZZ of chapter 63 of the laws of 2003, subparagraph 16 of para-
22 graph (a) of subdivision 9 as added by section 1 of part K3, subpara-
23 graph 16 of paragraph (b) of subdivision 9 as added by section 2 of part
24 K3, subparagraph 17 of paragraph (b) of subdivision 9 as added by
25 section 2 of part O3, and paragraphs (o), (p) and (q) of subdivision 9
26 as added by section 3 of part O3 of chapter 62 of the laws of 2003,
27 subparagraph 18 of paragraph (a) of subdivision 9 as added by section 3
28 of part C and paragraph (o) of subdivision 9 as amended by section 2 of
29 part E of chapter 59 of the laws of 2013, subparagraph 3 of paragraph
30 (b) of subdivision 9 as amended by chapter 895 of the laws of 1975,
31 subparagraph 4 of paragraph (b) and subparagraph 4 of paragraph (f) of
32 subdivision 9 as amended by chapter 190 of the laws of 1990, subpara-
33 graph 15 of paragraph (b) of subdivision 9 as added by chapter 309 of
34 the laws of 1996, subparagraph 18 of paragraph (b) of subdivision 9 as
35 added by section 21 of part H of chapter 1 of the laws of 2003, subpara-
36 graph 19 of paragraph (b) of subdivision 9 as added by section 1 of part
37 HH1 of chapter 57 of the laws of 2008, paragraphs (c-2) and (c-3) of
38 subdivision 9 as added by section 10 of part Y of chapter 63 of the laws
39 of 2000, paragraph (g) of subdivision 9 as added by chapter 178 of the
40 laws of 1965, subparagraph 1 and clauses (B) and (C) of subparagraph 3
41 of paragraph (g) of subdivision 9 as amended by chapter 613 of the laws
42 of 1976, clause (A) of subparagraph 1 of paragraph (g) of subdivision 9
43 as separately amended by chapters 675 and 836 of the laws of 1977,
44 clause (B) of subparagraph 1, clause (A) of subparagraph 2 and clause
45 (A) of subparagraph 3 of paragraph (g) of subdivision 9 as amended by
46 chapter 675 of the laws of 1977, item 1 of clause (B) of subparagraph 1
47 of paragraph (g) of subdivision 9 as amended by chapter 972 of the laws
48 of 1984, clause (B) of subparagraph 2 of paragraph (g) of subdivision 9
49 as amended by chapter 365 of the laws of 1979, clause (C) of subpara-
50 graph 2 of paragraph (g) of subdivision 9 as amended by chapter 1005 of
51 the laws of 1970, paragraph (h) of subdivision 9 as amended by chapter
52 606 of the laws of 1984, paragraph (n) of subdivision 9 as added by
53 section 1 of part O of chapter 85 of the laws of 2002, subdivision 12 as
54 added by chapter 828 of the laws of 1977, subdivision 19 as added by
55 chapter 681 of the laws of 1997, is amended to read as follows:

56 S 208. Definitions. As used in this article:

1 1. The term "corporation" includes (a) an association within the mean-
2 ing of paragraph three of subsection (a) of section seventy-seven
3 hundred one of the internal revenue code (including a limited liability
4 company), (b) a joint-stock company or association, (c) a publicly trad-
5 ed partnership treated as a corporation for purposes of the internal
6 revenue code pursuant to section seventy-seven hundred four thereof and
7 (d) any business conducted by a trustee or trustees wherein interest or
8 ownership is evidenced by certificate or other written instrument.
9 "DISC" and "former DISC" mean any corporation which meets the require-
10 ments of subsection (a) of section nine hundred ninety-two of the inter-
11 nal revenue code[;].

12 1-A. The term "New York S corporation" means, with respect to any
13 taxable year, a corporation subject to tax under this article for which
14 an election is in effect pursuant to subsection (a) of section six
15 hundred sixty of this chapter for such year, any such year shall be
16 denominated a "New York S year", and such election shall be denominated
17 a "New York S election". The term "New York C corporation" means, with
18 respect to any taxable year, a corporation subject to tax under this
19 article which is not a New York S corporation, and any such year shall
20 be denominated a "New York C year". The term "termination year" means
21 any taxable year of a corporation during which the New York S election
22 terminates on a day other than the first day of such year. The portion
23 of the taxable year ending before the first day for which such termi-
24 nation is effective shall be denominated the "S short year", and the
25 portion of such year beginning on such first day shall be denominated
26 the "C short year". The term "New York S termination year" means any
27 termination year which is not also an S termination year for federal
28 purposes.

29 1-B. The term "QSSS" means a corporation which is a qualified subchap-
30 ter S subsidiary as defined in subparagraph (B) of paragraph three of
31 subsection (b) of section thirteen hundred sixty-one of the internal
32 revenue code. The term "exempt QSSS" means a QSSS exempt from tax under
33 this article as provided in paragraph (k) of subdivision nine of this
34 section, or a QSSS described in subclause (i) of clause (B) of subpara-
35 graph two of paragraph (k) of subdivision nine of this section, wherein
36 the parent corporation of the QSSS is subject to tax under this article,
37 and the assets, liabilities, income and deductions of the QSSS are
38 treated as the assets, liabilities, income and deductions of the parent
39 corporation. Where a QSSS is an exempt QSSS, then for all purposes under
40 this article:

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

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

48 (c) transactions between the parent corporation and the QSSS, includ-
49 ing the payment of interest and dividends, shall not be taken into
50 account, and

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

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

55 3. The term "subsidiary" means a corporation of which over fifty
56 percent of the number of shares of stock entitling the holders thereof

1 to vote for the election of directors or trustees is owned by the
2 taxpayer[;].

3 4. The term ["subsidiary capital" means investments in the stock of
4 subsidiaries and any indebtedness from subsidiaries, exclusive of
5 accounts receivable acquired in the ordinary course of trade or business
6 for services rendered or for sales of property held primarily for sale
7 to customers, whether or not evidenced by written instrument, on which
8 interest is not claimed and deducted by the subsidiary for purposes of
9 taxation under article nine-A, thirty-two or thirty-three of this chap-
10 ter, provided, however, that, in the discretion of the commissioner,
11 there shall be deducted from subsidiary capital any liabilities which
12 are directly or indirectly attributable to subsidiary capital] "STOCK"
13 MEANS AN INTEREST IN A CORPORATION THAT IS TREATED AS EQUITY FOR FEDERAL
14 INCOME TAX PURPOSES.

15 5. (A) The term "investment capital" means investments in stocks[,
16 bonds and other securities, corporate and governmental,] THAT ARE HELD
17 BY THE TAXPAYER FOR MORE THAN SIX CONSECUTIVE MONTHS BUT ARE not held
18 for sale to customers in the regular course of business, [exclusive of
19 subsidiary capital] OR, IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR
20 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO
21 HUNDRED TEN-A OF THIS ARTICLE, ARE NOT QUALIFIED FINANCIAL INSTRUMENTS
22 AS DESCRIBED IN SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS
23 ARTICLE. STOCK IN A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS
24 WITH THE TAXPAYER, STOCK IN A CORPORATION THAT IS INCLUDED IN A COMBINED
25 REPORT WITH THE TAXPAYER PURSUANT TO THE COMMONLY OWNED GROUP ELECTION
26 IN SUBDIVISION THREE OF SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, and
27 stock issued by the taxpayer[, provided, however, that, in the
28 discretion of the commissioner, there] SHALL NOT CONSTITUTE INVESTMENT
29 CAPITAL. FOR PURPOSES OF THIS SUBDIVISION, IF THE TAXPAYER OWNS OR
30 CONTROLS, DIRECTLY OR INDIRECTLY, LESS THAN TWENTY PERCENT OF THE VOTING
31 POWER OF THE STOCK OF A CORPORATION, THAT CORPORATION WILL BE PRESUMED
32 TO BE CONDUCTING A BUSINESS THAT IS NOT UNITARY WITH THE BUSINESS OF THE
33 TAXPAYER.

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

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

54 (D) IF A TAXPAYER ACQUIRES STOCK DURING THE SECOND HALF OF ITS TAXABLE
55 YEAR AND OWNS THAT STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE
56 PRESUMED THAT THE TAXPAYER HELD THAT STOCK FOR MORE THAN SIX CONSECUTIVE

1 MONTHS DURING THE TAXABLE YEAR. HOWEVER, IF THE TAXPAYER DOES NOT IN
2 FACT HOLD THAT STOCK FOR MORE THAN SIX CONSECUTIVE MONTHS, THE TAXPAYER
3 MUST INCREASE ITS TOTAL BUSINESS CAPITAL IN THE IMMEDIATELY SUCCEEDING
4 TAXABLE YEAR BY THE AMOUNT INCLUDED IN INVESTMENT CAPITAL FOR THAT
5 STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE TO THAT STOCK COMPUTED AS
6 PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION AND MUST INCREASE ITS
7 BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT
8 OF INCOME AND NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT STOCK
9 INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST DEDUCTIONS DIRECTLY OR
10 INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS PROVIDED IN SUBDIVISION SIX OF
11 THIS SECTION.

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

17 (F) FOR PURPOSES OF DETERMINING WHETHER A TAXPAYER HAS HELD A SECURITY
18 FOR MORE THAN SIX CONSECUTIVE MONTHS, THE COMMISSIONER SHALL TAKE INTO
19 ACCOUNT OFFSETTING POSITIONS THE TAXPAYER TAKES IN SUCH OR SIMILAR SECU-
20 RITIES.

21 6. (A) The term "investment income" means income, including capital
22 gains in excess of capital losses, from investment capital, to the
23 extent included in computing entire net income, less, [(a)] (I) in the
24 discretion of the commissioner, any INTEREST deductions allowable in
25 computing entire net income which are directly or indirectly attribut-
26 able to investment capital or investment income, and [(b) such portion
27 of any net operating loss deduction allowable in computing entire net
28 income, as the investment income, before such deduction, bears to entire
29 net income, before such deduction,] (II) THE TAXPAYER'S LOSS, DEDUCTION
30 AND/OR EXPENSE ATTRIBUTABLE TO ANY TRANSACTION, OR SERIES OF TRANS-
31 ACTIONS, ENTERED INTO TO MANAGE THE RISK OF PRICE CHANGES OR CURRENCY
32 FLUCTUATIONS WITH RESPECT TO ANY ITEM OF INVESTMENT CAPITAL THAT IS HELD
33 OR TO BE HELD BY THE TAXPAYER, OR THE AGGREGATE INVESTMENT CAPITAL THAT
34 IS HELD OR TO BE HELD BY THE TAXPAYER, IF ALL OF THE RISK, OR ALL BUT A
35 DE MINIMIS AMOUNT OF THE RISK, IS WITH RESPECT TO INVESTMENT CAPITAL,
36 provided, however, that in no case shall investment income exceed entire
37 net income[;]. IF THE AMOUNT SUBTRACTED UNDER SUBPARAGRAPH (I) OR
38 SUBPARAGRAPH (II) OF THIS PARAGRAPH OR UNDER BOTH OF THOSE SUBPARAGRAPHS
39 EXCEEDS INVESTMENT INCOME, THE EXCESS OF SUCH AMOUNT OVER INVESTMENT
40 INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME.

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

48 (C) INVESTMENT INCOME SHALL NOT INCLUDE ANY AMOUNT TREATED AS DIVI-
49 DENDS PURSUANT TO SECTION SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE.

50 6-A. (A) THE TERM "OTHER EXEMPT INCOME" MEANS THE SUM OF EXEMPT CFC
51 INCOME AND EXEMPT UNITARY CORPORATION DIVIDENDS.

52 (B) "EXEMPT CFC INCOME" MEANS THE INCOME REQUIRED TO BE INCLUDED IN
53 THE TAXPAYER'S FEDERAL GROSS INCOME PURSUANT TO SUBSECTION (A) OF
54 SECTION 951 OF THE INTERNAL REVENUE CODE, RECEIVED FROM A CORPORATION
55 THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT IS NOT
56 INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE DISCRETION

1 OF THE COMMISSIONER, ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY
2 ATTRIBUTABLE TO THAT INCOME. IN LIEU OF SUBTRACTING FROM ITS EXEMPT CFC
3 INCOME THE AMOUNT OF THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT
4 TO REDUCE ITS TOTAL EXEMPT CFC INCOME BY FORTY PERCENT. IF THE TAXPAYER
5 MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED
6 FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF THIS SECTION AND PARAGRAPH
7 (C) OF THIS SUBDIVISION. A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION
8 BECAUSE IT HAS NO EXEMPT CFC INCOME WILL NOT BE PRECLUDED FROM MAKING
9 THOSE OTHER ELECTIONS.

10 (C) "EXEMPT UNITARY CORPORATION DIVIDENDS" MEANS THOSE DIVIDENDS FROM
11 A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER
12 BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE
13 DISCRETION OF THE COMMISSIONER, ANY INTEREST DEDUCTIONS DIRECTLY OR
14 INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND INCOME
15 RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER A FRANCHISE TAX
16 IMPOSED BY ARTICLE NINE OR ARTICLE THIRTY-THREE OF THIS CHAPTER OR WOULD
17 BE TAXABLE UNDER A FRANCHISE TAX IMPOSED BY ARTICLE NINE OR ARTICLE
18 THIRTY-THREE OF THIS CHAPTER IF SUBJECT TO TAX, IN LIEU OF SUBTRACTING
19 FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY
20 ELECT TO REDUCE THE TOTAL AMOUNT OF THIS DIVIDEND INCOME BY FORTY
21 PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO
22 MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF
23 THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A TAXPAYER WHICH
24 DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED ANY EXEMPT
25 UNITARY CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING THIS ELECTION
26 FOR DIVIDENDS RECEIVED FROM CORPORATIONS TAXABLE UNDER A FRANCHISE TAX
27 IMPOSED BY ARTICLE NINE OR ARTICLE THIRTY-THREE OF THIS CHAPTER OR WOULD
28 BE TAXABLE UNDER A FRANCHISE TAX IMPOSED BY ARTICLE NINE OR ARTICLE
29 THIRTY-THREE OF THIS CHAPTER IF SUBJECT TO TAX WILL NOT BE PRECLUDED
30 FROM MAKING THOSE OTHER ELECTIONS.

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

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

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

48 (b) Provided, however, "business capital" shall not include assets to
49 the extent employed for the purpose of generating income which is
50 excluded from entire net income pursuant to the provisions of paragraph
51 (c-1) of subdivision nine of this section and shall be computed without
52 regard to liabilities directly or indirectly attributable to such
53 assets, but only if air carriers organized in the United States and
54 operating in the foreign country or countries in which the taxpayer has
55 its major base of operations and in which it is organized, resident or
56 headquartered (if not in the same country as its major base of oper-

1 ations) are not subject to any tax based on or measured by capital
2 imposed by such foreign country or countries or any political subdivi-
3 sion thereof, or if taxed, are provided an exemption, equivalent to that
4 provided for herein, from any tax based on or measured by capital
5 imposed by such foreign country or countries and from any such tax
6 imposed by any political subdivision thereof[;].

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

14 8-A. Provided, however, that with respect to a DISC or a former DISC,
15 the following provisions shall apply:

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

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

28 (c) any gain recognized for federal income tax purposes on the dispo-
29 sition of stock in a DISC, and any gain recognized on the disposition of
30 stock in a former DISC, includible in gross income as a dividend pursu-
31 ant to subsection (c) of section nine hundred ninety-five of the inter-
32 nal revenue code of nineteen hundred fifty-four, shall be treated as
33 business income, and

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

42 [8-B. (a) The term "minimum taxable income" shall mean the entire net
43 income of the taxpayer for the taxable year:

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

50 (2) determined with the federal adjustments described in paragraph (c)
51 of this subdivision, which adjustments shall have the same meaning and
52 be computed in the same manner as under sections fifty-six and fifty-
53 eight of the internal revenue code,

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

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

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

9 (c) The adjustments referred to hereinabove shall be:

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

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

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

23 (4) "Installment sales of certain property" as determined under para-
24 graph six of subsection (a) of section fifty-six of the internal revenue
25 code;

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

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

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

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

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

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

50 (B) In the case of loss years beginning before nineteen hundred nine-
51 ty, the amount of the net operating loss which may be carried over to
52 taxable years beginning after nineteen hundred eighty-nine shall be
53 equal to an amount which may be carried from the loss year to the first
54 taxable year of the taxpayer beginning after nineteen hundred eighty-
55 nine.

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

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

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

18 (f) If the period covered by a report under this article is other than
19 the period covered by the report to the United States treasury depart-
20 ment, the minimum taxable income shall be appropriately modified pursu-
21 ant to regulations promulgated by the tax commission.]

22 9. The term "entire net income" means total net income from all sourc-
23 es, which shall be presumably the same as the entire taxable income
24 [(but not alternative minimum taxable income)], WHICH, EXCEPT AS HEREIN-
25 AFTER PROVIDED IN THIS SUBDIVISION,

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

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

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

39 (IV) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF
40 THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS
41 DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE IS
42 EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE
43 UNITED STATES AS DETERMINED UNDER SECTION 882 OF THE INTERNAL REVENUE
44 CODE.

45 (a) Entire net income shall not include:

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

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

55 (3) bona fide gifts,

1 (4) income and deductions with respect to amounts received from school
2 districts and from corporations and associations, organized and operated
3 exclusively for religious, charitable or educational purposes, no part
4 of the net earnings of which inures to the benefit of any private share-
5 holder or individual, for the operation of school buses,
6 (5) (i) any refund or credit of a tax imposed under this article,
7 article twenty-three, or FORMER article thirty-two of this chapter, for
8 which tax no exclusion or deduction was allowed in determining the
9 taxpayer's entire net income under this article, article twenty-three,
10 or FORMER article thirty-two of this chapter for any prior year, (ii) a
11 refund or credit of general corporation tax allowed by subdivision elev-
12 en of section 11-604 of the administrative code of the city of New York,
13 or (iii) any refund or credit of a tax imposed under sections one
14 hundred eighty-three, one hundred eighty-three-a, one hundred eighty-
15 four or one hundred eighty-four-a of this chapter, and
16 (6) any amount treated as dividends pursuant to section seventy-eight
17 of the internal revenue code [and not otherwise deductible under subpar-
18 agraphs one and two of this paragraph];
19 (7) that portion of wages and salaries paid or incurred for the taxa-
20 ble year for which a deduction is not allowed pursuant to the provisions
21 of section two hundred eighty-C of the internal revenue code.
22 [(8) in the case of a taxpayer who is separately or as a partner of a
23 partnership doing an insurance business as a member of the New York
24 insurance exchange described in section six thousand two hundred one of
25 the insurance law, any item of income, gain, loss or deduction of such
26 business which is the taxpayer's distributive or pro rata share for
27 federal income tax purposes or which the taxpayer is required to take
28 into account separately for federal income tax purposes.]
29 (9) for taxable years beginning after December thirty-first, nineteen
30 hundred eighty-one, except with respect to property which is a qualified
31 mass commuting vehicle described in subparagraph (D) of paragraph eight
32 of subsection (f) of section one hundred sixty-eight of the internal
33 revenue code (relating to qualified mass commuting vehicles) and proper-
34 ty of a taxpayer principally engaged in the conduct of aviation (other
35 than air freight forwarders acting as principal and like indirect air
36 carriers) which is placed in service before taxable years beginning in
37 nineteen hundred eighty-nine, any amount which is included in the
38 taxpayer's federal taxable income solely as a result of an election made
39 pursuant to the provisions of such paragraph eight as it was in effect
40 for agreements entered into prior to January first, nineteen hundred
41 eighty-four;
42 (10) for taxable years beginning after December thirty-first, nineteen
43 hundred eighty-one, except with respect to property which is a qualified
44 mass commuting vehicle described in subparagraph (D) of paragraph eight
45 of subsection (f) of section one hundred sixty-eight of the internal
46 revenue code (relating to qualified mass commuting vehicles) and proper-
47 ty of a taxpayer principally engaged in the conduct of aviation (other
48 than air freight forwarders acting as principal and like indirect air
49 carriers) which is placed in service before taxable years beginning in
50 nineteen hundred eighty-nine, any amount which the taxpayer could have
51 excluded from federal taxable income had it not made the election
52 provided for in such paragraph eight as it was in effect for agreements
53 entered into prior to January first, nineteen hundred eighty-four;
54 (11) the amount deductible pursuant to paragraph (j) of this subdivi-
55 sion; and

1 (12) upon the disposition of property to which paragraph (j) of this
2 subdivision applies, the amount, if any, by which the aggregate of the
3 amounts described in subparagraph ten of paragraph (b) of this subdivi-
4 sion attributable to such property exceeds the aggregate of the amounts
5 described in paragraph (j) of this subdivision attributable to such
6 property; and

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

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

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

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

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

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

41 (19) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (R), (S) OR (T) OF THIS
42 SUBDIVISION, BUT ONLY THE AMOUNT DETERMINED PURSUANT TO ONE OF SUCH
43 PARAGRAPHS.

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

46 (1) [the amount of any specific exemption or credit allowed in any law
47 of the United States imposing any tax on or measured by the income of
48 corporations,] IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY
49 PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC
50 CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF
51 SUCH CODE, (I) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY
52 KIND OF STOCK, SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS
53 TREATED AS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS
54 IN THE UNITED STATES PURSUANT TO SECTION 864 OF THE INTERNAL REVENUE
55 CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER ANY TREA-
56 TY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME WOULD BE

1 TREATED AS EFFECTIVELY CONNECTED IN ABSENCE OF SUCH EXEMPTION PROVIDED
2 THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE TAXATION OF SUCH
3 INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE TREATED AS EFFEC-
4 TIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM GROSS INCOME
5 PURSUANT TO SUBSECTION (A) OF SECTION 103 OF THE INTERNAL REVENUE CODE;

6 (2) any part of any income from dividends or interest on any kind of
7 stock, securities or indebtedness, [except as provided in clauses (1)
8 and (2) of paragraph (a) hereof,]

9 (3) taxes on or measured by profits or income paid or accrued to the
10 United States[,] OR any of its possessions [or to any foreign country],
11 TERRITORIES OR COMMONWEALTHS, including taxes in lieu of any of the
12 foregoing taxes otherwise generally imposed by [any foreign country or
13 by] any possession, TERRITORY OR COMMONWEALTH of the United States,

14 (3-a) taxes on or measured by profits or income, or which include
15 profits or income as a measure, paid or accrued to any other state of
16 the United States, or any political subdivision thereof, or to the
17 District of Columbia, including taxes expressly in lieu of any of the
18 foregoing taxes otherwise generally imposed by any other state of the
19 United States, or any political subdivision thereof, or the District of
20 Columbia;

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

25 (4-a)(A) [the entire amount allowable as an exclusion or deduction for
26 stock transfer taxes imposed by article twelve of this chapter in deter-
27 mining the entire taxable income which the taxpayer is required to
28 report to the United States treasury department but only to the extent
29 that such taxes are incurred and paid in market making transactions,
30 (B)] in those instances where a credit for the special additional mort-
31 gage recording tax credit is allowed under [paragraph (a) of] subdivi-
32 sion [seventeen] NINE of section two hundred [ten] TEN-B of this arti-
33 cle, the amount allowed as an exclusion or deduction for the special
34 additional mortgage recording tax imposed by subdivision one-a of
35 section two hundred fifty-three of this chapter in determining the
36 entire taxable income which the taxpayer is required to report to the
37 United States treasury department, and [(C)] (B) unless the credit
38 allowed pursuant to subdivision [seventeen] NINE of section two hundred
39 [ten] TEN-B of this article is reflected in the computation of the gain
40 or loss so as to result in an increase in such gain or decrease of such
41 loss, for federal income tax purposes, from the sale or other disposi-
42 tion of the property with respect to which the special additional mort-
43 gage recording tax imposed pursuant to subdivision one-a of section two
44 hundred fifty-three of this chapter was paid, the amount of the special
45 additional mortgage recording tax imposed by subdivision one-a of
46 section two hundred fifty-three of this chapter which was paid and which
47 is reflected in the computation of the basis of the property so as to
48 result in a decrease in such gain or increase in such loss for federal
49 income tax purposes from the sale or other disposition of the property
50 with respect to which such tax was paid.

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

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

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

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

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

39 (10) in the case of property placed in service in taxable years begin-
40 ning before nineteen hundred ninety-four, for taxable years beginning
41 after December thirty-first, nineteen hundred eighty-one, except with
42 respect to property subject to the provisions of section two hundred
43 eighty-F of the internal revenue code, property subject to the
44 provisions of section one hundred sixty-eight of the internal revenue
45 code which is placed in service in this state in taxable years beginning
46 after December thirty-first, nineteen hundred eighty-four and property
47 of a taxpayer principally engaged in the conduct of aviation (other than
48 air freight forwarders acting as principal and like indirect air carri-
49 ers) which is placed in service before taxable years beginning in nine-
50 teen hundred [eight-nine] EIGHTY-NINE, the amount allowable as a
51 deduction determined under section one hundred sixty-eight of the inter-
52 nal revenue code;

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

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

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

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

14 (17) for taxable years beginning after December thirty-first, two
15 thousand two, in the case of qualified property described in paragraph
16 two of subsection k of section 168 of the internal revenue code, other
17 than qualified resurgence zone property described in paragraph (q) of
18 this subdivision, and other than qualified New York Liberty Zone proper-
19 ty described in paragraph two of subsection b of section 1400L of the
20 internal revenue code (without regard to clause (i) of subparagraph (C)
21 of such paragraph), which was placed in service on or after June first,
22 two thousand three, the amount allowable as a deduction under section
23 167 of the internal revenue code.

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

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

32 (20) The amount of any federal deduction for taxes imposed under arti-
33 cle twenty-three of this chapter.

34 (20-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELE-
35 COMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF
36 THE CALCULATION OF THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION
37 SERVICES CREDIT ALLOWED UNDER SUBDIVISION FORTY-FOUR OF SECTION TWO
38 HUNDRED TEN-B OF THIS ARTICLE.

39 (21) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR REAL PROPERTY TAXES TO
40 THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF THE
41 REAL PROPERTY TAX CREDIT FOR MANUFACTURERS ALLOWED UNDER SUBDIVISION
42 FORTY-THREE OF SECTION TWO HUNDRED TEN-B OF THIS ARTICLE.

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

45 (c-1)(1) Notwithstanding any other provision of this article, in the
46 case of a taxpayer which is a foreign air carrier holding a foreign air
47 carrier permit issued by the United States department of transportation
48 pursuant to section four hundred two of the federal aviation act of
49 nineteen hundred fifty-eight, as amended, and which is qualified under
50 subparagraph two of this paragraph, entire net income shall not include,
51 and shall be computed without the deduction of, amounts directly or
52 indirectly attributable to, (i) any income derived from the interna-
53 tional operation of aircraft as described in and subject to the
54 provisions of section eight hundred eighty-three of the internal revenue
55 code, (ii) income without the United States which is derived from the
56 operation of aircraft, and (iii) income without the United States which

1 is of a type described in subdivision (a) of section eight hundred
2 eighty-one of the internal revenue code except that it is derived from
3 sources without the United States. Entire net income shall include
4 income described in clauses (i), (ii) and (iii) of this subparagraph in
5 the case of taxpayers not described in the previous sentence.

6 (2) A taxpayer is qualified under this subparagraph if air carriers
7 organized in the United States and operating in the foreign country or
8 countries in which the taxpayer has its major base of operations and in
9 which it is organized, resident or headquartered (if not in the same
10 country as its major base of operations) are not subject to any income
11 tax or other tax based on or measured by income or receipts imposed by
12 such foreign country or countries or any political subdivision thereof,
13 or if so subject to such tax, are provided an exemption from such tax
14 equivalent to that provided for herein.

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

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

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

28 (3) Federal depreciation disallowed. With respect to transition prop-
29 erty, the deduction for federal income tax purposes for depreciation
30 shall not be allowed.

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

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

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

55 (ii) Qualified gain - New York basis. Where a sale or disposition
56 described in subclause (i) of this clause results in recognition of gain

1 for federal income tax purposes, and where either (I) such recognition
2 occurs in a taxable year ending after nineteen hundred ninety-nine and
3 before two thousand ten, or (II) such recognition is with respect to a
4 nuclear electric generating facility, the basis for determining the
5 amount of such gain under this article shall be the cost of the property
6 less the aggregate of the New York depreciation deductions on the prop-
7 erty determined under subparagraph four of this paragraph.

8 (iii) No conversion of gain to loss. In the event that the basis
9 determined under subclause (ii) of this clause results in determination
10 of a loss on the sale or disposition of the property, no gain or loss
11 shall be recognized under this article with respect to such sale or
12 disposition.

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

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

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

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

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

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

53 (B) Qualified power producer. The term "qualified power producer"
54 means a taxpayer which: (i) on December thirty-first, nineteen hundred
55 ninety-nine, was not subject to the ratemaking supervision of the state
56 department of public service, and (ii) for the year ending on December

1 thirty-first, nineteen hundred ninety-nine, was subject to tax under
2 former section one hundred eighty-six of this chapter on account of its
3 being principally engaged in the business of supplying electricity.

4 (C) Qualified pipeline. The term "qualified pipeline" means a taxpayer
5 which: (i) on December thirty-first, nineteen hundred ninety-nine, was
6 subject to the ratemaking supervision of either the federal energy regu-
7 latory commission or the state department of public service, and (ii)
8 for the year ending on December thirty-first, nineteen hundred ninety-
9 nine, was subject to tax under sections one hundred eighty-three and one
10 hundred eighty-four of this chapter on account of its being principally
11 engaged in the business of pipeline transmission.

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

16 (3) Federal depreciation disallowed. With respect to transition prop-
17 erty, the deduction for federal income tax purposes for depreciation
18 shall not be allowed.

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

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

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

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

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

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

54 [(f) A net operating loss deduction shall be allowed which shall be
55 presumably the same as the net operating loss deduction allowed under
56 section one hundred seventy-two of the internal revenue code, or which

1 would have been allowed if the taxpayer had not made an election under
2 subchapter s of chapter one of the internal revenue code, except that in
3 every instance where such deduction is allowed under this article:

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

7 (2) such deduction shall not include any net operating loss sustained
8 during any taxable year beginning prior to January first, nineteen
9 hundred sixty-one, or during any taxable year in which the taxpayer was
10 not subject to the tax imposed by this article,

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

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

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

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

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

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

1 (B) (1) The term "air pollution control facilities" shall mean facili-
2 ties which remove, reduce, or render less noxious air contaminants emit-
3 ted from an air contamination source (as the terms "air contaminant" and
4 "air contamination source" are defined in section 19-0107 of the envi-
5 ronmental conservation law) from a point immediately preceding the point
6 of such removal, reduction or rendering to the point of discharge of
7 air, meeting emission standards as established by the department of
8 environmental conservation, but excluding such facilities installed for
9 the primary purpose of salvaging materials which are usable in the manu-
10 facturing process or are marketable and excluding those facilities which
11 rely for their efficacy on dilution, dispersion or assimilation of air
12 contaminants in the ambient air after emission. Such term shall further
13 include flue gas desulfurization equipment and attendant sludge disposal
14 facilities, fluidized bed boilers, precombustion coal cleaning facili-
15 ties or other facilities that conform with this subdivision and which
16 comply with the provisions of the state acid deposition control act set
17 forth in title nine of article nineteen of the environmental conserva-
18 tion law.

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

28 (2) However, such deduction shall be allowed only

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

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

47 (C) on condition that entire net income for the taxable year and all
48 succeeding taxable years be computed without any deductions for such
49 expenditures or for depreciation or amortization of the same property
50 other than the deductions allowed by this paragraph (g), except to the
51 extent that the basis of the property may be attributable to factors
52 other than such expenditures, or in case a deduction is allowable pursu-
53 ant to this paragraph for only a part of such expenditures, on condition
54 that any deduction allowed for federal income tax purposes for such
55 expenditures or for depreciation or amortization of the same property be

1 proportionately reduced in computing entire net income for the taxable
2 year and all succeeding taxable years, and

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

6 (3) (A) If expenditures in respect to an industrial waste treatment
7 facility, an air pollution control facility, an industrial waste treat-
8 ment controlled process facility or an air pollution controlled process
9 facility have been deducted as provided herein and if within ten years
10 from the end of the taxable year in which such deduction was allowed
11 such property or any part thereof is used for the primary purpose of
12 salvaging materials which are usable in the manufacturing process or are
13 marketable, the taxpayer shall report such change of use in its report
14 for the first taxable year during which it occurs, and the tax commis-
15 sion may recompute the tax for the year or years for which such
16 deduction was allowed and any carryback or carryover year, and may
17 assess any additional tax resulting from such recomputation within the
18 time fixed by paragraph nine of subsection (c) of section ten hundred
19 eighty-three of this chapter.

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

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

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

53 (h) If the period covered by a report under this article is other than
54 the period covered by the report to the United States treasury depart-
55 ment,

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

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

22 (i) With respect to a DISC which during any taxable year or reporting
23 year (1) received more than five percent of its gross sales from the
24 sale of inventory or other property which it purchased from its stock-
25 holders, (2) received more than five percent of its gross rentals from
26 the rental of property which it purchased or rented from its stockhold-
27 ers or (3) received more than five percent of its total receipts other
28 than sales and rentals from its stockholders, the following provisions
29 shall apply.

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

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

55 (j) in the case of property placed in service in taxable years begin-
56 ning before nineteen hundred ninety-four, for taxable years beginning

1 after December thirty-first, nineteen hundred eighty-one, except with
2 respect to property subject to the provisions of section two hundred
3 eighty-F of the internal revenue code and property subject to the
4 provisions of section one hundred sixty-eight of the internal revenue
5 code which is placed in service in this state in taxable years beginning
6 after December thirty-first, nineteen hundred eighty-four, and provided
7 a deduction has not been excluded from entire net income pursuant to
8 subparagraph eight of paragraph (b) of this subdivision, a taxpayer
9 shall be allowed with respect to property which is subject to the
10 provisions of section one hundred sixty-eight of the internal revenue
11 code the depreciation deduction allowable under section one hundred
12 sixty-seven of the internal revenue code as such section would have
13 applied to property placed in service on December thirty-first, nineteen
14 hundred eighty. This paragraph shall not apply to property of a taxpayer
15 principally engaged in the conduct of aviation (other than air freight
16 forwarders acting as principal and like indirect air carriers) which is
17 placed in service before taxable years beginning in nineteen hundred
18 eighty-nine.

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

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

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

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

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

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

34 (A) where the QSSS is a taxpayer,

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

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

41 (B) where the QSSS is not a taxpayer,

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

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

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

54 (A) For any taxable year for which such election is in effect, the
55 parent corporation shall be subject to tax under this article as a New

1 York S corporation, and the provisions of clause (A) of subparagraph one
2 of this paragraph shall apply.

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

10 (4) S corporation excluded. In the case of an S corporation which is
11 an excluded corporation and which is the parent of a QSSS which is a
12 taxpayer, the QSSS shall be a New York C corporation and the provisions
13 of clause (B) of subparagraph three of this paragraph shall apply.

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

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

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

29 (1) Emerging technology investment deferral. In the case of any sale
30 of a qualified emerging technologies investment held for more than thir-
31 ty-six months and with respect to which the taxpayer elects the applica-
32 tion of this paragraph, gain from such sale shall be recognized only to
33 the extent that the amount realized on such sale exceeds the cost of any
34 qualified emerging technologies investment purchased by the taxpayer
35 during the three hundred sixty-five-day period beginning on the date of
36 such sale, reduced by any portion of such cost previously taken into
37 account under this paragraph. For purposes of this paragraph the follow-
38 ing shall apply:

39 (1) A qualified investment is stock of a corporation or an interest,
40 other than as a creditor, in a partnership or limited liability company
41 that was acquired by the taxpayer as provided in Internal Revenue Code S
42 1202(c)(1)(B), except that the reference to the term "stock" in such
43 section shall be read as "investment," or by the taxpayer from a person
44 who had acquired such stock or interest in such a manner.

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

52 (3) For purposes of determining whether the nonrecognition of gain
53 under this subsection applies to a qualified emerging technologies
54 investment that is sold, the taxpayer's holding period for such invest-
55 ment and the qualified emerging technologies investment that is

1 purchased shall be determined without regard to Internal Revenue Code S
2 1223.

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

7 [(n) Qualified gas transportation contracts.

8 (1) Any tax paid under this article allocable to receipts attributable
9 to a "qualified gas transportation contract" shall be deemed to have
10 been paid under article nine of this chapter for all purposes of law for
11 taxable years commencing on or after January first, two thousand,
12 computed as hereinafter provided, if all of the following conditions are
13 met:

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

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

22 (iii) The taxpayer's franchise tax liability under this article for
23 the taxable year (computed without regard to this paragraph) is deter-
24 mined under paragraph (a) of subdivision one of section two hundred ten
25 of this article, and such tax liability (without regard to this para-
26 graph) is greater than the liability the taxpayer would have incurred
27 under sections one hundred eighty-three and one hundred eighty-four of
28 this chapter (as such sections existed on December thirty-first, nine-
29 teen hundred ninety-nine) based on the same taxable period.

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

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

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

1 effect of terminating the characterization hereunder as if the qualify-
2 ing contract had expired by its own terms.

3 (o)] (N-1) For taxable years beginning after December thirty-first,
4 two thousand two, in the case of qualified property described in para-
5 graph two of subsection k of section 168 of the internal revenue code,
6 other than qualified resurgence zone property described in paragraph (q)
7 of this subdivision, and other than qualified New York Liberty Zone
8 property described in paragraph two of subsection b of section 1400L of
9 the internal revenue code (without regard to clause (i) of subparagraph
10 (C) of such paragraph), which was placed in service on or after June
11 first, two thousand three, a taxpayer shall be allowed with respect to
12 such property the depreciation deduction allowable under section 167 of
13 the internal revenue code as such section would have applied to such
14 property had it been acquired by the taxpayer on September tenth, two
15 thousand one.

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

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

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

50 (D) Valid Business Purpose. A valid business purpose is one or more
51 business purposes, other than the avoidance or reduction of taxation,
52 which alone or in combination constitute the primary motivation for some
53 business activity or transaction, which activity or transaction changes
54 in a meaningful way, apart from tax effects, the economic position of
55 the taxpayer. The economic position of the taxpayer includes an increase

1 in the market share of the taxpayer, or the entry by the taxpayer into
2 new business markets.

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

11 (B) Exceptions. (i) The adjustment required in this paragraph shall
12 not apply to the portion of the royalty payment that the taxpayer estab-
13 lishes, by clear and convincing evidence of the type and in the form
14 specified by the commissioner, meets all of the following requirements:
15 (I) the related member was subject to tax in this state or another state
16 or possession of the United States or a foreign nation or some combina-
17 tion thereof on a tax base that included the royalty payment paid,
18 accrued or incurred by the taxpayer; (II) the related member during the
19 same taxable year directly or indirectly paid, accrued or incurred such
20 portion to a person that is not a related member; and (III) the trans-
21 action giving rise to the royalty payment between the taxpayer and the
22 related member was undertaken for a valid business purpose.

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

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

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

55 (p) For taxable years beginning after December thirty-first, two thou-
56 sand two, upon the disposition of property to which paragraph [(o)]

1 (N-1) of this subdivision applies, the amount of any gain or loss inclu-
2 dible in entire net income shall be adjusted to reflect the inclusions
3 and exclusions from entire net income pursuant to subparagraph seventeen
4 of paragraph (a) and subparagraph seventeen of paragraph (b) of this
5 subdivision attributable to such property.

6 (q) For purposes of paragraphs [(o)] (N-1) and (p) of this subdivi-
7 sion, qualified resurgence zone property shall mean qualified property
8 described in paragraph two of subsection k of section 168 of the inter-
9 nal revenue code substantially all of the use of which is in the resur-
10 gence zone, as defined below, and is in the active conduct of a trade or
11 business by the taxpayer in such zone, and the original use of which in
12 the resurgence zone commences with the taxpayer after December thirty-
13 first, two thousand two. The resurgence zone shall mean the area of New
14 York county bounded on the south by a line running from the intersection
15 of the Hudson River with the Holland Tunnel, and running thence east to
16 Canal Street, then running along the centerline of Canal Street to the
17 intersection of the Bowery and Canal Street, running thence in a south-
18 easterly direction diagonally across Manhattan Bridge Plaza, to the
19 Manhattan Bridge and thence along the centerline of the Manhattan Bridge
20 to the point where the centerline of the Manhattan Bridge would inter-
21 sect with the easterly bank of the East River, and bounded on the north
22 by a line running from the intersection of the Hudson River with the
23 Holland Tunnel and running thence north along West Avenue to the inter-
24 section of Clarkson Street then running east along the centerline of
25 Clarkson Street to the intersection of Washington Avenue, then running
26 south along the centerline of Washington Avenue to the intersection of
27 West Houston Street, then east along the centerline of West Houston
28 Street, then at the intersection of the Avenue of the Americas continu-
29 ing east along the centerline of East Houston Street to the easterly
30 bank of the East River.

31 (R) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFO-
32 LIOS. (1)(A) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED
33 IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS
34 DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (S) OF THIS SUBDIVISION AND
35 MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARA-
36 GRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING
37 ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (I) THIRTY-TWO PERCENT OF
38 ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH
39 EXCEEDS (II) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS
40 166 AND 585 OF THE INTERNAL REVENUE CODE LESS ANY AMOUNTS INCLUDED IN
41 FEDERAL TAXABLE INCOME AS A RESULT OF A RECOVERY OF A LOAN.

42 (B)(I) IF THE TAXPAYER IS IN A COMBINED REPORT UNDER SECTION TWO
43 HUNDRED TEN-C OF THIS ARTICLE, THIS DEDUCTION WILL BE COMPUTED ON A
44 COMBINED BASIS. IN THAT INSTANCE, THE ENTIRE NET INCOME OF THE COMBINED
45 REPORTING GROUP FOR PURPOSES OF THIS PARAGRAPH SHALL BE MULTIPLIED BY A
46 FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE
47 THRIFT INSTITUTIONS AND QUALIFIED COMMUNITY BANKS INCLUDED IN THE
48 COMBINED REPORT AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS
49 OF ALL THE CORPORATIONS INCLUDED IN THE COMBINED REPORT.

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

54 (II) ASSETS WILL ONLY BE INCLUDED IF THE INCOME OR EXPENSES OF WHICH
55 ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT
56 FULLY DEPRECIATED OR EXPENSED, OR DEPRECIATED OR EXPENSED TO A NOMINAL

1 AMOUNT) IN THE COMPUTATION OF THE COMBINED GROUP'S ENTIRE NET INCOME FOR
2 THE TAXABLE YEAR. ASSETS WILL NOT INCLUDE DEFERRED TAX ASSETS AND INTAN-
3 GIBLE ASSETS IDENTIFIED AS "GOODWILL".

4 (III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND,
5 MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. LEASED ASSETS WILL BE
6 VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE PROP-
7 ERTY, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE
8 EXCLUSIVE OF RESERVES.

9 (IV) INTERCORPORATE STOCKHOLDINGS AND BILLS, NOTES AND ACCOUNTS
10 RECEIVABLE, AND OTHER INTERCORPORATE INDEBTEDNESS BETWEEN THE CORPO-
11 RATIONS INCLUDED IN THE COMBINED REPORT SHALL BE ELIMINATED.

12 (V) AVERAGE ASSETS ARE COMPUTED USING THE ASSETS MEASURED ON THE FIRST
13 DAY OF THE TAXABLE YEAR, AND ON THE LAST DAY OF EACH SUBSEQUENT QUARTER
14 OF THE TAXABLE YEAR OR MONTH OR DAY DURING THE TAXABLE YEAR.

15 (2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (A) A TAXPAYER MAINTAINS A
16 QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE
17 AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE
18 THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS
19 DESCRIBED IN ITEMS (I) THROUGH (XII) OF THIS CLAUSE, WITH THE APPLICA-
20 TION OF THE RULE IN ITEM (XIII). IF THE TAXPAYER IS A MEMBER OF A
21 COMBINED GROUP, THE DETERMINATION OF WHETHER THERE IS A QUALIFIED RESI-
22 DENTIAL LOAN PORTFOLIO WILL BE MADE BY AGGREGATING THE ASSETS OF THE
23 THRIFT INSTITUTIONS AND QUALIFIED COMMUNITY BANKS THAT ARE MEMBERS OF
24 THE COMBINED GROUP.

25 ASSETS:

26 (I) CASH, WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH
27 ITEMS IN THE PROCESS OF COLLECTION, DEPOSIT WITH OTHER FINANCIAL INSTI-
28 TUTIONS, INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL
29 RESERVE BANKS AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH
30 AND CASH EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERV-
31 ING AS COLLATERAL FOR SECURITIES LENDING TRANSACTIONS;

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

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

37 (IV) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR FROM
38 THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR REAL
39 PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE IMPROVE-
40 MENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR
41 CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS ITEM, RESIDENTIAL
42 REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS, FACILITIES
43 IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROPERTY USED ON
44 A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED ON A TRAN-
45 SIENT BASIS;

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

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

55 (VII) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A
56 FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST

1 PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH
2 SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN,
3 WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN ITEM (IV) OF THIS CLAUSE
4 AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR WHICH
5 CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE TYPE
6 OF PROPERTY DESCRIBED IN ITEM (IV) OF THIS CLAUSE;

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

10 (IX) LOANS SECURED BY AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE
11 INSTITUTIONS OR FACILITIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMA-
12 RILY FOR RESIDENTIAL PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDER
13 CARE, EMPLOYEES, OR MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILI-
14 TIES;

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

17 (XI) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSINESS WHICH
18 CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC AND INVEST-
19 ING IN LOANS; AND

20 (XII) LOANS FOR WHICH THE TAXPAYER IS THE CREDITOR AND WHICH ARE WHOL-
21 LY SECURED BY LOANS DESCRIBED IN ITEM (IV) OF THIS CLAUSE.

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

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

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

40 (D) FOR PURPOSES OF ITEM (IV) OF CLAUSE (A) OF THIS SUBPARAGRAPH,
41 LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE
42 DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY
43 IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESI-
44 DENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF
45 ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY
46 TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES
47 RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY
48 INTEREST IN A REMIC QUALIFIES UNDER ITEM (VI) OF CLAUSE (A) OF THIS
49 SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC
50 SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING ITEM UNDER PRINCI-
51 PLES SIMILAR TO THE PRINCIPLE OF SUCH ITEM (VI), EXCEPT THAT IS SUCH
52 REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS ONE
53 REMIC FOR PURPOSES OF SUCH ITEM (VI).

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

1 (S) SUBTRACTION MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS.
2 (1) A TAXPAYER THAT IS A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARA-
3 GRAPH TWO OF THIS PARAGRAPH OR A SMALL THRIFT INSTITUTION AS DEFINED IN
4 SUBPARAGRAPH TWO-A OF THIS PARAGRAPH SHALL BE ALLOWED A DEDUCTION IN
5 COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED UNDER SUBPARA-
6 GRAPH THREE OF THIS PARAGRAPH.

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

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

12 (B) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE
13 TAXPAYER, OR THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER
14 UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, MUST NOT EXCEED EIGHT
15 BILLION DOLLARS.

16 (2-A) TO BE A SMALL THRIFT INSTITUTION, A TAXPAYER MUST SATISFY THE
17 FOLLOWING CONDITIONS.

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

21 (B) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE
22 TAXPAYER, OR THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER
23 UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE, MUST NOT EXCEED EIGHT
24 BILLION DOLLARS.

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

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

31 (II) MULTIPLY THE AMOUNT DETERMINED IN CLAUSE (I) BY FIFTY PERCENT.
32 THIS PRODUCT IS THE AMOUNT OF THE DEDUCTION ALLOWED UNDER THIS PARA-
33 GRAPH.

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

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

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

51 (III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND,
52 MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. LEASED ASSETS WILL BE
53 VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE
54 PROPERTY, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE
55 EXCLUSIVE OF RESERVES.

1 (IV) AVERAGE ASSETS ARE COMPUTED USING THE ASSETS MEASURED ON THE
2 FIRST DAY OF THE TAXABLE YEAR, AND ON THE LAST DAY OF EACH SUBSEQUENT
3 QUARTER OF THE TAXABLE YEAR OR MONTH OR DAY DURING THE TAXABLE YEAR.

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

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

11 (II) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,
12 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND
13 EITHER THE BORROWER IS LOCATED IN THIS STATE AS DETERMINED UNDER SECTION
14 TWO HUNDRED TEN-A OF THIS ARTICLE AND THE LOAN IS NOT SECURED BY REAL
15 PROPERTY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN NEW YORK.

16 (III) A LOAN THAT MEETS THE DEFINITION OF A QUALIFYING LOAN IN A PRIOR
17 TAXABLE YEAR (INCLUDING YEARS PRIOR TO THE EFFECTIVE DATE OF THIS PARA-
18 GRAPH) REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH
19 SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED
20 REPORTING GROUP UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE.

21 (T) A SMALL THRIFT INSTITUTION OR A QUALIFIED COMMUNITY BANK, AS
22 DEFINED IN PARAGRAPH (S) OF THIS SUBDIVISION, THAT MAINTAINED A CAPTIVE
23 REIT ON APRIL FIRST, TWO THOUSAND FOURTEEN SHALL UTILIZE A REIT
24 SUBTRACTION EQUAL TO ONE HUNDRED SIXTY PERCENT OF THE DIVIDENDS PAID
25 DEDUCTIONS ALLOWED TO THAT CAPTIVE REIT FOR THE TAXABLE YEAR FOR FEDERAL
26 INCOME TAX PURPOSES AND SHALL NOT BE ALLOWED TO UTILIZE THE SUBTRACTION
27 MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFOLIOS UNDER PARAGRAPH
28 (R) OF THIS SUBDIVISION OR THE SUBTRACTION MODIFICATION FOR COMMUNITY
29 BANKS AND SMALL THRIFTS UNDER PARAGRAPH (S) OF THIS SUBDIVISION IN ANY
30 TAX YEAR IN WHICH SUCH THRIFT INSTITUTION OR COMMUNITY BANK MAINTAINS
31 THAT CAPTIVE REIT.

32 10. The term "calendar year" means a period of twelve calendar months
33 (or any shorter period beginning on the date the taxpayer becomes
34 subject to the tax imposed by this article) ending on the thirty-first
35 day of December, provided the taxpayer keeps its books on the basis of
36 such period or on the basis of any period ending on any day other than
37 the last day of a calendar month, or provided the taxpayer does not keep
38 books, and includes, in case the taxpayer changes the period on the
39 basis of which it keeps its books from a fiscal year to a calendar year,
40 the period from the close of its last old fiscal year up to and includ-
41 ing the following December thirty-first. The term "fiscal year" means a
42 period of twelve calendar months (or any shorter period beginning on the
43 date the taxpayer becomes subject to the tax imposed by this article)
44 ending on the last day of any month other than December, provided the
45 taxpayer keeps its books on the basis of such period, and includes, in
46 case the taxpayer changes the period on the basis of which it keeps its
47 books from a calendar year to a fiscal year or from one fiscal year to
48 another fiscal year, the period from the close of its last old calendar
49 or fiscal year up to the date designated as the close of its new fiscal
50 year.

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

1 12. The term elected or appointed officer shall include the chairman,
2 president, vice-president, secretary, assistant secretary, treasurer,
3 assistant treasurer, comptroller, and also any other officer, irrespec-
4 tive of his title, who is charged with and performs any of the regular
5 functions of any such officer, unless the total compensation of such
6 officer is derived exclusively from the receipt of commissions. A direc-
7 tor shall be considered an elected or appointed officer only if he
8 performs duties ordinarily performed by an officer.

9 [19. The term "fulfillment services" shall mean any of the following
10 services performed by an entity on its premises on behalf of a purchas-
11 er:

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

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

16 (c) billing and collection activities; or

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

19 S 5. Subdivisions 1, 2, 2-a, 4, 5, 6, 7 and 8 of section 209 of the
20 tax law, subdivisions 1 and 6 as amended by chapter 817 of the laws of
21 1987, subdivision 2 as amended by chapter 75 of the laws of 1998, subdi-
22 vision 2-a as added by chapter 340 of the laws of 1998, subdivision 4 as
23 amended by section 27 of part S of this act, subdivisions 5 and 7 as
24 amended by section 2 of part FF-1 of chapter 57 of the laws of 2008, and
25 subdivision 8 as added by section 1 of part O of chapter 61 of the laws
26 of 2006, are amended to read as follows:

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

42 (B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE IF
43 IT HAS RECEIPTS WITHIN THIS STATE OF ONE MILLION DOLLARS OR MORE IN THE
44 TAXABLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM "RECEIPTS" MEANS
45 THE RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT RULES SET FORTH IN
46 SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, AND THE TERM "RECEIPTS WITHIN
47 THIS STATE" MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPOR-
48 TIONMENT FACTOR DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTI-
49 CLE. FOR PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT
50 CARD TRANSACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED
51 BY THE CORPORATION.

52 (C) A CORPORATION IS DOING BUSINESS IN THIS STATE IF (I) IT HAS ISSUED
53 CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING
54 ADDRESS WITHIN THIS STATE AS OF THE LAST DAY OF ITS TAXABLE YEAR, (II)
55 IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER
56 OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE

1 LOCATIONS IN THIS STATE TO WHOM THE CORPORATION REMITTED PAYMENTS FOR
2 CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (III) THE SUM OF
3 THE NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
4 PLUS THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN
5 SUBPARAGRAPH (II) OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED
6 IN THIS SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAV-
7 EL AND ENTERTAINMENT CARDS.

8 (D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST
9 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THIS STATE IN A TAXABLE YEAR
10 THAT IS PART OF A COMBINED REPORTING GROUP UNDER SECTION TWO HUNDRED
11 TEN-C OF THIS ARTICLE IS DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE
12 IF THE RECEIPTS WITHIN THIS STATE OF THE MEMBERS OF THE COMBINED REPORT-
13 ING GROUP THAT HAVE AT LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN
14 THIS STATE IN THE AGGREGATE MEET THE THRESHOLD SET FORTH IN PARAGRAPH
15 (B) OF THIS SUBDIVISION.

16 (II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH
17 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR
18 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C) OF
19 THIS SUBDIVISION, AND IS PART OF A COMBINED REPORTING GROUP UNDER
20 SECTION TWO HUNDRED TEN-C OF THIS ARTICLE THAT IS DOING BUSINESS IN THIS
21 STATE IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS,
22 WITHIN THIS STATE OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT
23 HAVE AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS,
24 WITHIN THIS STATE IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH
25 IN PARAGRAPH (C) OF THIS SUBDIVISION.

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

39 (F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR
40 LEASING PROPERTY IN THIS STATE, MAINTAINING AN OFFICE IN THE STATE, OR
41 DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, ANY CORPORATION THAT IS A
42 PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO TAX UNDER THIS ARTICLE
43 AS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER.

44 2. A foreign corporation shall not be deemed to be doing business,
45 employing capital, owning or leasing property, or maintaining an office
46 in this state, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, for the
47 purposes of this article, by reason of (a) the maintenance of cash
48 balances with banks or trust companies in this state, or (b) the owner-
49 ship of shares of stock or securities kept in this state, if kept in a
50 safe deposit box, safe, vault or other receptacle rented for the
51 purpose, or if pledged as collateral security, or if deposited with one
52 or more banks or trust companies, or brokers who are members of a recog-
53 nized security exchange, in safekeeping or custody accounts, or (c) the
54 taking of any action by any such bank or trust company or broker, which
55 is incidental to the rendering of safekeeping or custodian service to
56 such corporation, or (d) the maintenance of an office in this state by

1 one or more officers or directors of the corporation who are not employ-
2 ees of the corporation if the corporation otherwise is not doing busi-
3 ness in this state, and does not employ capital or own or lease property
4 in this state, or (e) the keeping of books or records of a corporation
5 in this state if such books or records are not kept by employees of such
6 corporation and such corporation does not otherwise do business, employ
7 capital, own or lease property or maintain an office in this state, or
8 (f) [the use of fulfillment services of a person other than an affil-
9 iated person and the ownership of property stored on the premises of
10 such person in conjunction with such services, or (g)] any combination
11 of the foregoing activities. [For purposes of this subdivision, persons
12 are affiliated persons with respect to each other where one of such
13 persons has an ownership interest of more than five percent, whether
14 direct or indirect, in the other, or where an ownership interest of more
15 than five percent, whether direct or indirect, is held in each of such
16 persons by another person or by a group of other persons which are
17 affiliated persons with respect to each other. The term "person" in the
18 preceding sentence and in paragraph (f) of this subdivision shall have
19 the meaning ascribed thereto by subdivision (a) of section eleven
20 hundred one of this chapter.]

21 2-a. An alien corporation shall not be deemed to be doing business,
22 employing capital, owning or leasing property, or maintaining an office
23 in this state, for the purposes of this article, if its activities in
24 this state are limited solely to (a) investing or trading in stocks and
25 securities for its own account within the meaning of clause (ii) of
26 subparagraph (A) of paragraph (2) of subsection (b) of section eight
27 hundred sixty-four of the internal revenue code or (b) investing or
28 trading in commodities for its own account within the meaning of clause
29 (ii) of subparagraph (B) of paragraph (2) of subsection (b) of section
30 eight hundred sixty-four of the internal revenue code or (c) any combi-
31 nation of activities described in paragraphs (a) and (b) of this subdivi-
32 sion. AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL
33 REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN
34 SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO EFFEC-
35 TIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (IV) OF
36 THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED EIGHT
37 OF THIS ARTICLE SHALL NOT BE SUBJECT TO TAX UNDER THIS ARTICLE FOR THAT
38 TAXABLE YEAR. For purposes of this [subdivision] ARTICLE, an alien
39 corporation is a corporation organized under the laws of a country, or
40 any political subdivision thereof, other than the United States, OR
41 ORGANIZED UNDER THE LAWS OF A POSSESSION, TERRITORY OR COMMONWEALTH OF
42 THE UNITED STATES.

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

1 article eleven of the private housing finance law shall not be subject
2 to tax under this article.

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

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

31 7. For any taxable year, beginning on or after January first, nineteen
32 hundred eighty of a regulated investment company, as defined in section
33 eight hundred fifty-one of the internal revenue code, in which such
34 company is subject to federal income taxation under section eight
35 hundred fifty-two of such code, such company shall be subject to a tax
36 computed under either paragraph (a)[, (c)] or (d) of subdivision one of
37 section two hundred ten of this chapter, whichever is [greatest]
38 GREATER, and shall not be subject to any tax under article [thirty-two
39 or article] thirty-three of this chapter except for a captive RIC
40 required to file a combined return under [subdivision (f) of section
41 fourteen hundred sixty-two or] subdivision (f) of section fifteen
42 hundred fifteen of this chapter. In the case of such a regulated invest-
43 ment company, including a captive RIC as defined in section two of this
44 chapter, the term "entire net income" means "investment company taxable
45 income" as defined in paragraph two of subdivision (b) of section eight
46 hundred fifty-two, as modified by section eight hundred fifty-five, of
47 the internal revenue code plus the amount taxable under paragraph three
48 of subdivision (b) of section eight hundred fifty-two of such code
49 subject to the [modification] MODIFICATIONS required by subdivision nine
50 of section two hundred eight of this chapter[, other than the modifica-
51 tion required by subparagraph two of paragraph (a) and by paragraph (f)
52 thereof, including the modification required by paragraphs (d) and (e)
53 of subdivision three of section two hundred ten of this chapter].

54 8. For any taxable year beginning on or after January first, two thou-
55 sand six, a corporation that is no longer doing business, employing
56 capital, or owning or leasing property, OR DERIVING RECEIPTS FROM ACTIV-

1 ITY in this state in a corporate or organized capacity that has filed a
2 final tax return with the department for the last tax year it was doing
3 business and has no outstanding tax liability for such final tax return
4 or any tax return for prior tax years shall be exempt from all taxes
5 imposed by paragraph (d) of subdivision one of section two hundred ten
6 of this article for tax years following the last year such corporation
7 was doing business.

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

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

13 [Temporary metropolitan] METROPOLITAN transportation business tax
14 surcharge. 1. (A) For the privilege of exercising its corporate fran-
15 chise, or of doing business, or of employing capital, or of owning or
16 leasing property in a corporate or organized capacity, or of maintaining
17 an office, OR OF DERIVING RECEIPTS FROM ACTIVITY in the metropolitan
18 commuter transportation district, for all or any part of its taxable
19 year, there is hereby imposed on every corporation, other than a New
20 York S corporation, subject to tax under section two hundred nine of
21 this article, or any receiver, referee, trustee, assignee or other fidu-
22 ciary, or any officer or agent appointed by any court, who conducts the
23 business of any such corporation, [for the taxable years commencing on
24 or after January first, nineteen hundred eighty-two but ending before
25 December thirty-first, two thousand eighteen,] a tax surcharge, in addi-
26 tion to the tax imposed under section two hundred nine of this article,
27 to be computed at the rate of [eighteen percent of the tax imposed under
28 such section two hundred nine for such taxable years or any part of such
29 taxable years ending before December thirty-first, nineteen hundred
30 eighty-three after the deduction of any credits otherwise allowable
31 under this article, and at the rate of] seventeen percent of the tax
32 imposed under such section for such taxable years or any part of such
33 taxable years ending on or after December thirty-first, nineteen hundred
34 eighty-three AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN after the
35 deduction of any credits otherwise allowable under this article[;
36 provided, however, that], AT THE RATE OF TWENTY-FIVE AND SIX-TENTHS
37 PERCENT OF THE TAX IMPOSED UNDER SUCH SECTION FOR TAXABLE YEARS BEGIN-
38 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY
39 FIRST, TWO THOUSAND SIXTEEN BEFORE THE DEDUCTION OF ANY CREDITS OTHER-
40 WISE ALLOWABLE UNDER THIS ARTICLE, AND AT THE RATE DETERMINED BY THE
41 COMMISSIONER PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION OF THE TAX
42 IMPOSED UNDER SUCH SECTION, FOR TAXABLE YEARS BEGINNING ON OR AFTER
43 JANUARY FIRST, TWO THOUSAND SIXTEEN BEFORE THE DEDUCTION OF ANY CREDITS
44 OTHERWISE ALLOWABLE UNDER THIS ARTICLE. HOWEVER, such [rates] RATE of
45 tax surcharge shall be applied only to that portion of the tax imposed
46 under section two hundred nine of this article [after] BEFORE the
47 deduction of any credits otherwise allowable under this article which is
48 attributable to the taxpayer's business activity carried on within the
49 metropolitan commuter transportation district; and provided, further,
50 [that the tax surcharge imposed by this section shall not be imposed
51 upon any taxpayer for more than four hundred thirty-two months. Provided
52 however, that for taxable years commencing on or after July first, nine-
53 teen hundred ninety-eight, such surcharge shall be calculated as if the
54 tax imposed under section two hundred ten of this article were imposed
55 under the law in effect for taxable years commencing on or after July
56 first, nineteen hundred ninety-seven and before July first, nineteen

1 hundred ninety-eight. Provided however, that for taxable years commencing
2 on or after January first, two thousand seven, such surcharge shall
3 be calculated using the highest of the tax bases imposed pursuant to
4 paragraphs (a), (b), (c) or (d) of subdivision one of section two
5 hundred ten of this article and the amount imposed under paragraph (e)
6 of subdivision one of such section two hundred ten, for the taxable
7 year; and, provided further that, if such highest amount is the tax base
8 imposed under paragraph (a), (b) or (c) of such subdivision, then the
9 surcharge shall be computed as if the tax rates and limitations under
10 such paragraph were the tax rates and limitations under such paragraph
11 in effect for taxable years commencing on or after July first, nineteen
12 hundred ninety-seven and before July first, nineteen hundred ninety-
13 eight] THE SURCHARGE COMPUTED ON A COMBINED REPORT SHALL INCLUDE A
14 SURCHARGE ON THE FIXED DOLLAR MINIMUM TAX FOR EACH MEMBER OF THE
15 COMBINED GROUP SUBJECT TO THE SURCHARGE UNDER THIS SUBDIVISION.

16 (B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THE METROPOL-
17 ITAN COMMUTER TRANSPORTATION DISTRICT IF IT HAS RECEIPTS WITHIN THE
18 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT OF ONE MILLION DOLLARS OR
19 MORE IN A TAXABLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM
20 "RECEIPTS" MEANS THE RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT
21 RULES SET FORTH IN SECTION TWO HUNDRED TEN-A OF THIS ARTICLE, AND THE
22 TERM "RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT"
23 MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FACTOR
24 DETERMINED UNDER SUBDIVISION TWO OF THIS SECTION. FOR PURPOSES OF THIS
25 PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANSACTIONS FOR
26 MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE CORPORATION.

27 (C) A CORPORATION IS DOING BUSINESS IN THE METROPOLITAN COMMUTER
28 TRANSPORTATION DISTRICT IF (I) IT HAS ISSUED CREDIT CARDS TO ONE THOU-
29 SAND OR MORE CUSTOMERS WHO HAVE A MAILING ADDRESS WITHIN THE METROPOL-
30 ITAN COMMUTER TRANSPORTATION DISTRICT AS OF THE LAST DAY OF ITS TAXABLE
31 YEAR, (II) IT HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE
32 TOTAL NUMBER OF LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND
33 OR MORE LOCATIONS IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT
34 TO WHOM THE CORPORATION REMITTED PAYMENTS FOR CREDIT CARD TRANSACTIONS
35 DURING THE TAXABLE YEAR, OR (III) THE SUM OF THE NUMBER OF CUSTOMERS
36 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH PLUS THE NUMBER OF
37 LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARAGRAPH (II) OF
38 THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED IN THIS PARAGRAPH,
39 THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND ENTERTAINMENT
40 CARDS.

41 (D)(I) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST
42 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANS-
43 PORTATION DISTRICT IN A TAXABLE YEAR THAT IS PART OF A COMBINED REPORT-
44 ING GROUP UNDER SECTION TWO HUNDRED TEN-C OF THIS ARTICLE IS DERIVING
45 RECEIPTS FROM ACTIVITY IN THE METROPOLITAN COMMUTER TRANSPORTATION
46 DISTRICT IF THE RECEIPTS WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION
47 DISTRICT OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT HAVE AT
48 LEAST TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE METROPOLITAN COMMUTER
49 TRANSPORTATION DISTRICT IN THE AGGREGATE MEET THE THRESHOLD SET FORTH IN
50 PARAGRAPH (B) OF THIS SUBDIVISION.

51 (II) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH
52 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR
53 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C),
54 AND IS PART OF A COMBINED REPORTING GROUP UNDER SECTION TWO HUNDRED
55 TEN-C OF THIS ARTICLE THAT IS DOING BUSINESS IN THE METROPOLITAN COMMU-
56 TER TRANSPORTATION DISTRICT IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR

1 CUSTOMERS AND LOCATIONS, WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION
2 DISTRICT OF THE MEMBERS OF THE COMBINED REPORTING GROUP THAT HAVE AT
3 LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN THE
4 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT IN THE AGGREGATE MEETS ANY
5 OF THE THRESHOLDS SET FORTH IN PARAGRAPH (C) OF THIS SUBDIVISION.

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

19 (F) THE COMMISSIONER SHALL DETERMINE THE RATE OF TAX FOR TAXABLE YEARS
20 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN BY ADJUSTING
21 THE RATE FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
22 THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN AS
23 NECESSARY TO ENSURE THAT THE RECEIPTS ATTRIBUTABLE TO SUCH SURCHARGE, AS
24 IMPACTED BY THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN WHICH ADDED
25 THIS PARAGRAPH, WILL MEET AND NOT EXCEED THE FINANCIAL PROJECTIONS FOR
26 STATE FISCAL YEAR TWO THOUSAND SIXTEEN-TWO THOUSAND SEVENTEEN, AS
27 REFLECTED IN STATE FISCAL YEAR TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN
28 ENACTED BUDGET. THE COMMISSIONER SHALL ANNUALLY DETERMINE THE RATE THER-
29 EAFTER USING THE FINANCIAL PROJECTIONS FOR THE STATE FISCAL YEAR THAT
30 COMMENCES IN THE YEAR FOR WHICH THE RATE IS TO BE SET AS REFLECTED IN
31 THE ENACTED BUDGET FOR THE FISCAL YEAR COMMENCING ON THE PREVIOUS APRIL
32 FIRST.

33 S 8. Subdivision 2 of section 209-B of the tax law, as amended by
34 chapter 11 of the laws of 1983, paragraph (a) as amended by chapter 760
35 of the laws of 1992 and subparagraph 2 of paragraph (b) as amended by
36 section 3 of part K of chapter 63 of the laws of 2000, is amended to
37 read as follows:

38 2. The portion of the taxpayer's business activity carried on within
39 the metropolitan commuter transportation district shall be determined by
40 multiplying the tax imposed under section two hundred nine of this arti-
41 cle BEFORE THE DEDUCTION OF ANY CREDITS OTHERWISE ALLOWABLE UNDER THIS
42 ARTICLE by a percentage to be determined as follows:

43 (a) ascertaining the percentage which the average value of the taxpay-
44 er's real and tangible personal property, whether owned or rented to it,
45 within the metropolitan commuter transportation district during the
46 period covered by its report bears to the average value of all the
47 taxpayer's real and tangible personal property, whether owned or rented
48 to it, within the state during such period; provided that the term
49 "value of the taxpayer's real and tangible personal property" shall
50 [have the same meaning as is ascribed to that term by subparagraph one
51 of paragraph (a) of subdivision three of section two hundred ten] MEAN
52 THE ADJUSTED BASES OF SUCH PROPERTIES FOR FEDERAL INCOME TAX PURPOSES
53 (EXCEPT THAT IN THE CASE OF RENTED PROPERTY SUCH VALUE SHALL MEAN THE
54 PRODUCT OF (I) EIGHT AND (II) THE GROSS RENTS PAYABLE FOR THE RENTAL OF
55 SUCH PROPERTY DURING THE TAXABLE YEAR); PROVIDED, HOWEVER, THAT THE
56 TAXPAYER MAY MAKE A ONE-TIME, REVOCABLE ELECTION TO USE FAIR MARKET

1 VALUE AS THE VALUE OF ALL OF ITS REAL AND TANGIBLE PERSONAL PROPERTY,
2 PROVIDED THAT SUCH ELECTION IS MADE ON OR BEFORE THE DUE DATE FOR FILING
3 A REPORT UNDER SECTION TWO HUNDRED ELEVEN FOR THE TAXPAYER'S FIRST TAXA-
4 BLE YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND
5 PROVIDED THAT SUCH ELECTION SHALL NOT APPLY TO ANY TAXABLE YEAR WITH
6 RESPECT TO WHICH THE TAXPAYER IS INCLUDED ON A COMBINED REPORT UNLESS
7 EACH OF THE TAXPAYERS INCLUDED ON SUCH REPORT HAS MADE SUCH AN ELECTION
8 WHICH REMAINS IN EFFECT FOR SUCH YEAR;

9 (b) ascertaining the percentage [which the receipts of the taxpayer,
10 computed on the cash or accrual basis according to the method of
11 accounting used in the computation of its entire net income, arising
12 during such period from:

13 (1) sales of its tangible personal property where shipments are made
14 to points within the metropolitan commuter transportation district,

15 (2) services performed within the metropolitan commuter transportation
16 district, provided, however, that (i) in the case of a taxpayer engaged
17 in the business of publishing newspapers or periodicals, receipts aris-
18 ing from sales of advertising contained in such newspapers and period-
19 icals shall be deemed to arise from services performed within the metro-
20 politan commuter transportation district to the extent that such
21 newspapers and periodicals are delivered to points within the metropol-
22 itan commuter transportation district, (ii) receipts from an investment
23 company from the sale of management, administration or distribution
24 services to such investment company shall be deemed to arise from
25 services performed within the metropolitan commuter transportation
26 district to the extent set forth in subparagraph six of paragraph (a) of
27 subdivision three of section two hundred ten of this chapter (except
28 that references in such subparagraph six to the state shall be deemed,
29 for purposes of application to this clause, to be references to the
30 metropolitan commuter transportation district), (iii) in the case of
31 taxpayers principally engaged in the activity of air freight forwarding
32 acting as principal and like indirect air carriage receipts arising from
33 such activity shall arise from services performed within the metropol-
34 itan commuter transportation district as follows: one hundred percent of
35 such receipts if both the pickup and delivery associated with such
36 receipts are made in the metropolitan commuter transportation district
37 and fifty percent of such receipts if either the pickup or delivery
38 associated with such receipts is made in the metropolitan commuter
39 transportation district, and (iv) in the case of a taxpayer which is a
40 registered securities or commodities broker or dealer, the receipts
41 specified in subparagraph nine of paragraph (a) of subdivision three of
42 section two hundred ten of this article shall be deemed to arise from
43 services performed within the metropolitan commuter transportation
44 district to the extent set forth in such subparagraph nine (except that
45 references in such subparagraph nine to the state shall be deemed, for
46 purposes of the application of this clause, to be references to the
47 metropolitan commuter transportation district),

48 (3) rentals from property situated and royalties from the use of
49 patents or copyrights within the metropolitan commuter transportation
50 district, and receipts from the sales of rights for closed-circuit and
51 cable television transmissions of an event (other than events occurring
52 on a regularly scheduled basis) taking place within the metropolitan
53 commuter transportation district as a result of the rendition of
54 services by employees of the corporation, as athletes, entertainers or
55 performing artists, but only to the extent that such receipts are

1 attributable to such transmissions received or exhibited within the
2 metropolitan commuter transportation district, and

3 (4) all other business receipts earned within the metropolitan commu-
4 ter transportation district, bear to the total amount of the taxpayer's
5 receipts, similarly computed, arising during such period from all sales
6 of its tangible personal property, services, rentals, royalties,
7 receipts from the sales of rights for closed-circuit and cable tele-
8 vision transmissions and all other business transactions, within the
9 state;] OF THE TAXPAYER'S RECEIPTS WITHIN THE METROPOLITAN COMMUTER
10 TRANSPORTATION DISTRICT PURSUANT TO THE METHOD PRESCRIBED IN SECTION TWO
11 HUNDRED TEN-A OF THIS ARTICLE, EXCEPT THAT

12 (I) THE NUMERATOR OF THE APPORTIONMENT FRACTION UNDER SUCH SECTION TWO
13 HUNDRED TEN-A SHALL BE THE DENOMINATOR OF THE APPORTIONMENT FRACTION
14 UNDER THIS PARAGRAPH,

15 (II) THE NUMERATOR OF THE APPORTIONMENT FRACTION UNDER THIS PARAGRAPH
16 SHALL BE DETERMINED BY APPLYING THE RULES IN SUCH SECTION TWO HUNDRED
17 TEN-A RELATING TO THE NUMERATOR OF THE APPORTIONMENT FRACTION AS IF
18 THOSE RULES REFERENCED THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT
19 RATHER THAN THIS STATE,

20 (III) TO THE EXTENT THAT A PROVISION IN SUCH SECTION TWO HUNDRED TEN-A
21 PROVIDES THAT EIGHT PERCENT OF THE RECEIPTS SPECIFIED IN THAT PROVISION
22 SHOULD BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION, NINE-
23 TY PERCENT OF SUCH EIGHT PERCENT AMOUNT SHALL BE CONSIDERED WITHIN THE
24 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT AND ONE HUNDRED PERCENT OF
25 SUCH EIGHT PERCENT AMOUNT SHALL BE CONSIDERED TO BE WITHIN THE STATE,
26 AND

27 (IV) TO THE EXTENT THAT A PROVISION IN SUCH SECTION TWO HUNDRED TEN-A
28 OF THIS ARTICLE PROVIDES THAT THE RECEIPTS SPECIFIED IN THAT PROVISION
29 SHALL NOT BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION
30 UNDER SUCH SECTION TWO HUNDRED TEN-A, SUCH RECEIPTS SHALL NOT BE
31 INCLUDED IN DETERMINING THE PORTION OF THE TAXPAYER'S BUSINESS ACTIVITY
32 CARRIED ON WITHIN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT;

33 (c) ascertaining the percentage of the total wages, salaries and other
34 personal service compensation, similarly computed, during such period,
35 of employees within the metropolitan commuter transportation district,
36 except general executive officers, to the total wages, salaries and
37 other personal service compensation, similarly computed, during such
38 period, of all the taxpayer's employees within the state, except general
39 executive officers; and

40 (d) adding together the percentages so determined and dividing the
41 result by the number of percentages.

42 S 9. Intentionally omitted.

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

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

49 3. A corporation shall not be deemed to be doing business, employing
50 capital, owning or leasing property, or maintaining an office, OR DERIV-
51 ING RECEIPTS FROM ACTIVITY in the metropolitan commuter transportation
52 district, for the purposes of this section, by reason of (a) the mainte-
53 nance of cash balances with banks or trust companies in the metropolitan
54 commuter transportation district, or (b) the ownership of shares of
55 stock or securities kept in the metropolitan commuter transportation
56 district, if kept in a safe deposit box, safe, vault or other receptacle

1 rented for the purpose, or if pledged as collateral security, or if
2 deposited with one or more banks or trust companies, or brokers who are
3 members of a recognized security exchange, in safekeeping or custody
4 accounts, or (c) the taking of any action by any such bank or trust
5 company or broker, which is incidental to the rendering of safekeeping
6 or custodian service to such corporation, or (d) the maintenance of an
7 office in the metropolitan commuter transportation district by one or
8 more officers or directors of the corporation who are not employees of
9 the corporation if the corporation otherwise is not doing business in
10 the metropolitan commuter transportation district, and does not employ
11 capital or own or lease property in the metropolitan commuter transpor-
12 tation district, or (e) the keeping of books or records of a corporation
13 in the metropolitan commuter transportation district if such books or
14 records are not kept by employees of such corporation and such corpo-
15 ration does not otherwise do business, employ capital, own or lease
16 property or maintain an office in the metropolitan commuter transporta-
17 tion district, or (f) any combination of the foregoing activities.

18 5. The provisions concerning reports under [section] SECTIONS TWO
19 HUNDRED TEN-C AND two hundred eleven shall be applicable to this
20 section, except that for purposes of an automatic extension for six
21 months for filing a report covering the tax surcharge imposed by this
22 section, such automatic extension shall be allowed only if a taxpayer
23 files with the commissioner an application for extension in such form as
24 said commissioner may prescribe by regulation and pays on or before the
25 date of such filing in addition to any other amounts required under this
26 article, either ninety percent of the entire tax surcharge required to
27 be paid under this section for the applicable period, or not less than
28 the tax surcharge shown on the taxpayer's return for the preceding taxa-
29 ble year, if such preceding taxable year was a taxable year of twelve
30 months; provided, however, that in no event shall such amount be less
31 than the product of the following three amounts: (1) the tax surcharge
32 rate in effect for the taxable year pursuant to subdivision one of this
33 section, (2) the fixed dollar minimum applicable to such taxpayer as
34 determined under paragraph (d) of subdivision one of section two hundred
35 ten of this chapter for the taxable year, and (3) the percentage deter-
36 mined under subdivision two of this section for the preceding taxable
37 year, unless the taxpayer was not subject to the tax surcharge imposed
38 pursuant to this section with respect to such year, in which case such
39 percentage shall be deemed to be one hundred percent. The tax surcharge
40 imposed by this section shall be payable to the commissioner in full at
41 the time the report is required to be filed, and such tax surcharge or
42 the balance thereof, imposed on any taxpayer which ceases to exercise
43 its franchise or be subject to the tax surcharge imposed by this section
44 shall be payable to the commissioner at the time the report is required
45 to be filed, provided such tax surcharge of a domestic corporation which
46 continues to possess its franchise shall be subject to adjustment as the
47 circumstances may require; all other tax surcharges of any such taxpay-
48 er, which pursuant to the foregoing provisions of this section would
49 otherwise be payable subsequent to the time such report is required to
50 be filed, shall nevertheless be payable at such time. All of the
51 provisions of this article presently applicable are applicable to the
52 tax surcharge imposed by this section.

53 S 12. Subdivision 1 of section 210 of the tax law, as added by chapter
54 817 of the laws of 1987, the opening paragraph as amended by section 1
55 of part D and paragraph (g) as amended by section 2 of part A of chapter
56 63 of the laws of 2000, paragraph (a) as amended by section 2 of part N

1 of chapter 60 of the laws of 2007, subparagraph 2 of paragraph (b) as
2 amended by section 1 of part GG-1 of chapter 57 of the laws of 2008,
3 subparagraph 3 of paragraph (b) as added by section 2 of part Z of chap-
4 ter 59 of the laws of 2013, subparagraph (ii) of paragraph (c) as
5 amended by section 2 of part C and subparagraph 5 of paragraph (d) as
6 added by section 3 of part C of chapter 56 of the laws of 2011, subpara-
7 graph (vi) of paragraph (a) as amended by section 1 of part C of chapter
8 56 of the laws of 2011, subparagraph (vii) as added by section 1 of part
9 Z of chapter 59 of the laws of 2013, subparagraph (iii) of paragraph (c)
10 as added by section 3 of part Z of chapter 59 of the laws of 2013,
11 subparagraph 6 of paragraph (d) as added by section 4 of part Z of chap-
12 ter 59 of the laws of 2013, paragraph (b) as amended by section 1 of
13 part GG1, subparagraph 3 of paragraph (d) as amended by section 3 of
14 part AA1, subparagraph 4 of paragraph (d) as added by section 2 of part
15 AA1 and subparagraph 1 of paragraph (g) as amended by section 4 of part
16 AA1 of chapter 57 of the laws of 2008, paragraph (c) as amended by
17 section 10 of part A and subparagraph 1 of paragraph (d) as amended by
18 section 12 of part A of chapter 56 of the laws of 1998, paragraph (d) as
19 amended by chapter 760 of the laws of 1992, paragraph (e) as amended by
20 section 1 of part P of chapter 407 of the laws of 1999, and paragraph
21 (f) as amended by section 2 of part E of chapter 61 of the laws of 2005,
22 is amended to read as follows:

23 1. The tax imposed by subdivision one of section two hundred nine of
24 this chapter shall be: (A) in the case of each taxpayer other than a New
25 York S corporation or a qualified homeowners association, the [sum of
26 (1) the] highest of the amounts prescribed in paragraphs (a), (b), [(c)]
27 and (d) of this subdivision [and (2) the amount prescribed in paragraph
28 (e) of this subdivision], (B) in the case of each New York S corpo-
29 ration, the amount prescribed in paragraph [(g)] (D) of this subdivi-
30 sion, and (C) in the case of a qualified homeowners association, the
31 [sum of (1) the] highest of the amounts prescribed in paragraphs (a)[,]
32 AND (b) [and (c)] of this subdivision [and (2) the amount prescribed in
33 paragraph (e) of this subdivision]. For purposes of this paragraph, the
34 term "qualified homeowners association" means a homeowners association,
35 as such term is defined in subsection (c) of section five hundred twen-
36 ty-eight of the internal revenue code without regard to subparagraph (E)
37 of paragraph one of such subsection (relating to elections to be taxed
38 pursuant to such section), which has no homeowners association taxable
39 income, as such term is defined in subsection (d) of such section.
40 Provided, however, that in the case of a small business taxpayer (other
41 than a New York S corporation) as defined in paragraph (f) of this
42 subdivision, FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOU-
43 SAND SIXTEEN, if the amount prescribed in such paragraph (b) is higher
44 than the amount prescribed in such paragraph (a) solely by reason of the
45 application of the rate applicable to small business taxpayers, then
46 with respect to such taxpayer the tax referred to in the previous
47 sentence shall be [the sum of (1) the highest] HIGHER of the amounts
48 prescribed in paragraphs (a)[, (c)] and (d) of this subdivision [and (2)
49 the amount prescribed in paragraph (e) of this subdivision].

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

1 income base. For taxable years beginning after June thirtieth, two thou-
2 sand and before July first, two thousand one, the amount prescribed by
3 this paragraph shall be computed at the rate of eight percent of the
4 taxpayer's entire net income base. For taxable years beginning after
5 June thirtieth, two thousand one and before January first, two thousand
6 seven, the amount prescribed by this paragraph shall be computed at the
7 rate of seven and one-half percent of the taxpayer's entire net income
8 base.] For taxable years beginning [on or after] BEFORE January first,
9 two thousand [seven] SIXTEEN, the amount prescribed by this paragraph
10 shall be computed at the rate of seven and one-tenth percent of the
11 taxpayer's [entire net] BUSINESS income base. FOR TAXABLE YEARS BEGIN-
12 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, THE AMOUNT
13 PRESCRIBED BY THIS PARAGRAPH SHALL BE SIX AND ONE-HALF PERCENT OF THE
14 TAXPAYER'S BUSINESS INCOME BASE. The taxpayer's [entire net] BUSINESS
15 income base shall mean the portion of the taxpayer's [entire net] BUSI-
16 NESS income allocated within the state as hereinafter provided[, subject
17 to any modification required by paragraphs (d) and (e) of subdivision
18 three of this section]. However, in the case of a small business taxpay-
19 er, as defined in paragraph (f) of this subdivision, the amount
20 prescribed by this paragraph shall be computed pursuant to subparagraph
21 (iv) of this paragraph and in the case of a manufacturer, as defined in
22 subparagraph (vi) of this paragraph, the amount prescribed by this para-
23 graph shall be computed pursuant to subparagraph (vi) of this paragraph.
24 [(i) if the entire net income base is not more than two hundred thou-
25 sand dollars, (1) for taxable years beginning before July first, nine-
26 teen hundred ninety-nine, the amount shall be eight percent of the
27 entire net income base; (2) for taxable years beginning after June thir-
28 tieth, nineteen hundred ninety-nine and before July first, two thousand
29 three, the amount shall be seven and one-half percent of the entire net
30 income base; and (3) for taxable years beginning after June thirtieth,
31 two thousand three and before January first, two thousand five, the
32 amount shall be 6.85 percent of the entire net income base;
33 (ii) if the entire net income base is more than two hundred thousand
34 dollars but not over two hundred ninety thousand dollars, (1) for taxa-
35 ble years beginning before July first, nineteen hundred ninety-nine, the
36 amount shall be the sum of (a) sixteen thousand dollars, (b) nine
37 percent of the excess of the entire net income base over two hundred
38 thousand dollars and (c) five percent of the excess of the entire net
39 income base over two hundred fifty thousand dollars; (2) for taxable
40 years beginning after June thirtieth, nineteen hundred ninety-nine and
41 before July first, two thousand, the amount shall be the sum of (a)
42 fifteen thousand dollars, (b) eight and one-half percent of the excess
43 of the entire net income base over two hundred thousand dollars and (c)
44 five percent of the excess of the entire net income base over two
45 hundred fifty thousand dollars; (3) for taxable years beginning after
46 June thirtieth, two thousand and before July first, two thousand one,
47 the amount shall be the sum of (a) fifteen thousand dollars, (b) eight
48 percent of the excess of the entire net income base over two hundred
49 thousand dollars and (c) two and one-half percent of the excess of the
50 entire net income base over two hundred fifty thousand dollars; (4) for
51 taxable years beginning after June thirtieth, two thousand one and
52 before July first, two thousand three, the amount shall be seven and
53 one-half percent of the entire net income base; and (5) for taxable
54 years beginning after June thirtieth, two thousand three and before
55 January first, two thousand five, the amount shall be the sum of (a)
56 thirteen thousand seven hundred dollars, (b) 7.5 percent of the excess

1 of the entire net income base over two hundred thousand dollars and (c)
2 3.25 percent of the excess of the entire net income base over two
3 hundred fifty thousand dollars;

4 (iii) for taxable years beginning on or after January first, two thou-
5 sand five and ending before January first, two thousand seven, if the
6 entire net income base is not more than two hundred ninety thousand
7 dollars the amount shall be six and one-half percent of the entire net
8 income base; if the entire net income base is more than two hundred
9 ninety thousand dollars but not over three hundred ninety thousand
10 dollars the amount shall be the sum of (1) eighteen thousand eight
11 hundred fifty dollars, (2) seven and one-half percent of the excess of
12 the entire net income base over two hundred ninety thousand dollars but
13 not over three hundred ninety thousand dollars and (3) seven and one-
14 quarter percent of the excess of the entire net income base over three
15 hundred fifty thousand dollars but not over three hundred ninety thou-
16 sand dollars;

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

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

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

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

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

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

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

44 (vi) for taxable years beginning on or after January [thirty-first]
45 FIRST, two thousand [seven] FOURTEEN, the amount prescribed by this
46 paragraph for a taxpayer which is a qualified New York manufacturer,
47 shall be computed at the rate of [six and one-half (6.5)] ZERO percent
48 of the taxpayer's [entire net] BUSINESS income base. [For taxable years
49 beginning on or after January first, two thousand twelve and before
50 January first, two thousand fifteen, the amount prescribed by this para-
51 graph for a taxpayer which is an eligible qualified New York manufactur-
52 er shall be computed at the rate of three and one-quarter (3.25) percent
53 of the taxpayer's entire net income base.] The term "manufacturer" shall
54 mean a taxpayer which during the taxable year is principally engaged in
55 the production of goods by manufacturing, processing, assembling, refin-
56 ing, mining, extracting, farming, agriculture, horticulture, floricult-

1 ture, viticulture or commercial fishing. However, the generation and
2 distribution of electricity, the distribution of natural gas, and the
3 production of steam associated with the generation of electricity shall
4 not be qualifying activities for a manufacturer under this subparagraph.
5 Moreover, the combined group shall be considered a "manufacturer" for
6 purposes of this subparagraph only if the combined group during the
7 taxable year is principally engaged in the activities set forth in this
8 paragraph, or any combination thereof. A taxpayer or a combined group
9 shall be "principally engaged" in activities described above if, during
10 the taxable year, more than fifty percent of the gross receipts of the
11 taxpayer or combined group, respectively, are derived from receipts from
12 the sale of goods produced by such activities. In computing a combined
13 group's gross receipts, intercorporate receipts shall be eliminated. A
14 "qualified New York manufacturer" is a manufacturer which has property
15 in New York which is described in [clause (A) of subparagraph (i) of
16 paragraph (b) of] subdivision [twelve of this section] ONE OF SECTION
17 TWO HUNDRED TEN-B OF THIS ARTICLE and either (I) the adjusted basis of
18 such property for federal income tax purposes at the close of the taxa-
19 ble year is at least one million dollars or (II) all of its real and
20 personal property is located in New York. [In addition, a "qualified New
21 York manufacturer" means a taxpayer which is defined as a qualified
22 emerging technology company under paragraph (c) of subdivision one of
23 section thirty-one hundred two-e of the public authorities law regard-
24 less of the ten million dollar limitation expressed in subparagraph one
25 of such paragraph (c). The commissioner shall establish guidelines and
26 criteria that specify requirements by which a manufacturer may be clas-
27 sified as an eligible qualified New York manufacturer. Criteria may
28 include but not be limited to factors such as regional unemployment, the
29 economic impact that manufacturing has on the surrounding community,
30 population decline within the region and median income within the region
31 in which the manufacturer is located. In establishing these guidelines
32 and criteria, the commissioner shall endeavor that the total annual cost
33 of the lower rates shall not exceed twenty-five million dollars.] A
34 TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT
35 DOES NOT SATISFY THE PRINCIPALLY ENGAGED TEST MAY BE A QUALIFIED NEW
36 YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING
37 THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANU-
38 FACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPER-
39 TY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR
40 FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST
41 ONE HUNDRED MILLION DOLLARS.

42 (vii) For a TAXPAYER THAT IS DEFINED AS A qualified [New York manufac-
43 turer, as defined in subparagraph (vi) of this paragraph,] EMERGING
44 TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION
45 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE
46 TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH
47 PARAGRAPH (C) the rate at which the tax is computed in effect for taxa-
48 ble years beginning on or after January first, two thousand thirteen and
49 before January first, two thousand fourteen for SUCH qualified [New York
50 manufacturers] EMERGING TECHNOLOGY COMPANIES shall be reduced by nine
51 and two-tenths percent for taxable years commencing on or after January
52 first, two thousand fourteen and before January first, two thousand
53 fifteen, twelve and three-tenths percent for taxable years commencing on
54 or after January first, two thousand fifteen and before January first,
55 two thousand sixteen, fifteen and four-tenths percent for taxable years
56 commencing on or after January first, two thousand sixteen and before

1 January first, two thousand eighteen, and twenty-five percent for taxa-
2 ble years beginning on or after January first, two thousand eighteen.

3 (VIII) (A) IN COMPUTING THE BUSINESS INCOME BASE, TAXPAYERS SHALL BE
4 ALLOWED BOTH A PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION UNDER
5 THIS SUBPARAGRAPH AND A NET OPERATING LOSS DEDUCTION UNDER SUBPARAGRAPH
6 (IX) OF THIS PARAGRAPH. THE PRIOR NET OPERATING LOSS CONVERSION
7 SUBTRACTION COMPUTED UNDER THIS SUBPARAGRAPH SHALL BE APPLIED AGAINST
8 THE BUSINESS INCOME BASE BEFORE THE NET OPERATING LOSS DEDUCTION
9 COMPUTED UNDER SUBPARAGRAPH (IX) OF THIS PARAGRAPH.

10 (B) PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION.

11 (1) DEFINITIONS.

12 (I) "BASE YEAR" MEANS THE LAST TAXABLE YEAR BEGINNING ON OR AFTER
13 JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOU-
14 SAND FIFTEEN.

15 (II) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF
16 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION NINE
17 OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE OR SUBSECTION (K-1) OF
18 SECTION FOURTEEN HUNDRED FIFTY-THREE OF THIS CHAPTER AS SUCH SECTIONS
19 WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS
20 NOT DEDUCTIBLE IN PREVIOUS TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER
21 ON THE LAST DAY OF THE BASE YEAR SUBJECT TO THE LIMITATIONS FOR
22 DEDUCTION UNDER SUCH SECTIONS, INCLUDING ANY NET OPERATING LOSS
23 SUSTAINED BY THE TAXPAYER DURING THE BASE YEAR.

24 (III) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION
25 PERCENTAGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF
26 THIS SECTION FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION PERCENTAGE
27 AS CALCULATED UNDER SECTION FOURTEEN HUNDRED FIFTY-FOUR OF THIS CHAPTER
28 FOR PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH
29 SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

30 (IV) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE
31 YEAR AS CALCULATED UNDER THIS PARAGRAPH OR SUBSECTION (A) OF SECTION
32 FOURTEEN HUNDRED FIFTY-FIVE OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN
33 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

34 (2) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE
35 CALCULATED AS FOLLOWS:

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

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

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

54 (IV) IN LIEU OF THE SUBTRACTION DESCRIBED IN ITEM (III) OF THIS
55 SUBCLAUSE, IF THE TAXPAYER SO ELECTS, THE TAXPAYER'S PRIOR NET OPERATING
56 LOSS CONVERSION SUBTRACTION FOR THE TAX YEARS BEGINNING ON OR AFTER

1 JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOU-
2 SAND SEVENTEEN SHALL EQUAL IN EACH YEAR, NOT MORE THAN ONE-HALF OF ITS
3 NET OPERATING LOSS CONVERSION SUBTRACTION POOL. THE TAXPAYER SHALL MAKE
4 SUCH ELECTION ON ITS RETURN FOR THE TAX YEAR BEGINNING ON OR AFTER JANU-
5 ARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND
6 SIXTEEN BY THE DUE DATE FOR SUCH RETURN (DETERMINED WITH REGARD TO
7 EXTENSIONS).

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

19 (II) IF A COMBINED GROUP INCLUDES ADDITIONAL MEMBERS IN THE TAXABLE
20 YEAR IMMEDIATELY SUCCEEDING THE BASE YEAR THAT WERE NOT INCLUDED IN THE
21 COMBINED GROUP DURING THE BASE YEAR, EACH BASE YEAR COMBINED GROUP AND
22 EACH TAXPAYER THAT FILED SEPARATELY IN THE BASE YEAR BUT IS INCLUDED IN
23 THE COMBINED GROUP IN THE TAXABLE YEAR SUCCEEDING THE BASE YEAR SHALL
24 CALCULATE ITS PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL, AND
25 THE SUM OF THE POOLS SHALL BE THE COMBINED PRIOR NET OPERATING LOSS
26 CONVERSION SUBTRACTION POOL OF THE COMBINED GROUP.

27 (III) IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE
28 BASE YEAR AND FILES A SEPARATE REPORT IN A SUBSEQUENT TAXABLE YEAR, THEN
29 THE AMOUNT OF REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
30 ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE PROPOR-
31 TIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR NET
32 OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND THE
33 REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE
34 REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDINGLY.

35 (IV) IF A TAXPAYER FILED A SEPARATE REPORT FOR THE BASE YEAR AND IS
36 PROPERLY INCLUDED IN A COMBINED REPORT IN A SUBSEQUENT TAXABLE YEAR,
37 THEN THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL OF THE
38 COMBINED GROUP SHALL BE INCREASED BY THE AMOUNT OF THE REMAINING NET
39 OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER AT THE
40 TIME THE TAXPAYER IS PROPERLY INCLUDED IN THE COMBINED GROUP.

41 (4) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO
42 REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF
43 THE TAX ON THE CAPITAL BASE UNDER PARAGRAPH (B) OF THIS SUBDIVISION OR
44 THE FIXED DOLLAR MINIMUM UNDER PARAGRAPH (D) OF THIS SUBDIVISION. ANY
45 AMOUNT OF UNUSED SUBTRACTION SHALL BE CARRIED FORWARD TO SUBSEQUENT TAX
46 YEAR OR YEARS UNTIL TAX YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
47 THOUSAND THIRTY-SIX. SUCH AMOUNT CARRIED FORWARD SHALL NOT BE SUBJECT
48 TO THE ONE-TENTH LIMITATION FOR THE SUBSEQUENT TAX YEAR OR YEARS. HOWEV-
49 ER, IF THE TAXPAYER ELECTS TO COMPUTE ITS PRIOR NET OPERATING LOSS
50 CONVERSION SUBTRACTION PURSUANT TO ITEM (IV) OF SUBCLAUSE TWO OF THIS
51 CLAUSE, THE TAXPAYER SHALL NOT CARRY FORWARD ANY AMOUNT OF SUCH
52 SUBTRACTION BEYOND ITS TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO
53 THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN.

54 (IX) NET OPERATING LOSS DEDUCTION. IN COMPUTING THE BUSINESS INCOME
55 BASE, A NET OPERATING LOSS DEDUCTION SHALL BE ALLOWED. A NET OPERATING
56 LOSS DEDUCTION IS THE AMOUNT OF NET OPERATING LOSS OR LOSSES FROM ONE OR

1 MORE TAXABLE YEARS THAT ARE CARRIED FORWARD TO A PARTICULAR INCOME YEAR.
2 A NET OPERATING LOSS IS THE AMOUNT OF A BUSINESS LOSS INCURRED IN A
3 PARTICULAR TAX YEAR MULTIPLIED BY THE APPORTIONMENT FACTOR FOR THAT YEAR
4 AS DETERMINED UNDER SECTION TWO HUNDRED TEN-A OF THIS ARTICLE. THE MAXI-
5 MUM NET OPERATING DEDUCTION THAT IS ALLOWED IN A TAXABLE YEAR IS THE
6 AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO
7 THE HIGHER OF THE TAX ON THE CAPITAL BASE OR THE FIXED DOLLAR MINIMUM.
8 SUCH DEDUCTION AND LOSS ARE DETERMINED IN ACCORDANCE WITH THE FOLLOWING:

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

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

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

22 (4) A NET OPERATING LOSS MAY BE CARRIED FORWARD TO EACH OF THE TWENTY
23 TAXABLE YEARS FOLLOWING THE TAXABLE YEAR OF THE LOSS. A NET OPERATING
24 LOSS MAY BE CARRIED BACK TO EACH OF THE THREE TAXABLE YEARS PRECEDING
25 THE TAXABLE YEAR OF THE LOSS; PROVIDED, HOWEVER NO LOSS CAN BE CARRIED
26 BACK TO A TAX YEAR PRIOR TO A TAX YEAR BEGINNING ON OR AFTER JANUARY,
27 FIRST, TWO THOUSAND FIFTEEN. A TAXPAYER MUST APPLY BOTH OF THESE LIMITA-
28 TIONS IN COMPUTING SUCH NET OPERATING LOSS DEDUCTION.

29 (5) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-
30 ATING LOSS INCURRED DURING A NEW YORK S YEAR; PROVIDED, HOWEVER, A NEW
31 YORK S YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMIN-
32 ING THE NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS MAY BE
33 CARRIED FORWARD.

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

38 (b) Capital base. (1) The [amount prescribed by this paragraph for
39 taxable years beginning before January first, two thousand eight shall
40 be computed at .178 percent for each dollar of the taxpayer's total
41 business and investment capital, or the portion thereof allocated within
42 the state as hereinafter provided. For taxable years beginning on or
43 after January first, two thousand eight, the] amount prescribed by this
44 paragraph shall be computed at .15 percent for each dollar of the
45 taxpayer's total business [and investment] capital, or the portion ther-
46 eof allocated within the state as hereinafter provided FOR TAXABLE YEARS
47 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN. However, in the
48 case of a cooperative housing corporation as defined in the internal
49 revenue code, the applicable rate shall be .04 percent UNTIL TAXABLE
50 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY. THE
51 RATE OF TAX FOR SUBSEQUENT TAX YEARS SHALL BE AS FOLLOWS: .125 PERCENT
52 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
53 SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN; .100 PERCENT
54 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
55 SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN; .075 PERCENT
56 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND

1 EIGHTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN; .050 PERCENT
2 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
3 NINETEEN AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY; .025 PERCENT FOR
4 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY
5 AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY-ONE; AND ZERO PERCENT FOR
6 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWENTY-ONE. THE
7 RATE OF TAX FOR A QUALIFIED NEW YORK MANUFACTURER FOR TAX YEARS SUBSE-
8 QUENT TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
9 FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN SHALL BE .106
10 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
11 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, .085
12 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
13 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN; .056
14 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
15 SAND EIGHTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND NINETEEN; .038
16 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
17 SAND NINETEEN AND BEFORE JANUARY FIRST, THOUSAND TWENTY; .019 PERCENT
18 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
19 TWENTY AND BEFORE JANUARY FIRST, TWO THOUSAND TWENTY-ONE; AND ZERO
20 PERCENT FOR YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
21 TWENTY-ONE. In no event shall the amount prescribed by this paragraph
22 exceed three hundred fifty thousand dollars for qualified New York
23 manufacturers and for all other taxpayers [ten] FIVE million dollars
24 [for taxable years beginning on or after January first, two thousand
25 eight but before January first, two thousand eleven and one million
26 dollars for taxable years beginning on or after January first, two thou-
27 sand eleven].

28 (2) For purposes of subparagraph one of this paragraph, the term
29 "manufacturer" shall mean a taxpayer which during the taxable year is
30 principally engaged in the production of goods by manufacturing, proc-
31 essing, assembling, refining, mining, extracting, farming, agriculture,
32 horticulture, floriculture, viticulture or commercial fishing. Moreover,
33 for purposes of computing the capital base in a combined report, the
34 combined group shall be considered a "manufacturer" for purposes of this
35 subparagraph only if the combined group during the taxable year is prin-
36 cipally engaged in the activities set forth in this subparagraph, or any
37 combination thereof. A taxpayer or a combined group shall be "principal-
38 ly engaged" in activities described above if, during the taxable year,
39 more than fifty percent of the gross receipts of the taxpayer or
40 combined group, respectively, are derived from receipts from the sale of
41 goods produced by such activities. In computing a combined group's gross
42 receipts, intercorporate receipts shall be eliminated. A "qualified New
43 York manufacturer" is a manufacturer that has property in New York that
44 is described in [clause (A) of subparagraph (i) of paragraph (b) of]
45 subdivision [twelve of this section] ONE OF SECTION 210-B OF THIS ARTI-
46 CLE and either (i) the adjusted basis of that property for federal
47 income tax purposes at the close of the taxable year is at least one
48 million dollars or (ii) all of its real and personal property is located
49 in New York. In addition, a "qualified New York manufacturer" means a
50 taxpayer that is defined as a qualified emerging technology company
51 under paragraph (c) of subdivision one of section thirty-one hundred
52 two-e of the public authorities law regardless of the ten million dollar
53 limitation expressed in subparagraph one of such paragraph. A TAXPAYER
54 OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT DOES NOT
55 SATISFY THE PRINCIPALLY ENGAGED TEST MAY BE A QUALIFIED NEW YORK
56 MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING THE

1 TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANUFACTUR-
2 ING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPERTY IN
3 THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR FEDERAL
4 INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST ONE
5 HUNDRED MILLION DOLLARS.

6 [(3) For a qualified New York manufacturer, as defined in subparagraph
7 two of this paragraph, the rate at which the tax is computed in effect
8 for taxable years beginning on or after January first, two thousand
9 thirteen and before January first, two thousand fourteen shall be
10 reduced by nine and two-tenths percent for taxable years commencing on
11 or after January first, two thousand fourteen and before January first,
12 two thousand fifteen, twelve and three-tenths percent for taxable years
13 commencing on or after January first, two thousand fifteen and before
14 January first, two thousand sixteen, fifteen and four-tenths percent for
15 taxable years commencing on or after January first, two thousand sixteen
16 and before January first, two thousand eighteen, and twenty-five percent
17 for taxable years beginning on or after January first, two thousand
18 eighteen.

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

31 (ii) (A) For taxable years beginning on or after January first, two
32 thousand seven, the amount prescribed by this paragraph shall be
33 computed at the rate of one and one-half percent of the taxpayer's mini-
34 mum taxable income base. The "taxpayer's minimum taxable income base"
35 shall mean the portion of the taxpayer's minimum taxable income allo-
36 cated within the state as hereinafter provided, subject to any modifica-
37 tions required by paragraphs (d) and (e) of subdivision three of this
38 section.

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

47 (iii) For a qualified New York manufacturer, as defined in subpara-
48 graph (vi) of paragraph (a) of this subdivision, the rate at which the
49 tax is computed in effect for taxable years beginning on or after Janu-
50 ary first, two thousand thirteen and before January first, two thousand
51 fourteen for qualified New York manufacturers shall be reduced by nine
52 and two-tenths percent for taxable years commencing on or after January
53 first, two thousand fourteen and before January first, two thousand
54 fifteen, twelve and three-tenths percent for taxable years commencing on
55 or after January first, two thousand fifteen and before January first,
56 two thousand sixteen, fifteen and four-tenths percent for taxable years

1 commencing on or after January first, two thousand sixteen and before
 2 January first, two thousand eighteen, and twenty-five percent for taxa-
 3 ble years beginning on or after January first, two thousand eighteen.]

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

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

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

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

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

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

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

23 (2) For purposes of this paragraph:

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

29 (B) total receipts shall be the same as receipts within and without
 30 this state as defined in subparagraph two of paragraph (a) of subdivi-
 31 sion three of this section.

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

34 (3) If the taxable year is less than twelve months, the amount
 35 prescribed by this paragraph shall be reduced by twenty-five percent if
 36 the period for which the taxpayer is subject to tax is more than six
 37 months but not more than nine months and by fifty percent if the period
 38 for which the taxpayer is subject to tax is not more than six months.
 39 Provided, however, that in determining the amount of gross payroll and
 40 total receipts for purposes of subparagraph one of this paragraph, where
 41 the taxable year is less than twelve months, the amount of each shall be
 42 determined by dividing the amount of each with respect to the taxable
 43 year by the number of months in such taxable year and multiplying the
 44 result by twelve. If the taxable year is less than twelve months, the
 45 amount of New York receipts for purposes of subparagraph four of this
 46 paragraph is determined by dividing the amount of the receipts for the
 47 taxable year by the number of months in the taxable year and multiplying
 48 the result by twelve.

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

53	If New York receipts are:	The fixed dollar minimum tax is:
54	not more than \$100,000	\$ 25
55	more than \$100,000 but not over \$250,000	\$ 50

1	more than \$250,000 but not over \$500,000	\$ 175
2	more than \$500,000 but not over \$1,000,000	\$ 300
3	more than \$1,000,000 but not over \$5,000,000	\$1,000
4	more than \$5,000,000 but not over \$25,000,000	\$3,000
5	Over \$25,000,000	\$4,500

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

8 PROVIDED FURTHER, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR A QUALI-
9 FIED NEW YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH
10 (A) OF THIS SUBDIVISION, AND A QUALIFIED EMERGING TECHNOLOGY COMPANY
11 UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED
12 TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE TEN MILLION DOLLAR
13 LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH PARAGRAPH (C) WILL BE
14 DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES:

15 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2014 AND BEFORE JANUARY
16 1, 2015:

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

25 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2015 AND BEFORE JANUARY
26 1, 2016:

27	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
28	NOT MORE THAN \$100,000	\$ 22
29	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 66
30	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 153
31	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 439
32	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,316
33	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,070
34	OVER \$25,000,000	\$4,385

35 FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2016 AND BEFORE JANUARY
36 1, 2018:

37	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
38	NOT MORE THAN \$100,000	\$ 21
39	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 63
40	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 148
41	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 423
42	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,269
43	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,961
44	OVER \$25,000,000	\$4,230

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

46	IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
47	NOT MORE THAN \$100,000	\$ 19
48	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 56

1	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 131
2	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 375
3	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,125
4	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,625
5	OVER \$25,000,000	\$3,750

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

8	If New York receipts are:	The fixed dollar minimum tax is:
9	not more than \$100,000	\$ 25
10	more than \$100,000 but not over \$250,000	\$ 75
11	more than \$250,000 but not over \$500,000	\$ 175
12	more than \$500,000 but not over \$1,000,000	\$ 500
13	more than \$1,000,000 but not over \$5,000,000	\$1,500
14	more than \$5,000,000 but not over \$25,000,000	\$3,500
15	[Over] MORE THAN \$25,000,000	
16	BUT NOT OVER \$50,000,000	\$5,000
17	MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
18	MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
19	MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
20	MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
21	OVER \$1,000,000,000	\$200,000

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

26 (2) IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW
27 YORK RECEIPTS IS DETERMINED BY DIVIDING THE AMOUNT OF THE RECEIPTS FOR
28 THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN THE TAXABLE YEAR AND MULTI-
29 PLYING THE RESULT BY TWELVE. IN THE CASE OF A TERMINATION YEAR OF A NEW
30 YORK S CORPORATION, THE SUM OF THE TAX COMPUTED UNDER THIS PARAGRAPH FOR
31 THE S SHORT YEAR AND FOR THE C SHORT YEAR SHALL NOT BE LESS THAN THE
32 AMOUNT COMPUTED UNDER THIS PARAGRAPH AS IF THE CORPORATION WERE A NEW
33 YORK C CORPORATION FOR THE ENTIRE TAXABLE YEAR.

34 [(5) For taxable years beginning on or after January first, two thou-
35 sand twelve and before January first, two thousand fifteen, the amounts
36 prescribed in subparagraphs one and four of this paragraph as the fixed
37 dollar minimum tax for an eligible qualified New York manufacturer shall
38 be one-half of the amounts stated in those subparagraphs. For purposes
39 of this subparagraph, the term "eligible qualified New York manufactur-
40 er" shall have the same meaning as in subparagraph (vi) of paragraph (a)
41 of this subdivision.

42 (6) For a qualified New York manufacturer, as defined in subparagraph
43 (vi) of paragraph (a) of this subdivision, the amounts prescribed in
44 subparagraphs one and four of this paragraph in effect for taxable years
45 beginning on or after January first, two thousand thirteen and before
46 January first, two thousand fourteen for qualified New York manufactur-
47 ers shall be reduced by nine and two-tenths percent for taxable years
48 commencing on or after January first, two thousand fourteen and before
49 January first, two thousand fifteen, twelve and three-tenths percent for
50 taxable years commencing on or after January first, two thousand fifteen
51 and before January first, two thousand sixteen, fifteen and four-tenths
52 percent for taxable years commencing on or after January first, two
53 thousand sixteen and before January first, two thousand eighteen, and

1 twenty-five percent for taxable years beginning on or after January
2 first, two thousand eighteen.

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

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

22 (f) For purposes of this section, the term "small business taxpayer"
23 shall mean a taxpayer (i) which has an entire net income of not more
24 than three hundred ninety thousand dollars for the taxable year; (ii)
25 [which constitutes a small business as defined in section 1244(c)(3) of
26 internal revenue code (without regard to the second sentence of subpara-
27 graph (A) thereof) as of the last day of the taxable year] THE AGGREGATE
28 AMOUNT OF MONEY AND OTHER PROPERTY RECEIVED BY THE CORPORATION FOR
29 STOCK, AS A CONTRIBUTION TO CAPITAL, AND AS PAID-IN SURPLUS, DOES NOT
30 EXCEED ONE MILLION DOLLARS; [and] (iii) which is not part of an affil-
31 iated group, as defined in section 1504 of the internal revenue code,
32 unless such group, if it had filed a report under this article on a
33 combined basis, would have itself qualified as a "small business taxpay-
34 er" pursuant to this subdivision; AND (IV) WHICH HAS AN AVERAGE NUMBER
35 OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS, EMPLOYED FULL-TIME
36 IN THE STATE DURING THE TAXABLE YEAR OF ONE HUNDRED OR FEWER. If the
37 taxable period to which subparagraph (i) of this paragraph applies is
38 less than twelve months, entire net income under such subparagraph shall
39 be placed on an annual basis by multiplying the entire net income by
40 twelve and dividing the result by the number of months in the period.
41 FOR PURPOSES OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT TAKEN
42 INTO ACCOUNT WITH RESPECT TO ANY PROPERTY OTHER THAN MONEY SHALL BE THE
43 AMOUNT EQUAL TO THE ADJUSTED BASIS TO THE CORPORATION OF SUCH PROPERTY
44 FOR DETERMINING GAIN, REDUCED BY ANY LIABILITY TO WHICH THE PROPERTY WAS
45 SUBJECT OR WHICH WAS ASSUMED BY THE CORPORATION. THE DETERMINATION UNDER
46 THE PRECEDING SENTENCE SHALL BE MADE AS OF THE TIME THE PROPERTY WAS
47 RECEIVED BY THE CORPORATION. FOR PURPOSES OF SUBPARAGRAPH (III) OF THIS
48 SECTION, "AVERAGE NUMBER OF INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE
49 OFFICERS, EMPLOYED FULL-TIME" SHALL BE COMPUTED BY ASCERTAINING THE
50 NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST
51 DAY OF MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER
52 AND THE THIRTY-FIRST DAY OF DECEMBER DURING EACH TAXABLE YEAR OR OTHER
53 APPLICABLE PERIOD, BY ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS
54 ASCERTAINED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY
55 THE NUMBER OF SUCH DATES OCCURRING WITHIN SUCH TAXABLE YEAR OR OTHER
56 APPLICABLE PERIOD. AN INDIVIDUAL EMPLOYED FULL-TIME MEANS AN EMPLOYEE IN

1 A JOB CONSISTING OF AT LEAST THIRTY-FIVE HOURS PER WEEK, OR TWO OR MORE
2 EMPLOYEES WHO ARE IN JOBS THAT TOGETHER CONSTITUTE THE EQUIVALENT OF A
3 JOB AT LEAST THIRTY-FIVE HOURS PER WEEK (FULL-TIME EQUIVALENT).
4 FULL-TIME EQUIVALENT EMPLOYEES IN THE STATE INCLUDES ALL EMPLOYEES REGU-
5 LARLY CONNECTED WITH OR WORKING OUT OF AN OFFICE OR PLACE OF BUSINESS OF
6 THE TAXPAYER WITHIN THE STATE.

7 [(g) New York S corporations. (1) General. The amount prescribed by
8 this paragraph shall be, in the case of each New York S corporation, (i)
9 the higher of the amounts prescribed in paragraphs (a) and (d) of this
10 subdivision (other than the amount prescribed in the final clause of
11 subparagraph one of that paragraph (d)) (ii) reduced by the article
12 twenty-two tax equivalent; provided, however, that the amount thus
13 determined shall not be less than the lowest of the amounts prescribed
14 in subparagraph one of that paragraph (d) (applying the provisions of
15 subparagraph three of that paragraph as necessary). Provided, however,
16 notwithstanding any provision of this paragraph, in taxable years begin-
17 ning in two thousand three and before two thousand eight, the amount
18 prescribed by this paragraph shall be the amount prescribed in subpara-
19 graph one of that paragraph (d) (applying the provisions of subparagraph
20 three of that paragraph as necessary) and applying the calculation of
21 that amount in the case of a termination year as set forth in subpara-
22 graph four of this paragraph as necessary. In taxable years beginning in
23 two thousand eight and thereafter, the amount prescribed by this para-
24 graph is the amount prescribed in subparagraph four of that paragraph
25 (d) (applying the provisions of subparagraph three of that paragraph as
26 necessary) and applying the calculation of that amount in the case of a
27 termination year as set forth in subparagraph four of this paragraph as
28 necessary.

29 (2) Article twenty-two tax equivalent. For taxable years beginning
30 before July first, nineteen hundred ninety-nine, the article twenty-two
31 tax equivalent is the amount computed under paragraph (a) of this subdivi-
32 sion by substituting for the rate therein the rate of 7.875 percent.
33 For taxable years beginning after June thirtieth, nineteen hundred nine-
34 ty-nine and before July first, two thousand, the article twenty-two tax
35 equivalent is the amount computed under paragraph (a) of this subdivi-
36 sion by substituting for the rate therein the rate of 7.525 percent. For
37 taxable years beginning after June thirtieth, two thousand and before
38 July first, two thousand one, the article twenty-two tax equivalent is
39 the amount computed under paragraph (a) of this subdivision by substi-
40 tuting for the rate therein the rate of 7.175 percent. For taxable years
41 beginning after June thirtieth, two thousand one and before July first,
42 two thousand three, the article twenty-two tax equivalent is the amount
43 computed under paragraph (a) of this subdivision by substituting for the
44 rate therein the rate of 6.85 percent. For taxable years beginning after
45 June thirtieth, two thousand three, the article twenty-two tax equiv-
46 alent is the amount computed under paragraph (a) of this subdivision by
47 substituting for the rate therein the rate of 7.1425 percent.

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

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

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

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

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

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

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

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

38 (4) Termination year. In the case of a termination year, the tax for
39 the S short year shall be computed under this paragraph without regard
40 to the fixed dollar minimum tax prescribed in paragraph (d) of this
41 subdivision, and the tax for the C short year shall be computed under
42 the opening paragraph of this subdivision without regard to the fixed
43 dollar minimum tax prescribed under such paragraph (d), but in no event
44 shall the sum of the tax for the S short year and the tax for the C
45 short year be less than the fixed dollar minimum tax under paragraph (d)
46 of this subdivision computed as if the corporation were a New York C
47 corporation for the entire taxable year.]

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

53 1-c. The computations specified in paragraph (b) of subdivision one of
54 this section shall not apply to the first two taxable years of a taxpay-
55 er which, for one or both such years, is a small business [concern. A
56 small business concern:

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

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

16 (c) is not a corporation which is substantially similar in operation
17 and in ownership to a business entity (or entities) taxable, or previ-
18 ously taxable, under this article; section one hundred eighty-three, one
19 hundred eighty-four, one hundred eighty-five or one hundred eighty-six
20 of article nine; article thirty-two or thirty-three of this chapter;
21 article twenty-three of this chapter or which would have been subject to
22 tax under such article twenty-three (as such article was in effect on
23 January first, nineteen hundred eighty) or the income (or losses) of
24 which is (or was) includable under article twenty-two of this chapter,
25 and

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

33 S 14. Subdivision 2 of section 210 of the tax law, as amended by chap-
34 ter 760 of the laws of 1992, is amended to read as follows:

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

48 S 15. Subdivisions 3, 3-a, 4, 5, 6, 7, 8, 9, 10, 11, 12, 12-A, 12-B,
49 12-C, 12-D, 12-E, 12-F, 12-G, 13, 14, 15, 16, 17, 18, 19, 20, 21, 21-a,
50 22, 23, 23-a, 24, 25, 25-a, 26, 26-a, 27, 28, 30, 31, 32, 33, 34, 35,
51 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47 of section 210 of the
52 tax law are REPEALED.

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

55 3. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE TAX
56 UNDER THIS ARTICLE USING THE AGGREGATE METHOD AS DEFINED IN THE REGU-

1 LATIONS OF THE COMMISSIONER, UNLESS ANOTHER METHOD FOR COMPUTING SUCH
2 TAX IS REQUIRED OR ALLOWED BY SUCH REGULATIONS. UNDER THE AGGREGATE
3 METHOD, A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP IS VIEWED AS
4 HAVING AN UNDIVIDED INTEREST IN THE PARTNERSHIP'S ASSETS, LIABILITIES,
5 AND ITEMS OF RECEIPTS, INCOME, GAIN, LOSS AND DEDUCTION. UNDER THE
6 AGGREGATE METHOD, THE CORPORATION THAT IS A PARTNER IN A PARTNERSHIP IS
7 TREATED AS PARTICIPATING IN THE PARTNERSHIP'S TRANSACTIONS AND ACTIV-
8 ITIES.

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

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

22 2. SALES OF TANGIBLE PERSONAL PROPERTY, ELECTRICITY, AND REAL PROPER-
23 TY. (A) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIP-
24 MENTS ARE MADE TO POINTS WITHIN THE STATE OR THE DESTINATION OF THE
25 PROPERTY IS A POINT IN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF
26 THE APPORTIONMENT FRACTION. RECEIPTS FROM SALES OF TANGIBLE PERSONAL
27 PROPERTY WHERE SHIPMENTS ARE MADE TO POINTS WITHIN AND WITHOUT THE STATE
28 OR THE DESTINATION IS WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN
29 THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

30 (B) RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN THE
31 STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION.
32 RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN AND WITH-
33 OUT THE STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT
34 FRACTION.

35 (C) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY
36 THAT ARE TRADED AS COMMODITIES AS DESCRIBED IN SECTION 475 OF THE INTER-
37 NAL REVENUE CODE ARE INCLUDED IN THE APPORTIONMENT FRACTION IN ACCORD-
38 ANCE WITH CLAUSE (I) OF SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION
39 FIVE OF THIS SECTION.

40 (D) NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY
41 LOCATED WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE
42 APPORTIONMENT FRACTION. NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF
43 REAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED IN
44 THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

45 3. RENTALS AND ROYALTIES. (A) RECEIPTS FROM RENTALS OF REAL AND TANGI-
46 BLE PERSONAL PROPERTY LOCATED WITHIN THE STATE ARE INCLUDED IN THE
47 NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM RENTALS OF REAL
48 AND TANGIBLE PERSONAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE
49 SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

50 (B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADE-
51 MARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE STATE ARE
52 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS OF
53 ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS AND SIMILAR
54 INTANGIBLES WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR
55 OF THE APPORTIONMENT FRACTION. A PATENT, COPYRIGHT, TRADEMARK OR SIMILAR

1 INTANGIBLE PROPERTY IS USED IN THE STATE TO THE EXTENT THAT THE ACTIV-
2 ITIES THEREUNDER ARE CARRIED ON IN THE STATE.

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

13 4. DIGITAL PRODUCTS. (A) FOR PURPOSES OF DETERMINING THE APPORTIONMENT
14 FRACTION UNDER THIS SECTION, THE TERM "DIGITAL PRODUCT" MEANS ANY PROP-
15 erty OR SERVICE, OR COMBINATION THEREOF, OF WHATEVER NATURE DELIVERED TO
16 THE PURCHASER THROUGH THE USE OF WIRE, CABLE, FIBER-OPTIC, LASER, MICRO-
17 WAVE, RADIO WAVE, SATELLITE OR SIMILAR SUCCESSOR MEDIA, OR ANY COMBINA-
18 TION THEREOF. DIGITAL PRODUCT INCLUDES, BUT IS NOT LIMITED TO, AN AUDIO
19 WORK, AUDIOVISUAL WORK, VISUAL WORK, BOOK OR LITERARY WORK, GRAPHIC
20 WORK, GAME, INFORMATION OR ENTERTAINMENT SERVICE, STORAGE OF DIGITAL
21 PRODUCTS AND COMPUTER SOFTWARE BY WHATEVER MEANS DELIVERED. THE TERM
22 "DELIVERED TO" INCLUDES FURNISHED OR PROVIDED TO OR ACCESSED BY. A
23 DIGITAL PRODUCT DOES NOT INCLUDE LEGAL, MEDICAL, ACCOUNTING, ARCHITEC-
24 TURAL, RESEARCH, ANALYTICAL, ENGINEERING OR CONSULTING SERVICES PROVIDED
25 BY THE TAXPAYER.

26 (B) RECEIPTS FROM THE SALE OF, LICENCE TO USE, OR GRANTING OF REMOTE
27 ACCESS TO DIGITAL PRODUCTS WITHIN THE STATE, DETERMINED ACCORDING TO THE
28 HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF
29 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE INCLUDED IN THE NUMERATOR OF
30 THE APPORTIONMENT FRACTION. RECEIPTS FROM THE SALE OF, LICENSE TO USE,
31 OR GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN AND WITHOUT THE
32 STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-
33 TION. THE TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD
34 DESCRIBED IN PARAGRAPH (C) OF THIS SUBDIVISION BEFORE REJECTING IT AND
35 PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS DETER-
36 MINATION ON INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD
37 BE KNOWN TO THE TAXPAYER UPON REASONABLE INQUIRY. IF THE RECEIPT FOR A
38 DIGITAL PRODUCT IS COMPRISED OF A COMBINATION OF PROPERTY AND SERVICES,
39 IT CANNOT BE DIVIDED INTO SEPARATE COMPONENTS AND IS CONSIDERED TO BE
40 ONE RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING
41 PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

42 (C) HIERARCHY OF SOURCING METHODS. (1) THE CUSTOMER'S PRIMARY USE
43 LOCATION OF THE DIGITAL PRODUCT;

44 (2) THE LOCATION WHERE THE DIGITAL PRODUCT IS RECEIVED BY THE CUSTOM-
45 ER, OR IS RECEIVED BY A PERSON DESIGNATED FOR RECEIPT BY THE CUSTOMER;

46 (3) THE APPORTIONMENT FRACTION DETERMINED PURSUANT TO THIS SUBDIVISION
47 FOR THE PRECEDING TAXABLE YEAR FOR SUCH DIGITAL PRODUCT; OR

48 (4) THE APPORTIONMENT FRACTION IN THE CURRENT TAXABLE YEAR FOR THOSE
49 DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING
50 METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

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

1 (1) FIXED PERCENTAGE METHOD FOR QUALIFIED FINANCIAL INSTRUMENTS. IN
2 DETERMINING THE INCLUSION OF RECEIPTS AND NET GAINS FROM QUALIFIED
3 FINANCIAL INSTRUMENTS IN THE APPORTIONMENT FRACTION, TAXPAYERS MAY ELECT
4 TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN THIS SUBPARAGRAPH FOR
5 QUALIFIED FINANCIAL INSTRUMENTS. THE ELECTION IS IRREVOCABLE, APPLIES TO
6 ALL QUALIFIED FINANCIAL INSTRUMENTS, AND MUST BE MADE ON AN ANNUAL BASIS
7 ON THE TAXPAYER'S ORIGINAL, TIMELY FILED RETURN. IF THE TAXPAYER ELECTS
8 THE FIXED PERCENTAGE METHOD, THEN ALL INCOME, GAIN OR LOSS, FROM QUALI-
9 FIED FINANCIAL INSTRUMENTS CONSTITUTES BUSINESS INCOME, GAIN OR LOSS. IF
10 THE TAXPAYER DOES NOT ELECT TO USE THE FIXED PERCENTAGE METHOD, THEN
11 RECEIPTS AND NET GAINS ARE INCLUDED IN THE APPORTIONMENT FRACTION IN
12 ACCORDANCE WITH THE CUSTOMER SOURCING METHOD DESCRIBED IN SUBPARAGRAPH
13 TWO OF THIS PARAGRAPH. UNDER THE FIXED PERCENTAGE METHOD, EIGHT PERCENT
14 OF ALL NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRU-
15 MENTS IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. ALL
16 NET INCOME (NOT LESS THAN ZERO) FROM QUALIFIED FINANCIAL INSTRUMENTS IS
17 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

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

27 (A) LOANS. (I) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY
28 REAL PROPERTY LOCATED WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERA-
29 TOR OF THE APPORTIONMENT FRACTION. RECEIPTS CONSTITUTING INTEREST FROM
30 LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE STATE
31 SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

32 (II) RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL
33 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-
34 TION IF THE BORROWER IS LOCATED IN THE STATE. RECEIPTS CONSTITUTING
35 INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY, WHETHER THE BORROWER
36 IS LOCATED WITHIN OR WITHOUT THE STATE, SHALL BE INCLUDED IN THE DENOMI-
37 NATOR OF THE APPORTIONMENT FRACTION.

38 (III) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY
39 REAL PROPERTY ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-
40 TION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE
41 SALE OF LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE
42 APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET GAINS BY A
43 FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM
44 SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE STATE AND THE
45 DENOMINATOR OF WHICH IS THE GROSS PROCEEDS FROM SALES OF LOANS SECURED
46 BY REAL PROPERTY WITHIN AND WITHOUT THE STATE. GROSS PROCEEDS SHALL BE
47 DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS
48 BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM
49 SALES OF LOANS SECURED BY REAL PROPERTY WITHIN AND WITHOUT THE STATE ARE
50 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

51 (IV) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT SECURED BY
52 REAL PROPERTY ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-
53 TION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE
54 SALE OF LOANS NOT SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF
55 THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET GAINS BY
56 A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM

1 SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED WITHIN
2 THE STATE AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF GROSS RECEIPTS
3 FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS LOCATED
4 WITHIN AND WITHOUT THE STATE. GROSS PROCEEDS SHALL BE DETERMINED AFTER
5 THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS BUT SHALL NOT BE
6 LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT
7 SECURED BY REAL PROPERTY ARE INCLUDED IN THE DENOMINATOR OF THE APPOR-
8 TIONMENT FRACTION.

9 (B) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTEREST
10 AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED
11 STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE
12 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS
13 CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF
14 DEBT INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK
15 OR ITS POLITICAL SUBDIVISIONS SHALL BE INCLUDED IN THE DENOMINATOR OF
16 THE APPORTIONMENT FRACTION. FIFTY PERCENT OF THE RECEIPTS CONSTITUTING
17 INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT INSTRU-
18 MENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS SHALL BE
19 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

20 (C) ASSET BACKED SECURITIES AND OTHER GOVERNMENT AGENCY DEBT. EIGHT
21 PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES OR OTHER
22 SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO
23 SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION
24 (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), THE FEDERAL
25 HOME LOAN MORTGAGE CORPORATION (FHLMC), OR THE SMALL BUSINESS ADMINIS-
26 TRATION, OR ASSET BACKED SECURITIES ISSUED BY OTHER ENTITIES SHALL BE
27 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. EIGHT PERCENT
28 OF THE NET GAINS (NOT LESS THAN ZERO) FROM (I) SALES OF ASSET BACKED
29 SECURITIES OR OTHER SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING
30 BUT NOT LIMITED TO SECURITIES ISSUED BY GNMA, FNMA, OR FHLMC, THE SMALL
31 BUSINESS ADMINISTRATION, OR (II) SALES OF OTHER ASSET BACKED SECURITIES
32 THAT ARE SOLD THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR
33 THROUGH A LICENSED EXCHANGE, SHALL BE INCLUDED IN THE NUMERATOR OF THE
34 APPORTIONMENT FRACTION. THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO)
35 FROM SALES OF OTHER ASSET BACKED SECURITIES NOT REFERENCED IN SUBCLAUSE
36 (I) OR (II) OF THIS CLAUSE INCLUDED IN THE NUMERATOR OF THE APPORTION-
37 MENT FRACTION IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION,
38 THE NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES
39 TO PURCHASERS LOCATED IN THE STATE AND THE DENOMINATOR OF WHICH IS THE
40 AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED WITHIN
41 AND WITHOUT THE STATE. RECEIPTS CONSTITUTING INTEREST FROM ASSET BACKED
42 SECURITIES AND OTHER SECURITIES REFERENCED IN THIS CLAUSE AND NET GAINS
43 (NOT LESS THAN ZERO) FROM SALES OF ASSET BACKED SECURITIES AND OTHER
44 SECURITIES REFERENCED IN THIS CLAUSE ARE INCLUDED IN THE DENOMINATOR OF
45 THE APPORTIONMENT FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE
46 DEDUCTION OF ANY COST TO ACQUIRE THE SECURITIES BUT SHALL NOT BE LESS
47 THAN ZERO.

48 (D) CORPORATE BONDS. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE
49 BONDS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IF THE
50 COMMERCIAL DOMICILE OF THE ISSUING CORPORATION IS IN THE STATE. EIGHT
51 PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE
52 BONDS SOLD THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A
53 LICENSED EXCHANGE IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT
54 FRACTION. THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES
55 OF CORPORATE BONDS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-
56 TION IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE

1 NUMERATOR OF WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO
2 PURCHASERS LOCATED IN THE STATE AND THE DENOMINATOR OF WHICH IS THE
3 AMOUNT OF GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND
4 WITHOUT THE STATE. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS,
5 WHETHER THE ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITH-
6 OUT THE STATE, AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPO-
7 RATE BONDS TO PURCHASERS WITHIN AND WITHOUT THE STATE ARE INCLUDED IN
8 THE DENOMINATOR OF THE APPORTIONMENT FRACTION. GROSS PROCEEDS SHALL BE
9 DETERMINED AFTER THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT
10 SHALL NOT BE LESS THAN ZERO.

11 (E) REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS.
12 EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM REVERSE
13 REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE
14 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET INTEREST
15 INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECU-
16 RITIES BORROWING AGREEMENTS IS INCLUDED IN THE DENOMINATOR OF THE APPOR-
17 TIONMENT FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREE-
18 MENTS AND SECURITIES BORROWING AGREEMENTS IS DETERMINED FOR PURPOSES OF
19 THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE FROM THE
20 TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREEMENTS BUT
21 CANNOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT OF SUCH
22 INTEREST EXPENSE IS THE INTEREST EXPENSE ASSOCIATED WITH THE SUM OF THE
23 VALUE OF THE TAXPAYER'S REPURCHASE AGREEMENTS WHERE IT IS THE
24 SELLER/BORROWER PLUS THE VALUE OF THE TAXPAYER'S SECURITIES LENDING
25 AGREEMENTS WHERE IT IS THE SECURITIES LENDER, PROVIDED SUCH SUM IS
26 LIMITED TO THE SUM OF THE VALUE OF THE TAXPAYER'S REVERSE REPURCHASE
27 AGREEMENTS WHERE IT IS THE PURCHASER/LENDER PLUS THE VALUE OF THE
28 TAXPAYER'S SECURITIES LENDING AGREEMENTS WHERE IT IS THE SECURITIES
29 BORROWER.

30 (F) FEDERAL FUNDS. EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN
31 ZERO) FROM FEDERAL FUNDS IS INCLUDED IN THE NUMERATOR OF THE APPORTION-
32 MENT FRACTION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS
33 IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INTER-
34 EST FROM FEDERAL FUNDS IS DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE
35 FROM FEDERAL FUNDS.

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

44 (H) OTHER FINANCIAL INSTRUMENTS. (I) RECEIPTS CONSTITUTING INTEREST
45 FROM OTHER FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE NUMERATOR OF
46 THE APPORTIONMENT FRACTION IF THE PAYOR IS LOCATED IN THE STATE.
47 RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRUMENTS, WHETHER
48 THE PAYOR IS WITHIN OR WITHOUT THE STATE, ARE INCLUDED IN THE DENOMINA-
49 TOR OF THE APPORTIONMENT FRACTION.

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

1 ZERO) IS INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. NET
2 GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL INSTRUMENTS AND
3 OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL INSTRUMENTS ARE
4 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

5 (I) PHYSICAL COMMODITIES. NET INCOME (NOT LESS THAN ZERO) FROM SALES
6 OF PHYSICAL COMMODITIES ARE INCLUDED IN THE NUMERATOR OF THE APPORTION-
7 MENT FRACTION AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF NET INCOME
8 FROM SALES OF PHYSICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE
9 APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE NET INCOME FROM
10 SALES OF PHYSICAL COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH IS
11 THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY
12 DELIVERED TO POINTS WITHIN THE STATE OR, IF THERE IS NO ACTUAL DELIVERY
13 OF THE PHYSICAL COMMODITY, SOLD TO PURCHASERS LOCATED IN THE STATE, AND
14 THE DENOMINATOR OF WHICH IS THE AMOUNT OF RECEIPTS FROM SALES OF PHYS-
15 ICAL COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE
16 STATE OR SOLD TO PURCHASERS LOCATED WITHIN AND WITHOUT THE STATE. NET
17 INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES IS
18 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION. NET INCOME
19 (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES IS DETERMINED
20 AFTER THE DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL
21 COMMODITIES.

22 (B) OTHER RECEIPTS FROM BROKER OR DEALER ACTIVITIES. RECEIPTS OF A
23 REGISTERED SECURITIES BROKER OR DEALER FROM SECURITIES OR COMMODITIES
24 BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED
25 TO BE GENERATED WITHIN THE STATE AS DESCRIBED IN SUBPARAGRAPHS ONE
26 THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED
27 WITHIN THE STATE SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT
28 FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE
29 STATE SHALL BE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRAC-
30 TION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURITIES" SHALL
31 HAVE THE SAME MEANING AS IN SECTION 475(C)(2) OF THE INTERNAL REVENUE
32 CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN
33 SECTION 475(E)(2) OF THE INTERNAL REVENUE CODE.

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

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

43 (3)(A) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY
44 SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES
45 FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY THAT IS CONTEMPLATING
46 ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR
47 MANAGING AN UNDERWRITING SHALL BE DEEMED TO BE GENERATED WITHIN THE
48 STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH
49 CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE STATE.

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

53 (C) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE
54 PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETED AND
55 THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURI-
56 TIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION

1 AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S
2 FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPA-
3 RATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY
4 THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO
5 THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE
6 TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE
7 TAXPAYER IS NOT THE LEAD UNDERWRITER.

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

12 (5) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES,
13 INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISSI-
14 TION ACTIVITIES, BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN PARA-
15 GRAPH (D) OF THIS SUBDIVISION, SHALL BE DEEMED TO BE GENERATED WITHIN
16 THE STATE IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE
17 CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE STATE.

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

24 (7) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPAR-
25 AGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES
26 CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR
27 DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING
28 FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO
29 EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS. THE AMOUNT OF SUCH
30 RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE
31 CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER
32 RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH
33 FOUR OF THIS PARAGRAPH AS AS RESULT OF A SECURITIES CORRESPONDENT
34 RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE
35 TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH
36 RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE STATE TO THE EXTENT
37 SET FORTH IN EACH OF SUCH SUBPARAGRAPHS.

38 (8) IF, FOR PURPOSES OF SUBPARAGRAPHS ONE, TWO, CLAUSE (A) OF SUBPARA-
39 GRAPH THREE, FOUR, OR FIVE OF THIS PARAGRAPH THE TAXPAYER IS UNABLE FROM
40 ITS RECORDS TO DETERMINE THE MAILING ADDRESS OF THE CUSTOMER, EIGHT
41 PERCENT OF THE RECEIPTS IS INCLUDED IN THE NUMERATOR OF THE APPORTION-
42 MENT FRACTION.

43 (C) RECEIPTS FROM CREDIT CARD AND SIMILAR ACTIVITIES. RECEIPTS RELAT-
44 ING TO THE BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD ACTIVITIES
45 DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE
46 STATE AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH.
47 RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE STATE SHALL BE
48 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION. RECEIPTS FROM
49 SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE STATE SHALL BE INCLUDED
50 IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

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

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

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

12 (4) RECEIPTS FROM CREDIT CARD AUTHORIZATION PROCESSING, AND CLEARING
13 AND SETTLEMENT PROCESSING RECEIVED BY CREDIT CARD PROCESSORS SHALL BE
14 DEEMED TO BE GENERATED WITHIN THE STATE IF THE LOCATION WHERE THE CREDIT
15 CARD PROCESSOR'S CUSTOMER ACCESSES THE CREDIT CARD PROCESSOR'S NETWORK
16 IS LOCATED WITHIN THE STATE. THE AMOUNT OF ALL OTHER RECEIPTS RECEIVED
17 BY CREDIT CARD PROCESSORS NOT SPECIFICALLY ADDRESSED IN SUBDIVISIONS ONE
18 THROUGH NINE OF THIS SECTION DEEMED TO BE GENERATED WITHIN THE STATE
19 SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH OTHER
20 RECEIPTS BY THE AVERAGE OF (I) EIGHT PERCENT AND (II) THE PERCENT OF ITS
21 NEW YORK ACCESS POINTS. THE PERCENT OF NEW YORK ACCESS POINTS IS THE
22 NUMBER OF LOCATIONS IN NEW YORK FROM WHICH THE CREDIT CARD PROCESSOR'S
23 CUSTOMERS ACCESS THE CREDIT CARD PROCESSOR'S NETWORK DIVIDED BY THE
24 TOTAL NUMBER OF LOCATIONS IN THE UNITED STATES WHERE THE CREDIT CARD
25 PROCESSOR'S CUSTOMERS ACCESS THE CREDIT CARD PROCESSOR'S NETWORK.

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

33 (1) THE NEW YORK PORTION SHALL BE THE PRODUCT OF THE TOTAL OF SUCH
34 RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERATOR OF
35 THAT FRACTION IS THE SUM OF THE MONTHLY PERCENTAGES (AS DEFINED HEREIN-
36 AFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPANY'S TAXABLE
37 YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR ENDS WITHIN THE
38 TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH DURING WHICH THE
39 INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE MONTHLY PERCENTAGE
40 FOR EACH SUCH MONTH IS DETERMINED BY DIVIDING THE NUMBER OF SHARES IN
41 THE INVESTMENT COMPANY THAT ARE OWNED ON THE LAST DAY OF THE MONTH BY
42 SHAREHOLDERS THAT ARE LOCATED IN THE STATE BY THE TOTAL NUMBER OF SHARES
43 IN THE INVESTMENT COMPANY OUTSTANDING ON THAT DATE. THE DENOMINATOR OF
44 THE FRACTION IS THE NUMBER OF SUCH MONTHLY PERCENTAGES.

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

50 (B) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INVESTMENT COMPANY"
51 MEANS A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION 851 OF THE
52 INTERNAL REVENUE CODE, AND A PARTNERSHIP TO WHICH SECTION 7704(A) OF THE
53 INTERNAL REVENUE CODE APPLIES (BY VIRTUE OF SECTION 7704(C)(3) OF SUCH
54 CODE) AND THAT MEETS THE REQUIREMENTS OF SECTION 851(B) OF SUCH CODE.
55 THE PRECEDING SENTENCE SHALL BE APPLIED TO THE TAXABLE YEAR FOR FEDERAL
56 INCOME TAX PURPOSES OF THE BUSINESS ENTITY THAT IS ASSERTED TO CONSTI-

1 TUTE AN INVESTMENT COMPANY THAT ENDS WITHIN THE TAXABLE YEAR OF THE
2 TAXPAYER.

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

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

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

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

33 (E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOW-
34 ING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY,
35 BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD
36 BE KNOWN UPON REASONABLE INQUIRY: (I) THE LOCATION OF THE TREASURY FUNC-
37 TION OF THE BUSINESS ENTITY; (II) THE SEAT OF MANAGEMENT AND CONTROL OF
38 THE BUSINESS ENTITY; AND (III) THE BILLING ADDRESS OF THE BUSINESS ENTI-
39 TY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILIGENCE
40 BEFORE REJECTING A METHOD IN THIS HIERARCHY AND PROCEEDING TO THE NEXT
41 METHOD.

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

49 6. RECEIPTS FROM RAILROAD AND TRUCKING BUSINESS. RECEIPTS FROM THE
50 CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE RAILROAD, WHETHER OR
51 NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED RAILROAD, PALACE CAR OR
52 SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS ARE INCLUDED IN THE NUMER-
53 ATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS
54 FROM THE CONDUCT OF A RAILROAD BUSINESS OR A TRUCKING BUSINESS INCLUDED
55 IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTI-
56 PLYING THE AMOUNT OF RECEIPTS FROM SUCH BUSINESS BY A FRACTION, THE

1 NUMERATOR OF WHICH IS THE MILES IN SUCH BUSINESS WITHIN THE STATE DURING
2 THE PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH
3 IS THE MILES IN SUCH BUSINESS WITHIN AND WITHOUT THE STATE DURING SUCH
4 PERIOD. RECEIPTS FROM THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCK-
5 ING BUSINESS ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.
6 TION.

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

18 (B) OTHER AVIATION SERVICES. (1)(A) THE PORTION OF RECEIPTS OF A
19 TAXPAYER FROM AVIATION SERVICES (OTHER THAN SERVICES DESCRIBED IN PARA-
20 GRAPH (A) OF THIS SUBDIVISION) TO BE INCLUDED IN THE NUMERATOR OF THE
21 APPORTIONMENT FRACTION SHALL BE DETERMINED BY MULTIPLYING ITS RECEIPTS
22 FROM SUCH AVIATION SERVICES BY A PERCENTAGE WHICH IS EQUAL TO THE ARITH-
23 METIC AVERAGE OF THE FOLLOWING THREE PERCENTAGES:

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

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

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

50 (B) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS
51 THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND
52 THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAY-
53 ER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM
54 THE TRANSPORTATION OR REVENUE PASSENGERS AND REVENUE PROPERTY FIRST
55 RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT
56 AIRPORTS; AND THE TERM "REVENUE TONS HANDLED" BY THE TAXPAYER AT

1 AIRPORTS MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED
2 POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGI-
3 NATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT
4 AIRPORTS;

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

8 8. RECEIPTS FROM SALES OF ADVERTISING. (A) THE AMOUNT OF RECEIPTS FROM
9 SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS INCLUDED IN THE NUMER-
10 ATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE
11 TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE
12 NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN THE
13 STATE AND THE DENOMINATOR OF WHICH IS THE NUMBER OF NEWSPAPERS AND PERI-
14 ODICALS DELIVERED TO POINTS WITHIN AND WITHOUT THE STATE. THE TOTAL OF
15 SUCH RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS OR PERIODICALS IS
16 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

17 (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR
18 RADIO INCLUDED IN THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLY-
19 ING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS
20 THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR
21 OF WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE
22 STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING ON TELE-
23 VISION AND RADIO IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT
24 FRACTION.

25 (C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN
26 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR
27 DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF
28 WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR
29 SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE
30 NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTIPLYING THE
31 TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH IS THE
32 NUMBER OF VIEWERS OR LISTENERS WITHIN THE STATE AND THE DENOMINATOR OF
33 WHICH IS THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND WITHOUT THE
34 STATE. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING DESCRIBED IN
35 THIS PARAGRAPH IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.
36

37 9. RECEIPTS FROM TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES.
38 RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH PIPES
39 ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION AS FOLLOWS.
40 THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS
41 THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS
42 DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY A FRACTION,
43 THE NUMERATOR OF WHICH IS THE TAXPAYER'S TRANSPORTATION UNITS
44 WITHIN THE STATE AND THE DENOMINATOR OF WHICH IS THE TAXPAYER'S TRANSPORTATION UNITS WITHIN AND WITHOUT THE STATE. A TRANSPORTATION UNIT IS
45 THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A DISTANCE OF ONE MILE.
46 THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF
47 GAS THROUGH PIPES IS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT
48 FRACTION.
49

50 10. (A) RECEIPTS FROM OTHER SERVICES AND OTHER BUSINESS RECEIPTS.
51 RECEIPTS FROM SERVICES NOT ADDRESSED IN SUBDIVISIONS ONE THROUGH NINE OF
52 THIS SECTION AND OTHER BUSINESS RECEIPTS NOT ADDRESSED IN SUCH SUBDIVISIONS SHALL BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION
53 IF THE LOCATION OF THE CUSTOMER IS WITHIN THE STATE. SUCH RECEIPTS FROM
54 CUSTOMERS WITHIN AND WITHOUT THE STATE ARE INCLUDED IN THE DENOMINATOR
55 OF THE APPORTIONMENT FRACTION. WHETHER THE RECEIPTS ARE INCLUDED IN THE
56

1 NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED ACCORDING TO THE
2 HIERARCHY OF METHOD SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION. THE
3 TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN SUCH
4 PARAGRAPH (B) BEFORE REJECTING IT AND PROCEEDING TO THE NEXT METHOD IN
5 THE HIERARCHY, AND MUST BASE ITS DETERMINATION ON INFORMATION KNOWN TO
6 THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN TO THE TAXPAYER UPON
7 REASONABLE INQUIRY.

8 (B) HIERARCHY OF METHODS. (1) THE BENEFIT IS RECEIVED IN THIS STATE;
9 (2) DELIVERY DESTINATION;
10 (3) THE APPORTIONMENT FRACTION FOR SUCH RECEIPTS WITHIN THE STATE
11 DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR;
12 OR

13 (4) THE APPORTIONMENT FRACTION IN THE CURRENT TAXABLE YEAR DETERMINED
14 PURSUANT TO THIS SUBDIVISION FOR THOSE RECEIPTS THAT CAN BE SOURCED
15 USING THE HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF
16 THIS PARAGRAPH.

17 11. IF IT SHALL APPEAR THAT THE APPORTIONMENT FRACTION DETERMINED
18 PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE
19 TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN THE STATE, THE COMMISSIONER
20 IS AUTHORIZED IN HIS OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY
21 REQUEST THAT THE COMMISSIONER ADJUST IT, BY (A) EXCLUDING ONE OR MORE
22 ITEMS IN SUCH DETERMINATION, (B) INCLUDING ONE OR MORE OTHER ITEMS IN
23 SUCH DETERMINATION, OR (C) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCU-
24 LATED TO EFFECT A FAIR AND PROPER APPORTIONMENT OF THE BUSINESS INCOME
25 AND CAPITAL REASONABLY ATTRIBUTED TO THE STATE. THE PARTY SEEKING THE
26 ADJUSTMENT SHALL BEAR THE BURDEN OF PROOF TO DEMONSTRATE THAT THE APPOR-
27 TIONMENT FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN
28 A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN
29 THE STATE AND THAT THE PROPOSED ADJUSTMENT IS APPROPRIATE.

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

32 S 210-B. CREDITS. 1. INVESTMENT TAX CREDIT (ITC). (A) A TAXPAYER
33 SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED,
34 AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL
35 BE THE PERCENT PROVIDED FOR HEREINBELOW OF THE INVESTMENT CREDIT BASE.
36 THE INVESTMENT CREDIT BASE IS THE COST OR OTHER BASIS FOR FEDERAL INCOME
37 TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY,
38 INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN
39 PARAGRAPH (B) OF THIS SUBDIVISION, LESS THE AMOUNT OF THE NONQUALIFIED
40 NONRECOURSE FINANCING WITH RESPECT TO SUCH PROPERTY TO THE EXTENT SUCH
41 FINANCING WOULD BE EXCLUDIBLE FROM THE CREDIT BASE PURSUANT TO SECTION
42 46(C)(8) OF THE INTERNAL REVENUE CODE (TREATING SUCH PROPERTY AS SECTION
43 THIRTY-EIGHT PROPERTY IRRESPECTIVE OF WHETHER OR NOT IT IN FACT CONSTI-
44 TUTES SECTION THIRTY-EIGHT PROPERTY). IF, AT THE CLOSE OF A TAXABLE YEAR
45 FOLLOWING THE TAXABLE YEAR IN WHICH SUCH PROPERTY WAS PLACED IN SERVICE,
46 THERE IS A NET DECREASE IN THE AMOUNT OF NONQUALIFIED NONRECOURSE
47 FINANCING WITH RESPECT TO SUCH PROPERTY, SUCH NET DECREASE SHALL BE
48 TREATED AS IF IT WERE THE COST OR OTHER BASIS OF PROPERTY DESCRIBED IN
49 PARAGRAPH (B) OF THIS SUBDIVISION ACQUIRED, CONSTRUCTED, RECONSTRUCTED
50 OR ERECTED DURING THE YEAR OF THE DECREASE IN THE AMOUNT OF NONQUALIFIED
51 NONRECOURSE FINANCING. IN THE CASE OF A COMBINED REPORT THE TERM INVEST-
52 MENT CREDIT BASE SHALL MEAN THE SUM OF THE INVESTMENT CREDIT BASE OF
53 EACH CORPORATION INCLUDED ON SUCH REPORT. THE PERCENTAGE TO BE USED TO
54 COMPUTE THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL BE FIVE
55 PERCENT WITH RESPECT TO THE FIRST THREE HUNDRED FIFTY MILLION DOLLARS OF
56 THE INVESTMENT CREDIT BASE, AND FOUR PERCENT WITH RESPECT TO THE INVEST-

1 MENT CREDIT BASE IN EXCESS OF THREE HUNDRED FIFTY MILLION DOLLARS,
2 EXCEPT THAT IN THE CASE OF RESEARCH AND DEVELOPMENT PROPERTY AT THE
3 OPTION OF THE TAXPAYER THE APPLICABLE PERCENTAGE SHALL BE NINE.

4 (B) (I) A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION WITH RESPECT
5 TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING
6 BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH ARE: DEPRECIABLE
7 PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE
8 CODE, HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, ARE ACQUIRED BY PURCHASE
9 AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE (D) OF THE INTERNAL
10 REVENUE CODE, HAVE A SITUS IN THIS STATE AND ARE (A) PRINCIPALLY USED BY
11 THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING,
12 ASSEMBLING, REFINING, MINING, EXTRACTING, FARMING, AGRICULTURE, HORTI-
13 CULTURE, FLORICULTURE, VITICULTURE OR COMMERCIAL FISHING, (B) INDUSTRIAL
14 WASTE TREATMENT FACILITIES OR AIR POLLUTION CONTROL FACILITIES, USED IN
15 THE TAXPAYER'S TRADE OR BUSINESS, (C) RESEARCH AND DEVELOPMENT PROPERTY,
16 OR (D) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE
17 OR BUSINESS AS A BROKER OR DEALER IN CONNECTION WITH THE PURCHASE OR
18 SALE (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING
19 INTO, ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION, OR TRANSFER) OF
20 STOCKS, BONDS OR OTHER SECURITIES AS DEFINED IN SECTION FOUR HUNDRED
21 SEVENTY-FIVE (C)(2) OF THE INTERNAL REVENUE CODE, OR OF COMMODITIES AS
22 DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (E) OF THE INTERNAL REVENUE
23 CODE, (E) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S
24 TRADE OR BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES FOR A REGU-
25 LATED INVESTMENT COMPANY AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE
26 OF THE INTERNAL REVENUE CODE, OR LENDING, LOAN ARRANGEMENT OR LOAN ORIG-
27 INATION SERVICES TO CUSTOMERS IN CONNECTION WITH THE PURCHASE OR SALE
28 (WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE ISSUANCE, ENTERING INTO,
29 ASSUMPTION, OFFSET, ASSIGNMENT, TERMINATION, OR TRANSFER) OF SECURITIES
30 AS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE (C)(2) OF THE INTERNAL
31 REVENUE CODE, (F) ORIGINALLY USED IN THE ORDINARY COURSE OF THE TAXPAY-
32 ER'S BUSINESS AS AN EXCHANGE REGISTERED AS A NATIONAL SECURITIES
33 EXCHANGE WITHIN THE MEANING OF SECTIONS 3(A)(1) AND 6(A) OF THE SECURI-
34 TIES EXCHANGE ACT OF 1934 OR A BOARD OF TRADE AS DEFINED IN SECTION
35 1410(A)(1) OF THE NEW YORK NOT-FOR-PROFIT CORPORATION LAW OR AS AN ENTI-
36 TY THAT IS WHOLLY OWNED BY ONE OR MORE SUCH NATIONAL SECURITIES
37 EXCHANGES OR BOARDS OF TRADE AND THAT PROVIDES AUTOMATION OR TECHNICAL
38 SERVICES THERETO, OR (G) PRINCIPALLY USED AS A QUALIFIED FILM PRODUCTION
39 FACILITY INCLUDING QUALIFIED FILM PRODUCTION FACILITIES HAVING A SITUS
40 IN AN EMPIRE ZONE DESIGNATED AS SUCH PURSUANT TO ARTICLE EIGHTEEN-B OF
41 THE GENERAL MUNICIPAL LAW, WHERE THE TAXPAYER IS PROVIDING THREE OR MORE
42 SERVICES TO ANY QUALIFIED FILM PRODUCTION COMPANY USING THE FACILITY,
43 INCLUDING SUCH SERVICES AS A STUDIO LIGHTING GRID, LIGHTING AND GRIP
44 EQUIPMENT, MULTI-LINE PHONE SERVICE, BROADBAND INFORMATION TECHNOLOGY
45 ACCESS, INDUSTRIAL SCALE ELECTRICAL CAPACITY, FOOD SERVICES, SECURITY
46 SERVICES, AND HEATING, VENTILATION AND AIR CONDITIONING. PROVIDED,
47 HOWEVER, A TAXPAYER SHALL NOT BE ALLOWED THE CREDIT PROVIDED BY CLAUSES
48 (D), (E) AND (F) OF THIS SUBPARAGRAPH UNLESS (I) EIGHTY PERCENT OR MORE
49 OF THE EMPLOYEES PERFORMING THE ADMINISTRATIVE AND SUPPORT FUNCTIONS
50 RESULTING FROM OR RELATED TO THE QUALIFYING USES OF SUCH EQUIPMENT ARE
51 LOCATED IN THIS STATE OR (II) THE AVERAGE NUMBER OF EMPLOYEES THAT
52 PERFORM THE ADMINISTRATIVE AND SUPPORT FUNCTIONS RESULTING FROM OR
53 RELATED TO THE QUALIFYING USES OF SUCH EQUIPMENT AND ARE LOCATED IN THIS
54 STATE DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL
55 TO OR GREATER THAN NINETY-FIVE PERCENT OF THE AVERAGE NUMBER OF EMPLOY-
56 EES THAT PERFORM THESE FUNCTIONS AND ARE LOCATED IN THIS STATE DURING

1 THE THIRTY-SIX MONTHS IMMEDIATELY PRECEDING THE YEAR FOR WHICH THE CRED-
2 IT IS CLAIMED, OR (III) THE NUMBER OF EMPLOYEES LOCATED IN THIS STATE
3 DURING THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS EQUAL TO OR
4 GREATER THAN NINETY PERCENT OF THE NUMBER OF EMPLOYEES LOCATED IN THIS
5 STATE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT OR, IF THE
6 TAXPAYER WAS NOT A CALENDAR YEAR TAXPAYER IN NINETEEN HUNDRED
7 NINETY-EIGHT, THE LAST DAY OF ITS FIRST TAXABLE YEAR ENDING AFTER DECEM-
8 BER THIRTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT. IF THE TAXPAYER BECOMES
9 SUBJECT TO TAX IN THIS STATE AFTER THE TAXABLE YEAR BEGINNING IN NINE-
10 TEEN HUNDRED NINETY-EIGHT, THEN THE TAXPAYER IS NOT REQUIRED TO SATISFY
11 THE EMPLOYMENT TEST PROVIDED IN THE PRECEDING SENTENCE OF THIS SUBPARA-
12 GRAPH FOR ITS FIRST TAXABLE YEAR. FOR PURPOSES OF CLAUSE (III) OF THIS
13 SUBPARAGRAPH THE EMPLOYMENT TEST WILL BE BASED ON THE NUMBER OF EMPLOY-
14 EES LOCATED IN THIS STATE ON THE LAST DAY OF THE FIRST TAXABLE YEAR THE
15 TAXPAYER IS SUBJECT TO TAX IN THIS STATE. IF THE USES OF THE PROPERTY
16 MUST BE AGGREGATED TO DETERMINE WHETHER THE PROPERTY IS PRINCIPALLY USED
17 IN QUALIFYING USES, THEN EITHER EACH AFFILIATE USING THE PROPERTY MUST
18 SATISFY THIS EMPLOYMENT TEST OR THIS EMPLOYMENT TEST MUST BE SATISFIED
19 THROUGH THE AGGREGATION OF THE EMPLOYEES OF THE TAXPAYER, ITS AFFILIATED
20 REGULATED BROKER, DEALER, AND REGISTERED INVESTMENT ADVISER USING THE
21 PROPERTY. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "GOODS" SHALL NOT
22 INCLUDE ELECTRICITY.

23 (II) FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING DEFINITIONS SHALL
24 APPLY--

25 (A) MANUFACTURING SHALL MEAN THE PROCESS OF WORKING RAW MATERIALS INTO
26 WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR NEW
27 COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL
28 PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR
29 EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE
30 MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY
31 USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER
32 TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL
33 INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STOR-
34 AGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE
35 PRODUCED.

36 (B) RESEARCH AND DEVELOPMENT PROPERTY SHALL MEAN PROPERTY WHICH IS
37 USED FOR PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR
38 LABORATORY SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDI-
39 NARY TESTING OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL,
40 EFFICIENCY SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING,
41 PROMOTIONS, OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMI-
42 LAR PROJECTS.

43 (C) INDUSTRIAL WASTE TREATMENT FACILITIES SHALL MEAN PROPERTY CONSTI-
44 TUTING FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF
45 INDUSTRIAL WASTE AND OTHER WASTES (AS THE TERMS "INDUSTRIAL WASTE" AND
46 "OTHER WASTES" ARE DEFINED IN SECTION 17-0105 OF THE ENVIRONMENTAL
47 CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT OF SUCH
48 TREATMENT, NEUTRALIZATION OR STABILIZATION TO THE POINT OF DISPOSAL,
49 INCLUDING THE NECESSARY PUMPING AND TRANSMITTING FACILITIES, BUT EXCLUD-
50 ING SUCH FACILITIES INSTALLED FOR THE PRIMARY PURPOSE OF SALVAGING MATE-
51 RIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE.

52 (D) AIR POLLUTION CONTROL FACILITIES SHALL MEAN PROPERTY CONSTITUTING
53 FACILITIES WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS
54 EMITTED FROM AN AIR CONTAMINATION SOURCE (AS THE TERMS "AIR CONTAMINANT"
55 AND "AIR CONTAMINATION SOURCE" ARE DEFINED IN SECTION 19-0107 OF THE
56 ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE

1 POINT OF SUCH REMOVAL, REDUCTION OR RENDERING TO THE POINT OF DISCHARGE
2 OF AIR, MEETING EMISSION STANDARDS AS ESTABLISHED BY THE DEPARTMENT OF
3 ENVIRONMENTAL CONSERVATION, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR
4 THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANU-
5 FACTURING PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH
6 RELY FOR THEIR EFFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR
7 CONTAMINANTS IN THE AMBIENT AIR AFTER EMISSION. SUCH TERM SHALL FURTHER
8 INCLUDE FLUE GAS DESULFURIZATION EQUIPMENT AND ATTENDANT SLUDGE DISPOSAL
9 FACILITIES, FLUIDIZED BED BOILERS, PRECOMBUSTION COAL CLEANING FACILI-
10 TIES OR OTHER FACILITIES THAT CONFORM WITH THIS SUBDIVISION AND WHICH
11 COMPLY WITH THE PROVISIONS OF THE STATE ACID DEPOSITION CONTROL ACT SET
12 FORTH IN TITLE NINE OF ARTICLE NINETEEN OF THE ENVIRONMENTAL CONSERVA-
13 TION LAW.

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

17 (III) HOWEVER, SUCH CREDIT SHALL BE ALLOWED WITH RESPECT TO INDUSTRIAL
18 WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES ONLY ON
19 CONDITION THAT SUCH FACILITIES HAVE BEEN CERTIFIED BY THE STATE COMMIS-
20 SIONER OF ENVIRONMENTAL CONSERVATION OR HIS DESIGNATED REPRESENTATIVE,
21 PURSUANT TO SUBDIVISION ONE OF SECTION 17-0707 OR SUBDIVISION ONE OF
22 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, AS COMPLYING WITH
23 APPLICABLE PROVISIONS OF THE ENVIRONMENTAL CONSERVATION LAW, THE PUBLIC
24 HEALTH LAW, THE STATE SANITARY CODE AND CODES, RULES, REGULATIONS,
25 PERMITS OR ORDERS ISSUED PURSUANT THERETO.

26 (C) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION
27 WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY,
28 INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH IT
29 LEASES TO ANY OTHER PERSON OR CORPORATION EXCEPT WHERE A TAXPAYER LEASES
30 PROPERTY TO AN AFFILIATED REGULATED BROKER, DEALER, REGISTERED INVEST-
31 MENT ADVISER, NATIONAL SECURITIES EXCHANGE OR BOARD OF TRADE (OR OTHER
32 ENTITY DESCRIBED IN CLAUSE (F) OF SUBPARAGRAPH (I) OF PARAGRAPH (B) OF
33 THIS SUBDIVISION) THAT USES SUCH PROPERTY IN ACCORDANCE WITH CLAUSE (D),
34 (E) OR (F) OF SUBPARAGRAPH (I) OF PARAGRAPH (B) OF THIS SUBDIVISION.
35 FOR PURPOSES OF THE PRECEDING SENTENCE, ANY CONTRACT OR AGREEMENT TO
36 LEASE OR RENT OR FOR A LICENSE TO USE SUCH PROPERTY SHALL BE CONSIDERED
37 A LEASE. PROVIDED, HOWEVER, IN DETERMINING WHETHER A TAXPAYER SHALL BE
38 ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH PROPERTY,
39 ANY ELECTION MADE WITH RESPECT TO SUCH PROPERTY PURSUANT TO THE
40 PROVISIONS OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED
41 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, AS SUCH PARAGRAPH WAS IN
42 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
43 HUNDRED EIGHTY-FOUR, SHALL BE DISREGARDED. FOR PURPOSES OF THIS PARA-
44 GRAPH, THE USE OF A QUALIFIED FILM PRODUCTION FACILITY BY A QUALIFIED
45 FILM PRODUCTION COMPANY SHALL NOT BE CONSIDERED A LEASE OF SUCH FACILITY
46 TO SUCH COMPANY.

47 (D) EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, THE CREDIT ALLOWED
48 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE
49 FOR SUCH YEAR TO LESS THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARA-
50 GRAPHS (C) AND (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE
51 AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
52 REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT ALLOWED FOR A TAXA-
53 BLE YEAR COMMENCING PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEV-
54 EN AND NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE
55 FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR
56 SUCH YEAR OR YEARS BUT IN NO EVENT SHALL SUCH CREDIT BE CARRIED OVER TO

1 TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWO,
2 AND ANY AMOUNT OF CREDIT ALLOWED FOR A TAXABLE YEAR COMMENCING ON OR
3 AFTER JANUARY FIRST, NINETEEN HUNDRED EIGHTY-SEVEN AND NOT DEDUCTIBLE IN
4 SUCH YEAR MAY BE CARRIED OVER TO THE FIFTEEN TAXABLE YEARS NEXT FOLLOW-
5 ING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR
6 SUCH YEAR OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER WHICH
7 QUALIFIES AS A NEW BUSINESS UNDER PARAGRAPH (J) OF THIS SUBDIVISION MAY
8 ELECT TO TREAT THE AMOUNT OF SUCH CARRYOVER AS AN OVERPAYMENT OF TAX TO
9 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TEN
10 HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THE PROVISIONS OF
11 SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF THIS CHAPTER
12 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

13 (E) (1) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO
14 SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT
15 SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH
16 CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
17 THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE
18 AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN
19 THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALI-
20 FIED USE BEAR TO THE MONTHS OF USEFUL LIFE. IF PROPERTY ON WHICH CREDIT
21 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
22 THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND
23 THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF
24 DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEAS-
25 ES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE
26 THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE
27 CREDIT AS PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED
28 FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY
29 THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL
30 LIFE. FOR PURPOSES OF THIS SUBPARAGRAPH, USEFUL LIFE OF PROPERTY SHALL
31 BE THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUT-
32 ING HIS FEDERAL INCOME TAX LIABILITY.

33 (2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF
34 THIS PARAGRAPH APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS DEFINED
35 IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL
36 REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE
37 PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN,
38 THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED
39 FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF
40 QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT HAS BEEN
41 TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END
42 OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE
43 CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSI-
44 TION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY
45 MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALI-
46 FIED USE BEAR TO THIRTY-SIX.

47 (3) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF
48 THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE
49 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
50 CODE, OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF
51 SUCH SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO
52 BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE
53 CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF
54 THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO
55 WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH
56 CREDIT HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE

1 PRIOR TO THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT
2 TAKEN AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE
3 YEAR OF DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL
4 BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE
5 MONTHS OF QUALIFIED USE BEAR TO SIXTY.

6 (4) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED
7 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR
8 A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES
9 TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE
10 CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF
11 THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO
12 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS
13 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-
14 NAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED
15 OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER
16 WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL
17 REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT
18 ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION.
19 PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN
20 QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE
21 CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS
22 PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL
23 USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO
24 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS
25 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-
26 NAL REVENUE CODE.

27 (5) FOR PURPOSES OF THIS PARAGRAPH, PROPERTY (I) WHICH IS DESCRIBED IN
28 SUBPARAGRAPH TWO, THREE OR FOUR OF THIS PARAGRAPH, AND (II) WHICH IS
29 SUBJECT TO SUBPARAGRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION NINE AND
30 SUBPARAGRAPH TEN OF PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION TWO
31 HUNDRED EIGHT OF THIS CHAPTER, SHALL BE TREATED AS PROPERTY WHICH IS
32 DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL
33 REVENUE CODE BUT IS NOT SUBJECT TO SECTION ONE HUNDRED SIXTY-EIGHT OF
34 SUCH CODE.

35 (6) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH
36 RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-
37 ICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION
38 LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF
39 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION
40 SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, UNLESS SUCH
41 FACILITY IS DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARA-
42 GRAPH (B) OF THIS SUBDIVISION. ALSO FOR PURPOSES OF THIS SUBPARAGRAPH,
43 THE USE OF AN AIR POLLUTION CONTROL FACILITY OR AN INDUSTRIAL WASTE
44 TREATMENT FACILITY FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH
45 ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE SHALL CONSTI-
46 TUTE A CESSATION OF QUALIFIED USE, UNLESS SUCH FACILITY IS DESCRIBED IN
47 CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF THIS SUBDIVI-
48 SION.

49 (7) FOR TAXABLE YEARS COMMENCING ON OR AFTER JANUARY FIRST, NINETEEN
50 HUNDRED EIGHTY-SEVEN, THE AMOUNT REQUIRED TO BE ADDED BACK PURSUANT TO
51 THIS PARAGRAPH SHALL BE AUGMENTED BY AN AMOUNT EQUAL TO THE PRODUCT OF
52 SUCH AMOUNT AND THE UNDERPAYMENT RATE OF INTEREST (WITHOUT REGARD TO
53 COMPOUNDING), SET BY THE COMMISSIONER OF TAXATION AND FINANCE PURSUANT
54 TO SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX, IN EFFECT ON THE
55 LAST DAY OF THE TAXABLE YEAR.

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

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

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

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

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

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

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

54 (D) THE TERM "QUALIFIED TRANSACTION" SHALL MEAN A TRANSACTION WHICH IS
55 A REORGANIZATION DESCRIBED IN SECTION 368(A)(1)(D) OF THE INTERNAL
56 REVENUE CODE, WHEREIN (I) SUBSTANTIALLY ALL OF THE ASSETS OF THE

1 TRANSFEROR NECESSARY TO CONTINUE THE OPERATION OF A DIVISION OR DIVI-
2 SIONS OF THE TRANSFEROR ARE TRANSFERRED TO THE TAXPAYER IN A TRANSACTION
3 TO WHICH SECTION 351 OF SUCH CODE APPLIES, AND (II) STOCK OR SECURITIES
4 OF THE TAXPAYER HELD BY THE TRANSFEROR ARE DISTRIBUTED PURSUANT TO
5 SECTION 355 OF SUCH CODE.

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

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

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

18 (H) WHERE A CREDIT IS ALLOWED TO A TAXPAYER PURSUANT TO THIS SUBPARA-
19 GRAPH, THE TAXPAYER MAY TREAT THE AMOUNT OF SUCH CREDIT AS AN OVERPAY-
20 MENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS
21 OF SECTION TEN HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER,
22 THE PROVISIONS OF SUBSECTION (C) OF SECTION TEN HUNDRED EIGHTY-EIGHT OF
23 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. SUCH
24 CREDIT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS ARTICLE WITH
25 RESPECT TO THE SECOND SUCCEEDING TAXABLE YEAR NEXT FOLLOWING THE TRANS-
26 ACTION YEAR, PROVIDED THAT NOT MORE THAN ONE-FOURTH OF THE AMOUNT OF
27 SUCH CREDIT MAY BE APPLIED BY THE TAXPAYER, WHETHER TO REDUCE TAX OTHER-
28 WISE DUE OR TO BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED,
29 WITH RESPECT TO SUCH SECOND SUCCEEDING TAXABLE YEAR AND EACH OF THE NEXT
30 THREE TAXABLE YEARS FOLLOWING SUCH SECOND SUCCEEDING TAXABLE YEAR.

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

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

39 (2) IS SUBSTANTIALLY SIMILAR IN OPERATION AND IN OWNERSHIP TO A BUSI-
40 NESS ENTITY (OR ENTITIES) TAXABLE, OR PREVIOUSLY TAXABLE, UNDER THIS
41 ARTICLE; SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED EIGHTY-FOUR,
42 FORMER SECTION ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED
43 EIGHTY-SIX OF ARTICLE NINE; ARTICLE THIRTY-TWO OF THIS CHAPTER AS SUCH
44 ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;
45 ARTICLE THIRTY-THREE OF THIS CHAPTER; ARTICLE TWENTY-THREE OF THIS CHAP-
46 TER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE
47 TWENTY-THREE (AS SUCH ARTICLE WAS IN EFFECT ON JANUARY FIRST, NINETEEN
48 HUNDRED EIGHTY) OR THE INCOME (OR LOSSES) OF WHICH IS (OR WAS) INCLUDA-
49 BLE UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER WHEREBY THE INTENT AND
50 PURPOSE OF THIS PARAGRAPH AND PARAGRAPH (D) OF THIS SUBDIVISION WITH
51 RESPECT TO REFUNDING OF CREDIT TO NEW BUSINESS WOULD BE EVADED; OR

52 (3) HAS BEEN SUBJECT TO TAX UNDER THIS ARTICLE OR FORMER ARTICLE THIR-
53 TY-TWO OF THIS CHAPTER FOR MORE THAN FIVE TAXABLE YEARS (EXCLUDING SHORT
54 TAXABLE YEARS).

55 2. EMPLOYMENT INCENTIVE CREDIT (EIC). (A)(I) APPLICATION OF CREDIT.
56 WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION ONE OF THIS

1 SECTION, OTHER THAN AT THE OPTIONAL RATE APPLICABLE TO RESEARCH AND
 2 DEVELOPMENT PROPERTY, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF
 3 THE TWO YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT
 4 UNDER SUCH SUBDIVISION ONE IS ALLOWED WITH RESPECT TO SUCH PROPERTY,
 5 WHETHER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE
 6 YEARS PURSUANT TO PARAGRAPH (D) OF SUCH SUBDIVISION ONE. PROVIDED,
 7 HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXA-
 8 BLE YEAR SHALL BE ALLOWED ONLY IF THE AVERAGE NUMBER OF EMPLOYEES DURING
 9 SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE
 10 NUMBER OF EMPLOYEES DURING THE EMPLOYMENT BASE YEAR. THE EMPLOYMENT BASE
 11 YEAR SHALL BE THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR
 12 FOR WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE IS ALLOWED EXCEPT THAT
 13 IF THE TAXPAYER WAS NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE YEAR
 14 IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH
 15 SUBDIVISION ONE OF THIS SECTION IS ALLOWED, THE EMPLOYMENT BASE YEAR
 16 SHALL BE THE TAXABLE YEAR IN WHICH THE CREDIT UNDER SUCH SUBDIVISION ONE
 17 IS ALLOWED.

18 (II) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS
 19 SUBDIVISION SHALL BE AS SET FORTH IN THE FOLLOWING TABLE:
 20 AVERAGE NUMBER OF EMPLOYEES DURING THE CREDIT ALLOWED UNDER THIS
 21 TAXABLE YEAR EXPRESSED AS A PERCENTAGE SUBDIVISION EXPRESSED AS A
 22 OF AVERAGE EMPLOYEES IN EMPLOYMENT PERCENTAGE OF THE APPLICABLE
 23 BASE YEARS INVESTMENT CREDIT BASIS
 24 LESS THAN 102% 1.5%
 25 AT LEAST 102% AND LESS THAN 103% 2%
 26 AT LEAST 103% 2.5%

27 (B) AVERAGE NUMBER OF EMPLOYEES. THE AVERAGE NUMBER OF EMPLOYEES IN A
 28 TAXABLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF EMPLOYEES
 29 WITHIN THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS, EMPLOYED BY THE
 30 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,
 31 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER IN
 32 THE TAXABLE YEAR, BY ADDING TOGETHER THE NUMBER OF EMPLOYEES ASCERTAINED
 33 ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF
 34 SUCH ABOVE MENTIONED DATES OCCURRING WITHIN THE TAXABLE YEAR. HOWEVER,
 35 WITH RESPECT TO THE EMPLOYMENT BASE YEAR, THERE SHALL BE EXCLUDED THERE-
 36 FROM ANY EMPLOYEE WITH RESPECT TO WHOM A CREDIT PROVIDED FOR UNDER
 37 SUBDIVISION SIX OF THIS SECTION IS CLAIMED, FOR THE TAXABLE YEAR, BASED
 38 ON EMPLOYMENT WITHIN A ZONE EQUIVALENT AREA DESIGNATED AS SUCH PURSUANT
 39 TO ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW.

40 (C) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE
 41 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE
 42 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
 43 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT
 44 OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES
 45 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON
 46 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN
 47 SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FIFTEEN TAXABLE YEARS IMME-
 48 DIATELY FOLLOWING SUCH TAXABLE YEAR AND MAY BE DEDUCTED FROM THE TAXPAY-
 49 ER'S TAX FOR SUCH YEAR OR YEARS.

50 3. EMPIRE ZONE INVESTMENT TAX CREDIT (EZ-ITC). (A) A TAXPAYER SHALL BE
 51 ALLOWED A CREDIT, TO BE COMPUTED AS HEREIN PROVIDED, AGAINST THE TAX
 52 IMPOSED BY THIS ARTICLE IF THE TAXPAYER HAS BEEN CERTIFIED PURSUANT TO
 53 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW. THE AMOUNT OF THE CRED-
 54 IT SHALL BE TEN PERCENT OF THE COST OR OTHER BASIS FOR FEDERAL INCOME
 55 TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY,
 56 INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, DESCRIBED IN

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

15 (B) QUALIFIED PROPERTY. A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-
16 SION WITH RESPECT TO TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROP-
17 erty, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS, WHICH

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

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

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

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

25 (V) ARE (A) PRINCIPALLY USED BY THE TAXPAYER IN THE PRODUCTION OF
26 GOODS BY MANUFACTURING, PROCESSING, ASSEMBLING, REFINING, MINING,
27 EXTRACTING, FARMING, AGRICULTURE, HORTICULTURE, FLORICULTURE, VITICUL-
28 TURE OR COMMERCIAL FISHING,

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

31 (C) RESEARCH AND DEVELOPMENT PROPERTY,

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

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

49 (E-1) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S TRADE
50 OR BUSINESS OF PROVIDING INVESTMENT ADVISORY SERVICES OR THE SERVICE OF
51 MANAGING INVESTMENT PORTFOLIOS TO ACHIEVE SPECIFIC INVESTMENT OBJECTIVES
52 FOR ACCOUNTS OVER ONE MILLION DOLLARS OF ACCREDITED INVESTORS (AS THAT
53 TERM IS DEFINED IN RULE 501 OF REGULATION D OF THE SECURITIES ACT OF
54 1933), IF THE TAXPAYER SATISFIES THE FOLLOWING CRITERIA:

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

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

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

7 (F) PRINCIPALLY USED IN THE ORDINARY COURSE OF THE TAXPAYER'S BUSINESS
8 AS AN EXCHANGE REGISTERED AS A NATIONAL SECURITIES EXCHANGE WITHIN THE
9 MEANING OF SECTIONS 3(A)(1) AND 6(A) OF THE SECURITIES EXCHANGE ACT OF
10 1934 OR A BOARD OF TRADE AS DEFINED IN SUBDIVISION ONE OF PARAGRAPH (A)
11 OF SECTION FOURTEEN HUNDRED TEN OF THE NOT-FOR-PROFIT CORPORATION LAW OR
12 AS AN ENTITY THAT IS WHOLLY OWNED BY ONE OR MORE SUCH NATIONAL SECURI-
13 TIES EXCHANGES OR BOARDS OR TRADE AND THAT PROVIDES AUTOMATION OR TECH-
14 NICAL SERVICES THERETO.

15 (VI) FOR PURPOSES OF CLAUSES (D), (E), (E-1) AND (F) OF SUBPARAGRAPH
16 (V) OF THIS PARAGRAPH, PROPERTY PURCHASED BY A TAXPAYER AFFILIATED WITH
17 A REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISER, NATIONAL
18 SECURITIES EXCHANGE OR BOARD OF TRADE IS ALLOWED A CREDIT UNDER THIS
19 SUBDIVISION IF THE PROPERTY IS USED BY ITS AFFILIATED REGULATED BROKER,
20 DEALER, REGISTERED INVESTMENT ADVISER OR NATIONAL SECURITIES EXCHANGE OR
21 BOARD OF TRADE IN ACCORDANCE WITH THIS SUBDIVISION. FOR PURPOSES OF
22 DETERMINING IF THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THE
23 USES BY THE TAXPAYER DESCRIBED IN CLAUSES (D), (E) AND (E-1) OF SUBPARA-
24 GRAPH (V) OF THIS PARAGRAPH MAY BE AGGREGATED. IN ADDITION, THE USES BY
25 THE TAXPAYER, ITS AFFILIATED REGULATED BROKER, DEALER AND REGISTERED
26 INVESTMENT ADVISER UNDER ANY OF THOSE CLAUSES MAY BE AGGREGATED.
27 PROVIDED, HOWEVER, A TAXPAYER SHALL NOT BE ALLOWED THE CREDIT PROVIDED
28 BY CLAUSES (D), (E), (E-1) AND (F) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH
29 UNLESS

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

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

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

51 (VII) FOR THE PURPOSES OF CLAUSE (III) OF SUBPARAGRAPH (VI) OF THIS
52 PARAGRAPH THE EMPLOYMENT TEST WILL BE BASED ON THE NUMBER OF EMPLOYEES
53 LOCATED IN THIS STATE ON THE LAST DAY OF THE FIRST TAXABLE YEAR THE
54 TAXPAYER IS SUBJECT TO TAX IN THIS STATE. IF THE USES OF THE PROPERTY
55 MUST BE AGGREGATED TO DETERMINE WHETHER THE PROPERTY IS PRINCIPALLY USED
56 IN QUALIFYING USES, THEN EITHER EACH AFFILIATE USING THE PROPERTY MUST

1 SATISFY THIS EMPLOYMENT TEST OR THIS EMPLOYMENT TEST MUST BE SATISFIED
2 THROUGH THE AGGREGATION OF THE EMPLOYEES OF THE TAXPAYER, ITS AFFILIATED
3 REGULATED BROKER, DEALER, AND REGISTERED INVESTMENT ADVISER USING THE
4 PROPERTY.

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

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

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

43 (D) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
44 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
45 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
46 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT
47 IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE
48 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS
49 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT
50 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
51 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
52 OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER WHICH QUALIFIES
53 AS A NEW BUSINESS UNDER PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION
54 MAY ELECT, ON ITS REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH
55 CREDIT IS ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRY-
56 OVER AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE

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

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

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

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

50 (II) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH (IV)
51 OF THIS PARAGRAPH APPLIES, WITH RESPECT TO THREE-YEAR PROPERTY, AS
52 DEFINED IN SUBSECTION (E) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE
53 INTERNAL REVENUE CODE, WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED
54 USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE
55 TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT
56 PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH THE

1 MONTHS OF QUALIFIED USE BEAR TO THIRTY-SIX. IF PROPERTY ON WHICH CREDIT
2 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
3 THE END OF THIRTY-SIX MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN
4 AND THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF
5 DISPOSITION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETER-
6 MINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS
7 OF QUALIFIED USE BEAR TO THIRTY-SIX.

8 (III) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH (IV)
9 OF THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE
10 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
11 CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH
12 SECTION ONE HUNDRED SIXTY-EIGHT WHICH IS DISPOSED OF OR CEASES TO BE IN
13 QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT
14 IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE
15 CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO WHICH
16 THE MONTHS OF QUALIFIED USE BEAR TO SIXTY. IF PROPERTY ON WHICH CREDIT
17 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
18 THE END OF SIXTY MONTHS, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE
19 CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSI-
20 TION. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY
21 MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO WHICH THE MONTHS OF QUALI-
22 FIED USE BEAR TO SIXTY.

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

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

47 (VI)(A) FOR PURPOSES OF THIS PARAGRAPH, THE DECERTIFICATION OF A BUSI-
48 NESS ENTERPRISE WITH RESPECT TO AN EMPIRE ZONE SHALL CONSTITUTE A
49 DISPOSAL OR CESSATION OF QUALIFIED USE OF THE PROPERTY ON WHICH THE
50 CREDIT WAS TAKEN WHICH IS LOCATED IN THE ZONE TO WHICH THE DECERTIF-
51 ICATION APPLIES, ON THE EFFECTIVE DATE OF SUCH DECERTIFICATION.

52 (B) WHERE A BUSINESS ENTERPRISE HAS BEEN DECERTIFIED BASED ON A FIND-
53 ING PURSUANT TO CLAUSE ONE, TWO, OR FIVE OF SUBDIVISION (A) OF SECTION
54 NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, THE AMOUNT
55 REQUIRED TO BE ADDED BACK BY REASON OF THIS PARAGRAPH SHALL BE (I) THE
56 AMOUNT OF CREDIT, WITH RESPECT TO THE PROPERTY WHICH IS DISPOSED OF OR

1 CEASES TO BE IN QUALIFIED USE, WHICH WAS DEDUCTED FROM THE TAXPAYER'S
2 TAX OTHERWISE DUE UNDER THIS ARTICLE FOR ALL PRIOR TAXABLE YEARS,
3 REDUCED (BUT NOT BELOW ZERO) BY (II) THE CREDIT ALLOWED FOR ACTUAL USE.
4 FOR PURPOSES OF THIS SUBPARAGRAPH, THE ATTRIBUTION TO SPECIFIC PROPERTY
5 OF CREDIT AMOUNTS DEDUCTED FROM TAX SHALL BE ESTABLISHED IN ACCORDANCE
6 WITH THE DATE OF PLACEMENT IN SERVICE OF SUCH PROPERTY IN THE EMPIRE
7 ZONE.

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

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

20 (VII) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH
21 RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-
22 ICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION
23 LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF
24 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION
25 SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, EXCEPT WITH
26 RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY WHICH IS
27 DESCRIBED IN CLAUSE (A), (B), OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH
28 (B) OF THIS SUBDIVISION OTHER THAN AS PART OF OR COMPRISING AN AIR
29 POLLUTION CONTROL FACILITY. ALSO FOR PURPOSES OF THIS PARAGRAPH, THE USE
30 OF AN AIR POLLUTION CONTROL FACILITY OR AN INDUSTRIAL WASTE TREATMENT
31 FACILITY FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE
32 IN THE MANUFACTURING PROCESS OR ARE MARKETABLE SHALL CONSTITUTE A CESSA-
33 TION OF QUALIFIED USE, EXCEPT WITH RESPECT TO PROPERTY CONTAINED IN OR
34 COMPRISING SUCH FACILITY WHICH IS DESCRIBED IN CLAUSE (A) OR (C) OF
35 SUBPARAGRAPH (V) OF PARAGRAPH (B) OF THIS SUBDIVISION.

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

47 (IX) IF A TAXPAYER, WHICH IS APPROVED BY THE COMMISSIONER OF ECONOMIC
48 DEVELOPMENT AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIF-
49 ICANT CAPITAL INVESTMENT PROJECT PURSUANT TO SUBDIVISION (W) OF SECTION
50 NINE HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, FAILS TO (A)
51 CREATE AT LEAST THE MINIMUM NUMBER OF JOBS AT SUCH PROJECT AS REQUIRED
52 BY THE PROVISIONS OF SUBDIVISION (S) OR (T) OF SECTION NINE HUNDRED
53 FIFTY-SEVEN AND SUBDIVISION (W) OF SECTION NINE HUNDRED FIFTY-NINE OF
54 THE GENERAL MUNICIPAL LAW OR (B) PLACE IN SERVICE PROPERTY COMPRISING
55 SUCH QUALIFIED INVESTMENT PROJECT OR SIGNIFICANT CAPITAL INVESTMENT
56 PROJECT WITH A BASIS FOR FEDERAL INCOME TAX PURPOSES EQUALING OR EXCEED-

1 ING THE APPLICABLE MINIMUM REQUIRED BASIS AS PROVIDED IN SUCH SUBDIVI-
2 SION (S) OR (T), WHICHEVER IS RELEVANT, BY THE LAST DAY OF THE FIFTH
3 TAXABLE YEAR FOLLOWING THE TAXABLE YEAR IN WHICH A CREDIT IS FIRST
4 ALLOWED UNDER THIS SUBDIVISION FOR THE PROPERTY WHICH COMPRISES SUCH
5 QUALIFIED INVESTMENT PROJECT OR SUCH SIGNIFICANT CAPITAL INVESTMENT
6 PROJECT, THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION
7 FOR ALL TAXABLE YEARS WITH RESPECT TO THE PROPERTY WHICH COMPRISES SUCH
8 PROJECT WHICH HAS BEEN REFUNDED TO SUCH TAXPAYER SHALL BE ADDED BACK IN
9 SUCH TAXABLE YEAR.

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

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

35 4. EMPIRE ZONE EMPLOYMENT INCENTIVE CREDIT (EZ-EIC). (A) APPLICATION
36 OF CREDIT. WHERE A TAXPAYER IS ALLOWED A CREDIT UNDER SUBDIVISION THREE
37 OF THIS SECTION, THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE
38 THREE YEARS NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER
39 SUCH SUBDIVISION THREE IS ALLOWED, WITH RESPECT TO SUCH PROPERTY, WHETH-
40 ER OR NOT DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS
41 PURSUANT TO PARAGRAPH (D) OF SUCH SUBDIVISION THREE, OF THIRTY PERCENT
42 OF THE CREDIT ALLOWABLE UNDER SUCH SUBDIVISION THREE; PROVIDED, HOWEVER,
43 THAT THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
44 SHALL ONLY BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE
45 TAXPAYER IN THE EMPIRE ZONE, DESIGNATED PURSUANT TO ARTICLE EIGHTEEN-B
46 OF THE GENERAL MUNICIPAL LAW, IN WHICH SUCH PROPERTY IS LOCATED DURING
47 SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE
48 NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN SUCH EMPIRE ZONE, DURING
49 THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE
50 CREDIT UNDER SUCH SUBDIVISION THREE IS ALLOWED AND PROVIDED, FURTHER,
51 THAT IF THE TAXPAYER WAS NOT SUBJECT TO TAX AND DID NOT HAVE A TAXABLE
52 YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER
53 SUBDIVISION THREE OF THIS SECTION IS ALLOWED, THE CREDIT ALLOWABLE UNDER
54 THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE ALLOWED IF THE AVERAGE
55 NUMBER OF EMPLOYEES EMPLOYED IN SUCH EMPIRE ZONE IN SUCH TAXABLE YEAR IS
56 AT LEAST ONE HUNDRED ONE PERCENT OF THE AVERAGE NUMBER OF SUCH EMPLOYEES

1 DURING THE TAXABLE YEAR IN WHICH THE CREDIT UNDER SUCH SUBDIVISION THREE
2 IS ALLOWED.

3 (B) AVERAGE NUMBER OF EMPLOYEES. THE AVERAGE NUMBER OF EMPLOYEES
4 EMPLOYED IN AN EMPIRE ZONE IN A TAXABLE YEAR SHALL BE COMPUTED BY ASCER-
5 TAINING THE NUMBER OF SUCH EMPLOYEES WITHIN SUCH ZONE EXCEPT GENERAL
6 EXECUTIVE OFFICERS, EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF
7 MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE
8 THIRTY-FIRST DAY OF DECEMBER IN THE TAXABLE YEAR, BY ADDING TOGETHER THE
9 NUMBER OF EMPLOYEES ASCERTAINED ON EACH OF SUCH DATES AND DIVIDING THE
10 SUM SO OBTAINED BY THE NUMBER OF SUCH ABOVE-MENTIONED DATES OCCURRING
11 WITHIN THE TAXABLE YEAR.

12 (C) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE
13 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE
14 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
15 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT
16 IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE
17 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS
18 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT
19 DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
20 YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR
21 OR YEARS. IN LIEU OF SUCH CARRYOVER, ANY SUCH TAXPAYER, WHICH IS
22 APPROVED AS THE OWNER OF A QUALIFIED INVESTMENT PROJECT OR A SIGNIFICANT
23 CAPITAL INVESTMENT PROJECT PURSUANT TO SUBDIVISION (V) OF SECTION NINE
24 HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW, MAY ELECT, ON ITS
25 REPORT FOR ITS TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS
26 ALLOWED, TO TREAT FIFTY PERCENT OF THE AMOUNT OF SUCH CARRYOVER AS AN
27 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
28 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
29 HOWEVER, IN THE CASE OF SUCH OWNER OF A QUALIFIED INVESTMENT PROJECT OR
30 A SIGNIFICANT CAPITAL INVESTMENT PROJECT, ONLY FIFTY PERCENT OF THE
31 AMOUNT OF SUCH CARRYOVER WHICH IS ATTRIBUTABLE TO THE CREDIT ALLOWED
32 UNDER THIS SUBDIVISION WITH RESPECT TO PROPERTY WHICH IS PART OF SUCH
33 PROJECT SHALL BE ALLOWED TO BE CREDITED OR REFUNDED AND SUCH OWNER SHALL
34 BE ALLOWED SUCH CREDIT OR REFUND ONLY FOR THOSE TAXABLE YEARS IN WHICH
35 SUCH OWNER WOULD BE ALLOWED A CREDIT OR REFUND OF THE EMPIRE ZONE
36 INVESTMENT TAX CREDIT PURSUANT TO PARAGRAPH (D) OF SUBDIVISION THREE OF
37 THIS SECTION. PROVIDED, FURTHER, HOWEVER, THE PROVISIONS OF SUBSECTION
38 (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTAND-
39 ING, NO INTEREST SHALL BE PAID THEREON.

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

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

1 THIS SUBDIVISION FOR THE REMAINDER OF THE TAXABLE YEAR IN WHICH THE
2 EXPIRATION OCCURRED AND FOR THE NEXT SUCCEEDING NINE TAXABLE YEARS.

3 (E) NOTWITHSTANDING THE EXPIRATION OF THE EMPIRE ZONES PROGRAM UNDER
4 ARTICLE EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW AND EXCEPT AS PROVIDED
5 IN PARAGRAPH (D) OF THIS SUBDIVISION, A TAXPAYER THAT IS CERTIFIED AS AN
6 EMPIRE ZONE BUSINESS PURSUANT TO SUCH ARTICLE EIGHTEEN-B ON THE DAY
7 IMMEDIATELY PRECEDING THE DAY THE EMPIRE ZONES PROGRAM EXPIRED SHALL
8 CONTINUE TO BE DEEMED IN THE EMPIRE ZONE IN WHICH THE TAXPAYER WAS
9 CERTIFIED AS AN EMPIRE ZONE BUSINESS ON THE DAY IMMEDIATELY PRECEDING
10 THE DAY THE EMPIRE ZONES PROGRAM EXPIRED FOR EACH OF THE THREE YEARS
11 NEXT SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUBDIVISION
12 THREE OF THIS SECTION IS ALLOWED.

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

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

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

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

40 7. QUALIFIED EMERGING TECHNOLOGY COMPANY EMPLOYMENT CREDIT. (A) APPLI-
41 CATION OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED
42 AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE,
43 PROVIDED:

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

47 (II) THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY THE
48 TAXPAYER IN NEW YORK STATE DURING THE TAXABLE YEAR IS AT LEAST ONE
49 HUNDRED ONE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT. FOR THE
50 PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS THE AVERAGE
51 NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN THE STATE
52 DURING THE THREE TAXABLE YEARS IMMEDIATELY PRECEDING THE FIRST TAXABLE
53 YEAR IN WHICH THE CREDIT IS CLAIMED. WHERE THE TAXPAYER PROVIDED
54 FULL-TIME EMPLOYMENT WITHIN THE STATE DURING ONLY A PORTION OF SUCH
55 THREE-YEAR PERIOD, THEN THE FIRST EFFECTIVE DATE FOR THE COMPANY TO TAKE
56 ADVANTAGE OF THIS CREDIT SHALL BE THE NEXT YEAR FOLLOWING THE FIRST FULL

1 TAXABLE YEAR THAT THE COMPANY HAD FULL-TIME EMPLOYMENT IN NEW YORK
2 STATE. FOR THE PURPOSES OF THIS PARAGRAPH THE TERM "THREE YEARS" SHALL
3 BE DEEMED TO REFER INSTEAD TO THE PRIOR YEAR'S FULL-TIME EMPLOYMENT
4 AFTER THE FIRST YEAR AND THE AVERAGE OF THE FIRST EIGHT QUARTERS OF
5 EMPLOYMENT AFTER THE FIRST TWO TAXABLE YEARS IN NEW YORK STATE.

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

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

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

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 ARTICLE. HOWEVER, IF THE AMOUNT
28 OF CREDIT ALLOWED 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 THUS NOT DEDUCT-
31 IBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO
32 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
33 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
34 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
35 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

43 (1) TEN PERCENT OF QUALIFIED INVESTMENTS IN QUALIFIED EMERGING TECH-
44 NOLOGY COMPANIES, EXCEPT FOR INVESTMENTS MADE BY OR ON BEHALF OF AN
45 OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER,
46 PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPAR-
47 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED
48 SIXTY-FIVE OF THE INTERNAL REVENUE CODE, AND PROVIDED, HOWEVER, THAT THE
49 TAXPAYER CERTIFIES TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT
50 WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE FOUR
51 YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED; OR

52 (2) TWENTY PERCENT OF QUALIFIED INVESTMENTS IN QUALIFIED EMERGING
53 TECHNOLOGY COMPANIES, EXCEPT FOR INVESTMENTS MADE BY OR ON BEHALF OF AN
54 OWNER OF THE BUSINESS, INCLUDING, BUT NOT LIMITED TO, A STOCKHOLDER,
55 PARTNER OR SOLE PROPRIETOR, OR ANY RELATED PERSON, AS DEFINED IN SUBPAR-
56 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED

1 SIXTY-FIVE OF THE INTERNAL REVENUE CODE, AND PROVIDED, HOWEVER, THAT THE
2 TAXPAYER CERTIFIES TO THE COMMISSIONER THAT THE QUALIFIED INVESTMENT
3 WILL NOT BE SOLD, TRANSFERRED, TRADED, OR DISPOSED OF DURING THE NINE
4 YEARS FOLLOWING THE YEAR IN WHICH THE CREDIT IS FIRST CLAIMED.

5 (B) QUALIFIED INVESTMENT. "QUALIFIED INVESTMENT" MEANS THE CONTRIB-
6 UTION OF PROPERTY TO A CORPORATION IN EXCHANGE FOR ORIGINAL ISSUE CAPI-
7 TAL STOCK OR OTHER OWNERSHIP INTEREST, THE CONTRIBUTION OF PROPERTY TO A
8 PARTNERSHIP IN EXCHANGE FOR AN INTEREST IN THE PARTNERSHIP, AND SIMILAR
9 CONTRIBUTIONS IN THE CASE OF A BUSINESS ENTITY NOT IN CORPORATE OR PART-
10 NERSHIP FORM IN EXCHANGE FOR AN OWNERSHIP INTEREST IN SUCH ENTITY. THE
11 TOTAL AMOUNT OF CREDIT ALLOWABLE TO A TAXPAYER UNDER THIS PROVISION FOR
12 ALL YEARS, TAKEN IN THE AGGREGATE, SHALL NOT EXCEED ONE HUNDRED FIFTY
13 THOUSAND DOLLARS IN THE CASE OF INVESTMENTS MADE PURSUANT TO SUBPARA-
14 GRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION AND SHALL NOT EXCEED
15 THREE HUNDRED THOUSAND DOLLARS IN THE CASE OF INVESTMENTS MADE PURSUANT
16 TO SUBPARAGRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION.

17 (C) CARRYOVER. IN NO EVENT SHALL THE CREDIT AND CARRYOVER OF SUCH
18 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR, IN THE
19 AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED
20 DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
21 SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT OF CRED-
22 IT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION
23 FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER
24 OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, OR IF ANY
25 PART OF THE CREDIT OR CARRYOVERS OF SUCH CREDIT MAY NOT BE DEDUCTED FROM
26 THE TAX OTHERWISE DUE BY REASON OF THE FINAL SENTENCE OF THIS PARAGRAPH,
27 ANY AMOUNT OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN
28 SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND
29 MAY BE DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS. IN ADDITION, THE
30 AMOUNT OF SUCH CREDIT, AND CARRYOVERS OF SUCH CREDIT TO THE TAXABLE
31 YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE MAY NOT, IN THE AGGREGATE,
32 EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER SECTION TWO HUNDRED NINE
33 OF THIS ARTICLE COMPUTED WITHOUT REGARD TO ANY CREDIT PROVIDED FOR BY
34 THIS SECTION.

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

47 (2) WHERE A TAXPAYER SELLS, TRANSFERS OR OTHERWISE DISPOSES OF CORPO-
48 RATE STOCK, A PARTNERSHIP INTEREST OR OTHER OWNERSHIP INTEREST ARISING
49 FROM THE MAKING OF A QUALIFIED INVESTMENT WHICH WAS THE BASIS, IN WHOLE
50 OR IN PART, FOR THE ALLOWANCE OF THE CREDIT PROVIDED FOR UNDER SUBPARA-
51 GRAPH TWO OF PARAGRAPH (A) OF THIS SUBDIVISION, OR WHERE AN INVESTMENT
52 WHICH WAS THE BASIS FOR SUCH ALLOWANCE IS IN ANY MANNER, IN WHOLE OR IN
53 PART, RECOVERED BY SUCH TAXPAYER, AND SUCH DISPOSITION OR RECOVERY
54 OCCURS DURING THE TAXABLE YEAR OR WITHIN ONE HUNDRED EIGHT MONTHS FROM
55 THE CLOSE OF THE TAXABLE YEAR WITH RESPECT TO WHICH SUCH CREDIT IS
56 ALLOWED, THE TAXPAYER SHALL ADD BACK, WITH RESPECT TO THE TAXABLE YEAR

1 IN WHICH THE DISPOSITION OR RECOVERY DESCRIBED IN SUBPARAGRAPH ONE OF
2 THIS PARAGRAPH OCCURRED THE REQUIRED PORTION OF THE CREDIT ORIGINALLY
3 ALLOWED.

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

7 (4) THE APPLICABLE PERCENTAGE SHALL BE:

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

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

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

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

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

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

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

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

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

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

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

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

1 (B) CARRYOVER. IN NO EVENT SHALL THE CREDIT HEREIN PROVIDED FOR BE
2 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE
3 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
4 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT
5 OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR, INCLUD-
6 ING ANY CREDIT CARRIED OVER FROM A PRIOR TAXABLE YEAR, REDUCES THE TAX
7 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
8 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXA-
9 BLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE
10 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

11 10. CREDIT FOR SERVICING CERTAIN MORTGAGES. (A) GENERAL. EVERY TAXPAY-
12 ER MEETING THE REQUIREMENTS OF THE STATE OF NEW YORK MORTGAGE AGENCY
13 APPLICABLE TO THE SERVICING OF MORTGAGES ACQUIRED BY SUCH AGENCY PURSU-
14 ANT TO THE STATE OF NEW YORK MORTGAGE AGENCY ACT, WHICH SHALL HAVE
15 ENTERED INTO A CONTRACT WITH THE STATE OF NEW YORK MORTGAGE AGENCY TO
16 SERVICE MORTGAGES ACQUIRED BY SUCH AGENCY PURSUANT TO THE STATE OF NEW
17 YORK MORTGAGE AGENCY ACT, SHALL HAVE CREDITED TO IT ANNUALLY AN AMOUNT
18 EQUAL TO TWO AND NINETY-THREE ONE HUNDREDTHS PER CENTUM OF THE TOTAL
19 PRINCIPAL AND INTEREST COLLECTED BY THE TAXPAYER DURING ITS TAXABLE YEAR
20 ON EACH SUCH MORTGAGE SECURED BY A LIEN ON REAL ESTATE IMPROVED BY A
21 ONE-FAMILY TO FOUR-FAMILY RESIDENTIAL STRUCTURE AND AN AMOUNT EQUAL TO
22 THE INTEREST COLLECTED BY THE TAXPAYER DURING ITS TAXABLE YEAR ON EACH
23 SUCH MORTGAGE SECURED BY A LIEN ON REAL PROPERTY IMPROVED BY A STRUCTURE
24 OCCUPIED AS THE RESIDENCE OF FIVE OR MORE FAMILIES LIVING INDEPENDENTLY
25 OF EACH OTHER, MULTIPLIED BY A FRACTION THE DENOMINATOR OF WHICH SHALL
26 BE THE INTEREST RATE PAYABLE ON THE MORTGAGE (COMPUTED TO FIVE DECIMAL
27 PLACES) AND THE NUMERATOR OF WHICH SHALL BE .00125 IN THE CASE OF SUCH A
28 MORTGAGE ACQUIRED BY SUCH AGENCY FOR LESS THAN ONE MILLION DOLLARS, AND
29 .00100 IN THE CASE OF SUCH A MORTGAGE ACQUIRED BY SUCH AGENCY FOR ONE
30 MILLION DOLLARS OR MORE. IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS
31 SUBDIVISION REDUCE THE TAX TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT
32 PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED
33 TEN OF THIS ARTICLE. IN COMPUTING SUCH TAX CREDIT FOR THE SERVICING OF
34 MORTGAGES ON ONE-FAMILY TO FOUR-FAMILY RESIDENTIAL STRUCTURES, THE
35 TAXPAYER SHALL NOT BE ENTITLED TO CREDIT FOR THE COLLECTION OF CURTAIL-
36 MENT OR PAYMENTS IN DISCHARGE OF ANY SUCH MORTGAGE. FOR THE PURPOSES OF
37 THIS SUBDIVISION,

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

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

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

45 (II) "MONTHLY CONSTANT" SHALL MEAN THE AMOUNT OF PRINCIPAL AND INTER-
46 EST WHICH IS DUE AND PAYABLE ACCORDING TO THE MORTGAGE DOCUMENTS ON EACH
47 PERIODIC PAYMENT DATE.

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

1 (B) ELIGIBLE FARMER. FOR PURPOSES OF THIS SUBDIVISION, THE TERM
2 "ELIGIBLE FARMER" MEANS A TAXPAYER WHOSE FEDERAL GROSS INCOME FROM FARM-
3 ING FOR THE TAXABLE YEAR IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS
4 INCOME. THE TERM "ELIGIBLE FARMER" ALSO INCLUDES A CORPORATION OTHER
5 THAN THE TAXPAYER OF RECORD FOR QUALIFIED AGRICULTURAL LAND WHICH HAS
6 PAID THE SCHOOL DISTRICT PROPERTY TAXES ON SUCH LAND PURSUANT TO A
7 CONTRACT FOR THE FUTURE PURCHASE OF SUCH LAND; PROVIDED THAT SUCH CORPO-
8 RATION HAS A FEDERAL GROSS INCOME FROM FARMING FOR THE TAXABLE YEAR
9 WHICH IS AT LEAST TWO-THIRDS OF EXCESS FEDERAL GROSS INCOME; AND
10 PROVIDED FURTHER THAT, IN DETERMINING SUCH INCOME ELIGIBILITY, A TAXPAY-
11 ER MAY, FOR ANY TAXABLE YEAR, USE THE AVERAGE OF SUCH FEDERAL GROSS
12 INCOME FROM FARMING FOR THAT TAXABLE YEAR AND SUCH INCOME FOR THE TWO
13 CONSECUTIVE TAXABLE YEARS IMMEDIATELY PRECEDING SUCH TAXABLE YEAR.
14 EXCESS FEDERAL GROSS INCOME MEANS THE AMOUNT OF FEDERAL GROSS INCOME
15 FROM ALL SOURCES FOR THE TAXABLE YEAR IN EXCESS OF THIRTY THOUSAND
16 DOLLARS. FOR THE PURPOSES OF THIS PARAGRAPH, PAYMENTS FROM THE STATE'S
17 FARMLAND PROTECTION PROGRAM, ADMINISTERED BY THE DEPARTMENT OF AGRICUL-
18 TURE AND MARKETS, SHALL BE INCLUDED AS FEDERAL GROSS INCOME FROM FARMING
19 FOR OTHERWISE ELIGIBLE FARMERS.

20 (C) SCHOOL DISTRICT PROPERTY TAXES. FOR PURPOSES OF THIS SUBDIVISION,
21 THE TERM "SCHOOL DISTRICT PROPERTY TAXES" MEANS ALL PROPERTY TAXES,
22 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-
23 TIES AND INTEREST, LEVIED FOR SCHOOL DISTRICT PURPOSES ON THE QUALIFIED
24 AGRICULTURAL PROPERTY OWNED BY THE TAXPAYER.

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

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

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

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

52 (III) BASE ACREAGE OF RELATED PERSONS. WHERE THE TAXPAYER AND ONE OR
53 MORE RELATED PERSONS EACH OWN QUALIFIED AGRICULTURAL PROPERTY ON THE
54 FIRST DAY OF MARCH OF ANY YEAR, THE BASE ACREAGE UNDER SUBPARAGRAPH (II)
55 OF THIS PARAGRAPH SHALL BE DIVIDED EQUALLY AND ALLOTTED AMONG THE
56 TAXPAYER AND SUCH RELATED PERSONS, AND THE TAXPAYER'S BASE ACREAGE FOR

1 THE TAXABLE YEAR WHICH INCLUDES SUCH MARCH FIRST SHALL BE LIMITED TO ITS
2 ALLOTTED SHARE. PROVIDED, HOWEVER, IF THE TAXPAYER AND ALL SUCH RELATED
3 PERSONS CONSENT (AT SUCH TIME AND IN SUCH MANNER AS THE COMMISSIONER MAY
4 PRESCRIBE) TO AN UNEQUAL DIVISION, THE TAXPAYER'S BASE ACREAGE FOR SUCH
5 TAXABLE YEAR SHALL BE LIMITED TO ITS ALLOTTED SHARE UNDER SUCH UNEQUAL
6 DIVISION.

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

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

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

16 (III) A CORPORATION SUBJECT TO TAX UNDER THIS ARTICLE, OR A PARTNER-
17 SHIP, ESTATE OR TRUST, IF THE SAME PERSON OWNS MORE THAN FIFTY PERCENT
18 IN VALUE OF THE OUTSTANDING STOCK OF THE TAXPAYER AND MORE THAN FIFTY
19 PERCENT IN VALUE OF THE OUTSTANDING STOCK OF THE CORPORATION, OR MORE
20 THAN FIFTY PERCENT OF THE CAPITAL OR PROFITS INTEREST IN THE PARTNER-
21 SHIP, OR MORE THAN FIFTY PERCENT OF THE BENEFICIAL INTEREST IN THE
22 ESTATE OR TRUST;

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

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

28 (I) STOCK OWNED, DIRECTLY OR INDIRECTLY, BY OR FOR A CORPORATION,
29 PARTNERSHIP, ESTATE OR TRUST SHALL BE CONSIDERED AS BEING OWNED PROPOR-
30 TIONATELY BY OR FOR ITS SHAREHOLDERS, PARTNERS OR BENEFICIARIES;

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

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

36 (F) INCOME LIMITATION. (I) IN THE EVENT THAT THE MODIFIED ENTIRE NET
37 INCOME OF THE TAXPAYER EXCEEDS TWO HUNDRED THOUSAND DOLLARS, THE ALLOW-
38 ABLE SCHOOL DISTRICT PROPERTY TAXES UNDER PARAGRAPH (A) OF THIS SUBDIVI-
39 SION SHALL BE THE ELIGIBLE TAXES UNDER SUBPARAGRAPH (I) OF PARAGRAPH (E)
40 OF THIS SUBDIVISION REDUCED BY THE PRODUCT OF THE AMOUNT OF SUCH ELIGI-
41 BLE TAXES AND A PERCENTAGE, SUCH PERCENTAGE TO BE DETERMINED BY MULTI-
42 PLYING ONE HUNDRED PERCENT BY A FRACTION, THE NUMERATOR OF WHICH IS THE
43 LESSER OF ONE HUNDRED THOUSAND DOLLARS OR THE EXCESS OF THE TAXPAYER'S
44 MODIFIED ENTIRE NET INCOME OVER TWO HUNDRED THOUSAND DOLLARS AND THE
45 DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS. FOR PURPOSES OF
46 THE PRECEDING SENTENCE, THE TERM "ELIGIBLE TAXES", WHERE THE ACREAGE
47 LIMITATION OF PARAGRAPH (E) OF THIS SUBDIVISION DOES NOT APPLY, SHALL
48 MEAN THE TOTAL SCHOOL DISTRICT PROPERTY TAXES PAID DURING THE TAXABLE
49 YEAR.

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

1 (G) CARRYOVER. IN NO EVENT SHALL THE CREDIT PROVIDED HEREIN BE ALLOWED
2 IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE FIXED
3 DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
4 SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF
5 CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
6 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE
7 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH
8 TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
9 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. PROVIDED,
10 HOWEVER, IN LIEU OF CARRYING OVER THE UNUSED PORTION OF SUCH CREDIT, THE
11 TAXPAYER MAY ELECT TO TREAT SUCH UNUSED PORTION AS AN OVERPAYMENT OF TAX
12 TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION
13 ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER EXCEPT THAT NO INTEREST SHALL BE
14 PAID ON SUCH OVERPAYMENT.

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

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

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

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

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

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

55 12. CREDIT FOR EMPLOYMENT OF PERSONS WITH DISABILITIES. (A) ALLOWANCE
56 OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HERE-

1 INAFTEER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR EMPLOYING
2 WITHIN THE STATE A QUALIFIED EMPLOYEE.

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

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

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

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

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

36 (E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
37 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
38 FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
39 ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF THE AMOUNT
40 OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES
41 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON
42 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN
43 SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS,
44 AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

45 (F) COORDINATION WITH FEDERAL WORK OPPORTUNITY TAX CREDIT. THE
46 PROVISIONS OF SECTION FIFTY-ONE AND FIFTY-TWO OF THE INTERNAL REVENUE
47 CODE, AS SUCH SECTIONS APPLIED ON OCTOBER FIRST, NINETEEN HUNDRED NINE-
48 TY-SIX, THAT APPLY TO THE FEDERAL WORK OPPORTUNITY TAX CREDIT FOR VOCA-
49 TIONAL REHABILITATION REFERRALS SHALL APPLY TO THE CREDIT UNDER THIS
50 SUBDIVISION TO THE EXTENT THAT SUCH SECTIONS ARE CONSISTENT WITH THE
51 SPECIFIC PROVISIONS OF THIS SUBDIVISION, PROVIDED THAT IN THE EVENT OF A
52 CONFLICT THE PROVISIONS OF THIS SUBDIVISION SHALL CONTROL.

53 13. CREDIT FOR PURCHASE OF AN AUTOMATED EXTERNAL DEFIBRILLATOR. A
54 TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
55 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR THE PURCHASE,
56 OTHER THAN FOR RESALE, OF AN AUTOMATED EXTERNAL DEFIBRILLATOR, AS SUCH

1 TERM IS DEFINED IN SECTION THREE THOUSAND-B OF THE PUBLIC HEALTH LAW.
2 THE AMOUNT OF CREDIT SHALL BE THE COST TO THE TAXPAYER OF AUTOMATED
3 EXTERNAL DEFIBRILLATORS PURCHASED DURING THE TAXABLE YEAR, SUCH CREDIT
4 NOT TO EXCEED FIVE HUNDRED DOLLARS WITH RESPECT TO EACH UNIT PURCHASED.
5 THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT
6 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM
7 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
8 HUNDRED TEN OF THIS CHAPTER.

9 14. CREDIT FOR PURCHASE OF LONG-TERM CARE INSURANCE. (A) GENERAL. A
10 TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTI-
11 CLE EQUAL TO TWENTY PERCENT OF THE PREMIUM PAID DURING THE TAXABLE YEAR
12 FOR LONG-TERM CARE INSURANCE. IN ORDER TO QUALIFY FOR SUCH CREDIT, THE
13 TAXPAYER'S PREMIUM PAYMENT MUST BE FOR THE PURCHASE OF OR FOR CONTINUING
14 COVERAGE UNDER A LONG-TERM CARE INSURANCE POLICY THAT QUALIFIES FOR SUCH
15 CREDIT PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED SEVENTEEN OF THE
16 INSURANCE LAW.

17 (B) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY YEAR
18 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR
19 MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
20 TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT
21 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
22 SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
23 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXA-
24 BLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE
25 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

30 (B) APPLICATION OF CREDIT. THE CREDIT AND CARRYOVERS OF SUCH CREDIT
31 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE
32 AGGREGATE, REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED
33 DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
34 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-
35 IT OR CARRYOVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION
36 FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER
37 OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT
38 OF CREDIT OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXA-
39 BLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE
40 DEDUCTED FROM THE TAX FOR SUCH YEAR OR YEARS.

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

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

46 (B) CARRYOVERS. THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED UNDER
47 THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT, IN THE AGGREGATE,
48 REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM
49 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
50 HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT OR CARRY-
51 OVERS OF SUCH CREDIT, OR BOTH, ALLOWED UNDER THIS SUBDIVISION FOR ANY
52 TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE
53 PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT
54 OR CARRYOVERS OF SUCH CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
55 MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED
56 FROM THE TAX FOR SUCH YEAR OR YEARS.

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

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

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

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

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

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

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

1 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
2 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
3 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF
4 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED,
5 HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-
6 SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE
7 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,
8 THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
9 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
10 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
11 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
12 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

16 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
17 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
18 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF
19 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. HOWEVER, IF
20 THE AMOUNT OF CREDITS ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE
21 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS
22 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS
23 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT
24 OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF
25 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE
26 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF
27 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

36 (B) CONSERVATION EASEMENT. FOR PURPOSES OF THIS SUBDIVISION, THE TERM
37 "CONSERVATION EASEMENT" MEANS A PERPETUAL AND PERMANENT CONSERVATION
38 EASEMENT AS DEFINED IN ARTICLE FORTY-NINE OF THE ENVIRONMENTAL CONSERVA-
39 TION LAW THAT SERVES TO PROTECT OPEN SPACE, SCENIC, NATURAL RESOURCES,
40 BIODIVERSITY, AGRICULTURAL, WATERSHED AND/OR HISTORIC PRESERVATION
41 RESOURCES. ANY CONSERVATION EASEMENT FOR WHICH A TAX CREDIT IS CLAIMED
42 UNDER THIS SUBDIVISION SHALL BE FILED WITH THE DEPARTMENT OF ENVIRON-
43 MENTAL CONSERVATION, AS PROVIDED FOR IN ARTICLE FORTY-NINE OF THE ENVI-
44 RONMENTAL CONSERVATION LAW AND SUCH CONSERVATION EASEMENT SHALL COMPLY
45 WITH THE PROVISIONS OF TITLE THREE OF SUCH ARTICLE, AND THE PROVISIONS
46 OF SUBDIVISION (H) OF SECTION 170 OF THE INTERNAL REVENUE CODE. DEDI-
47 CATIONS OF LAND FOR OPEN SPACE THROUGH THE EXECUTION OF CONSERVATION
48 EASEMENTS FOR THE PURPOSE OF FULFILLING DENSITY REQUIREMENTS TO OBTAIN
49 SUBDIVISION OR BUILDING PERMITS SHALL NOT BE CONSIDERED A CONSERVATION
50 EASEMENT UNDER THIS SUBDIVISION.

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

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

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

13 (F) APPLICATION OF THE CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVI-
14 SION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO
15 LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF
16 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF
17 THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE
18 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS
19 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF THE CREDIT
20 THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAY-
21 MENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS
22 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER,
23 EXCEPT THAT, NO INTEREST SHALL BE PAID THEREON.

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

28 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
29 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
30 THAN THE FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF
31 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED,
32 HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-
33 SION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE
34 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,
35 FIFTY PERCENT OF THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO
36 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
37 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
38 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
39 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH
40 CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE CARRIED OVER
41 TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE
42 TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF CRED-
43 IT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN OVERPAY-
44 MENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS
45 OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER,
46 THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF
47 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

51 24. BIOFUEL PRODUCTION CREDIT. (A) GENERAL. A TAXPAYER SHALL BE
52 ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN SECTION TWENTY-EIGHT OF
53 THIS CHAPTER ADDED AS PART X OF CHAPTER SIXTY-TWO OF THE LAWS OF TWO
54 THOUSAND SIX, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT
55 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE
56 TAX DUE FOR SUCH YEAR TO LESS THAN THE FIXED DOLLAR MINIMUM AMOUNT

1 PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED
2 TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER
3 THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR
4 IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM
5 AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
6 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
7 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
8 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
9 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
10 INTEREST SHALL BE PAID THEREON. THE TAX CREDIT ALLOWED PURSUANT TO THIS
11 SECTION SHALL APPLY TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO
12 THOUSAND TWENTY.

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

21 (B) DEFINITIONS. FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINI-
22 TIONS SHALL APPLY:

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

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

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

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

52 (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
53 SAND TWENTY, A TAXPAYER SHALL BE ALLOWED A CREDIT AS HEREINAFTER
54 PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, IN AN AMOUNT EQUAL TO
55 THIRTY PERCENT OF THE AMOUNT OF CREDIT ALLOWED THE TAXPAYER FOR THE SAME
56 TAXABLE YEAR WITH RESPECT TO A CERTIFIED HISTORIC STRUCTURE UNDER

1 SUBSECTION (C)(3) OF SECTION 47 OF THE INTERNAL REVENUE CODE WITH
2 RESPECT TO A CERTIFIED HISTORIC STRUCTURE LOCATED WITHIN THE STATE.
3 PROVIDED, HOWEVER, THE CREDIT SHALL NOT EXCEED ONE HUNDRED THOUSAND
4 DOLLARS.

5 (B) IF THE TAXPAYER IS A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN
6 A NEW YORK S CORPORATION, THEN THE CREDIT CAPS IMPOSED IN SUBPARAGRAPH
7 (A) OF THIS PARAGRAPH SHALL BE APPLIED AT THE ENTITY LEVEL, SO THAT THE
8 AGGREGATE CREDIT ALLOWED TO ALL THE PARTNERS OR SHAREHOLDERS OF EACH
9 SUCH ENTITY IN THE TAXABLE YEAR DOES NOT EXCEED THE CREDIT CAP THAT IS
10 APPLICABLE IN THAT TAXABLE YEAR.

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

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

20 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
21 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT
22 PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED
23 TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
24 THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR
25 IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM
26 AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
27 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE RECREDITED OR REFUNDED
28 IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
29 THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF
30 SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO
31 INTEREST SHALL BE PAID THEREON.

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

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

51 29. HIRE A VET CREDIT. (A) ALLOWANCE OF CREDIT. FOR TAXABLE YEARS
52 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE
53 JANUARY FIRST, TWO THOUSAND SEVENTEEN, A TAXPAYER SHALL BE ALLOWED A
54 CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX
55 IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE
56 YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED

1 VETERAN WITHIN THE STATE. THE TAXPAYER MAY CLAIM THE CREDIT IN THE YEAR
2 IN WHICH THE QUALIFIED VETERAN COMPLETES ONE YEAR OF EMPLOYMENT BY THE
3 TAXPAYER. IF THE TAXPAYER CLAIMS THE CREDIT ALLOWED UNDER THIS SUBDIVI-
4 SION, THE TAXPAYER MAY NOT USE THE HIRING OF A QUALIFIED VETERAN THAT IS
5 THE BASIS FOR THIS CREDIT IN THE BASIS OF ANY OTHER CREDIT ALLOWED UNDER
6 THIS ARTICLE.

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

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

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

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

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

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

35 (E) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
36 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
37 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
38 HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE
39 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
40 AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR
41 MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
42 MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS AND MAY BE DEDUCTED
43 FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

44 30. ALTERNATIVE FUELS AND ELECTRIC VEHICLE RECHARGING PROPERTY CREDIT.

45 (A) GENERAL. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS
46 HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE FOR ALTER-
47 NATIVE FUEL VEHICLE REFUELING AND ELECTRIC VEHICLE RECHARGING PROPERTY
48 PLACED IN SERVICE DURING THE TAXABLE YEAR.

49 (B) ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE
50 RECHARGING PROPERTY. THE CREDIT UNDER THIS SUBDIVISION FOR ALTERNATIVE
51 FUEL VEHICLE REFUELING PROPERTY AND ELECTRIC VEHICLE RECHARGING PROPERTY
52 SHALL EQUAL FOR EACH INSTALLATION OF PROPERTY THE LESSER OF FIVE THOU-
53 SAND DOLLARS OR FIFTY PERCENT OF THE COST OF ANY SUCH PROPERTY:

54 (I) WHICH IS LOCATED IN THIS STATE;

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

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

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

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

12 (D) CARRYOVERS. IN NO EVENT SHALL THE CREDIT UNDER THIS SUBDIVISION BE
13 ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX PAYABLE TO LESS THAN THE
14 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
15 HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF
16 CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
17 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE
18 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH
19 TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
20 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

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

27 (I) THE PROPERTY NO LONGER QUALIFIES AS ALTERNATIVE FUEL VEHICLE REFU-
28 ELING PROPERTY OR ELECTRIC VEHICLE RECHARGING PROPERTY; OR

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

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

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

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

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

46 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
47 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
48 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
49 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-
50 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
51 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
52 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
53 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
54 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
55 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF

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

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

7 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
8 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
9 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
10 SECTION TWO HUNDRED TEN OF THIS ARTICLE. PROVIDED, HOWEVER, THAT IF THE
11 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE
12 YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS
13 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, FIFTY PERCENT OF THE
14 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
15 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
16 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
17 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
18 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON. THE BALANCE OF SUCH
19 CREDIT NOT CREDITED OR REFUNDED IN SUCH TAXABLE YEAR MAY BE A CARRYOVER
20 TO THE IMMEDIATELY SUCCEEDING TAXABLE YEAR AND MAY BE DEDUCTED FROM THE
21 TAXPAYER'S TAX FOR SUCH YEAR. THE EXCESS, IF ANY, OF THE AMOUNT OF THE
22 CREDIT OVER THE TAX FOR SUCH SUCCEEDING YEAR SHALL BE TREATED AS AN
23 OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE
24 PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED,
25 HOWEVER, THE PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHT-
26 Y-EIGHT OF THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THER-
27 EON.

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

32 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
33 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS
34 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
35 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-
36 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
37 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
38 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
39 TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
40 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

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

45 (B) APPLICATION OF CREDIT. IN NO EVENT SHALL THE CREDIT UNDER THIS
46 SUBDIVISION BE ALLOWED IN AN AMOUNT WHICH WILL REDUCE THE TAX TO LESS
47 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
48 SECTION TWO HUNDRED TEN OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF
49 CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE
50 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE
51 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH
52 TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE REFUNDED IN
53 ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF
54 THIS CHAPTER, PROVIDED HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

55 35. ECONOMIC TRANSFORMATION AND FACILITY REDEVELOPMENT PROGRAM TAX
56 CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT,

1 TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-FIVE OF THIS CHAPTER,
2 AGAINST THE TAX IMPOSED BY THIS ARTICLE.

3 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
4 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
5 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
6 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-
7 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
8 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
9 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
10 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
11 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
12 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
13 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
14 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

15 36. NEW YORK YOUTH WORKS TAX CREDIT. (A) A TAXPAYER THAT HAS BEEN
16 CERTIFIED BY THE COMMISSIONER OF LABOR AS A QUALIFIED EMPLOYER PURSUANT
17 TO SECTION TWENTY-FIVE-A OF THE LABOR LAW SHALL BE ALLOWED A CREDIT
18 AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO (I) FIVE HUNDRED
19 DOLLARS PER MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE
20 EMPLOYER EMPLOYS IN A FULL-TIME JOB OR TWO HUNDRED FIFTY DOLLARS PER
21 MONTH FOR UP TO SIX MONTHS FOR EACH QUALIFIED EMPLOYEE THE EMPLOYER
22 EMPLOYS IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN
23 HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL
24 FULL-TIME, (II) ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS
25 EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED EMPLOYER
26 IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE
27 WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL SIX MONTHS BY THE QUALIFIED
28 EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN
29 HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL
30 FULL-TIME, AND (III) AN ADDITIONAL ONE THOUSAND DOLLARS FOR EACH QUALI-
31 FIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE
32 FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A
33 FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS
34 EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE
35 EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT
36 LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK WHEN THE QUALIFIED
37 EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. FOR PURPOSES OF THIS
38 SUBDIVISION, THE TERM "QUALIFIED EMPLOYEE" SHALL HAVE THE SAME MEANING
39 AS SET FORTH IN SUBDIVISION (B) OF SECTION TWENTY-FIVE-A OF THE LABOR
40 LAW. THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (I) OF THIS
41 PARAGRAPH SHALL BE ALLOWED FOR THE TAXABLE YEAR IN WHICH THE WAGES ARE
42 PAID TO THE QUALIFIED EMPLOYEE, AND THE PORTION OF THE CREDIT DESCRIBED
43 IN SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE ALLOWED IN THE TAXABLE
44 YEAR IN WHICH THE ADDITIONAL SIX MONTH PERIOD ENDS.

45 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR MAY
46 NOT REDUCE THE TAX DUE FOR THAT YEAR TO LESS THAN THE AMOUNT PRESCRIBED
47 IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS
48 ARTICLE. HOWEVER, IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDI-
49 VISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO THAT AMOUNT OR IF THE
50 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,
51 ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN THAT TAXABLE YEAR WILL BE TREATED
52 AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH
53 THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER.
54 PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

55 (C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS
56 CERTIFICATE OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT

1 TO SECTION TWENTY-FIVE-A OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAY-
2 ER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON
3 THE CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS
4 CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIG-
5 NEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS
6 CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED,
7 HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A
8 LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT
9 OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY
10 THE TAXPAYER MAY BE RELEASED.

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

15 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
16 FOR ANY TAXABLE YEAR WILL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
17 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
18 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-
19 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
20 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
21 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
22 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
23 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
24 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
25 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
26 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

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

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

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

1 TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE
2 FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN
3 SUCH TAXABLE YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS,
4 AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

5 39. BEER PRODUCTION CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO
6 BE COMPUTED AS PROVIDED IN SECTION THIRTY-SEVEN OF THIS CHAPTER, AGAINST
7 THE TAX IMPOSED BY THIS ARTICLE. IN NO EVENT SHALL THE CREDIT ALLOWED
8 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH
9 YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION
10 ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT
11 OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES
12 THE TAX TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON
13 THE FIXED DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCT-
14 ILE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO
15 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE
16 THOUSAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS
17 OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
18 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

23 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
24 FOR ANY TAXABLE YEAR MAY NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
25 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF
26 SECTION TWO HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CRED-
27 IT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX
28 TO SUCH AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED
29 DOLLAR MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH
30 TAXABLE YEAR WILL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
31 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
32 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
33 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
34 NOTWITHSTANDING, NO INTEREST WILL BE PAID THEREON.

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

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

1 HUNDRED TEN OF THIS ARTICLE, THE TAXPAYER SHALL BE ALLOWED A CREDIT
2 AGAINST THE TAX IMPOSED UNDER THIS ARTICLE EQUAL TO THE AMOUNT OF TAX
3 PAID TO ANOTHER STATE COMPUTED ON A TAX BASE IDENTICAL TO THE TAX BASE
4 PRESCRIBED IN SUCH PARAGRAPH (D).

5 (B) IN NO EVENT SHALL THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR
6 ANY TAXABLE YEAR REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
7 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
8 HUNDRED TEN OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED
9 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
10 AMOUNT OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR
11 MINIMUM AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
12 YEAR SHALL BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS, AND MAY BE
13 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

14 43. REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (A) A QUALIFIED NEW
15 YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF
16 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS ARTICLE, WILL BE
17 ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF THE REAL PROPERTY TAX IT
18 PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY OWNED BY SUCH MANUFACTUR-
19 ER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING THE TAXABLE YEAR FOR
20 MANUFACTURING TO THE EXTENT NOT DEDUCTED IN DETERMINING ENTIRE NET
21 INCOME. THIS CREDIT WILL NOT BE ALLOWED IF THE REAL PROPERTY TAXES THAT
22 ARE THE BASIS FOR THIS CREDIT ARE INCLUDED IN THE CALCULATION OF ANOTHER
23 CREDIT CLAIMED BY THE TAXPAYER.

24 (B) (1) FOR PURPOSES OF THIS SUBDIVISION, THE TERM REAL PROPERTY TAX
25 MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY,
26 CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT
27 PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC
28 WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL
29 PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED
30 THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF
31 THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE
32 DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH
33 ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL
34 PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY
35 PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUT-
36 ABLE TO MAINTENANCE OR INTEREST, WHEN (I) THE PROPERTY SUBJECT TO THE
37 CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (II)
38 THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY
39 ASSESSED, OR (III) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED
40 TENDS TO INCREASE THE PROPERTY VALUE.

41 (2) IN ADDITION, THE TERM REAL PROPERTY TAX INCLUDES TAXES PAID BY THE
42 TAXPAYER UPON REAL PROPERTY PRINCIPALLY USED DURING THE TAXABLE YEAR BY
43 THE TAXPAYER IN MANUFACTURING WHERE THE TAXPAYER LEASES SUCH REAL PROP-
44 erty FROM AN UNRELATED THIRD PARTY IF THE FOLLOWING CONDITIONS ARE
45 SATISFIED: (I) THE TAX MUST BE PAID BY THE TAXPAYER AS LESSEE PURSUANT
46 TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE, AND (II) THE TAXPAYER AS
47 LESSEE HAS PAID SUCH TAXES DIRECTLY TO THE TAXING AUTHORITY AND HAS
48 RECEIVED A WRITTEN RECEIPT FOR PAYMENT OF TAXES FROM THE TAXING AUTHORI-
49 TY. IN THE CASE OF A COMBINED GROUP THAT CONSTITUTES A QUALIFIED NEW
50 YORK MANUFACTURER, THE CONDITIONS IN THE PRECEDING SENTENCE ARE SATIS-
51 FIED IF ONE CORPORATION IN THE COMBINED GROUP IS THE LESSEE AND ANOTHER
52 CORPORATION IN THE COMBINED GROUP MAKES THE PAYMENTS TO THE TAXING
53 AUTHORITY.

54 (3) THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT MADE BY THE
55 TAXPAYER IN CONNECTION WITH AN AGREEMENT FOR THE PAYMENT IN LIEU OF

1 TAXES ON REAL PROPERTY, WHETHER SUCH PROPERTY IS OWNED OR LEASED BY THE
2 TAXPAYER.

3 (4) THE REAL PROPERTY TAXES MUST BE PAID BY THE TAXPAYER IN THE YEAR
4 SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY.

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

18 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
19 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN TWENTY-FIVE
20 DOLLARS.

21 44. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES
22 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS
23 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF
24 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE
25 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED
26 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING
27 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING
28 ENTIRE NET INCOME UNDER THIS ARTICLE. HOWEVER, ANY AMOUNT OF CREDIT NOT
29 DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF
30 TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF
31 SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE
32 CLAIMED ONLY WHERE ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED
33 EIGHTY-SIX-E HAS BEEN SEPARATELY STATED ON A BILL FROM THE PROVIDER OF
34 TELECOMMUNICATION SERVICES AND PAID BY SUCH BUSINESS WITH RESPECT TO
35 SUCH SERVICES RENDERED WITHIN A TAX-FREE NY AREA DURING THE TAXABLE
36 YEAR. UNLESS THE TAXPAYER HAS A TAX-FREE NY AREA ALLOCATION FACTOR OF
37 ONE HUNDRED PERCENT, THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY
38 TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
39 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
40 HUNDRED TEN OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
41 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
42 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

1 46. NOTWITHSTANDING THE REPEAL OF THE CREDIT PROVISIONS CONTAINED IN
2 SECTION TWO HUNDRED TEN OF THIS ARTICLE OR IN ARTICLE THIRTY-TWO OF THIS
3 CHAPTER AND THE ENACTMENT OF THIS SECTION BY A CHAPTER OF THE LAWS OF
4 TWO THOUSAND FOURTEEN:

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

12 (B) A TAXPAYER SHALL BE REQUIRED IN A TAXABLE YEAR BEGINNING ON OR
13 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, TO RECAPTURE ALL OR A PORTION
14 OF A CREDIT ALLOWED UNDER A CREDIT PROVISION IN SECTION TWO HUNDRED TEN
15 OR ARTICLE THIRTY-TWO OF THIS CHAPTER FOR A TAXABLE YEAR BEGINNING PRIOR
16 TO JANUARY FIRST, TWO THOUSAND FIFTEEN IF RECAPTURE WOULD HAVE BEEN
17 REQUIRED UNDER SUCH CREDIT PROVISION.

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

20 S 210-C. COMBINED REPORTS. 1. TAX. THE TAX ON A COMBINED REPORT SHALL
21 BE THE HIGHEST OF (I) THE COMBINED BUSINESS INCOME BASE MULTIPLIED BY
22 THE TAX RATE SPECIFIED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION
23 TWO HUNDRED TEN OF THIS ARTICLE; (II) THE COMBINED CAPITAL BASE MULTI-
24 PLIED BY THE TAX RATE SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION ONE OF
25 SECTION TWO HUNDRED TEN OF THIS ARTICLE, BUT NOT EXCEEDING THE LIMITA-
26 TION PROVIDED FOR IN THAT PARAGRAPH (B); OR (III) THE FIXED DOLLAR MINI-
27 MUM THAT IS ATTRIBUTABLE TO THE DESIGNATED AGENT OF THE COMBINED GROUP.
28 IN ADDITION, THE TAX ON A COMBINED REPORT SHALL INCLUDE THE FIXED DOLLAR
29 MINIMUM TAX SPECIFIED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
30 HUNDRED TEN OF THIS ARTICLE FOR EACH MEMBER OF THE COMBINED GROUP, OTHER
31 THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

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

37 2. COMBINED REPORTS REQUIRED. (A) EXCEPT AS PROVIDED IN PARAGRAPH (C)
38 OF THIS SUBDIVISION, ANY TAXPAYER (I) WHICH OWNS OR CONTROLS EITHER
39 DIRECTLY OR INDIRECTLY MORE THAN FIFTY PERCENT OF THE VOTING POWER OF
40 THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, OR (II) MORE THAN
41 FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF WHICH IS OWNED
42 OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY ONE OR MORE OTHER CORPO-
43 RATIONS, OR (III) MORE THAN FIFTY PERCENT OF THE VOTING POWER OF THE
44 CAPITAL STOCK OF WHICH AND THE CAPITAL STOCK OF ONE OR MORE OTHER CORPO-
45 RATIONS, IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME
46 INTERESTS, AND (IV) THAT IS ENGAGED IN A UNITARY BUSINESS WITH THOSE
47 CORPORATIONS (HEREINAFTER REFERRED TO AS "RELATED CORPORATIONS"), SHALL
48 MAKE A COMBINED REPORT WITH THOSE OTHER CORPORATIONS.

49 (B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEAN-
50 ING OF THIS SECTION SHALL ALSO INCLUDE (I) A CAPTIVE REIT AND A CAPTIVE
51 RIC IF THE CAPTIVE REIT OR CAPTIVE RIC IS NOT REQUIRED TO BE INCLUDED IN
52 A COMBINED REPORT UNDER ARTICLE THIRTY-THREE OF THIS CHAPTER; (II) A
53 COMBINABLE CAPTIVE INSURANCE COMPANY; AND (III) AN ALIEN CORPORATION
54 THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVISION IF
55 (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT CORPORATION
56 IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOU-

1 SAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II) IT HAS
2 EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE
3 (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF SECTION TWO HUNDRED
4 EIGHT OF THIS ARTICLE.

5 (C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT
6 UNDER THIS SECTION DOES NOT INCLUDE (I) A CORPORATION THAT IS TAXABLE
7 UNDER A FRANCHISE TAX IMPOSED BY ARTICLE NINE OR ARTICLE THIRTY-THREE OF
8 THIS CHAPTER OR WOULD BE TAXABLE UNDER A FRANCHISE TAX IMPOSED BY ARTI-
9 CLE NINE OR THIRTY-THREE OF THIS CHAPTER IF SUBJECT TO TAX; (II) A REIT
10 THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE RIC; (III) A
11 NEW YORK S CORPORATION; OR (IV) AN ALIEN CORPORATION THAT UNDER ANY
12 PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC
13 CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF
14 SUCH CODE AND HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR
15 PURSUANT TO CLAUSE (IV) OF THE OPENING PARAGRAPH OF SUBDIVISION NINE OF
16 SECTION TWO HUNDRED EIGHT OF THIS ARTICLE. IF A CORPORATION IS SUBJECT
17 TO TAX UNDER THIS ARTICLE SOLELY AS A RESULT OF ITS OWNERSHIP OF A
18 LIMITED PARTNER INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSI-
19 NESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, MAINTAINING AN
20 OFFICE IN THIS STATE, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE,
21 AND NONE OF THE CORPORATION'S RELATED CORPORATIONS ARE SUBJECT TO TAX
22 UNDER THIS ARTICLE, SUCH CORPORATION SHALL NOT BE REQUIRED OR PERMITTED
23 TO FILE A COMBINED REPORT UNDER THIS SECTION WITH SUCH RELATED CORPO-
24 RATIONS.

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

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

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

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

54 4. COMPUTATION OF TAX BASES ON A COMBINED REPORT. (A) IN COMPUTING THE
55 TAX BASES FOR A COMBINED REPORT, THE COMBINED GROUP SHALL GENERALLY BE
56 TREATED AS A SINGLE CORPORATION, EXCEPT AS OTHERWISE PROVIDED, AND

1 SUBJECT TO ANY REGULATIONS OR GUIDANCE ISSUED BY THE COMMISSIONER OR THE
2 DEPARTMENT.

3 (B)(I) IN COMPUTING COMBINED BUSINESS INCOME, ALL INTERCORPORATE DIVI-
4 DENDS SHALL BE ELIMINATED, AND ALL OTHER INTERCORPORATE TRANSACTIONS
5 SHALL BE DEFERRED IN A MANNER SIMILAR TO THE UNITED STATES TREASURY
6 REGULATIONS RELATING TO INTERCOMPANY TRANSACTIONS UNDER SECTION FIFTEEN
7 HUNDRED TWO OF THE INTERNAL REVENUE CODE.

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

12 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,
13 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED
14 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS
15 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE
16 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION TWO
17 HUNDRED TEN-B OF THIS ARTICLE LIMITS A CREDIT TO THE FIXED DOLLAR MINI-
18 MUM AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
19 HUNDRED TEN OF THIS ARTICLE, SUCH FIXED DOLLAR MINIMUM AMOUNT SHALL BE
20 THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE DESIGNATED
21 AGENT OF THE COMBINED GROUP.

22 (D)(I) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE
23 COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE
24 COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED
25 CAPITAL BASE OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO
26 THE DESIGNATED AGENT OF THE COMBINED GROUP. A COMBINED NET OPERATING
27 LOSS DEDUCTION IS EQUAL TO THE AMOUNT OF COMBINED NET OPERATING LOSS OR
28 LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD TO A
29 PARTICULAR INCOME YEAR. A COMBINED NET OPERATING LOSS IS THE COMBINED
30 BUSINESS LOSS INCURRED IN A PARTICULAR TAXABLE YEAR MULTIPLIED BY THE
31 COMBINED APPORTIONMENT FACTOR FOR THAT YEAR DETERMINED AS PROVIDED IN
32 SUBDIVISION FIVE OF THIS SECTION.

33 (II) THE COMBINED NET OPERATING LOSS DEDUCTION AND COMBINED NET OPER-
34 ATING LOSS ARE ALSO SUBJECT TO THE PROVISIONS CONTAINED IN CLAUSES ONE
35 THROUGH SIX OF SUBPARAGRAPH (IX) OF PARAGRAPH (A) OF SUBDIVISION ONE OF
36 SECTION TWO HUNDRED TEN OF THIS ARTICLE.

37 (III) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT,
38 EITHER IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN
39 WHICH A DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET
40 OPERATING LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A
41 SINGLE CORPORATION AND, TO THE EXTENT POSSIBLE AND NOT OTHERWISE INCON-
42 SISTENT WITH THIS SUBDIVISION, IS SUBJECT TO THE SAME LIMITATIONS THAT
43 WOULD APPLY FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE
44 CODE AND THE CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD
45 FILED FOR SUCH TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN
46 WITH THE SAME CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPO-
47 RATION FILES A COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPA-
48 RATE RETURN OR CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE
49 NET OPERATING LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED
50 GROUP MUST BE COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED
51 RETURN FOR THE SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

52 (IV) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH
53 A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING
54 LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE
55 COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPA-
56 RATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE

1 SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH
2 CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE
3 GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT
4 IN COMPUTING THE COMBINED NET OPERATING LOSS.

5 (D-1) A NET OPERATING LOSS CONVERSION SUBTRACTION IS ALLOWED IN
6 COMPUTING THE COMBINED BUSINESS INCOME BASE, AS PROVIDED IN SUBPARAGRAPH
7 (VIII) OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF
8 THIS ARTICLE. SUCH SUBTRACTION MAY REDUCE THE TAX ON THE COMBINED BUSI-
9 NESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED CAPITAL BASE
10 OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE DESIG-
11 NATED AGENT OF THE COMBINED GROUP.

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

15 (F)(I) IN THE CASE OF A CAPTIVE REIT OR CAPTIVE RIC REQUIRED UNDER
16 THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME
17 SHALL BE COMPUTED AS REQUIRED UNDER SUBDIVISION FIVE (IN THE CASE OF A
18 CAPTIVE REIT) OR SUBDIVISION SEVEN (IN THE CASE OF A CAPTIVE RIC) OF
19 SECTION TWO HUNDRED NINE OF THIS ARTICLE. HOWEVER, THE DEDUCTION UNDER
20 THE INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR
21 CAPTIVE RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE
22 CORPORATION THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE
23 VOTING STOCK OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL NOT BE ALLOWED.
24 FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "AFFILIATED GROUP" MEANS
25 "AFFILIATED GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE
26 INTERNAL REVENUE CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR
27 IN SUBSECTION (B) OF THAT SECTION.

28 (II) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED
29 UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET
30 INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION NINE OF SECTION TWO
31 HUNDRED EIGHT OF THIS ARTICLE.

32 (G) IF MORE THAN ONE MEMBER OF A COMBINED GROUP IS ELIGIBLE FOR ANY OF
33 THE MODIFICATIONS DESCRIBED IN PARAGRAPHS (R), (S) AND (T) OF SUBDIVI-
34 SION NINE OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE, ALL SUCH MEMBERS
35 MUST UTILIZE THE SAME MODIFICATION.

36 5. APPORTIONMENT ON A COMBINED REPORT. (A) IN DETERMINING THE APPOR-
37 TIONMENT FACTOR FOR A COMBINED REPORT, THE RECEIPTS, NET INCOME, NET
38 GAINS AND OTHER ITEMS OF ALL MEMBERS OF THE COMBINED GROUP, WHETHER OR
39 NOT THEY ARE A TAXPAYER, ARE INCLUDED AND INTERCORPORATE RECEIPTS,
40 INCOME AND GAINS ARE ELIMINATED. RECEIPTS, NET INCOME, NET GAINS AND
41 OTHER ITEMS ARE SOURCED, AND THE AMOUNTS ALLOWED IN THE APPORTIONMENT
42 FACTOR ARE DETERMINED, AS PROVIDED IN SECTION TWO HUNDRED TEN-A OF THIS
43 ARTICLE.

44 (B) AN ELECTION MADE TO APPORTION INCOME AND GAINS FROM QUALIFYING
45 FINANCIAL INSTRUMENTS PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF
46 SUBDIVISION FIVE OF SECTION TWO HUNDRED TEN-A OF THIS ARTICLE SHALL
47 APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

48 6. LIABILITY OF COMBINED GROUP MEMBERS. EVERY MEMBER OF THE COMBINED
49 GROUP THAT IS SUBJECT TO TAX UNDER THIS ARTICLE SHALL BE JOINTLY AND
50 SEVERALLY LIABLE FOR THE TAX DUE PURSUANT TO A COMBINED REPORT.

51 7. DESIGNATED AGENT. EACH COMBINED GROUP SHALL HAVE ONE DESIGNATED
52 AGENT, WHICH SHALL BE A TAXPAYER. THE DESIGNATED AGENT IS THE PARENT
53 CORPORATION OF THE COMBINED GROUP. IF THERE IS NO SUCH PARENT CORPO-
54 RATION, OR THE PARENT CORPORATION IS NOT A TAXPAYER, THEN ANOTHER MEMBER
55 OF THE COMBINED GROUP THAT IS A TAXPAYER MAY BE APPOINTED AS THE DESIG-

1 NATED AGENT. ONLY THE DESIGNATED AGENT MAY ACT ON BEHALF OF THE MEMBERS
2 OF THE COMBINED GROUP FOR MATTERS RELATING TO THE COMBINED REPORT.

3 S 19. Subdivisions 2-a, 3, 4 and 5 of section 211 of the tax law,
4 subdivision 2-a as added and subdivision 5 as amended by chapter 817 of
5 the laws of 1987, subdivision 3 as amended by chapter 770 of the laws of
6 1992, subdivision 4 as amended by section 2 of part T of chapter 407 of
7 the laws of 1999, the opening paragraph and the second undesignated
8 paragraph of paragraph (a) of subdivision 4 as amended by section 1,
9 subparagraph 4 of paragraph (a) of subdivision 4 as amended by section
10 2, and subparagraph 5 of paragraph (a) of subdivision 4 as amended by
11 section 3 of part J of chapter 60 of the laws of 2007, subparagraph 6 of
12 paragraph (a) of subdivision 4 as added by section 3 of part FF1 of
13 chapter 57 of the laws of 2008, subparagraph 7 of paragraph (a) of
14 subdivision 4 as added by section 2 and subparagraph 1 of paragraph (b)
15 of subdivision 4 as amended by section 3 of part E1 of chapter 57 of the
16 laws of 2009, are amended to read as follows:

17 2-a. The [tax commission] COMMISSIONER may prescribe regulations and
18 instructions requiring returns of information to be made and filed in
19 conjunction with the reports required to be filed pursuant to [section
20 two hundred eleven] THIS ARTICLE, relating to payments made to share-
21 holders owning, directly or indirectly, individually or in the aggre-
22 gate, more than fifty percent of the issued capital stock of the taxpay-
23 er, where such payments are treated as payments of interest in the
24 computation of entire net income [or minimum taxable income] reported on
25 such reports.

26 3. If the amount of taxable income [or alternative minimum taxable
27 income] for any year of any taxpayer (including any taxpayer which has
28 elected to be taxed under subchapter s of chapter one of the internal
29 revenue code), as returned to the United States treasury department is
30 changed or corrected by the commissioner of internal revenue or other
31 officer of the United States or other competent authority, or where a
32 renegotiation of a contract or subcontract with the United States
33 results in a change in taxable income [or alternative minimum taxable
34 income], such taxpayer shall report such changed or corrected taxable
35 income [or alternative minimum taxable income], or the results of such
36 renegotiation, within ninety days (or one hundred twenty days, in the
37 case of a taxpayer making a combined report under this article for such
38 year) after the final determination of such change or correction or
39 renegotiation, or as required by the commissioner, and shall concede the
40 accuracy of such determination or state wherein it is erroneous. The
41 allowance of a tentative carryback adjustment based upon a net operating
42 loss carryback or net capital loss carryback pursuant to section sixty-
43 four hundred eleven of the internal revenue code, as amended, shall be
44 treated as a final determination for purposes of this subdivision. Any
45 taxpayer filing an amended return with such department shall also file
46 within ninety days (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF A TAXPAY-
47 ER MAKING A COMBINED REPORT UNDER THIS ARTICLE FOR SUCH YEAR) thereafter
48 an amended report with the commissioner.

49 4. [(a) Combined reports permitted or required. Any taxpayer, which
50 owns or controls either directly or indirectly substantially all the
51 capital stock of one or more other corporations, or substantially all
52 the capital stock of which is owned or controlled either directly or
53 indirectly by one or more other corporations or by interests which own
54 or control either directly or indirectly substantially all the capital
55 stock of one or more other corporations, (hereinafter referred to in
56 this paragraph as "related corporations"), shall make a combined report

1 covering any related corporations if there are substantial intercorpo-
2 rate transactions among the related corporations, regardless of the
3 transfer price for such intercorporate transactions. It is not necessary
4 that there be substantial intercorporate transactions between any one
5 corporation and every other related corporation. It is necessary, howev-
6 er, that there be substantial intercorporate transactions between the
7 taxpayer and a related corporation or collectively, a group of such
8 related corporations. The report shall set forth such information as the
9 commissioner may require, subject to the provisions of subparagraphs one
10 through five of this paragraph.

11 In determining whether there are substantial intercorporate trans-
12 actions, the commissioner shall consider and evaluate all activities and
13 transactions of the taxpayer and its related corporations. Activities
14 and transactions that will be considered include, but are not limited
15 to: (i) manufacturing, acquiring goods or property, or performing
16 services, for related corporations; (ii) selling goods acquired from
17 related corporations; (iii) financing sales of related corporations;
18 (iv) performing related customer services using common facilities and
19 employees for related corporations; (v) incurring expenses that benefit,
20 directly or indirectly, one or more related corporations, and (vi)
21 transferring assets, including such assets as accounts receivable,
22 patents or trademarks from one or more related corporations.

23 (1) Any corporation which owns or controls either directly or indi-
24 rectly substantially all the capital stock of a DISC not exempt from tax
25 under paragraph (i) of subdivision nine of section two hundred eight of
26 this article shall be allowed, at the election of such corporation, to
27 make a report on a combined basis covering such DISC, but the failure of
28 such corporation to make such election shall not prohibit the commis-
29 sioner from requiring a combined report covering such corporation and
30 such DISC.

31 (2)(i) No taxpayer may be permitted to make a report on a combined
32 basis covering any such other corporations where such taxpayer or any
33 such other corporation allocates in accordance with clause (A) of
34 subparagraph seven of paragraph (a) of subdivision three of section two
35 hundred ten of this article (relating to aviation corporations) and such
36 taxpayer or any such other corporation does not so allocate, unless such
37 taxpayer or such other corporation is a qualified air freight forwarder
38 with respect to such other corporation or such taxpayer, respectively,
39 and all taxpayers included on such combined report elect, by filing such
40 combined report, to have such qualified air freight forwarder so
41 included.

42 (ii) A corporation is a qualified air freight forwarder with respect
43 to another corporation:

44 (A) if it owns or controls either directly or indirectly all of the
45 capital stock of such other corporation, or if all of its capital stock
46 is owned or controlled either directly or indirectly by such other
47 corporation, or if all of the capital stock of both corporations is
48 owned or controlled either directly or indirectly by the same interests,

49 (B) if it is principally engaged in the business of air freight
50 forwarding, and

51 (C) if its air freight forwarding business is carried on principally
52 with the airline or airlines operated by such other corporation.

53 (3) No taxpayer may be permitted to make a report on a combined basis
54 covering any such other corporations where such taxpayer or any such
55 other corporation allocates in accordance with subparagraph eight of
56 paragraph (a) of subdivision three of section two hundred ten of this

1 article (relating to railroad and trucking corporations) and such
2 taxpayer or any such other corporation does not so allocate.

3 (4) Except as provided in the first undesignated paragraph of this
4 paragraph, no combined report covering any corporation shall be required
5 unless the commissioner deems such a report necessary, because of
6 inter-company transactions or some agreement, understanding, arrangement
7 or transaction referred to in subdivision five of this section, in order
8 properly to reflect the tax liability under this article.

9 (5) A corporation organized under the laws of a country other than the
10 United States shall not be required or permitted to make a report on a
11 combined basis.

12 (6) (i) For purposes of this subparagraph, the term "closest control-
13 ling stockholder" means the corporation that indirectly owns or controls
14 over fifty percent of the voting stock of a captive REIT or captive RIC,
15 is subject to tax under this article, article thirty-two or thirty-three
16 of this chapter or otherwise required to be included in a combined
17 return or report under this article, article thirty-two or thirty-three
18 of this chapter, and is the fewest tiers of corporations away in the
19 ownership structure from the captive REIT or captive RIC. The commis-
20 sioner is authorized to prescribe by regulation or published guidance
21 the criteria for determining the closest controlling stockholder.

22 (ii) A captive REIT or a captive RIC must be included in a combined
23 report with the corporation that directly owns or controls over fifty
24 percent of the voting stock of the captive REIT or captive RIC if that
25 corporation is subject to tax or required to be included in a combined
26 report under this article.

27 (iii) If over fifty percent of the voting stock of a captive REIT or
28 captive RIC is not directly owned or controlled by a corporation that is
29 subject to tax or required to be included in a combined report under
30 this article, then the captive REIT or captive RIC must be included in a
31 combined return or report with the corporation that is the closest
32 controlling stockholder of the captive REIT or captive RIC. If the clos-
33 est controlling stockholder of the captive REIT or captive RIC is
34 subject to tax or otherwise required to be included in a combined report
35 under this article, then the captive REIT or captive RIC must be
36 included in a combined report under this article.

37 (iv) If the corporation that directly owns or controls the voting
38 stock of the captive REIT or captive RIC is described in subparagraph
39 two, three or five of this paragraph as a corporation not permitted to
40 make a combined report, then the provisions in clause (iii) of this
41 subparagraph must be applied to determine the corporation in whose
42 combined return or report the captive REIT or captive RIC should be
43 included. If, under clause (iii) of this subparagraph, the corporation
44 that is the closest controlling stockholder of the captive REIT or
45 captive RIC is described in subparagraph two, three or five of this
46 paragraph as a corporation not permitted to make a combined return, then
47 that corporation is deemed to not be in the ownership structure of the
48 captive REIT or captive RIC, and the closest controlling stockholder
49 will be determined without regard to that corporation.

50 (v) If a captive REIT owns the stock of a qualified REIT subsidiary
51 (as defined in paragraph two of subsection (i) of section eight hundred
52 fifty-six of the internal revenue code), then the qualified REIT subsid-
53 iary must be included in a combined report with the captive REIT.

54 (vi) If a captive REIT or a captive RIC is required under this subpar-
55 agraph to be included in a combined report with another corporation, and
56 that other corporation is also required to be included in a combined

1 report with another related corporation or corporations under this para-
2 graph, then the captive REIT or the captive RIC must be included in that
3 combined report with those corporations.

4 (vii) If a captive REIT or a captive RIC is not required to be
5 included in a combined report with another corporation under clause (ii)
6 or (iii) of this subparagraph, or in a combined return under the
7 provisions of either subparagraph (v) of paragraph two of subsection (f)
8 of section fourteen hundred sixty-two or paragraph four of subdivision
9 (f) of section fifteen hundred fifteen of this chapter, then the captive
10 REIT or captive RIC is subject to the opening provisions of this para-
11 graph and the provisions of subparagraph four of this paragraph. The
12 captive REIT or captive RIC must be included in a combined report under
13 this article with another corporation if either the substantial inter-
14 corporate transactions requirement in the opening provisions of this
15 paragraph or the inter-company transactions or agreement, understanding,
16 arrangement or transaction requirement of subparagraph four of this
17 paragraph is satisfied and more than fifty percent of the voting stock
18 of the captive REIT or the captive RIC and substantially all of the
19 capital stock of that other corporation are owned and controlled,
20 directly or indirectly, by the same corporation.

21 (7) (i) For purposes of this subparagraph, the term "closest control-
22 ling stockholder" means the corporation that indirectly owns or controls
23 over fifty percent of the voting stock of an overcapitalized captive
24 insurance company; is subject to tax under this article or article thir-
25 ty-two of this chapter, or is otherwise required to be included in a
26 combined return or report under this article or article thirty-two of
27 this chapter; and is the fewest tiers of corporations away in the owner-
28 ship structure from the overcapitalized captive insurance company. The
29 commissioner is authorized to prescribe by regulation or published guid-
30 ance the criteria for determining the closest controlling stockholder.

31 (ii) An overcapitalized captive insurance company must be included in
32 a combined report with the corporation that directly owns or controls
33 over fifty percent of the voting stock of the overcapitalized captive
34 insurance company if that corporation is subject to tax or required to
35 be included in a combined report under this article.

36 (iii) If over fifty percent of the voting stock of an overcapitalized
37 captive insurance company is not directly owned or controlled by a
38 corporation that is subject to tax or required to be included in a
39 combined report under this article, then the overcapitalized captive
40 insurance company must be included in a combined return or report with
41 the corporation that is the closest controlling stockholder of the over-
42 capitalized captive insurance company. If the closest controlling stock-
43 holder of the overcapitalized captive insurance company is subject to
44 tax or otherwise required to be included in a combined report under this
45 article, then the overcapitalized captive insurance company must be
46 included in a combined report under this article.

47 (iv) If the corporation that directly owns or controls the voting
48 stock of the overcapitalized captive insurance company is described in
49 subparagraph two, three, or five of this paragraph as a corporation not
50 permitted to make a combined report, then the provisions in clause (iii)
51 of this subparagraph must be applied to determine the corporation in
52 whose combined return or report the overcapitalized captive insurance
53 company should be included. If, under clause (iii) of this subparagraph,
54 the corporation that is the closest controlling stockholder of the over-
55 capitalized captive insurance company is described in subparagraph two,
56 three or five of this paragraph as a corporation not permitted to make a

1 combined return, then that corporation is deemed not to be in the owner-
2 ship structure of the overcapitalized captive insurance company, and the
3 closest controlling stockholder will be determined without regard to
4 that corporation.

5 (v) If an overcapitalized captive insurance company is required under
6 this subparagraph to be included in a combined report with another
7 corporation, and that other corporation is also required to be included
8 in a combined report with another related corporation or corporations
9 under this paragraph, then the overcapitalized captive insurance company
10 must be included in that combined report with those corporations.

11 (vi) If an overcapitalized captive insurance company is not required
12 to be included in a combined report with another corporation under
13 clause (ii) or (iii) of this subparagraph, or in a combined return under
14 the provisions of subparagraph (v) of paragraph two of subsection (f) of
15 section fourteen hundred sixty-two of this chapter, then the overcap-
16 italized captive insurance company is subject to the opening provisions
17 of this paragraph and the provisions of subparagraph four of this para-
18 graph. The overcapitalized captive insurance company must be included in
19 a combined report under this article with another corporation if either
20 the substantial intercorporate transactions requirement in the opening
21 provisions of this paragraph or the inter-company transactions or agree-
22 ment, understanding, arrangement or transaction requirement of subpara-
23 graph four of this paragraph is satisfied, and both more than fifty
24 percent of the voting stock of the overcapitalized captive insurance
25 company and substantially all of the capital stock of that other corpo-
26 ration are owned and controlled, directly or indirectly, by the same
27 corporation.

28 (b) Computation. (1) Tax. (i) In the case of a combined report the tax
29 shall be measured by the combined entire net income, combined minimum
30 taxable income, combined pre-nineteen hundred ninety minimum taxable
31 income or combined capital, of all the corporations included in the
32 report, including any captive REIT, captive RIC or overcapitalized
33 captive insurance company; provided, however, in no event shall the tax
34 measured by combined capital exceed the limitation provided for in para-
35 graph (b) of subdivision one of section two hundred ten of this article.

36 (ii) In the case of a captive REIT or captive RIC required under this
37 subdivision to be included in a combined report, entire net income must
38 be computed as required under subdivision five (in the case of a captive
39 REIT) or subdivision seven (in the case of a captive RIC) of section two
40 hundred nine of this article. However, the deduction under the internal
41 revenue code for dividends paid by the captive REIT or captive RIC to
42 any member of the affiliated group that includes the corporation that
43 directly or indirectly owns over fifty percent of the voting stock of
44 the captive REIT or captive RIC shall not be allowed for taxable years
45 beginning on or after January first, two thousand eight. The term
46 "affiliated group" means "affiliated group" as defined in section
47 fifteen hundred four of the internal revenue code, but without regard to
48 the exceptions provided for in subsection (b) of that section.

49 (iii) In the case of an overcapitalized captive insurance company
50 required under this subdivision to be included in a combined report,
51 entire net income must be computed as required by subdivision nine of
52 section two hundred eight of this article.

53 (2) Tax bases. In computing combined entire net income, combined mini-
54 mum taxable income or combined pre-nineteen hundred ninety minimum taxa-
55 ble income intercorporate dividends shall be eliminated, in computing
56 combined business and investment capital intercorporate stockholdings

1 and intercorporate bills, notes and accounts receivable and payable and
2 other intercorporate indebtedness shall be eliminated and in computing
3 combined subsidiary capital intercorporate stockholdings shall be elimi-
4 nated, provided, however, that intercorporate dividends from a DISC or a
5 former DISC not exempt from tax under paragraph (i) of subdivision nine
6 of section two hundred eight of this article which are taxable as busi-
7 ness income under this article shall not be eliminated.

8 (3) Air freight forwarders: allocation. Notwithstanding any provision
9 of law to the contrary, where a combined report includes a qualified air
10 freight forwarder and a corporation described in subparagraph seven of
11 paragraph (a) of subdivision three of section two hundred ten of this
12 chapter (relating to aviation corporations), in computing the combined
13 business allocation percentage such subparagraph seven shall be applied
14 with respect to such qualified air freight forwarder] FOR PROVISIONS
15 RELATING TO COMBINED REPORTS, SEE SECTION TWO HUNDRED TEN-C OF THIS
16 ARTICLE.

17 5. In case it shall appear to the [tax commission] COMMISSIONER that
18 any agreement, understanding or arrangement exists between the taxpayer
19 and any other corporation or any person or firm, whereby the activity,
20 business, income or capital of the taxpayer within the state is improv-
21 erly or inaccurately reflected, the [tax commission] COMMISSIONER is
22 authorized and empowered, in [its] THE COMMISSIONER'S discretion and in
23 such manner as [it] THE COMMISSIONER may determine, to adjust items of
24 income, deductions and capital, and to eliminate assets in computing any
25 [allocation] APPORTIONMENT percentage provided only that any income
26 directly traceable thereto be also excluded from entire net income,
27 [minimum taxable income or pre-nineteen hundred ninety minimum taxable
28 income,] so as equitably to determine the tax. Where (a) any taxpayer
29 conducts its activity or business under any agreement, arrangement or
30 understanding in such manner as either directly or indirectly to benefit
31 its members or stockholders, or any of them, or any person or persons
32 directly or indirectly interested in such activity or business, by
33 entering into any transaction at more or less than a fair price which,
34 but for such agreement, arrangement or understanding, might have been
35 paid or received therefor, or (b) any taxpayer, a substantial portion of
36 whose capital stock is owned either directly or indirectly by another
37 corporation, enters into any transaction with such other corporation on
38 such terms as to create an improper loss or net income, the [tax commis-
39 sion] COMMISSIONER may include in the entire net income[, minimum taxa-
40 ble income or pre-nineteen hundred ninety minimum taxable income] of the
41 taxpayer the fair profits which, but for such agreement, arrangement or
42 understanding, the taxpayer might have derived from such transaction.
43 WHERE ANY TAXPAYER OWNS, DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT
44 OF THE CAPITAL STOCK OF ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION
45 FIFTEEN HUNDRED TWO-A OF THIS CHAPTER AND FIFTY PERCENT OR LESS OF WHOSE
46 GROSS RECEIPTS FOR THE TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSION-
47 ER MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED
48 DISTRIBUTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT
49 IS IN EXCESS OF ITS NET PREMIUM INCOME.

50 S 19-a. Subdivision 13 of section 211 of the tax law is REPEALED.

51 S 20. Subdivision 11 of section 2 of the tax law, as added by section
52 1 of part E-1 of chapter 57 of the laws of 2009, is amended to read as
53 follows:

54 11. The term "[overcapitalized] COMBINABLE captive insurance company"
55 means an entity that is treated as an association taxable as a corpo-
56 ration under the internal revenue code (a) more than fifty percent of

1 the voting stock of which is owned or controlled, directly or indirect-
2 ly, by a single entity that is treated as an association taxable as a
3 corporation under the internal revenue code and not exempt from federal
4 income tax; (b) that is licensed as a captive insurance company under
5 the laws of this state or another jurisdiction; (c) whose business
6 includes providing, directly and indirectly, insurance or reinsurance
7 covering the risks of its parent and/or members of its affiliated group;
8 and (d) fifty percent or less of whose gross receipts for the taxable
9 year consist of premiums FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR
10 FEDERAL INCOME TAX PURPOSES. For purposes of this subdivision, "affil-
11 iated group" has the same meaning as that term is given in section 1504
12 of the internal revenue code, except that the term "common parent corpo-
13 ration" in that section is deemed to mean any person, as defined in
14 section 7701 of the internal revenue code[;] AND references to "at least
15 eighty percent" in section 1504 of the internal revenue code are to be
16 read as "fifty percent or more;" section 1504 of the internal revenue
17 code is to be read without regard to the exclusions provided for in
18 subsection (b) of that section; "premiums" has the same meaning as that
19 term is given in paragraph one of subdivision (c) of section fifteen
20 hundred ten of this chapter, except that it includes consideration for
21 annuity contracts and excludes any part of the consideration for insur-
22 ance, reinsurance or annuity contracts that do not provide bona fide
23 insurance, reinsurance or annuity benefits; and "gross receipts"
24 includes the amounts included in gross receipts for purposes of section
25 501(c) (15) of the internal revenue code, except that those amounts also
26 include all premiums as defined in this subdivision.

27 S 21. Subdivision (a) of section 1500 of the tax law, as separately
28 amended by section 1 of part B-1 and section 8 of part E-1 of chapter 57
29 of the laws of 2009, is amended to read as follows:

30 (a) The term "insurance corporation" includes a corporation, associ-
31 ation, joint stock company or association, person, society, aggregation
32 or partnership, by whatever name known, doing an insurance business,
33 and, notwithstanding the provisions of section fifteen hundred twelve of
34 this article, shall include (1) a risk retention group as defined in
35 subsection (n) of section five thousand nine hundred two of the insur-
36 ance law, (2) the state insurance fund and (3) a corporation, associ-
37 ation, joint stock company or association, person, society, aggregation
38 or partnership doing an insurance business as a member of the New York
39 insurance exchange described in section six thousand two hundred one of
40 the insurance law. The definition of the "state insurance fund"
41 contained in this subdivision shall be limited in its effect to the
42 provisions of this article and the related provisions of this chapter
43 and shall have no force and effect other than with respect to such
44 provisions. The term "insurance corporation" shall also include a
45 captive insurance company doing a captive insurance business, as defined
46 in subsections (c) and (b), respectively, of section seven thousand two
47 of the insurance law; provided, however, "insurance corporation" shall
48 not include the metropolitan transportation authority, or a public bene-
49 fit corporation or not-for-profit corporation formed by a city with a
50 population of one million or more pursuant to subsection (a) of section
51 seven thousand five of the insurance law, each of which is expressly
52 exempt from the payment of fees, taxes or assessments, whether state or
53 local; and provided further "insurance corporation" does not include any
54 [overcapitalized] COMBINABLE captive insurance company. The term "insur-
55 ance corporation" shall also include an unauthorized insurer operating
56 from an office within the state, pursuant to paragraph five of

1 subsection (b) of section one thousand one hundred one and subsection
2 (i) of section two thousand one hundred seventeen of the insurance law.
3 The term "insurance corporation" also includes a health maintenance
4 organization required to obtain a certificate of authority under article
5 forty-four of the public health law.

6 S 22. Subdivision (a) of section 1502-b of the tax law, as amended by
7 section 9 of part E-1 of chapter 57 of the laws of 2009 and as further
8 amended by section 104 of part A of chapter 62 of the laws of 2011, is
9 amended to read as follows:

10 (a) In lieu of the taxes and tax surcharge imposed by sections fifteen
11 hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen
12 hundred ten of this article, every captive insurance company licensed by
13 the superintendent of financial services pursuant to the provisions of
14 article seventy of the insurance law, other than the metropolitan trans-
15 portation authority and a public benefit corporation or not-for-profit
16 corporation formed by a city with a population of one million or more
17 pursuant to subsection (a) of section seven thousand five of the insur-
18 ance law, each of which is expressly exempt from the payment of fees,
19 taxes or assessments whether state or local, and other than [an overcap-
20 italized] COMBINABLE captive insurance company, shall, for the privilege
21 of exercising its corporate franchise, pay a tax on (1) all gross direct
22 premiums, less return premiums thereon, written on risks located or
23 resident in this state and (2) all assumed reinsurance premiums, less
24 return premiums thereon, written on risks located or resident in this
25 state. The rate of the tax imposed on gross direct premiums shall be
26 four-tenths of one percent on all or any part of the first twenty
27 million dollars of premiums, three-tenths of one percent on all or any
28 part of the second twenty million dollars of premiums, two-tenths of one
29 percent on all or any part of the third twenty million dollars of premi-
30 ums, and seventy-five thousandths of one percent on each dollar of
31 premiums thereafter. The rate of the tax on assumed reinsurance premiums
32 shall be two hundred twenty-five thousandths of one percent on all or
33 any part of the first twenty million dollars of premiums, one hundred
34 and fifty thousandths of one percent on all or any part of the second
35 twenty million dollars of premiums, fifty thousandths of one percent on
36 all or any part of the third twenty million dollars of premiums and
37 twenty-five thousandths of one percent on each dollar of premiums there-
38 after. The tax imposed by this section shall be equal to the greater of
39 (i) the sum of the tax imposed on gross direct premiums and the tax
40 imposed on assumed reinsurance premiums or (ii) five thousand dollars.

41 S 23. Paragraph 4 of subdivision (f) of section 1515 of the tax law,
42 as amended by section 16 of part FF-1 of chapter 57 of the laws of 2008,
43 is amended to read as follows:

44 (4)(i) For purposes of this paragraph, the term "closest controlling
45 stockholder" means the corporation that indirectly owns or controls over
46 fifty percent of the voting stock of a captive REIT or captive RIC, is
47 subject to tax under section fifteen hundred one of this article[,] OR
48 article nine-A [or article thirty-two] of this chapter or required to be
49 included in a combined return or report under this article[,] OR article
50 nine-A [or article thirty-two] of this chapter, and is the fewest tiers
51 of corporations away in the ownership structure from the captive REIT or
52 captive RIC. The commissioner is authorized to prescribe by regulation
53 or published guidance the criteria for determining the closest control-
54 ling stockholder.

55 (ii) A captive REIT or a captive RIC must be included in a combined
56 return with the corporation that directly owns or controls over fifty

1 percent of the voting stock of the captive REIT or captive RIC if that
2 corporation is a life insurance corporation and is subject to tax or
3 required to be included in a combined return under this article.

4 (iii) If over fifty percent of the voting stock of a captive REIT or
5 captive RIC is not directly owned or controlled by a life insurance
6 corporation that is subject to tax or required to be included in a
7 combined return under this article, [then the captive REIT or captive
8 RIC must be included in a combined report or return with the corporation
9 that is the closest controlling stockholder of the captive REIT or
10 captive RIC. If] AND the closest controlling stockholder of the captive
11 REIT or captive RIC is a life insurance corporation that is subject to
12 tax or required to be included in a combined return under this article,
13 then the captive REIT or captive RIC must be included in a combined
14 return WITH THE CLOSEST CONTROLLING STOCKHOLDER under this article.

15 (iv) If a captive REIT owns the stock of a qualified REIT subsidiary
16 (as defined in paragraph two of subsection (i) of section eight hundred
17 fifty-six of the internal revenue code) AND THE CAPTIVE REIT IS REQUIRED
18 TO BE INCLUDED IN A COMBINED RETURN UNDER SUBPARAGRAPHS (II) OR (III) OF
19 THIS PARAGRAPH, then the qualified REIT subsidiary must be included in
20 any combined return required to be made by the captive REIT that owns
21 the stock of the qualified REIT subsidiary.

22 (v) If a captive REIT or a captive RIC is required under this para-
23 graph to be included in a combined return with another corporation, and
24 that other corporation is required to be included in a combined return
25 with another [related] corporation under this subdivision, then the
26 captive REIT or the captive RIC must be included in that combined return
27 with the other [related] corporation.

28 S 24. Subdivisions (a), (b) and (c) of section 12 of the tax law, as
29 added by chapter 615 of the laws of 1998, are amended to read as
30 follows:

31 (a) For purposes of subdivision (b) of this section, the term "person"
32 shall mean a corporation, joint stock company or association, insurance
33 corporation, or banking corporation, as such terms are defined in
34 section one hundred eighty-three, one hundred eighty-four, or one
35 hundred eighty-six, or in article nine-A[, thirty-two] or thirty-three
36 of this chapter, imposing tax on such entities.

37 (b) No person shall be subject to the taxes imposed under section one
38 hundred eighty-three, one hundred eighty-four or one hundred eighty-six,
39 or article nine-A[, thirty-two] or thirty-three of this chapter, solely
40 by reason of (1) having its advertising stored on a server or other
41 computer equipment located in this state (other than a server or other
42 computer equipment owned or leased by such person), or (2) having its
43 advertising disseminated or displayed on the Internet by an individual
44 or entity subject to tax under section one hundred eighty-three, one
45 hundred eighty-four or one hundred eighty-six, or article nine-A, twen-
46 ty-two[, thirty-two] or thirty-three of this chapter.

47 (c) A person, as such term is defined in subdivision (a) of section
48 eleven hundred one of this chapter, shall not be deemed to be a vendor,
49 for purposes of article twenty-eight of this chapter, solely by reason
50 of (1) having its advertising stored on a server or other computer
51 equipment located in this state (other than a server or other computer
52 equipment owned or leased by such person), or (2) having its advertising
53 disseminated or displayed on the Internet by an individual or entity
54 subject to tax under section one hundred eighty-three, one hundred
55 eighty-four or one hundred eighty-six, or article nine-A, twenty-two[,
56 thirty-two] or thirty-three of this chapter.

1 S 25. Paragraph 1 of subdivision (a) of section 14 of the tax law, as
2 amended by section 3 of part VI of chapter 109 of the laws of 2006, is
3 amended to read as follows:

4 (1) except as provided in paragraphs one-a and one-b of this subdivi-
5 sion, for purposes of section one hundred eighty-seven-j and articles
6 nine-A, twenty-two[, thirty-two] and thirty-three of this chapter, for
7 each of the taxable years within the "business tax benefit period,"
8 which period shall consist of (A) in the case of a business enterprise
9 with a test date occurring on or before December thirty-first, two thou-
10 sand one, the first fifteen taxable years beginning on or after January
11 first, two thousand one, (B) in the case of a business enterprise with a
12 test date occurring on or after January first, two thousand two, but
13 prior to April first, two thousand five, the fifteen taxable years next
14 following the business enterprise's test year, and (C) in the case of a
15 business enterprise which is first certified under article eighteen-B of
16 the general municipal law on or after April first, two thousand five,
17 the ten taxable years starting with the taxable year in which the busi-
18 ness enterprise's first date of certification under article eighteen-B
19 of the general municipal law occurs, but only with respect to each of
20 such business tax benefit period years for which the employment test is
21 met,

22 S 26. Subdivision (f) of section 14 of the tax law, as amended by
23 section 10 of part CC of chapter 85 of the laws of 2002, is amended to
24 read as follows:

25 (f) Taxable year. The term "taxable year" means the taxable year of
26 the business enterprise under section one hundred eighty-three, one
27 hundred eighty-four, one hundred eighty-five or former section one
28 hundred eighty-six of article nine, or under article nine-A, twenty-
29 two[, thirty-two] or thirty-three of this chapter. If a business enter-
30 prise does not have a taxable year because it is exempt from taxation or
31 otherwise not required to file a return under any of such sections of
32 article nine or under article nine-A, twenty-two[, thirty-two] or thir-
33 ty-three, then the term "taxable year" means (i) the business enter-
34 prise's federal taxable year, or, (ii) if the enterprise does not have a
35 federal taxable year, the calendar year.

36 S 27. Paragraph 1 of subdivision (i) of section 14 of the tax law, as
37 amended by section 5 of part A of chapter 63 of the laws of 2005, is
38 amended to read as follows:

39 (1) for purposes of section one hundred eighty-seven-j of article
40 nine, and articles nine-A, twenty-two[, thirty-two] and thirty-three of
41 this chapter, on the first day of the taxable year during which revoca-
42 tion of its certification under article eighteen-B of the general munic-
43 ipal law occurs, and

44 S 28. Paragraphs 1 and 2 of subdivision (j) of section 14 of the tax
45 law, as amended by section 10 of part CC of chapter 85 of the laws of
46 2002, are amended to read as follows:

47 (1) A new business shall include any corporation, except a corporation
48 which is substantially similar in operation and in ownership to a busi-
49 ness entity (or entities) taxable, or previously taxable, under section
50 one hundred eighty-three, one hundred eighty-four, one hundred eighty-
51 five or one hundred eighty-six of article nine; article nine-A[, article
52 thirty-two] or thirty-three of this chapter; article twenty-three of
53 this chapter or which would have been subject to tax under such article
54 twenty-three (as such article was in effect on January first, nineteen
55 hundred eighty), ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE
56 BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO (AS SUCH ARTICLE WAS

1 IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN) or the income
2 (or losses) of which is (or was) includable under article twenty-two of
3 this chapter.

4 (2) For purposes of article twenty-two of this chapter, an individual
5 who is either a sole proprietor or a member of a partnership shall qual-
6 ify as an owner of a new business unless the business of which the indi-
7 vidual is an owner is substantially similar in operation and in owner-
8 ship to a business entity taxable, or previously taxable, under section
9 one hundred eighty-three, one hundred eighty-four, one hundred eighty-
10 five or one hundred eighty-six of article nine; article nine-A[, thir-
11 ty-two] or ARTICLE thirty-three of this chapter; article twenty-three of
12 this chapter or which would have been subject to tax under such article
13 twenty-three (as such article was in effect on January first, nineteen
14 hundred eighty); ARTICLE THIRTY-TWO OF THIS CHAPTER OR WHICH WOULD HAVE
15 BEEN SUBJECT TO TAX UNDER SUCH ARTICLE THIRTY-TWO AS SUCH ARTICLE WAS IN
16 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN or the income (or
17 losses) of which is (or was) includable under article twenty-two.

18 S 29. Clauses (i) and (ii) of subparagraph (A) of paragraph 4 of
19 subdivision (j) of section 14 of the tax law, as added by section 5 of
20 part A of chapter 63 of the laws of 2005, are amended to read as
21 follows:

22 (i) Notwithstanding paragraphs one and two of this subdivision, a new
23 business shall include any corporation which is identical in operation
24 and ownership to a business entity (or entities) taxable under section
25 one hundred eighty-three, one hundred eighty-four or one hundred eight-
26 y-five of article nine; article nine-A[, article thirty-two] or thirty-
27 three of this chapter or the income (or losses) of which is includable
28 under article twenty-two of this chapter, provided such corporation and
29 such business entity or entities are operating in different counties in
30 the state.

31 (ii) Notwithstanding paragraphs one and two of this subdivision, an
32 individual who is either a sole proprietor or a member of a partnership
33 shall qualify as an owner of a new business if the business of which the
34 individual is an owner is identical in operation and in ownership to a
35 business entity (or entities) taxable under section one hundred eighty-
36 three, one hundred eighty-four or one hundred eighty-five of article
37 nine; article nine-A[, article thirty-two] or thirty-three of this chap-
38 ter or the income (or losses) of which is includable under article twen-
39 ty-two of this chapter, provided such business and such business entity
40 or entities are operating in different counties in the state.

41 S 30. Subparagraph (B) of paragraph 4 of subdivision (j) of section 14
42 of the tax law, as amended by chapter 161 of the laws of 2005, is
43 amended to read as follows:

44 (B) Notwithstanding any provisions of this subdivision to the contrary
45 and notwithstanding subdivision c of section eighteen of part CC of
46 chapter eighty-five of the laws of two thousand two, a corporation or
47 partnership, which was first certified under article eighteen-B of the
48 general municipal law before August first, two thousand two, has a base
49 period of zero years or zero employment for its base period, and is
50 similar in operation and in ownership to a business entity or entities
51 taxable, or previously taxable, under sections specified in paragraph
52 one or two of this subdivision or which would have been subject to tax
53 under article twenty-three of this chapter (as such article was in
54 effect on January first, nineteen hundred eighty) OR WHICH WOULD HAVE
55 BEEN SUBJECT TO TAX UNDER ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH
56 ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN)

1 or the income or losses of which is or was includable under article
2 twenty-two of this chapter shall not be deemed a new business if it was
3 not formed for a valid business purpose, as such term is defined in
4 clause (D) of subparagraph one of paragraph (o) of subdivision nine of
5 section two hundred eight of this chapter and was formed solely to gain
6 empire zone benefits.

7 S 31. Subdivision (k) of section 14 of the tax law, as amended by
8 section 5 of part A of chapter 63 of the laws of 2005, is amended to
9 read as follows:

10 (k) If the designation of an area as an empire zone is no longer in
11 effect because section nine hundred sixty-nine of the general municipal
12 law was not amended to extend the effective date of such designation so
13 that the designations of all empire zones pursuant to article eighteen-B
14 of the general municipal law have expired, a business enterprise that
15 was certified pursuant to article eighteen-B of the general municipal
16 law on the day immediately preceding the day on which such designation
17 expired shall be deemed to continue to be certified under such article
18 eighteen-B for purposes of this section, and sections fifteen, sixteen,
19 section one hundred eighty-seven-j, subdivisions [twenty-seven] FIVE and
20 [twenty-eight] SIX of section two hundred [ten] TEN-B, subsections (bb)
21 and (cc) of section six hundred six, subdivision (z) of section eleven
22 hundred fifteen[, subsections (o) and (p) of section fourteen hundred
23 fifty-six,] and subdivisions (r) and (s) of section fifteen hundred
24 eleven of this chapter. In addition, if the designation of an area as an
25 empire zone is no longer in effect because section nine hundred sixty-
26 nine of the general municipal law was not amended to extend the effec-
27 tive date of such designation so that the designations of all empire
28 zones pursuant to article eighteen-B of the general municipal law have
29 expired, all references to empire zones in the provisions of this chap-
30 ter listed in the previous sentence shall be read as meaning areas
31 designated as empire zones on the day immediately preceding the day on
32 which such designation expired.

33 S 32. Subdivisions (a) and (h) of section 15 of the tax law, as
34 amended by section 5 of part A of chapter 63 of the laws of 2005, are
35 amended to read as follows:

36 (a) Allowance of credit. A taxpayer which is a qualified empire zone
37 enterprise (QEZE), or which is a sole proprietor of a QEZE or a member
38 of a partnership which is a QEZE, and which is subject to tax under
39 article nine-A, twenty-two[, thirty-two] or thirty-three of this chap-
40 ter, shall be allowed a credit against such tax, pursuant to the
41 provisions referenced in subdivision (h) of this section, for eligible
42 real property taxes.

43 (h) Definitions and cross-references. For definitions of terms used in
44 this section see section fourteen of this article. For application of
45 the credit provided for in this section, see the following provisions of
46 this chapter:

- 47 (1) Article 9: Section 187-j.
- 48 (2) Article 9-A: Section [210] 210-B: subdivision [27] 5.
- 49 (3) Article 22: Section 606: subsections (i) and (bb).
- 50 (4) [Article 32: Section 1456: subsection (o).
- 51 (5)] Article 33: Section 1511: subdivision (r).

52 S 33. Subdivision (a) of section 16 of the tax law, as added by
53 section 2 of part GG of chapter 63 of the laws of 2000, is amended to
54 read as follows:

55 (a) Allowance of credit. A taxpayer which is a qualified empire zone
56 enterprise (QEZE), or which is a sole proprietor of a QEZE or a member

1 of a partnership which is a QEZE, and which is subject to tax under
2 article nine-A, twenty-two[, thirty-two] or thirty-three of this chap-
3 ter, shall be allowed a credit against such tax, pursuant to the
4 provisions referenced in subdivision (g) of this section, to be computed
5 as hereinafter provided.

6 S 34. Paragraph 1, clause (ii) of subparagraph (B) of paragraph 2, and
7 subparagraph (A) of paragraph 3 of subdivision (f) of section 16 of the
8 tax law, as amended by section 14 of part CC of chapter 85 of the laws
9 of 2002, are amended to read as follows:

10 (1) General. The tax factor shall be, in the case of article nine-A of
11 this chapter, the [larger of the amounts] AMOUNT of tax determined for
12 the taxable year under [paragraphs] PARAGRAPH (a) [and (c)] of subdivi-
13 sion one of section two hundred ten of such article. The tax factor
14 shall be, in the case of article twenty-two of this chapter, the tax
15 determined for the taxable year under subsections (a) through (d) of
16 section six hundred one of such article. [The tax factor shall be, in
17 the case of article thirty-two of this chapter, the larger of the
18 amounts of tax determined for the taxable year under subsection (a) and
19 paragraph two of subsection (b) of section fourteen hundred fifty-five
20 of such article.] The tax factor shall be, in the case of article thir-
21 ty-three of this chapter, the larger of the amounts of tax determined
22 for the taxable year under paragraphs one and three of subdivision (a)
23 of section fifteen hundred two of such article.

24 (ii) For purposes of article nine-A[, thirty-two or thirty-three] of
25 this chapter, the term "partner's income from the partnership" means
26 partnership items of income, gain, loss and deduction, and New York
27 modifications thereto, entering into [entire net] BUSINESS income[,
28 minimum taxable income, alternative entire net income or entire net
29 income plus compensation] and the term "partner's entire income" means
30 [entire net] BUSINESS income[, minimum taxable income, alternative
31 entire net income or entire net income plus compensation,] allocated
32 within the state. FOR PURPOSES OF ARTICLE THIRTY-THREE OF THIS CHAPTER,
33 THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS
34 OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO,
35 ENTERING INTO ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION
36 AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME, OR
37 ENTIRE NET INCOME PLUS COMPENSATION, ALLOCATED WITHIN THE STATE. For
38 purposes of article twenty-two of this chapter, the term "partner's
39 income from the partnership" means partnership items of income, gain,
40 loss and deduction, and New York modifications thereto, entering into
41 New York adjusted gross income, and the term "partner's entire income"
42 means New York adjusted gross income.

43 (A) Where the taxpayer is a qualified empire zone enterprise and is
44 required or permitted to make a return or report on a combined basis
45 under article nine-A[, thirty-two] or ARTICLE thirty-three of this chap-
46 ter, the taxpayer's tax factor shall be the amount determined in para-
47 graph one of this subdivision which is attributable to the income of the
48 qualified empire zone enterprise. Such attribution shall be made in
49 accordance with the ratio of the qualified empire zone enterprise's
50 income allocated within the state to the combined group's income, or in
51 accordance with such other methods as the commissioner may prescribe as
52 providing an apportionment which reasonably reflects the portion of the
53 combined group's tax attributable to the income of the qualified empire
54 zone enterprise. In no event may the ratio so determined exceed 1.0.

1 S 35. Subdivision (g) of section 16 of the tax law, as added by
2 section 2 of part GG of chapter 63 of the laws of 2000, is amended to
3 read as follows:

4 (g) Definitions and cross-references. For definitions of terms used in
5 this section see sections fourteen and fifteen of this article. For
6 application of the credit provided for in this section, see the follow-
7 ing provisions of this chapter:

8 (1) Article 9-A: Section [210] 210-B: subdivision [28]6.

9 (2) Article 22: Section 606: subsections (i) and (cc).

10 (3) [Article 32: Section 1456: subsection (p).

11 (4)] Article 33: Section 1511: subdivision (s).

12 S 36. Paragraph 1 of subdivision (b) of section 17 of the tax law, as
13 added by section 43 of part S1 of chapter 57 of the laws of 2009, is
14 amended to read as follows:

15 (1) The empire zones tax benefits report must contain the following
16 information about the empire zone tax credits claimed under articles
17 nine, nine-A, twenty-two[, thirty-two] and thirty-three of this chapter
18 during the previous calendar year:

19 (A) the name of each taxpayer claiming a credit; and

20 (B) the amount of each credit earned by each taxpayer.

21 S 37. Subdivisions (a) and (d) of section 18 of the tax law, as added
22 by section 2 of part CC of chapter 63 of the laws of 2000, are amended
23 to read as follows:

24 (a) Allowance of credit. A taxpayer subject to tax under article
25 nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall
26 be allowed a credit against such tax, pursuant to the provisions refer-
27 enced in subdivision (d) of this section, with respect to the ownership
28 of eligible low-income buildings for which an eligibility statement has
29 been issued by the commissioner of housing and community renewal. The
30 amount of the credit shall be the credit amount for each such building
31 allocated by such commissioner as provided in article two-A of the
32 public housing law. The credit amount shall be allowed for each of the
33 ten taxable years in the credit period, and any reduction in first-year
34 credit as provided in subdivision two of section twenty-two of such law
35 shall be allowed in the eleventh taxable year.

36 (d) Cross-references. For application of the credit provided for in
37 this section, see the following provisions of this chapter:

38 (1) Article 9-A: Section [210] 210-B: subdivision [30] 15,

39 (2) Article 22: Section 606: subsections (i) and (x),

40 (3) [Article 32: Section 1456: subsection (l),

41 (4)] Article 33: Section 1511: subdivision (n).

42 S 38. Subparagraph (A) of paragraph 1 of subdivision (a) and subdivi-
43 sion (f) of section 19 of the tax law, as added by section 2 of part II
44 of chapter 63 of the laws of 2000, are amended to read as follows:

45 (A) Green building credit. A taxpayer subject to tax under article
46 nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter
47 shall be allowed a green building credit against such tax, pursuant to
48 the provisions referenced in subdivision (f) of this section. Provided,
49 however, no credit shall be allowed under this section unless the
50 taxpayer has complied with the applicable requirements of paragraph two
51 of subdivision (d) of this section (relating to reports to DEC). The
52 amount of the credit shall be the sum of the credit components specified
53 in paragraphs two through seven of this subdivision. Provided, however,
54 the amount of each such credit component shall not exceed the limit set
55 forth in the initial credit component certificate obtained pursuant to
56 subdivision (c) of this section. In the determination of such credit

1 components, no cost paid or incurred by the taxpayer shall be the basis
2 for more than one such component.

3 (f) Cross-references. For application of the credit provided for in
4 this section, see the following provisions of this chapter:

5 (1) Article nine: Section one hundred eighty-seven-d;

6 (2) Article nine-A: Subdivision [thirty-one] SIXTEEN of section two
7 hundred [ten] TEN-B;

8 (3) Article twenty-two: Subsections (i) and (y) of section six hundred
9 six;

10 (4) [Article thirty-two: Subsection (m) of section fourteen hundred
11 fifty-six;

12 (5)] Article thirty-three: Subdivision (o) of section fifteen hundred
13 eleven.

14 S 39. Paragraphs 1 and 5 of subdivision (a) of section 21 of the tax
15 law, as amended by section 1 of part H of chapter 577 of the laws of
16 2004, are amended to read as follows:

17 (1) General. A taxpayer subject to tax under article nine, nine-A,
18 twenty-two[, thirty-two] or thirty-three of this chapter shall be
19 allowed a credit against such tax, pursuant to the provisions referenced
20 in subdivision (f) of this section. Such credit shall be allowed with
21 respect to a qualified site, as such term is defined in paragraph one of
22 subdivision (b) of this section. The amount of the credit in a taxable
23 year shall be the sum of the credit components specified in paragraphs
24 two, three and four of this subdivision applicable in such year.

25 (5) Applicable percentage. For purposes of paragraphs two, three and
26 four of this subdivision, the applicable percentage shall be twelve
27 percent in the case of credits claimed under article nine, nine-A[,
28 thirty-two] or thirty-three of this chapter, and ten percent in the case
29 of credits claimed under article twenty-two of this chapter, except that
30 where at least fifty percent of the area of the qualified site relating
31 to the credit provided for in this section is located in an environ-
32 mental zone as defined in paragraph six of subdivision (b) of this
33 section, the applicable percentage shall be increased by an additional
34 eight percent. Provided, however, as afforded in section 27-1419 of the
35 environmental conservation law, if the certificate of completion indi-
36 cates that the qualified site has been remediated to Track 1 as that
37 term is described in subdivision four of section 27-1415 of the environ-
38 mental conservation law, the applicable percentage set forth in the
39 first sentence of this paragraph shall be increased by an additional two
40 percent.

41 S 39-a. Subdivisions (c) and (f) of section 21 of the tax law, as
42 added by section 1 of part H of chapter 1 of the laws of 2003, are
43 amended to read as follows:

44 (c) Qualifying property. Property which qualifies for the credit
45 provided for under this section and also for a credit provided for (1)
46 under either subdivision [twelve] ONE or subdivision [twelve-B] THREE of
47 section two hundred [ten] TEN-B of this chapter, or both, OR (2)
48 subsection (a) or subsection (j) of section six hundred six of this
49 chapter, or both[, (3) the credit provided for under subsection (i) of
50 section fourteen hundred fifty-six of this chapter, or (4) the credit
51 provided under subdivision (q) of section fifteen hundred eleven of this
52 chapter] may be the basis for either the credit provided for under this
53 section or one of the credits enumerated in paragraph one[,] OR two[,
54 three or four] of this subdivision, but not both.

55 (f) Cross-references. For application of the credit provided for in
56 this section, see the following provisions of this chapter:

- 1 (1) Article 9: Section 187-g
2 (2) Article 9-A: Section [210] 210-B, subdivision [33] 17
3 (3) Article 22: Section 606, subsections (i) and (dd)
4 (4) [Article 32: Section 1456, subsection (q)
5 (5)] Article 33: Section 1511, subdivision (u).

6 S 40. Paragraph 3 of subdivision (a) and paragraphs 1 and 9 of subdivi-
7 vision (b) of section 22 of the tax law, as amended by section 4 of part
8 H of chapter 577 of the laws of 2004, are amended to read as follows:

9 (3) Developer. (i) A "developer" is a taxpayer under article nine,
10 nine-A, twenty-two[, thirty-two] or thirty-three of this chapter who or
11 which either (I) has been issued a certificate of completion with
12 respect to a qualified site or (II) has purchased or in any other way
13 has been conveyed all or any portion of a qualified site from a taxpayer
14 or any other party who or which has been issued a certificate of
15 completion with respect to such site provided, such purchase or convey-
16 ance occurs within seven years of the effective date of the certificate
17 of completion issued with respect to such qualified site. Provided
18 further, that the taxpayer who or which is purchasing all or any portion
19 of a qualified site and the taxpayer or any other party who or which has
20 been issued a certificate of completion with respect to such site may
21 not be related persons, as such term is defined in subparagraph (C) of
22 paragraph three of subsection (b) of section four hundred sixty-five of
23 the internal revenue code.

24 (ii) Where the entity to whom a certificate of completion has been
25 issued is a partnership, or where the entity which has purchased all or
26 any portion of a qualified site from a taxpayer who or which has been
27 issued a certificate of completion with respect to such site within the
28 applicable time limit is a partnership, any partner in such partnership
29 who or which is taxable under article nine, nine-A, twenty-two[, thir-
30 ty-two] or thirty-three of this chapter shall be a developer under this
31 paragraph. Where the entity to whom a certificate of completion has been
32 issued is a New York S corporation, or where the entity which has
33 purchased all or any portion of a qualified site from a taxpayer who or
34 which has been issued a certificate of completion with respect to such
35 site within the applicable time limit is a New York S corporation, any
36 shareholder in such New York S corporation shall be a developer under
37 this paragraph.

38 (1) Allowance of credit. A developer of a qualified site who or which
39 is subject to tax under article nine, nine-A, twenty-two[, thirty-two]
40 or thirty-three of this chapter, shall be allowed a credit against such
41 tax, pursuant to the provisions referenced in paragraph nine of this
42 subdivision, for eligible real property taxes imposed on such site.

43 (9) Cross-references. For application of the credit provided for in
44 this subdivision, see the following provisions of this chapter:

- 45 (i) Article 9: Section 187-h.
46 (ii) Article 9-A: Section [210] 210-B: subdivision [34] 18.
47 (iii) Article 22: Section 606: subsections (i) and (ee).
48 (iv) [Article 32: Section 1456: subsection (r).
49 (v)] Article 33: Section 1511: subdivision (v).

50 S 41. Subdivision (a) of section 23 of the tax law, as amended by
51 section 10 of part H chapter 577 of the laws of 2004, is amended to read
52 as follows:

53 (a) Allowance of credit. General. A taxpayer subject to tax under
54 article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this
55 chapter shall be allowed a credit against such tax, pursuant to the
56 provisions referenced in subdivision (e) of this section. The amount of

1 such credit shall be equal to the lesser of thirty thousand dollars or
2 fifty percent of the premiums paid on or after the date of the brown-
3 field site cleanup agreement executed by the taxpayer and the department
4 of environmental conservation pursuant to section 27-1409 of the envi-
5 ronmental conservation law by the taxpayer for environmental remediation
6 insurance issued with respect to a qualified site.

7 S 42. Subdivision (e) of section 23 of the tax law, as added by
8 section 19 of part H of chapter 1 of the laws of 2003, is amended to
9 read as follows:

10 (e) Cross-references. For application of the credit provided for in
11 this section, see the following provisions of this chapter:

- 12 (1) Article 9: Section 187-i
- 13 (2) Article 9-A: Section [210] 210-B, subdivision [35] 19
- 14 (3) Article 22: Section 606, subsections (i) and (ff)
- 15 (4) [Article 32: Section 1456, subsection (s)
- 16 (5)] Article 33: Section 1511, subdivision (w).

17 S 43. Paragraphs 1 and 2 of subdivision (a) and clause (i) of subpara-
18 graph (D) of paragraph 1 of subdivision (b) of section 25 of the tax
19 law, as added by section 1 of part N of chapter 61 of the laws of 2005,
20 are amended to read as follows:

21 (1) Every taxpayer, or person as defined in section seven thousand
22 seven hundred one of the internal revenue code, required to file a
23 disclosure statement with the internal revenue service pursuant to
24 section six thousand eleven of the internal revenue code, or the regu-
25 lations promulgated thereunder, related to a reportable transaction or a
26 listed transaction, as those terms are defined in such section or regu-
27 lations, must attach a duplicate of such disclosure statement to the
28 return or report required to be filed by such taxpayer or person for the
29 taxable year under article nine, nine-A, twenty-two[, thirty-two] or
30 thirty-three of this chapter, and provide such other information related
31 to such disclosure as prescribed by the commissioner. Such disclosure
32 shall be made notwithstanding that one member of an affiliated group, as
33 defined by section fifteen hundred four of the internal revenue code,
34 may file such disclosure statement with the internal revenue service on
35 behalf of its affiliates including such taxpayer or person.

36 (2) Every taxpayer or such person who participates in a New York
37 reportable transaction for a taxable year must disclose such partic-
38 ipation with its return or report required to be filed under article
39 nine, nine-A, twenty-two[, thirty-two] or thirty-three of this chapter
40 for the taxable year in a form prescribed by the commissioner, and
41 provide such other information related to such transaction as prescribed
42 by the commissioner. A New York reportable transaction is a transaction
43 that has the potential to be a tax avoidance transaction as determined
44 by the commissioner.

45 (i) the list required to be maintained by such person pursuant to
46 section six thousand one hundred twelve of the internal revenue code
47 identifies or is required to identify a taxpayer subject to tax under
48 article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this
49 chapter, and

50 S 44. Subdivisions (a) and (f) of section 26 of the tax law, as added
51 by chapter 537 of the laws of 2005, are amended to read as follows:

52 (a) Allowance of credit. A taxpayer, which is subject to tax under
53 article nine, nine-A, twenty-two[, thirty-two] or thirty-three of this
54 chapter and which is a qualified building owner, shall be allowed a
55 credit against such tax. The amount of the credit allowed under this
56 section shall equal the sum of the number of qualified security officers

1 providing protection to a building or buildings owned by the taxpayer
2 multiplied by three thousand dollars. Provided, however, that in the
3 case of a worker not so employed for a full year, such amount shall be
4 prorated to reflect the length of such employment under regulations of
5 the commissioner.

6 (f) Cross-references. For application of the credit provided for in
7 this section, see the following provisions of this chapter:

- 8 (1) article 9: section 187-n.
- 9 (2) article 9-A: section [210] 210-B: subdivision [37] 21.
- 10 (3) article 22: section 606: subsection (ii).
- 11 (4) [article 32: section 1456: subsection (t).
- 12 (5)] article 33: section 1511: subdivision (x).

13 S 45. Paragraph 3 of subdivision (a) and subdivision (c) of section 28
14 of the tax law, as added by section 2 of part V of chapter 62 of the
15 laws of 2006, are amended to read as follows:

16 (3) No qualified production costs used by a taxpayer either as the
17 basis for the allowance of the credit provided for under this section or
18 used in the calculation of the credit provided for under this section
19 shall be used by such taxpayer to claim any other credit allowed pursu-
20 ant to this chapter.

21 Notwithstanding any provisions of this section to the contrary, a
22 corporation or partnership, which otherwise qualifies as a qualified
23 commercial production company, and is similar in operation and in owner-
24 ship to a business entity or entities taxable, or previously taxable,
25 under section one hundred eighty-three, one hundred eighty-four or one
26 hundred eighty-five of article nine; article nine-A[, article thirty-
27 two] or thirty-three of this chapter or which would have been subject to
28 tax under article twenty-three of this chapter (as such article was in
29 effect on January first, nineteen hundred eighty) OR WHICH WOULD HAVE
30 BEEN SUBJECT TO TAX UNDER ARTICLE THIRTY-TWO OF THIS CHAPTER (AS SUCH
31 ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN)
32 or the income or losses of which is or was includable under article
33 twenty-two of this chapter shall not be deemed a new or separate busi-
34 ness, and therefore shall not be eligible for empire state commercial
35 production benefits, if it was not formed for a valid business purpose,
36 as such term is defined in clause (D) of subparagraph one of paragraph
37 (o) of subdivision nine of section two hundred eight of this chapter and
38 was formed solely to gain empire state commercial production credit
39 benefits.

40 (c) Cross-references. For application of the credit provided for in
41 this section, see the following provision of this chapter:

- 42 (1) article 9-A: section [210] 210-B: subdivision [38] 23.
- 43 (2) article 22: section 606: subsection (jj).

44 S 46. Subdivision (d) of section 28 of the tax law, as added by
45 section 1 of part X of chapter 62 of the laws of 2006, is amended to
46 read as follows:

47 (d) Cross-references. For application of the credit provided for in
48 this section, see the following provisions of this chapter:

- 49 (1) Article 9: Section 187-c.
- 50 (2) Article 9-A: Section [210] 210-B, subdivision [38] 24.
- 51 (3) Article 22: Section 606, subsections (i) and (jj).

52 S 47. The opening paragraph of subdivision (a) and subdivisions (c)
53 and (g) of section 31 of the tax law, the opening paragraph of subdivi-
54 sion (a) and subdivision (g) as amended by section 7 of part G of chap-
55 ter 61 of the laws of 2011, subdivision (c) as added by section 2 of

1 part MM of chapter 59 of the laws of 2010, are amended to read as
2 follows:

3 General. A taxpayer subject to tax under section one hundred eighty-
4 five, article nine-A, twenty-two[, thirty-two] or thirty-three of this
5 chapter shall be allowed a credit against such tax, pursuant to the
6 provisions referenced in subdivision (g) of this section. The amount of
7 the credit, allowable for up to ten consecutive taxable years, is the
8 sum of the following four credit components:

9 (c) Election of credit. A taxpayer who or which is qualified to claim
10 the excelsior investment tax credit component and is also qualified to
11 claim the investment tax credit provided for under subdivision [twelve]
12 ONE of section two hundred [ten,] TEN-B OR subsection (a) of section six
13 hundred six[, or subsection (i) of section fourteen hundred fifty-six]
14 of this chapter, may claim either the excelsior investment tax credit
15 component or the investment tax credit, but not both with regard to a
16 particular piece of property. In addition, a taxpayer who or which is
17 qualified to claim the excelsior investment tax credit component and is
18 also qualified to claim the brownfield tangible property credit compo-
19 nent under section twenty-one of this article, as added by chapter one
20 of the laws of two thousand three, may claim either the excelsior
21 investment tax credit component or such tangible property credit compo-
22 nent, but not both with regard to a particular piece of property. The
23 election to claim the excelsior investment tax credit component, the
24 investment tax credit or the brownfield tangible property credit compo-
25 nent, with regard to the same property, is irrevocable.

26 (g) Cross-references. For application of the credit provided for in
27 this section, see the following provisions of this chapter:

- 28 (1) article 9: section 187-q.
29 (2) article 9-A: section [210] 210-B: subdivision [41] 31.
30 (3) article 22: section 606: subsection (qq).
31 (4) [article 32: section 1456: subsection (u).
32 (5)] article 33: section 1511: subdivision (y).

33 S 48. Subdivision (d) of section 31 of the tax law, as added by
34 section 12 of part Q of chapter 57 of the laws of 2010, is amended to
35 read as follows:

36 (d) Cross-references. For application of the credit provided for in
37 this section, see the following provisions of this chapter:

- 38 (1) article 9-A: section [210] 210-B: subdivision [41] 32.
39 (2) article 22: section 606: subsection (qq).

40 S 49. Subdivision 3 of section 34 of the tax law, as added by section
41 2 of part Y of chapter 57 of the laws of 2010, is amended to read as
42 follows:

43 3. (a) For application of the temporary deferral nonrefundable payout
44 credit, see the following provisions of this chapter:

- 45 (1) Article 9: section [187-0] 187-O
46 (2) Article 9-A: section [210(41)] 210-B(33)
47 (3) Article 22: section 606(qq)
48 (4) [Article 32: section 1456(v)
49 (5)] Article 33: section 1511(y)

50 (b) For application of the temporary deferral refundable payout cred-
51 it, see the following provisions of this chapter:

- 52 (1) Article 9: section 187-p
53 (2) Article 9-A: section [210(42)] 210-B(34)
54 (3) Article 22: section 606(rr)
55 (4) [Article 32: section 1456(w)
56 (5)] Article 33: section 1511(z)

1 S 50. The opening paragraph of subdivision (a), subparagraph (C) of
2 paragraph 2 of subdivision (e), and subdivision (f) of section 35 of the
3 tax law, as added by section 3 of part V of chapter 61 of the laws of
4 2011, are amended to read as follows:

5 A taxpayer which is a participant or the owner of a participant in the
6 economic transformation and facility redevelopment program under article
7 eighteen of the economic development law that is subject to tax under
8 section one hundred eighty-five of article nine, or article nine-A,
9 twenty-two[, thirty-two] or thirty-three of this chapter shall be
10 allowed the sum of following components against such tax, pursuant to
11 the provisions referenced in subdivision (f) of this section.

12 (C) the business entity must not be substantially similar in ownership
13 and operation to another taxpayer taxable or previously taxable under
14 section one hundred eighty-three, one hundred eighty-four or one hundred
15 eighty-five of article nine, former section one hundred eighty-six of
16 this chapter or article nine-A, twenty-two[, thirty-two] or thirty-three
17 of this chapter OR FORMER ARTICLE THIRTY-TWO OF THIS CHAPTER or the
18 income or losses of which is or was includable under article twenty-two
19 of this chapter;

20 (f) Cross-references. For application of the credits provided for in
21 this section, see the following provisions of this chapter:

- 22 (1) section 185: section 187-r.
23 (2) article 9-A: section [210(43)] 210-B(35).
24 (3) article 22: section 606 (ss).
25 (4) [article 32: section 1456(x).
26 (5)] article 33: section 1511 (aa).

27 S 51. Subdivisions (a) and (e) of section 36 of the tax law, as added
28 by section 2 of part E of chapter 56 of the laws of 2011, are amended to
29 read as follows:

30 (a) Allowance of credit. A taxpayer subject to tax under article
31 nine-A, twenty-two[, thirty-two] or thirty-three of this chapter shall
32 be allowed a credit against such tax, pursuant to the provisions refer-
33 enced in subdivision (e) of this section. The amount of the credit,
34 allowable for ten consecutive tax years, is equal to the amount deter-
35 mined pursuant to section four hundred twenty-five of the economic
36 development law.

37 (e) Cross-references. For application of the credit provided for in
38 this section, see the following provisions of this chapter:

- 39 (1) article 9-A: section [210] 210-B, subdivision [44] 37;
40 (2) article 22: section 606, subsection (tt);
41 (3) [article 32: section 1456, subsection (y);
42 (4)] article 33, section 1511, subdivision (bb).

43 S 52. Subdivision (c) of section 37 of the tax law, as added by chap-
44 ter 109 of the laws of 2012, is amended to read as follows:

45 (c) Cross-references. For application of the credit provided for in
46 this section, see the following provisions of this chapter:

- 47 (1) Article 9-A: Section [210] 210-B, subdivision [45] 39.
48 (2) Article 22: Section 606, subsections (i) and (uu).

49 S 52-a. Subdivision (c) of section 39 of the tax law is REPEALED.

50 S 53. Paragraphs 2, 3 and 4 of subdivision (k) of section 39 of the
51 tax law, paragraphs 2 and 3 as added by section 2 of part A of chapter
52 68 of the laws of 2013, paragraph 4 as added by section 2 of part A of
53 chapter 68 of the laws of 2013, are amended to read as follows:

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

1 (4) Article 9-A: section [210] 210-B, subdivision [47] 41 AND SUBDIVI-
2 SION 44.

3 S 54. Subdivision 1 of section 171-a of the tax law, as amended by
4 section 1 of part R of chapter 60 of the laws of 2004, is amended to
5 read as follows:

6 1. All taxes, interest, penalties and fees collected or received by
7 the commissioner or the commissioner's duly authorized agent under arti-
8 cles nine (except section one hundred eighty-two-a thereof and except as
9 otherwise provided in section two hundred five thereof), nine-A,
10 twelve-A (except as otherwise provided in section two hundred eighty-
11 four-d thereof), thirteen, thirteen-A (except as otherwise provided in
12 section three hundred twelve thereof), eighteen, nineteen, twenty
13 (except as otherwise provided in section four hundred eighty-two there-
14 of), twenty-one, twenty-two, twenty-six, twenty-six-B, twenty-eight
15 (except as otherwise provided in section eleven hundred two or eleven
16 hundred three thereof), twenty-eight-A, thirty-one (except as otherwise
17 provided in section fourteen hundred twenty-one thereof), [thirty-two,]
18 thirty-three and thirty-three-A of this chapter shall be deposited daily
19 in one account with such responsible banks, banking houses or trust
20 companies as may be designated by the comptroller, to the credit of the
21 comptroller. Such an account may be established in one or more of such
22 depositories. Such deposits shall be kept separate and apart from all
23 other money in the possession of the comptroller. The comptroller shall
24 require adequate security from all such depositories. Of the total
25 revenue collected or received under such articles of this chapter, the
26 comptroller shall retain in the comptroller's hands such amount as the
27 commissioner may determine to be necessary for refunds or reimbursements
28 under such articles of this chapter [and article ten thereof] out of
29 which amount the comptroller shall pay any refunds or reimbursements to
30 which taxpayers shall be entitled under the provisions of such articles
31 of this chapter [and article ten thereof]. The commissioner and the
32 comptroller shall maintain a system of accounts showing the amount of
33 revenue collected or received from each of the taxes imposed by such
34 articles. The comptroller, after reserving the amount to pay such
35 refunds or reimbursements, shall, on or before the tenth day of each
36 month, pay into the state treasury to the credit of the general fund all
37 revenue deposited under this section during the preceding calendar month
38 and remaining to the comptroller's credit on the last day of such
39 preceding month, (i) except that the comptroller shall pay to the state
40 department of social services that amount of overpayments of tax imposed
41 by article twenty-two of this chapter and the interest on such amount
42 which is certified to the comptroller by the commissioner as the amount
43 to be credited against past-due support pursuant to subdivision six of
44 section one hundred seventy-one-c of this [chapter] ARTICLE, (ii) and
45 except that the comptroller shall pay to the New York state higher
46 education services corporation and the state university of New York or
47 the city university of New York respectively that amount of overpayments
48 of tax imposed by article twenty-two of this chapter and the interest on
49 such amount which is certified to the comptroller by the commissioner as
50 the amount to be credited against the amount of defaults in repayment of
51 guaranteed student loans and state university loans or city university
52 loans pursuant to subdivision five of section one hundred seventy-one-d
53 and subdivision six of section one hundred seventy-one-e of this [chap-
54 ter] ARTICLE, (iii) and except further that, notwithstanding any law,
55 the comptroller shall credit to the revenue arrearage account, pursuant
56 to section ninety-one-a of the state finance law, that amount of over-

1 payment of tax imposed by article nine, nine-A, twenty-two, thirty,
2 thirty-A, thirty-B[, thirty-two] or thirty-three of this chapter, and
3 any interest thereon, which is certified to the comptroller by the
4 commissioner as the amount to be credited against a past-due legally
5 enforceable debt owed to a state agency pursuant to paragraph (a) of
6 subdivision six of section one hundred seventy-one-f of this article,
7 provided, however, he shall credit to the special offset fiduciary
8 account, pursuant to section ninety-one-c of the state finance law, any
9 such amount creditable as a liability as set forth in paragraph (b) of
10 subdivision six of section one hundred seventy-one-f of this article,
11 (iv) and except further that the comptroller shall pay to the city of
12 New York that amount of overpayment of tax imposed by article nine,
13 nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thir-
14 ty-three of this chapter and any interest thereon that is certified to
15 the comptroller by the commissioner as the amount to be credited against
16 city of New York tax warrant judgment debt pursuant to section one
17 hundred seventy-one-l of this article, (v) and except further that the
18 comptroller shall pay to a non-obligated spouse that amount of overpay-
19 ment of tax imposed by article twenty-two of this chapter and the inter-
20 est on such amount which has been credited pursuant to section one
21 hundred seventy-one-c, one hundred seventy-one-d, one hundred seventy-
22 one-e, one hundred seventy-one-f or one hundred seventy-one-l of this
23 article and which is certified to the comptroller by the commissioner as
24 the amount due such non-obligated spouse pursuant to paragraph six of
25 subsection (b) of section six hundred fifty-one of this chapter; and
26 (vi) the comptroller shall deduct a like amount which the comptroller
27 shall pay into the treasury to the credit of the general fund from
28 amounts subsequently payable to the department of social services, the
29 state university of New York, the city university of New York, or the
30 higher education services corporation, or the revenue arrearage account
31 or special offset fiduciary account pursuant to section ninety-one-a or
32 ninety-one-c of the state finance law, as the case may be, whichever had
33 been credited the amount originally withheld from such overpayment, and
34 (vii) with respect to amounts originally withheld from such overpayment
35 pursuant to section one hundred seventy-one-l of this article and paid
36 to the city of New York, the comptroller shall collect a like amount
37 from the city of New York.

38 S 55. Subdivision 2 of section 171-a of the tax law, as amended by
39 chapter 57 of the laws of 1993, is amended to read as follows:

40 2. Notwithstanding subdivision one of this section or any other
41 provision of law to the contrary, the taxes imposed pursuant to sections
42 one hundred eighty-three-a, one hundred eighty-four-a, [one hundred
43 eighty-six-b,] one hundred eighty-six-c, [one hundred eighty-nine-a,]
44 two hundred nine-B[, fourteen hundred fifty-five-b] and fifteen hundred
45 five-a of this chapter, reduced by an amount for administrative costs,
46 shall be deposited to the credit of the metropolitan mass transportation
47 operating assistance account in the mass transportation operating
48 assistance fund, created pursuant to section eighty-eight-a of the state
49 finance law, as such taxes are received. The amount for administrative
50 costs shall be determined by the commissioner to represent reasonable
51 costs of the department of taxation and finance in administering,
52 collecting, determining and distributing such taxes. Of the total reven-
53 ue collected or received under such sections of this chapter, the comp-
54 troller shall retain in his hands such amount as the commissioner may
55 determine to be necessary for refunds or reimbursements under such
56 sections of this chapter out of which amount the comptroller shall pay

1 any refunds or reimbursements to which taxpayers shall be entitled under
2 provisions of such sections. The tax commissioner and the comptroller
3 shall maintain a system of accounts showing the amount of revenue
4 collected or received from each of the taxes imposed by such sections.

5 S 56. Paragraphs (b) and (c) of subdivision 1 of section 171-f of the
6 tax law, as amended by chapter 81 of the laws of 1995, are amended to
7 read as follows:

8 (b) "taxpayer" shall mean a corporation, association, company, part-
9 nership, estate, trust, liquidator, fiduciary or other entity or indi-
10 vidual who or which is liable for any tax or other imposition imposed by
11 or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thir-
12 ty-B[, thirty-two,] or thirty-three of this chapter or article two-E of
13 the general city law, which tax or other imposition is administered by
14 the commissioner of taxation and finance, or who or which is under a
15 duty to perform an act under or pursuant to such tax or imposition,
16 excluding a state agency, a municipal corporation or a district corpo-
17 ration; and (c) "overpayment" shall mean an overpayment which has been
18 requested or determined to be refunded, a refund or a reimbursement, of
19 a tax or other imposition imposed by or pursuant to article nine,
20 nine-A, twenty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thir-
21 ty-three of this chapter or article two-E of the general city law, which
22 is administered by the commissioner of taxation and finance.

23 S 57. Subdivision 2 of section 171-f of the tax law, as added by chap-
24 ter 55 of the laws of 1992, is amended to read as follows:

25 (2) The commissioner of taxation and finance, upon agreement with the
26 state comptroller and acting as an agent for the state comptroller,
27 shall set forth the procedures for crediting any overpayment by a
28 taxpayer of any tax or other imposition imposed by or authorized to be
29 imposed pursuant to article nine, nine-A, twenty-two, thirty, thirty-A,
30 thirty-B[, thirty-two,] or thirty-three of this chapter or article two-E
31 of the general city law, which is administered by the commissioner of
32 taxation and finance, and the interest on any such overpayments, against
33 the amount of a past-due legally enforceable debt owed by such taxpayer
34 to a state agency. An implementation plan shall be developed by the
35 division of the budget and the department of taxation and finance which
36 shall provide, but not be limited to, guidance with respect to coordi-
37 nation of debt collection pursuant to this section and subdivision twen-
38 ty-seventh of section one hundred seventy-one of this article. This
39 section shall not be deemed to abrogate or limit in any way the powers
40 and authority of the state comptroller to set off debts owed the state
41 against payments from the state, under the constitution of the state or
42 any other law.

43 S 58. Paragraphs (a) and (b) of subdivision 1 of section 171-l of the
44 tax law, as added by section 6 of part R of chapter 60 of the laws of
45 2004, are amended to read as follows:

46 (a) "taxpayer" shall mean a corporation, association, company, part-
47 nership, estate, trust, liquidator, fiduciary or other entity or indi-
48 vidual who or which is liable for any tax or other imposition imposed by
49 or pursuant to article nine, nine-A, twenty-two, thirty, thirty-A, thir-
50 ty-B[, thirty-two,] or thirty-three of this chapter, which tax or other
51 imposition is administered by the commissioner of taxation and finance,
52 or who or which is under a duty to perform an act under or pursuant to
53 such tax or imposition, excluding a state agency, a municipal corpo-
54 ration or a district corporation;

55 (b) "overpayment" shall mean an overpayment which has been requested
56 or determined to be refunded, a refund or a reimbursement, of a tax or

1 other imposition imposed by or pursuant to article nine, nine-A, twen-
2 ty-two, thirty, thirty-A, thirty-B[, thirty-two,] or thirty-three of
3 this chapter, which is administered by the commissioner of taxation and
4 finance; and

5 S 59. Paragraph (b) of subdivision 1 of section 183 of the tax law, as
6 amended by section 1 of part Y of chapter 63 of the laws of 2000, is
7 amended to read as follows:

8 (b) For the privilege of exercising its corporate franchise, or of
9 doing business, or of employing capital, or of owning or leasing proper-
10 ty in this state in a corporate or organized capacity, or of maintaining
11 an office in this state, every domestic corporation, joint-stock company
12 or association formed for or principally engaged in the conduct of
13 canal, steamboat, ferry (except a ferry company operating between any of
14 the boroughs of the city of New York under a lease granted by the city),
15 express, navigation, pipe line, transfer, baggage express, omnibus,
16 taxicab, telegraph, or telephone business, or formed for or principally
17 engaged in the conduct of two or more of such businesses, and every
18 domestic corporation, joint-stock company or association formed for or
19 principally engaged in the conduct of a railroad, palace car, sleeping
20 car or trucking business or formed for or principally engaged in the
21 conduct of two or more of such businesses and which has made an election
22 pursuant to subdivision ten of this section, and every other domestic
23 corporation, joint-stock company or association principally engaged in
24 the conduct of a transportation or transmission business, except a
25 corporation, joint-stock company or association formed for or principal-
26 ly engaged in the conduct of a railroad, palace car, sleeping car or
27 trucking business or formed for or principally engaged in the conduct of
28 two or more of such businesses and which has not made the election
29 provided for in subdivision ten of this section, and except a corpo-
30 ration, joint-stock company or association principally engaged in the
31 conduct of aviation (including air freight forwarders acting as princi-
32 pal and like indirect air carriers) and except a corporation principally
33 engaged in providing telecommunication services between aircraft and
34 dispatcher, aircraft and air traffic control or ground station and
35 ground station (or any combination of the foregoing), at least ninety
36 percent of the voting stock of which corporation is owned, directly or
37 indirectly, by air carriers and which corporation's principal function
38 is to fulfill the requirements of (i) the federal aviation adminis-
39 tration (or the successor thereto) or (ii) the international civil
40 aviation organization (or the successor thereto), relating to the exist-
41 ence of a communication system between aircraft and dispatcher, aircraft
42 and air traffic control or ground station and ground station (or any
43 combination of the foregoing) for the purposes of air safety and naviga-
44 tion [and except a corporation, joint-stock company or association
45 subject to taxation under article thirty-two of this chapter,] shall
46 pay, in advance, an annual tax to be computed upon the basis of the
47 amount of its capital stock within this state during the preceding year,
48 and upon each dollar of such amount. Provided, however, a corporation,
49 joint-stock company or association formed for or principally engaged in
50 the transportation, transmission or distribution of gas, electricity or
51 steam shall not be subject to tax under this section or section one
52 hundred eighty-four of this article.

53 S 60. Subdivision 10 of section 183 of the tax law, as added by chap-
54 ter 309 of the laws of 1996, is amended to read as follows:

55 10. Election. [With respect to taxable years beginning after nineteen
56 hundred ninety-seven, every] EVERY corporation, joint-stock company or

1 association formed for or principally engaged in the conduct of a rail-
2 road (including surface railroad, whether or not operated by steam,
3 subway railroad or elevated railroad), palace car, sleeping car or
4 trucking business or formed for or principally engaged in the conduct of
5 two or more of such businesses, which would be subject to article nine-A
6 [or thirty-two] of this chapter if the election provided for under this
7 subdivision were not made, may elect to be subject to the provisions of
8 this section and, as applicable, section one hundred eighty-four of this
9 article, rather than the provisions of such article nine-A [or thirty-
10 two]. [In the case of such a corporation, joint-stock company or associ-
11 ation subject to the tax imposed under this section and, as applicable,
12 section one hundred eighty-four of this article, for the taxable year
13 ending December thirty-first, nineteen hundred ninety-seven, such corpo-
14 ration, joint-stock company or association must make such election on or
15 before March fifteenth, nineteen hundred ninety-eight, and such election
16 shall apply to the taxable year ending on December thirty-first, nine-
17 teen hundred ninety-eight and to succeeding taxable years, until
18 revoked. In the case of such a corporation, joint-stock company or asso-
19 ciation which is not subject to the tax imposed under this section and,
20 as applicable, section one hundred eighty-four of this article for the
21 taxable year ending December thirty-first, nineteen hundred ninety-sev-
22 en, but thereafter would be subject to article nine-A or thirty-two of
23 this chapter if the election provided for under this subdivision were
24 not made, such] SUCH corporation, joint-stock company or association
25 must make such election by the first day on which such corporation,
26 joint-stock company or association would be required to file a return or
27 report (without regard to extensions) under this section or section one
28 hundred eighty-four of this article, or section one hundred eighty-
29 three-a or one hundred[-]eighty-four-a of this article, or article
30 nine-A [or thirty-two] of this chapter. An election made pursuant to
31 this subdivision shall continue to be in effect until revoked by the
32 taxpayer. A revocation of the election to be subject to this section
33 and, as applicable, section one hundred eighty-four of this article,
34 shall be irrevocable. Such election, and a revocation thereof, shall be
35 made in the manner prescribed by the commissioner, whether by regulation
36 or otherwise. Such revocation shall apply as of the first day of January
37 next following the end of a taxable year with respect to which the
38 taxpayer had been subject to this section and, as applicable, section
39 one hundred eighty-four of this article, by reason of an election made
40 pursuant to this subdivision.

41 S 61. The section heading and subdivisions 1 and 5 of section 183-a of
42 the tax law, the section heading as added by chapter 931 of the laws of
43 1982, subdivision 1 as amended by section 1 of part A of chapter 59 of
44 the laws of 2013 and subdivision 5 as amended by chapter 945 of the laws
45 of 1990, are amended to read as follows:

46 [Temporary metropolitan] METROPOLITAN transportation business tax
47 surcharge on transportation and transmission corporations and associ-
48 ations. 1. The term "corporation" as used in this section shall include
49 an association, within the meaning of paragraph three of subsection (a)
50 of section seventy-seven hundred one of the internal revenue code
51 (including a limited liability company), a publicly traded partnership
52 treated as a corporation for purposes of the internal revenue code
53 pursuant to section seventy-seven hundred four thereof and any business
54 conducted by a trustee or trustees wherein interest or ownership is
55 evidenced by certificates or other written instruments. Every corpo-
56 ration, joint-stock company or association formed for or principally

1 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-
2 ny operating between any of the boroughs of the city of New York under a
3 lease granted by the city), express, navigation, pipe line, transfer,
4 baggage express, omnibus, taxicab, telegraph, or telephone business, or
5 formed for or principally engaged in the conduct of two or more such
6 businesses, and every corporation, joint-stock company or association
7 formed for or principally engaged in the conduct of a railroad, palace
8 car, sleeping car or trucking business or formed for or principally
9 engaged in the conduct of two or more of such businesses and which has
10 made an election pursuant to subdivision ten of section one hundred
11 eighty-three of this article, and every other corporation, joint-stock
12 company or association principally engaged in the conduct of a transpor-
13 tation or transmission business, except a corporation, joint-stock
14 company or association formed for or principally engaged in the conduct
15 of a railroad, palace car, sleeping car or trucking business or formed
16 for or principally engaged in the conduct of two or more of such busi-
17 nesses and which has not made the election provided for in subdivision
18 ten of section one hundred eighty-three of this article, and except a
19 corporation, joint-stock company or association principally engaged in
20 the conduct of aviation (including air freight forwarders acting as
21 principal and like indirect air carriers) and except a corporation prin-
22 cipally engaged in providing telecommunication services between aircraft
23 and dispatcher, aircraft and air traffic control or ground station and
24 ground station (or any combination of the foregoing), at least ninety
25 percent of the voting stock of which corporation is owned, directly or
26 indirectly, by air carriers and which corporation's principal function
27 is to fulfill the requirements of (i) the federal aviation adminis-
28 tration (or the successor thereto) or (ii) the international civil
29 aviation organization (or the successor thereto), relating to the exist-
30 ence of a communication system between aircraft and dispatcher, aircraft
31 and air traffic control or ground station and ground station (or any
32 combination of the foregoing) for the purposes of air safety and naviga-
33 tion [and except a corporation, joint-stock company or association which
34 is liable to taxation under article thirty-two of this chapter], shall
35 pay for the privilege of exercising its corporate franchise, or of doing
36 business, or of employing capital, or of owning or leasing property in
37 the metropolitan commuter transportation district in such corporate or
38 organized capacity, or of maintaining an office in such district, a tax
39 surcharge [for all or any part of its years commencing on or after Janu-
40 ary first, nineteen hundred eighty-two but ending before December thir-
41 ty-first, two thousand eighteen], which tax surcharge, in addition to
42 the tax imposed by section one hundred eighty-three of this article,
43 shall be computed at the rate of [eighteen percent of the tax imposed
44 under such section one hundred eighty-three for such years or any part
45 of such years ending before December thirty-first, nineteen hundred
46 eighty-three after the deduction of any credits otherwise allowable
47 under this article, and at the rate of] seventeen percent of the tax
48 imposed under such section for such years or any part of such years
49 [ending on or after December thirty-first, nineteen hundred eighty-
50 three] after the deduction of any credits otherwise allowable under this
51 article; provided, however, that such rates of tax surcharge shall be
52 applied only to that portion of the tax imposed under section one
53 hundred eighty-three of this article after the deduction of any credits
54 otherwise allowable under this article which is attributable to the
55 taxpayer's business activity carried on within the metropolitan commuter
56 transportation district as so determined in the manner prescribed by the

1 rules and regulations promulgated by the commissioner[; and provided,
2 further, that the tax surcharge imposed by this section shall not be
3 imposed upon any taxpayer for more than four hundred thirty-two months].
4 5. [The report covering the tax surcharge which must be calculated
5 pursuant to this section based upon the tax reportable on the report due
6 by March fifteenth, nineteen hundred eighty-two under section one
7 hundred eighty-three of this article shall be filed on or before March
8 fifteenth, nineteen hundred eighty-three. The report covering the tax
9 surcharge which must be calculated pursuant to this section based upon
10 the tax reportable on the report due by March fifteenth, nineteen
11 hundred eighty-three under section one hundred eighty-three of this
12 article shall be filed on or before March fifteenth, nineteen hundred
13 eighty-four. The report covering the tax surcharge which must be calcu-
14 lated pursuant to this section based upon the tax reportable on the
15 report due by March fifteenth, nineteen hundred eighty-four under
16 section one hundred eighty-three of this article shall be filed on or
17 before March fifteenth, nineteen hundred eighty-five. The report cover-
18 ing the tax surcharge which must be calculated pursuant to this section
19 based upon the tax reportable on the report due by March fifteenth,
20 nineteen hundred eighty-five under section one hundred eighty-three of
21 this article shall be filed on or before March fifteenth, nineteen
22 hundred eighty-six. The report covering the tax surcharge which must be
23 calculated pursuant to this section based upon the tax reportable on the
24 report due by March fifteenth, nineteen hundred eighty-six under section
25 one hundred eighty-three of this article shall be filed on or before
26 March fifteenth, nineteen hundred eighty-seven. The report covering the
27 tax surcharge which must be calculated pursuant to this section based
28 upon the tax reportable on the report due by March fifteenth, nineteen
29 hundred eighty-seven under section one hundred eighty-three of this
30 article shall be filed on or before March fifteenth, nineteen hundred
31 eighty-eight. The report covering the tax surcharge which must be calcu-
32 lated pursuant to this section based upon the tax reportable on the
33 report due by March fifteenth, nineteen hundred eighty-eight under
34 section one hundred eighty-three of this article shall be filed on or
35 before March fifteenth, nineteen hundred eighty-nine. The report cover-
36 ing the tax surcharge which must be calculated pursuant to this section
37 based upon the tax reportable on the report due by March fifteenth,
38 nineteen hundred eighty-nine under section one hundred eighty-three of
39 this article shall be filed on or before March fifteenth, nineteen
40 hundred ninety.] The report covering the tax surcharge which must be
41 calculated pursuant to this section based upon the tax reportable on the
42 report due by March fifteenth of any year [subsequent to nineteen
43 hundred eighty-nine] under section one hundred eighty-three of this
44 article shall be filed on or before March fifteenth of the year next
45 succeeding such year. An extension pursuant to section one hundred nine-
46 ty-three OF THIS ARTICLE shall be allowed only if a taxpayer files with
47 the commissioner an application for extension in such form as said
48 commissioner may prescribe by regulation and pays on or before the date
49 of such filing in addition to any other amounts required under this
50 article, either ninety percent of the entire tax surcharge required to
51 be paid under this section for the applicable period, or not less than
52 the tax surcharge shown on the taxpayer's report for the preceding year,
53 if such preceding year consisted of twelve months. The tax surcharge
54 imposed by this section shall be payable to the commissioner in full at
55 the time the report is required to be filed, and such tax surcharge or
56 the balance thereof, imposed on any taxpayer which ceases to exercise

1 its franchise or be subject to the tax surcharge imposed by this section
2 shall be payable to the commissioner at the time the report is required
3 to be filed, provided such tax surcharge of a domestic corporation which
4 continues to possess its franchise shall be subject to adjustment as the
5 circumstances may require; all other tax surcharges of any such taxpay-
6 er, which pursuant to the foregoing provisions of this section would
7 otherwise be payable subsequent to the time such report is required to
8 be filed, shall nevertheless be payable at such time. All of the
9 provisions of this article presently applicable to section one hundred
10 eighty-three of this article are applicable to the tax surcharge imposed
11 by this section except for section one hundred ninety-two of this arti-
12 cle.

13 S 62. Subdivision 1 of section 184 of the tax law, as amended by
14 section 2 of part Y of chapter 63 of the laws of 2000, is amended to
15 read as follows:

16 1. The term "corporation" as used in this section shall include an
17 association, within the meaning of paragraph three of subsection (a) of
18 section seventy-seven hundred one of the internal revenue code (includ-
19 ing a limited liability company), a publicly traded partnership treated
20 as a corporation for purposes of the internal revenue code pursuant to
21 section seventy-seven hundred four thereof.

22 Every corporation, joint-stock company or association formed for or
23 principally engaged in the conduct of canal, steamboat, ferry (except a
24 ferry company operating between any of the boroughs of the city of New
25 York under a lease granted by the city), express, navigation, pipe line,
26 transfer, baggage express, omnibus, taxicab, telegraph or local tele-
27 phone business, or formed for or principally engaged in the conduct of
28 two or more of such businesses, and every corporation, joint-stock
29 company or association formed for or principally engaged in the conduct
30 of surface railroad, whether or not operated by steam, subway railroad,
31 elevated railroad, palace car, sleeping car or trucking business or
32 formed for or principally engaged in the conduct of two or more such
33 businesses and which has made an election pursuant to subdivision ten of
34 section one hundred eighty-three of this article, and every other corpo-
35 ration, joint-stock company or association formed for or principally
36 engaged in the conduct of a transportation or transmission business
37 (other than a telephone business), except a corporation, joint-stock
38 company or association formed for or principally engaged in the conduct
39 of a surface railroad, whether or not operated by steam, subway rail-
40 road, elevated railroad, palace car, sleeping car or trucking business
41 or formed for or principally engaged in the conduct of two or more of
42 such businesses and which has not made the election provided for in
43 subdivision ten of section one hundred eighty-three of this article,
44 and, except a corporation, joint-stock company or association principal-
45 ly engaged in the conduct of aviation (including air freight forwarders
46 acting as principal and like indirect air carriers) and except a corpo-
47 ration principally engaged in providing telecommunication services
48 between aircraft and dispatcher, aircraft and air traffic control or
49 ground station and ground station (or any combination of the foregoing),
50 at least ninety percent of the voting stock of which corporation is
51 owned, directly or indirectly, by air carriers and which corporation's
52 principal function is to fulfill the requirements of (i) the federal
53 aviation administration (or the successor thereto) or (ii) the interna-
54 tional civil aviation organization (or the successor thereto), relating
55 to the existence of a communication system between aircraft and
56 dispatcher, aircraft and air traffic control or ground station and

1 ground station (or any combination of the foregoing) for the purposes of
2 air safety and navigation and [except a corporation, joint-stock company
3 or association which is liable to taxation under article thirty-two of
4 this chapter,] for the privilege of exercising its corporate franchise,
5 or of doing business, or of employing capital, or of owning or leasing
6 property in this state in a corporate or organized capacity, or main-
7 taining an office in this state, shall pay a franchise tax which shall
8 be equal to [(i) three-quarters of one percent for taxable years ending
9 before two thousand one, provided that for a taxable year ending in two
10 thousand the rate shall be reduced to three-eighths of one percent
11 effective July first, two thousand with the result that for purposes of
12 implementation of such change in rate the applicable rate for such a
13 year shall be nine-sixteenths of one percent, and (ii)] three-eighths of
14 one percent for taxable years commencing after two thousand, upon its
15 gross earnings from all sources within this state; except that, [for
16 taxable years commencing on or after January first, nineteen hundred
17 eighty-five and ending on or before December thirty-first, nineteen
18 hundred eighty-nine, every corporation, joint-stock company or associ-
19 ation formed for or principally engaged in the conduct of telephone or
20 telegraph business shall pay a franchise tax which shall be equal to
21 three-tenths of one per centum upon its gross earnings from all sources
22 within this state and,] for taxable years commencing on or after January
23 first, nineteen hundred ninety, every corporation, joint-stock company
24 or association formed for or principally engaged in the conduct of local
25 telephone business, or telegraph business shall pay a franchise tax
26 which shall be equal to [(i) three-quarters of one percent for taxable
27 years ending before two thousand one, provided that for a taxable year
28 ending in two thousand the rate shall be reduced to three-eighths of one
29 percent effective July first, two thousand with the result that for
30 purposes of implementation of such change in rate the applicable rate
31 for such a year shall be nine-sixteenths of one percent, and (ii)]
32 three-eighths of one percent for taxable years commencing after two
33 thousand, upon its gross earnings from all sources within this state,
34 except that a corporation, joint-stock company or association formed for
35 or principally engaged in the conduct of a local telephone business
36 shall exclude the following earnings (but not in any event earnings
37 derived by such taxpayer from the provision of carrier access services)
38 derived by such taxpayer from sales for ultimate consumption of telecom-
39 munications service to its customers (i) thirty percent of separately
40 charged intra-LATA toll service (which shall also include interregion
41 regional calling plan service) and (ii) one hundred percent of separate-
42 ly charged inter-LATA, interstate or international telecommunications
43 service; and except that [corporations, joint-stock companies or associ-
44 ations formed for or principally engaged in the conduct of surface rail-
45 road, whether or not operated by steam, subway railroad, elevated rail-
46 road, palace car or sleeping car, business or any other corporation
47 formed for or principally engaged in the conduct of a railroad business,
48 for taxable years prior to nineteen hundred ninety-seven, and] corpo-
49 rations, joint-stock companies or associations formed for or principally
50 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-
51 ny operating between any of the boroughs of the city of New York under a
52 lease granted by the city), navigation or any corporation formed for or
53 principally engaged in the operation of vessels, shall pay a franchise
54 tax which shall be equal to three-quarters of one per centum upon its
55 gross earnings from all sources within this state, excluding earnings
56 derived from business of an interstate or foreign character; except that

1 for taxable years beginning in nineteen hundred ninety-seven or there-
2 after, in the case of a corporation, joint-stock company or association
3 which, with respect to taxable years beginning after nineteen hundred
4 ninety-seven, has made an election pursuant to subdivision ten of
5 section one hundred eighty-three of this article and which is formed for
6 or principally engaged in the conduct of surface railroad, whether or
7 not operated by steam, subway railroad, elevated railroad, palace car,
8 sleeping car or trucking business or formed for or principally engaged
9 in the conduct of two or more of such businesses, such corporation,
10 joint-stock company or association shall pay a franchise tax which shall
11 be equal to [(i) six-tenths of one percent for taxable years ending
12 before two thousand one, provided that for a taxable year ending in two
13 thousand the rate shall be reduced to three-eighths of one percent
14 effective July first, two thousand with the result that for purposes of
15 implementation of such change in rate the applicable rate for such a
16 year shall be thirty-nine eightieths of one percent, and (ii)] three-
17 eighths of one percent for taxable years commencing after two thousand,
18 upon its gross earnings from all sources within this state, provided
19 that in the case of a corporation, joint-stock company or association
20 formed for or principally engaged in the conduct of surface railroad,
21 whether or not operated by steam, subway railroad, elevated railroad,
22 palace car or sleeping car business, or formed for or principally
23 engaged in the conduct of two or more of such businesses, such gross
24 earnings shall not include earnings derived from business of an inter-
25 state or foreign character.

26 Provided, however, with respect to railroad, elevated railroad, palace
27 car or sleeping car business or any other corporation formed for or
28 principally engaged in the conduct of a railroad business and canal,
29 steamboat, ferry (except a ferry company operating between any of the
30 boroughs of the city of New York under a lease granted by the city),
31 navigation or any corporation formed for or principally engaged in the
32 operation of vessels where the gross earnings from such transportation
33 business both originating and terminating within this state and travers-
34 ing both this state and another state or states or country shall be
35 subject to the franchise tax imposed by this section (except where such
36 corporation, joint-stock company or association is formed for or princi-
37 pally engaged in the conduct of a railroad (including surface railroad,
38 whether or not operated by steam, subway railroad or elevated railroad),
39 palace car or sleeping car business or formed for or principally engaged
40 in the conduct of two or more of such businesses, and has not made the
41 election provided for under subdivision ten of section one hundred
42 eighty-three of this article) and such earnings shall be allocated to
43 this state in the same ratio that the mileage within the state bears to
44 the total mileage of such business. Provided, further, a corporation,
45 joint-stock company or association formed for or principally engaged in
46 the transportation, transmission or distribution of gas, electricity or
47 steam shall not be subject to tax under this section or section one
48 hundred eighty-three of this article.

49 The term "local telephone business" means the provision or furnishing
50 of telecommunication services for hire wherein the service furnished by
51 the provider thereof consists of carrier access service or the service
52 originates and terminates within the same local access and transport
53 area ("LATA"), a local access and transport area being that geographic
54 area as established and approved, and as so set and in existence on July
55 first, nineteen hundred ninety-four, pursuant to the modification of
56 final judgment in United States v. Western Electric Company (civil

1 action no. 82-0192) in the United States district court for the District
2 of Columbia or within the LATA-like Rochester non-associated independent
3 area.

4 The term "telecommunication services" shall have the meaning ascribed
5 to such term in section one hundred eighty-six-e of this article.

6 S 63. The section heading and the opening paragraph of subdivision 1
7 of section 184-a of the tax law, the section heading as added by chapter
8 931 of the laws of 1982 and the opening paragraph of subdivision 1 as
9 amended by section 2 of part A of chapter 59 of the laws of 2013, are
10 amended to read as follows:

11 Additional [temporary] metropolitan transportation business tax
12 surcharge on transportation and transmission corporations and associ-
13 ations services.

14 The term "corporation" as used in this section shall include an asso-
15 ciation, within the meaning of paragraph three of subsection (a) of
16 section seventy-seven hundred one of the internal revenue code (includ-
17 ing a limited liability company), and a publicly traded partnership
18 treated as a corporation for purposes of the internal revenue code
19 pursuant to section seventy-seven hundred four thereof. Every corpo-
20 ration, joint-stock company or association formed for or principally
21 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-
22 ny operating between any of the boroughs of the city of New York under a
23 lease granted by the city), express, navigation, pipe line, transfer,
24 baggage express, omnibus, taxicab, telegraph or local telephone busi-
25 ness, or formed for or principally engaged in the conduct of two or more
26 such businesses, and every corporation, joint-stock company or associ-
27 ation formed for or principally engaged in the conduct of a surface
28 railroad, whether or not operated by steam, subway railroad, elevated
29 railroad, palace car, sleeping car or trucking business or principally
30 engaged in the conduct of two or more such businesses and which has made
31 an election pursuant to subdivision ten of section one hundred eighty-
32 three of this article, and every other corporation, joint-stock company
33 or association formed for or principally engaged in the conduct of a
34 transportation or transmission business (other than a telephone busi-
35 ness) except a corporation, joint-stock company or association formed
36 for or principally engaged in the conduct of a surface railroad, whether
37 or not operated by steam, subway railroad, elevated railroad, palace
38 car, sleeping car or trucking business or principally engaged in the
39 conduct of two or more such businesses and which has not made the
40 election provided for in subdivision ten of section one hundred eighty-
41 three of this article, and except a corporation, joint-stock company or
42 association principally engaged in the conduct of aviation (including
43 air freight forwarders acting as principal and like indirect air carri-
44 ers) and except a corporation principally engaged in providing telecom-
45 munication services between aircraft and dispatcher, aircraft and air
46 traffic control or ground station and ground station (or any combination
47 of the foregoing), at least ninety percent of the voting stock of which
48 corporation is owned, directly or indirectly, by air carriers and which
49 corporation's principal function is to fulfill the requirements of (i)
50 the federal aviation administration (or the successor thereto) or (ii)
51 the international civil aviation organization (or the successor there-
52 to), relating to the existence of a communication system between
53 aircraft and dispatcher, aircraft and air traffic control or ground
54 station and ground station (or any combination of the foregoing) for the
55 purposes of air safety and navigation [and except a corporation, joint-
56 stock company or association which is liable to taxation under article

1 thirty-two of this chapter], shall pay for the privilege of exercising
2 its corporate franchise, or of doing business, or of employing capital,
3 or of owning or leasing property in the metropolitan commuter transpor-
4 tation district in such corporate or organized capacity, or of maintain-
5 ing an office in such district, a tax surcharge [for all or any part of
6 its taxable years commencing on or after January first, nineteen hundred
7 eighty-two, but ending before December thirty-first, two thousand eigh-
8 teen], which tax surcharge, in addition to the tax imposed by section
9 one hundred eighty-four of this article, shall be computed at the rate
10 of [eighteen percent of the tax imposed under such section one hundred
11 eighty-four for such taxable years or any part of such taxable years
12 ending before December thirty-first, nineteen hundred eighty-three after
13 the deduction of any credits otherwise allowable under this article, and
14 at the rate of] seventeen percent of the tax imposed under such section
15 for such taxable years or any part of such taxable years [ending on or
16 after December thirty-first, nineteen hundred eighty-three] after the
17 deduction of any credits otherwise allowable under this article;
18 provided, however, that such rates of tax surcharge shall be applied
19 only to that portion of the tax imposed under section one hundred eight-
20 y-four of this article after the deduction of any credits otherwise
21 allowable under this article which is attributable to the taxpayer's
22 business activity carried on within the metropolitan commuter transpor-
23 tation district[; and provided, further, that the tax surcharge imposed
24 by this section on corporations, joint-stock companies and associations
25 formed for or principally engaged in the conduct of telephone or tele-
26 graph business shall be computed in accordance with this subdivision and
27 paragraph (c) of subdivision two of this section as if the three-quar-
28 ters of one percent rate of tax provided for in subdivision one of
29 section one hundred eighty-four of this article were applicable to such
30 telephone and telegraph businesses for taxable years commencing on or
31 after January first, nineteen hundred eighty-five and ending on or
32 before December thirty-first, nineteen hundred eighty-nine; and
33 provided, further, that the tax surcharge imposed by this section shall
34 not be imposed upon any taxpayer for more than four hundred thirty-two
35 months]. Provided, however, that for taxable years beginning in two
36 thousand and thereafter, for purposes of this subdivision the tax
37 imposed under section one hundred eighty-four of this article shall be
38 deemed to have been imposed at the rate of three-quarters of one
39 percent, except that in the case of a corporation, joint-stock company
40 or association which has made an election pursuant to subdivision ten of
41 section one hundred eighty-three of this article, for purposes of this
42 subdivision the tax imposed under section one hundred eighty-four of
43 this article shall be deemed to have been imposed at the rate of six-
44 tenths of one percent.

45 S 64. Subdivision 8 of section 186-a of the tax law is REPEALED.

46 S 65. The section heading and subdivision 1 of section 186-c of the
47 tax law, the section heading as amended by chapter 2 of the laws of
48 1995, subdivision 1 as amended by section 3 of part II-1 of chapter 57
49 of the laws of 2008, subparagraph 1 of paragraph (a) of subdivision 1 as
50 amended by section 3 of part A of chapter 59 of the laws of 2013, are
51 amended to read as follows:

52 [Temporary metropolitan] METROPOLITAN transportation business tax
53 surcharge on utility services and excise tax on sale of telecommuni-
54 cation services. 1. (a) (1) Every utility doing business in the metro-
55 politan commuter transportation district shall pay a tax surcharge, in
56 addition to the tax imposed by section one hundred eighty-six-a of this

1 article[, for all or any parts of its taxable years commencing on or
2 after January first, nineteen hundred eighty-two but ending before
3 December thirty-first, two thousand eighteen], to be computed [at the
4 rate of eighteen percent of the tax imposed under section one hundred
5 eighty-six-a of this article for such taxable years or any part of such
6 taxable years ending before December thirty-first, nineteen hundred
7 eighty-three after the deduction of any credits otherwise allowable
8 under this article, and] at the rate of seventeen percent of the tax
9 imposed under such section [for such taxable years or any part of such
10 taxable years ending on or after December thirty-first, nineteen hundred
11 eighty-three] after the deduction of credits otherwise allowable under
12 this article except any utility credit provided for by article thir-
13 teen-A of this chapter; provided, however, that such rates of tax
14 surcharge shall be applied only to that portion of the tax imposed under
15 section one hundred eighty-six-a of this article after the deduction of
16 credits otherwise allowable under this article, except any utility cred-
17 it provided for by article thirteen-A of this chapter, which is attrib-
18 utable to the taxpayer's gross income or gross operating income from
19 business activity carried on within the metropolitan commuter transpor-
20 tation district[; and provided, further, that the tax surcharge imposed
21 by this section shall not be imposed upon any taxpayer for more than
22 four hundred thirty-two months].

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

29 (b) In addition to the surcharge imposed by paragraph (a) of this
30 subdivision, there is hereby imposed a surcharge on the gross receipts
31 from telecommunication services relating to the metropolitan commuter
32 transportation district at the rate of seventeen percent of the state
33 tax rate under section one hundred eighty-six-e of this article [for all
34 or part of taxable years commencing on and after January first, nineteen
35 hundred ninety-five but ending before December thirty-first, two thou-
36 sand thirteen]. All the definitions and other provisions of section one
37 hundred eighty-six-e of this article shall apply to the tax imposed by
38 this paragraph with such modification and limitation as may be necessary
39 (including substituting the words "metropolitan commuter transportation
40 district" for "state" where appropriate) in order to adapt the language
41 of such section one hundred eighty-six-e of this article to the
42 surcharge imposed by this paragraph within such metropolitan commuter
43 transportation district so as to include (1) any intra-district telecom-
44 munication services, except any telecommunication services the gross
45 receipts from which are subject to tax under subparagraph four of this
46 paragraph, (2) any inter-district telecommunication services which orig-
47 inate or terminate in such district and are charged to a service address
48 therein regardless of where the amounts charged for such services are
49 billed or ultimately paid, except any telecommunications services the
50 gross receipts from which are subject to tax under subparagraph four of
51 this paragraph, (3) as apportioned to such district, private telecommu-
52 nication services, except any telecommunication services the gross
53 receipts from which are subject to tax under subparagraph four of this
54 paragraph, and (4) mobile telecommunications service provided by a home
55 service provider where the place of primary use is within such metropol-
56 itan commuter transportation district. Provided however, [commencing

1 October first, nineteen hundred ninety-eight] such tax surcharge shall
2 be calculated as if the tax imposed under section one hundred eighty-
3 six-e of this article were imposed at a rate of three and one-half
4 percent.

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

8 (iii) Provided further, that for the purposes of item (I) of clause
9 (i) of this subparagraph, a trustee which is a banking corporation as
10 defined in subsection (a) of section fourteen hundred fifty-two of this
11 chapter, AS SUCH SECTION WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
12 THOUSAND FOURTEEN, and which is domiciled outside the state of New York
13 at the time it becomes a trustee of the trust shall be deemed to contin-
14 ue to be a trustee domiciled outside the state of New York notwithstand-
15 ing that it thereafter otherwise becomes a trustee domiciled in the
16 state of New York by virtue of being acquired by, or becoming an office
17 or branch of, a corporate trustee domiciled within the state of New
18 York.

19 S 67. Subparagraph (A) of paragraph 10 of subsection (a) of section
20 606 of the tax law, as amended by section 3 of part CC of chapter 85 of
21 the laws of 2002, is amended to read as follows:

22 (A) the business of which the individual is an owner is substantially
23 similar in operation and in ownership to a business entity taxable, or
24 previously taxable, under section one hundred eighty-three, one hundred
25 eighty-four[,] OR one hundred eighty-five [or one hundred eighty-six] of
26 article nine; article nine-A[, thirty-two] or thirty-three of this chap-
27 ter; article twenty-three of this chapter or which would have been
28 subject to tax under such article twenty-three (as such article was in
29 effect on January first, nineteen hundred eighty), ARTICLE THIRTY-TWO OF
30 THIS CHAPTER OR WHICH WOULD HAVE BEEN SUBJECT TO TAX UNDER SUCH ARTICLE
31 THIRTY-TWO (AS SUCH ARTICLE WAS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
32 THOUSAND FOURTEEN) or the income (or losses) of which is (or was)
33 includable under article twenty-two of this chapter whereby the intent
34 and purpose of this paragraph and paragraph five of this subsection with
35 respect to refunding of credit to new business would be evaded; or

36 S 68. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
37 of the tax law, as amended by section 7 of part C-1 of chapter 57 of the
38 laws of 2009, clause (ix) as amended by section 4 of part G of chapter
39 59 of the laws of 2013, clause (xxxii) as added by section 5 of part MM
40 of chapter 59 of the laws of 2010, clause (xxxii) as added by section 14
41 of part Q of chapter 57 of the laws of 2010, clause (xxxii) as added by
42 section 6 of part V of chapter 61 of the laws of 2011, clause (xxxiii)
43 as added by section 4 of part D of chapter 56 of the laws of 2011,
44 clause (xxxiii) as added by section 5 of part E of chapter 56 of the
45 laws of 2011, clause (xxxiii) as added by chapter 604 of the laws of
46 2011, clause (xxxiv) as added by chapter 109 of the laws of 2012, clause
47 (xxxv) as added by section 2 of part AA of chapter 59 of the laws of
48 2013, clause (xxxv) as added by section 4 of part EE of chapter 59 of
49 the laws of 2013, and clause (xxxvi) as added by section 8 of part A of
50 chapter 68 of the laws of 2013, is amended to read as follows:

51 (B) shall be treated as the owner of a new business with respect to
52 such share if the corporation qualifies as a new business pursuant to
53 paragraph [(j)] (F) of subdivision [twelve] ONE of section two hundred
54 [ten] TEN-B of this chapter.

55 With respect to the following

The corporation's credit base under

1	credit under this section:	section two hundred [ten or section
2		fourteen hundred fifty-six] TEN-B
3		of this chapter is:
4	(i) Investment tax credit under	Investment credit base or qualified
5	subsection (a)	rehabilitation expenditures under
6		subdivision [twelve] ONE of section
7		two hundred [ten] TEN-B
8	(ii) Empire zone investment	Cost or other basis under
9	tax credit under subsection (j)	subdivision [twelve-B] THREE
10		of section two hundred [ten] TEN-B
11	[(iii) Empire zone wage tax credit	Eligible wages under subdivision
12	under subsection (k)	nineteen of section two hundred
13		ten or subsection (e) of section
14		fourteen hundred fifty-six
15	(iv) Empire zone capital tax	Qualified investments and
16	credit under subsection (l)	contributions under subdivision
17		twenty of section two hundred ten
18		or subsection (d) of section
19		fourteen hundred fifty-six]
20	(v) Agricultural property tax	Allowable school district property
21	credit under subsection (n)	taxes under subdivision
22		[twenty-two] ELEVEN of
23		section two hundred [ten]
24		TEN-B
25	(vi) Credit for employment of	Qualified first-year wages or
26	persons with disabilities	qualified second-year wages under
27	under subsection (o)	subdivision [twenty-three] TWELVE
28		of section two hundred [ten or
29		subsection (f) of section
30		fourteen hundred fifty-six] TEN-B
31	(vii) Employment incentive credit	Applicable investment credit base
32	under subsection (a-1)	under subdivision [twelve-D] TWO
33		of section two hundred [ten]
34		TEN-B
35	(viii) Empire zone employment	Applicable investment credit
36	incentive credit under subsection	under subdivision [twelve-C]
37	(j-1)	FOUR of section
38		two hundred [ten] TEN-B
39	(ix) Alternative fuels	Amount of credit under subdivision
40	and electric vehicle	[twenty-four] THIRTY of section
41	recharging property	two hundred [ten] TEN-B
42	credit under subsection (p)	
43	(x) Qualified emerging technology	Applicable credit base under
44	company employment credit under	subdivision [twelve-E] SEVEN
45	subsection (q)	of section two hundred [ten] TEN-B

1	(xi) Qualified emerging technology	Qualified investments under
2	company capital tax credit under	subdivision [twelve-F] EIGHT
3	subsection (r)	of section two hundred [ten] TEN-B
4	(xii) Credit for purchase of an	Cost of an automated external
5	automated external defibrillator	defibrillator under subdivision
6	under subsection (s)	[twenty-five] THIRTEEN of section
7		two hundred [ten or subsection
8		(j) of section fourteen hundred
9		fifty-six] TEN-B
10	(xiii) Low-income housing credit	Credit amount under subdivision
11	under subsection (x)	[thirty] FIFTEEN of section
12		two hundred [ten or subsection
13		(l) of section fourteen
14		hundred fifty-six] TEN-B
15	[(xiv) Credit for transportation	For taxable years beginning
16	improvement contributions under	before January first, two thousand
17	subsection (z)	nine, amount of credit under
18		subdivision thirty-two of
19		section two hundred ten
20		or subsection (n) of section
21		fourteen hundred fifty-six]
22	(xv) QEZE credit for real property	Amount of credit under subdivision
23	taxes under subsection (bb)	[twenty-seven] FIVE of
24		section two hundred [ten
25		or subsection (o) of section
26		fourteen hundred fifty-six]
27		TEN-B
28	(xvi) QEZE tax reduction credit	Amount of benefit period factor,
29	under subsection (cc)	employment increase factor and zone
30		allocation factor (without regard
31		to pro ration) under subdivision
32		[twenty-eight] SIX of
33		section two hundred [ten
34		or subsection (p) of section
35		fourteen hundred fifty-six]
36		TEN-B and amount
37		of tax factor as determined under
38		subdivision (f) of section sixteen
39	(xvii) Green building credit under	Amount of green building credit
40	subsection (y)	under subdivision [thirty-one]
41		SIXTEEN of section two
42		hundred [ten or subsection (m)
43		of section fourteen hundred
44		fifty-six] TEN-B
45	(xviii) Credit for long-term care	Qualified costs under subdivision
46	insurance premiums under subsection	[twenty-five-a] FOURTEEN
47	(aa)	of section two hundred [ten
48		or subsection (k) of
49		section fourteen hundred fifty-six]

1		TEN-B
2	(xix) Brownfield redevelopment	Amount of credit under subdivision
3	credit under subsection (dd)	[thirty-three] SEVENTEEN
4		of section two hundred
5		[ten or subsection (q) of section
6		fourteen hundred fifty-six]
7		TEN-B
8	(xx) Remediated brownfield credit	Amount of credit under subdivision
9	for real property taxes for	[thirty-four] EIGHTEEN
10	qualified sites under subsection	of section two hundred
11	(ee)	[ten of subsection (r) of section
12		fourteen hundred fifty-six]
13		TEN-B
14	(xxi) Environmental remediation	Amount of credit under subdivision
15	insurance credit under subsection	[thirty-five] NINETEEN
16	(ff)	of section two hundred
17		[ten or subsection (s) of section
18		fourteen hundred fifty-six]
19		TEN-B
20	(xxii) Empire state film	Amount of credit for qualified
21	production credit under	production costs in production of a
22	subsection (gg)	qualified film under subdivision
23		[thirty-six] TWENTY of
24		section two hundred [ten] TEN-B
25	[(xxiii) Qualified emerging	Qualifying expenditures and
26	technology company facilities,	development activities under
27	operations and training credit	subdivision twelve-G of section two
28	under subsection (nn)	hundred ten]
29	(xxiv) Security training tax credit	Amount of credit under subdivision
30	under subsection (ii)	[thirty-seven] TWENTY-ONE
31		of section two hundred
32		[ten or under subsection (t) of
33		section fourteen hundred fifty-six]
34		TEN-B
35	[(xxv) Credit for qualified fuel	For taxable years beginning before
36	cell electric generating	January first, two thousand nine,
37	equipment expenditures	amount of credit under subdivision
38	under subsection (g-2)	thirty-seven of section two hundred
39		ten or subsection (t) of section
40		fourteen hundred fifty-six]
41	(xxvi) Empire state commercial	Amount of credit for qualified
42	production credit under subsection	production costs in production of
43	(jj)	a qualified commercial under
44		subdivision [thirty-eight]
45		TWENTY-THREE of
46		section two hundred [ten]
47		TEN-B

1	(xxvii) Biofuel production tax	Amount of credit under subdivision
2	credit under subsection (jj)	[thirty-eight] TWENTY-FOUR
3		of section two hundred [ten]
4		TEN-B
5	(xxviii) Clean heating fuel credit	Amount of credit under subdivision
6	under subsection (mm)	[thirty-nine] TWENTY-FIVE of
7		section two hundred [ten]
8		TEN-B
9	(xxix) Credit for rehabilitation	Amount of credit under subdivision
10	of historic properties under	[forty] TWENTY-SIX of
11	subsection (oo)	section two hundred [ten]
12		TEN-B
13	(xxx) Excelsior jobs program tax	Amount of credit under subdivision
14	credit under subsection (qq)	[forty-one] THIRTY-ONE of
15		section two hundred [ten
16		or under subdivision (u) of
17		section fourteen hundred fifty-six]
18		TEN-B
19	(xxxi) Empire state film	Amount of credit for
20	post production credit under	qualified post production
21	subsection (qq)	costs of a qualified film
22		under subdivision [forty-one]
23		THIRTY-TWO of section
24		two hundred [ten] TEN-B
25	(xxxii) Economic transformation	Amount of credit under subdivision
26	and facility redevelopment credit	[forty-three] THIRTY-FIVE
27		of section [210 or under
28		subsection (x) of section fourteen
29		hundred fifty-six] TWO HUNDRED
30		TEN-B
31	(xxxiii) New York youth works	Amount of credit under
32	tax credit	subdivision [forty-four] THIRTY-SIX
33		of section two hundred [ten]
34		TEN-B
35	(xxxiii) Empire state jobs	Amount of credit under
36	retention program credit	subdivision [forty-four]
37		THIRTY-SEVEN of section
38		two hundred [ten or under
39		subsection (y) of section
40		fourteen hundred fifty-six]
41		TEN-B
42	(xxxiii) Credit for companies who	Amount of credit under
43	provide transportation to	subdivision [forty-four]
44	individuals with disabilities	THIRTY-EIGHT of section
45	under subsection (tt)	two hundred [ten] TEN-B
46	(xxxiv) Beer production credit	Amount of credit under
47	under subsection (uu)	[subdivision] subdivision

1 [forty-five] THIRTY-NINE of
2 section two hundred [ten]
3 TEN-B

4 (xxxv) Hire a vet credit Amount of credit under subdivision
5 under subsection (a-2) [twenty-three-a] TWENTY-NINE
6 of section two hundred [ten
7 or subsection (e-1) of
8 of section fourteen hundred
9 fifty-six] TEN-B

10 (xxxv) Minimum wage reimbursement Amount of credit under subdivision
11 credit under subsection (aaa) [forty-six] FORTY
12 of section two hundred
13 [ten or subsection (z) of
14 section fourteen hundred
15 fifty-six] TEN-B

16 (xxxvi) Tax-free NY area tax Amount of credit under
17 elimination credit subdivision [forty-seven] FORTY-ONE
18 of section two hundred [ten]
19 TEN-B

20 (XXXVII) REAL PROPERTY TAX AMOUNT OF CREDIT UNDER
21 CREDIT FOR MANUFACTURERS SUBDIVISION
22 UNDER SUBSECTION (XX) FORTY-THREE OF SECTION
23 TWO HUNDRED TEN-B

24 (XXXVIII) TAX-FREE NY AREA AMOUNT OF CREDIT UNDER
25 EXCISE TAX ON SUBDIVISION
26 TELECOMMUNICATIONS SERVICES FORTY-FOUR OF SECTION
27 CREDIT UNDER SUBSECTION (YY) TWO HUNDRED TEN-B

28 S 69. Subparagraphs (A) and (B) of paragraph 3 of subsection (i) of
29 section 606 of the tax law, as added by chapter 170 of the laws of 1994,
30 are amended to read as follows:
31 (A) Credit carryover. Any excess credit under subparagraph (A) of
32 paragraph one of this subsection, as it was in effect for taxable years
33 beginning before nineteen hundred ninety-four, may be carried over to
34 the shareholder's following year or years and may be deducted from such
35 shareholder's tax for such year or years, except that any excess credit
36 attributable to subdivision [twelve] ONE of section two hundred [ten]
37 TEN-B of this chapter shall in no event be carried over beyond the ten
38 taxable years next following the taxable year of origin.
39 (B) Credit recapture. Any redetermination of credit required by this
40 subsection as it was in effect for taxable years beginning before nine-
41 teen hundred ninety-four, upon disposition or cessation of qualified use
42 of property pursuant to paragraph [(g)] (E) of subdivision [twelve] ONE,
43 OR paragraph (f) of subdivision [twelve-B or paragraph (f) of subdivi-
44 sion eighteen] THREE of section two hundred [ten] TEN-B of this chapter
45 shall be attributed in pro rata shares to the shareholders who were
46 allowed credit under this subsection with respect to such property, and
47 the reduction of a shareholder's proportionate stock interest shall be
48 treated as a disposition of property for which a redetermination of
49 credit under such paragraphs is required with respect to such sharehold-
50 er.

1 S 70. Subparagraph (B) of paragraph 3 and paragraph 21 of subsection
2 (b) and paragraph 21 of subsection (c) of section 612 of the tax law,
3 subparagraph (B) of paragraph 3 of subsection (b) as amended by section
4 57, paragraph 21 of subsection (b) as amended by section 59 and para-
5 graph 21 of subsection (c) as amended by section 60 of part A of chapter
6 389 of the laws of 1997, are amended to read as follows:

7 (B) Shareholders of S corporations. In the case of a shareholder of an
8 S corporation, with respect to taxes imposed upon or payable by the
9 corporation, the term "income taxes" in subparagraph (A) of this para-
10 graph shall also include the taxes imposed under [articles] ARTICLE
11 nine-A [and thirty-two] of this chapter, regardless of the measure of
12 such tax, but shall not otherwise include taxes imposed by this or any
13 other state of the United States, or any political subdivision of this
14 or any other state, or the District of Columbia.

15 (21) In relation to the disposition of stock or indebtedness of a
16 corporation which elected under subchapter s of chapter one of the
17 internal revenue code for any taxable year of such corporation begin-
18 ning, in the case of a corporation taxable under article nine-A of this
19 chapter, after December thirty-first, nineteen hundred eighty, [and in
20 the case of a corporation taxable under article thirty-two of this chap-
21 ter, after December thirty-first, nineteen hundred ninety-six,] the
22 amount required to be added to federal adjusted gross income pursuant to
23 subsection (n) of this section.

24 (21) In relation to the disposition of stock or indebtedness of a
25 corporation which elected under subchapter s of chapter one of the
26 internal revenue code for any taxable year of such corporation begin-
27 ning, in the case of a corporation taxable under article nine-A of this
28 chapter, after December thirty-first, nineteen hundred eighty, [and in
29 the case of a corporation taxable under article thirty-two of this chap-
30 ter, after December thirty-first, nineteen hundred ninety-six,] the
31 amounts required to be subtracted from federal adjusted gross income
32 pursuant to subsection (n) of this section.

33 S 71. Paragraph 2 of subsection (a) of section 632 of the tax law, as
34 amended by section 2 of part C of chapter 57 of the laws of 2010, is
35 amended to read as follows:

36 (2) In determining New York source income of a nonresident shareholder
37 of an S corporation where the election provided for in subsection (a) of
38 section six hundred sixty of this article is in effect, there shall be
39 included only the portion derived from or connected with New York sourc-
40 es of such shareholder's pro rata share of items of S corporation
41 income, loss and deduction entering into his federal adjusted gross
42 income, increased by reductions for taxes described in paragraphs two
43 and three of subsection (f) of section thirteen hundred sixty-six of the
44 internal revenue code, as such portion shall be determined under regu-
45 lations of the commissioner consistent with the applicable methods and
46 rules for allocation under article nine-A [or thirty-two] of this chap-
47 ter, regardless of whether or not such item or reduction is included in
48 entire net income under article nine-A [or thirty-two] for the tax year.
49 If a nonresident is a shareholder in an S corporation where the election
50 provided for in subsection (a) of section six hundred sixty of this
51 article is in effect, and the S corporation has distributed an install-
52 ment obligation under section 453(h)(1)(A) of the Internal Revenue Code,
53 then any gain recognized on the receipt of payments from the installment
54 obligation for federal income tax purposes will be treated as New York
55 source income allocated in a manner consistent with the applicable meth-
56 ods and rules for allocation under article nine-A [or thirty-two] of

1 this chapter in the year that the assets were sold. In addition, if the
2 shareholders of the S corporation have made an election under section
3 338(h)(10) of the Internal Revenue Code, then any gain recognized on the
4 deemed asset sale for federal income tax purposes will be treated as New
5 York source income allocated in a manner consistent with the applicable
6 methods and rules for allocation under article nine-A [or thirty-two] of
7 this chapter in the year that the shareholder made the section
8 338(h)(10) election. For purposes of a section 338(h)(10) election, when
9 a nonresident shareholder exchanges his or her S corporation stock as
10 part of the deemed liquidation, any gain or loss recognized shall be
11 treated as the disposition of an intangible asset and will not increase
12 or offset any gain recognized on the deemed assets sale as a result of
13 the section 338(h)(10) election.

14 S 72. Subparagraph (A) of paragraph 4 of subsection (c) of section 658
15 of the tax law, as amended by section 1 of part DD of chapter 686 of the
16 laws of 2003, is amended to read as follows:

17 (A) General. Every entity which is a partnership, other than a public-
18 ly traded partnership as defined in section 7704 of the federal Internal
19 Revenue Code, subchapter K limited liability company or an S corporation
20 for which the election provided for in subsection (a) of section six
21 hundred sixty of this [article] PART is in effect, which has partners,
22 members or shareholders who are nonresident individuals, as defined
23 under subsection (b) of section six hundred five of this article, or C
24 corporations, and which has any income derived from New York sources,
25 determined in accordance with the applicable rules of section six
26 hundred thirty-one of this article as in the case of a nonresident indi-
27 vidual, shall pay estimated tax on such income on behalf of such part-
28 ners, members or shareholders in the manner and at the times prescribed
29 by subsection (c) of section six hundred eighty-five of this article.
30 For purposes of this paragraph, the term "estimated tax" shall mean a
31 partner's, member's or shareholder's distributive share or pro rata
32 share of the entity income derived from New York sources, multiplied by
33 the highest rate of tax prescribed by section six hundred one of this
34 article for the taxable year of any partner, member or shareholder who
35 is an individual taxpayer, or paragraph (a) of subdivision one of
36 section two hundred ten of this chapter for the taxable year of any
37 partner, member or shareholder which is a C corporation, whether or not
38 such C corporation is subject to tax under article nine, nine-A[, thir-
39 ty-two,] or thirty-three of this chapter, and reduced by the distribu-
40 tive share or pro rata share of any credits determined under section one
41 hundred eighty-seven, one hundred eighty-seven-a, six hundred six[,
42 fourteen hundred fifty-six] or fifteen hundred eleven of this chapter,
43 whichever is applicable, derived from the entity.

44 S 73. Subsections (a) and (h) of section 660 of the tax law,
45 subsection (a) as amended by section 50 and subsection (h) as amended by
46 section 66 of part A of chapter 389 of the laws of 1997, are amended to
47 read as follows:

48 (a) Election. If a corporation is an eligible S corporation, the
49 shareholders of the corporation may elect in the manner set forth in
50 subsection (b) of this section to take into account, to the extent
51 provided for in this article (or in article thirteen of this chapter, in
52 the case of a shareholder which is a taxpayer under such article), the S
53 corporation items of income, loss, deduction and reductions for taxes
54 described in paragraphs two and three of subsection (f) of section thir-
55 teen hundred sixty-six of the internal revenue code which are taken into
56 account for federal income tax purposes for the taxable year. No

1 election under this subsection shall be effective unless all sharehold-
2 ers of the corporation have so elected. An eligible S corporation is (i)
3 an S corporation which is subject to tax under article nine-A [or thir-
4 ty-two] of this chapter, OR (ii) an S corporation which is the parent of
5 a qualified subchapter S subsidiary subject to tax under article nine-A,
6 where the shareholders of such parent corporation are entitled to make
7 the election under this subsection by reason of subparagraph three of
8 paragraph (k) of subdivision nine of section two hundred eight of this
9 chapter[; or (iii) an S corporation which is the parent of a qualified
10 subchapter S corporation subject to tax under article thirty-two, where
11 the shareholders of such parent are entitled to make the election under
12 this subsection by reason of paragraph three of subsection (o) of
13 section fourteen hundred fifty-three of this chapter].

14 (h) Cross reference. For definitions relating to S corporations, see
15 subdivision one-A of section two hundred eight [and subsections (f) and
16 (g) of section fourteen hundred fifty] of this chapter.

17 S 74. Paragraph 1 of subsection (i) of section 660 of the tax law, as
18 added by section 1 of part L of chapter 60 of the laws of 2007, is
19 amended to read as follows:

20 (1) Notwithstanding the provisions in subsection (a) of this section,
21 in the case of an eligible S corporation for which the election under
22 subsection (a) of this section is not in effect for the current taxable
23 year, the shareholders of an eligible S corporation are deemed to have
24 made that election effective for the eligible S corporation's entire
25 current taxable year, if the eligible S corporation's investment income
26 for the current taxable year is more than fifty percent of its federal
27 gross income for such year [provided that this subsection shall not
28 apply to an eligible S corporation that is subject to tax under article
29 thirty-two of this chapter]. IN DETERMINING AN ELIGIBLE S CORPORATION'S
30 INVESTMENT INCOME, THE INVESTMENT INCOME OF A QUALIFIED SUBCHAPTER S
31 SUBSIDIARY OWNED DIRECTLY OR INDIRECTLY BY THE ELIGIBLE S CORPORATION
32 SHALL BE INCLUDED.

33 S 75. Paragraph 3 of subsection (c) of section 1085 of the tax law, as
34 amended by section 15 of part Y of chapter 63 of the laws of 2000, is
35 amended to read as follows:

36 (3) The provisions of this subsection and subsections (d) and (e) of
37 this section shall apply to the failure of a taxpayer to file a declara-
38 tion of estimated tax surcharge or the failure to pay all or any part of
39 an amount which is applied as an installment against such estimated tax
40 surcharge pursuant to sections one hundred ninety-seven-a, one hundred
41 ninety-seven-b, two hundred thirteen-a, two hundred thirteen-b, [four-
42 teen hundred sixty, fourteen hundred sixty-one,] fifteen hundred thir-
43 teen and fifteen hundred fourteen of this chapter. For purposes of
44 applying this section and subsections (d) and (e) of this section to the
45 estimated tax surcharge, where appropriate the term "tax" shall be read
46 to mean "tax surcharge," and the terms "amount required to be paid,"
47 "amount which would be required to be paid," and "amount which would
48 have been required to be paid" shall be computed as the product of (1)
49 such amount computed without regard to the tax surcharges imposed under
50 sections one hundred eighty-four-a, one hundred eighty-six-c, one
51 hundred eighty-eight, two hundred nine-A, two hundred nine-B, [fourteen
52 hundred fifty-five-A, fourteen hundred fifty-five-B,] fifteen hundred
53 five-a, and fifteen hundred twenty of this chapter, and (2) the MTA
54 percentage. The term "MTA percentage" shall mean the product of (A) the
55 tax rate applicable under such sections imposing such surcharges and (B)
56 the percentage utilized in determining the portion of the taxpayer's

1 business activity carried on within the metropolitan commuter transpor-
2 tation district under such sections.

3 S 76. The opening paragraph of subparagraph (A) of paragraph 3 of
4 subsection (d) of section 1085 of the tax law, as amended by chapter 170
5 of the laws of 1994, is amended to read as follows:

6 An amount equal to ninety-one percent of the tax for the taxable year
7 computed on all items entering into the computation of the tax or taxes
8 of the taxpayer for the taxable year under article nine, nine-A[, thir-
9 ty-two] or thirty-three of this chapter. For purposes of computing the
10 tax, all items of receipts, income and expenses shall be placed on an
11 annualized basis--

12 S 77. Clause (i) of subparagraph (A) of paragraph 4 of subsection (d)
13 of section 1085 of the tax law, as amended by chapter 57 of the laws of
14 1993, is amended to read as follows:

15 (i) take the items entering into the computation of the tax or taxes
16 of the taxpayer for the taxable year under article nine, nine-A[, thir-
17 ty-two] or thirty-three of this chapter, for all months during the taxa-
18 ble year preceding the filing month,

19 S 78. Paragraph 5 of subsection (d) of section 1085 of the tax law, as
20 added by chapter 61 of the laws of 1989, is amended to read as follows:

21 (5) In the case of any declaration installment, any reduction in such
22 installment resulting from the application of paragraph three or four of
23 this subsection shall be recaptured by increasing the amount of the next
24 installment determined under paragraph one or two of this subsection or
25 paragraph one of subsection (c) of this section by the amount of such
26 reduction (and by increasing subsequent installments to the extent that
27 the reduction has not previously been recaptured under this paragraph).
28 For purposes of the preceding sentence, a declaration installment means
29 any installment of estimated tax other than the mandatory first install-
30 ment required under paragraph (a) of subdivision one of section one
31 hundred ninety-seven-b, subdivision (a) of section two hundred thir-
32 teen-b[, subsection (a) of section fourteen hundred sixty-one] or subdi-
33 vision (a) of section fifteen hundred fourteen of this chapter.

34 S 79. Paragraph 1 of subsection (e) of section 1085 of the tax law, as
35 amended by section 28-p of part H-3 of chapter 62 of the laws of 2003,
36 is amended to read as follows:

37 (1) Paragraphs (1) and (2) of subsection (d) of this section shall not
38 apply in the case of any corporation (or any predecessor corporation)
39 which had [entire net] BUSINESS income, or the portion thereof allocated
40 within the state, of one million dollars or more for any taxable year
41 during the three taxable years immediately preceding the taxable year
42 involved; provided, however, that in the case of a corporation subject
43 to tax under section fifteen hundred two-a of this chapter, paragraphs
44 (1) and (2) of subsection (d) of this section shall not apply if such
45 corporation had entire net income, or the portion thereof allocated
46 within the state, of one million dollars or more for any of the three
47 taxable years immediately preceding the taxable year involved, or if the
48 direct premiums subject to tax under section fifteen hundred two-a of
49 this chapter of the corporation for any of such three preceding taxable
50 years beginning on or after January first, two thousand three equals or
51 exceeds three million seven hundred fifty thousand dollars.

52 S 80. Subsections (m) and (o) of section 1085 of the tax law are
53 REPEALED.

54 S 81. Clause (ii) of subparagraph (B) of paragraph 2 of subsection
55 (q), paragraph 3 of subsection (s) and the closing paragraph of para-
56 graph 1 of subsection (t) of section 1085 of the tax law, as added by

1 section 10 of part N of chapter 61 of the laws of 2005, are amended to
2 read as follows:

3 (ii) fifty percent of the gross income that the organizer or material
4 advisor derived with respect to activities that were the basis for the
5 requirement to file, disclose or provide information pursuant to section
6 six thousand eleven of the internal revenue code, to the extent such
7 gross income is attributable to the avoidance of any tax imposed under
8 article nine, nine-A[, thirty-two,] or thirty-three of this chapter.

9 (3) For purposes of this subsection, the term "understatement of
10 liability" means any understatement of the net amount payable with
11 respect to any tax imposed under article nine, nine-A[, thirty-two,] or
12 thirty-three of this chapter or any overstatement of the net amount
13 creditable or refundable with respect to any such tax.

14 shall pay, with respect to each activity described in subparagraph (A)
15 of this paragraph, a penalty equal to one thousand dollars or, if the
16 person establishes that it is lesser, one hundred percent of the gross
17 income derived (or to be derived) by such person from such activity to
18 the extent such gross income is attributed to the avoidance of any tax
19 imposed under articles nine, nine-A[, thirty-two] or thirty-three of
20 this chapter; provided, however, that if an activity with respect to
21 which a penalty imposed under this subsection involves a statement
22 described in clause (i) of subparagraph (B) of paragraph one of this
23 subsection, the penalty shall be equal to fifty percent of the gross
24 income derived (or to be derived) from that activity within the state by
25 the person on which the penalty is imposed. For purposes of the preced-
26 ing sentence, activities described in clause (i) of subparagraph (A) of
27 this paragraph with respect to each entity or arrangement shall be
28 treated as a separate activity and participation in each sale described
29 in clause (ii) of subparagraph (A) of this paragraph shall be so treat-
30 ed.

31 S 82. The opening paragraph of subsection (c) of section 1087 of the
32 tax law, as separately amended by chapters 760 and 770 of the laws of
33 1992, is amended to read as follows:

34 If a taxpayer is required by subdivision three of section two hundred
35 eleven[, subsection (e) of section fourteen hundred sixty-two] or para-
36 graph one of subdivision (e) of section fifteen hundred fifteen OF THIS
37 CHAPTER, to file a report or amended return in respect of (i) a decrease
38 or increase in federal taxable income or federal alternative minimum
39 taxable income or federal tax, or (ii) a federal change or correction or
40 renegotiation, or computation or recomputation of tax, which is treated
41 in the same manner as if it were an overpayment for federal income tax
42 purposes, claim for credit or refund of any resulting overpayment of tax
43 shall be filed by the taxpayer within two years from the time such
44 report or amended return was required to be filed with the commissioner
45 [of taxation and finance]. If the report or amended return required by
46 any such provision of law is not filed within the period therein speci-
47 fied, no interest shall be payable on any claim for credit or refund of
48 the overpayment attributable to the federal change or correction. The
49 amount of such credit or refund--

50 S 83. Subsection (g) of section 1088 of the tax law, as amended by
51 chapter 61 of the laws of 1989 and relettered by chapter 55 of the laws
52 of 1992, is amended to read as follows:

53 (g) Cross-reference.--For provision with respect to interest after
54 failure to file a report or amended return under subdivision three of
55 section two hundred eleven[, subsection (e) of section fourteen hundred
56 sixty-two] or paragraph one of subdivision (e) of section fifteen

1 hundred fifteen, see subsection (c) of section one thousand eighty-sev-
2 en.

3 S 84. Paragraph 2 of subsection (b) of section 1096 of the tax law, as
4 amended by chapter 411 of the laws of 1986, is amended to read as
5 follows:

6 (2) The [tax commission] COMMISSIONER may take any action under para-
7 graph one of this subdivision to inquire into the commission of an
8 offense connected with the administration or enforcement of this article
9 or article nine, [nine-a] NINE-A, thirteen, [thirteen-a, thirty-two,]
10 THIRTEEN-A or thirty-three of this chapter, provided, however, that
11 notwithstanding the provisions of section one hundred seventy-four of
12 this chapter no such action shall be taken when a referral by the
13 department or the [tax commission] COMMISSIONER to the attorney general,
14 a district attorney or any other prosecutorial agency is in effect.
15 Provided, however, the [tax commission] COMMISSIONER shall have power,
16 during the period when such referral is in effect, to examine or to
17 cause to have examined, by any agent or representative designated by it
18 for that purpose, any books, papers, records or memoranda bearing upon
19 the matters required to be included in the return, where such books,
20 papers, records or memoranda are in its possession, or where such books,
21 papers, records or memoranda are in the possession of the attorney
22 general, district attorney or other prosecutorial agency to which such
23 referral is made.

24 S 85. Paragraph 1 of subsection (e) of section 1096 of the tax law, as
25 amended by section 8 of subpart D of part VI of chapter 57 of the laws
26 of 2009, is amended to read as follows:

27 (1) Authority to set interest rates.---The commissioner shall set the
28 overpayment and underpayment rates of interest to be paid pursuant to
29 sections two hundred thirteen, two hundred thirteen-b, two hundred
30 fifty-eight, two hundred sixty-three, two hundred ninety-four, one thou-
31 sand eighty-four, one thousand eighty-five[,] AND one thousand eighty-
32 eight[, fourteen hundred sixty-one and fourteen hundred sixty-three] of
33 this chapter, but if no such rate or rates of interest are set, such
34 overpayment rate shall be deemed to be set at six percent per annum and
35 such underpayment rate shall be deemed to be set at seven and one-half
36 percent per annum. Such overpayment and underpayment rates shall be the
37 rates prescribed in paragraph two of this subsection, but the underpay-
38 ment rate shall not be less than seven and one-half percent per annum.
39 Any such rates set by the commissioner shall apply to taxes, or any
40 portion thereof, which remain or become due or overpaid on or after the
41 date on which such rates become effective and shall apply only with
42 respect to interest computed or computable for periods or portions of
43 periods occurring in the period during which such rates are in effect.

44 S 86. Subdivision (b) of section 1201-a of the tax law, as amended by
45 section 5 of part Y of chapter 62 of the laws of 2006, is amended to
46 read as follows:

47 (b) Empire state film production credit. Any city in this state having
48 a population of one million or more, acting through its local legisla-
49 tive body, is hereby authorized to adopt and amend local laws to allow a
50 credit against the general corporation tax and the unincorporated busi-
51 ness tax imposed pursuant to the authority of chapter seven hundred
52 seventy-two of the laws of nineteen hundred sixty-six which shall be
53 substantially identical to the credit allowed under section twenty-four
54 of this chapter, except that (A) the percentage of qualified production
55 costs used to calculate such credit shall be five percent, (B) whenever
56 such section twenty-four references the state, such words shall be read

1 as referencing the city, (C) such credit shall be allowed only to a
2 taxpayer which is a qualified film production company, and (D) the
3 effective date of such credit shall be July first, two thousand six.
4 Such credit shall be applied in a manner consistent with the credit
5 allowed under subdivision [thirty-six] TWENTY of section two hundred
6 [ten] TEN-B of this chapter except as may be necessary to take into
7 account differences between the general corporation tax and the unincor-
8 porated business tax.

9 S 87. Subdivision (c) of section 1201-a of the tax law, as amended by
10 chapter 300 of the laws of 2007, is amended to read as follows:

11 (c) Empire state commercial production credit. Any city in this state
12 having a population of one million or more, acting through its local
13 legislative body, is hereby authorized to adopt and amend local laws to
14 allow a credit against the general corporation tax and the unincorporat-
15 ed business tax imposed pursuant to the authority of chapter seven
16 hundred seventy-two of the laws of nineteen hundred sixty-six which
17 shall be substantially identical to the credit allowed under the
18 provisions of section twenty-eight of this chapter, except that (A) the
19 percentage of qualified production costs used to calculate such credit
20 shall be five percent, (B) whenever such section twenty-eight references
21 the state, such words shall be read as referencing the city, (C) such
22 credit shall be allowed only to a taxpayer that is a qualified commer-
23 cial production company, and (D) the effective date of such credit shall
24 be as provided in local laws. Such credit shall be applied in a manner
25 consistent with the credit allowed under subdivision [thirty-eight]
26 TWENTY-THREE of section two hundred [ten] TEN-B of this chapter except
27 as may be necessary to take into account differences between the general
28 corporation tax and unincorporated business tax.

29 S 88. The section heading and paragraphs 1 and 3 of subdivision (a) of
30 section 1505-a of the tax law, the section heading as added by chapter
31 11 of the laws of 1983 and paragraphs 1 and 3 of subdivision (a) as
32 amended by section 6 of part A of chapter 59 of the laws of 2013, are
33 amended to read as follows:

34 [Temporary metropolitan] METROPOLITAN transportation business tax
35 surcharge on insurance corporations.

36 (1) Every domestic insurance corporation and every foreign or alien
37 insurance corporation, and every life insurance corporation described in
38 subdivision (b) of section fifteen hundred one of this article, for the
39 privilege of exercising its corporate franchise, or of doing business,
40 or of employing capital, or of owning or leasing property in the metro-
41 politan commuter transportation district in a corporate or organized
42 capacity, or of maintaining an office in the metropolitan commuter
43 transportation district, [for all or any part of its taxable years
44 commencing on or after January first, nineteen hundred eighty-two, but
45 ending before December thirty-first, two thousand eighteen,] except
46 corporations specified in subdivision (c) of section fifteen hundred
47 twelve of this article, shall annually pay, in addition to the taxes
48 otherwise imposed by this article, a tax surcharge on the taxes imposed
49 under this article after the deduction of any credits otherwise allow-
50 able under this article as allocated to such district. Such taxes shall
51 be allocated to such district for purposes of computing such tax
52 surcharge upon taxpayers subject to tax under subdivision (b) of section
53 fifteen hundred ten of this article by applying the methodology, proce-
54 dures and computations set forth in subdivisions (a) and (b) of section
55 fifteen hundred four of this article, except that references to terms
56 denoting New York premiums, and total wages, salaries, personal service

1 compensation and commissions within New York shall be read as denoting
2 within the metropolitan commuter transportation district and terms
3 denoting total premiums and total wages, salaries, personal service
4 compensation and commissions shall be read as denoting within the state.
5 If it shall appear to the commissioner that the application of the meth-
6 odology, procedures and computations set forth in such subdivisions (a)
7 and (b) does not properly reflect the activity, business or income of a
8 taxpayer within the metropolitan commuter transportation district, then
9 the commissioner shall be authorized, in the commissioner's discretion,
10 to adjust such methodology, procedures and computations for the purpose
11 of allocating such taxes by:

12 (A) excluding one or more factors therein;

13 (B) including one or more other factors therein, such as expenses,
14 purchases, receipts other than premiums, real property or tangible
15 personal property; or

16 (C) any other similar or different method which allocates such taxes
17 by attributing a fair and proper portion of such taxes to the metropol-
18 itan commuter transportation district. The commissioner from time to
19 time shall publish all rulings of general public interest with respect
20 to any application of the provisions of the preceding sentence. The
21 commissioner may promulgate rules and regulations to further implement
22 the provisions of this section.

23 (3) Such tax surcharge shall be computed at the rate of [eighteen
24 percent of the taxes imposed under sections fifteen hundred one and
25 fifteen hundred ten of this article as limited by section fifteen
26 hundred five of this article, as allocated to such district, for such
27 taxable years or any part of such taxable years ending before December
28 thirty-first, nineteen hundred eighty-three after the deduction of any
29 credits otherwise allowable under this article, at the rate of seventeen
30 percent of the taxes imposed under such sections as limited by section
31 fifteen hundred five of this article, as allocated to such district, for
32 such taxable years or any part of such taxable years ending on or after
33 December thirty-first, nineteen hundred eighty-three and before January
34 first, two thousand three after the deduction of any credits otherwise
35 allowable under this article, and at the rate of] seventeen percent of
36 the taxes imposed under sections fifteen hundred one, fifteen hundred
37 two-a, and fifteen hundred ten of this article, as limited or otherwise
38 determined by subdivision (a) or (b) of section fifteen hundred five of
39 this article, as allocated to such district, [for such taxable years or
40 any part of such taxable years ending after December thirty-first, two
41 thousand two] after the deduction of any credits otherwise allowable
42 under this article[; provided, however, that the tax surcharge imposed
43 by this section shall not be imposed upon any taxpayer for more than
44 four hundred thirty-two months]. Provided however, that for taxable
45 years commencing on or after July first, two thousand, and in the case
46 of taxpayers subject to tax under section fifteen hundred two-a of this
47 article, for taxable years of such taxpayers beginning on or after July
48 first, two thousand and before January first, two thousand three, such
49 surcharge shall be calculated as if (i) the rate of the tax computed
50 under paragraph one of subdivision (a) of section fifteen hundred two of
51 this article was nine percent and (ii) the rate of the limitation on tax
52 set forth in section fifteen hundred five of this article for domestic,
53 foreign and alien insurance corporations except life insurance corpo-
54 rations was two and six-tenths percent.

55 S 89. Section 1825 of the tax law, as amended by section 2 of part E
56 of chapter 25 of the laws of 2009, is amended to read as follows:

1 S 1825. Violation of secrecy provisions of the tax law.--Any person
2 who violates the provisions of subdivision (b) of section twenty-one,
3 subdivision one of section two hundred two, subdivision eight of section
4 two hundred eleven, subdivision (a) of section three hundred fourteen,
5 subdivision one or two of section four hundred thirty-seven, section
6 four hundred eighty-seven, subdivision one or two of section five
7 hundred fourteen, subsection (e) of section six hundred ninety-seven,
8 subsection (a) of section nine hundred ninety-four, subdivision (a) of
9 section eleven hundred forty-six, section twelve hundred eighty-seven,
10 subdivision (a) of section fourteen hundred eighteen, [subsection (a) of
11 section fourteen hundred sixty-seven,] subdivision (a) of section
12 fifteen hundred eighteen, subdivision (a) of section fifteen hundred
13 fifty-five of this chapter, and subdivision (e) of section 11-1797 of
14 the administrative code of the city of New York shall be guilty of a
15 misdemeanor.

16 S 90. Subdivisions (s) and (t) of section 957 of the general municipal
17 law, as amended by section 1 of part S1 of chapter 57 of the laws of
18 2009, are amended to read as follows:

19 (s) "Qualified investment project" shall mean a project (i) located
20 within an empire zone, (ii) at which five hundred or more jobs will be
21 created, provided such jobs are new to the state and are in addition to
22 any other jobs previously created by the owner of such project in the
23 state, and (iii) which will consist of tangible personal property and
24 other tangible property, including buildings and structural components
25 of buildings, described in subparagraphs (i), (ii), (iii), (iv) and
26 clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivision
27 [twelve-B] THREE of section two hundred [ten] TEN-B of the tax law, the
28 basis of which for federal income tax purposes will equal or exceed
29 seven hundred fifty million dollars. Provided however, the owner of such
30 project does not employ more than two hundred persons in the state at
31 the time such project is commenced.

32 (t) "Significant capital investment project" shall mean a project (i)
33 located within an empire zone, (ii) which will be either a newly
34 constructed facility or a newly constructed addition to or expansion of
35 a qualified investment project, consisting of tangible personal property
36 and other tangible property, including buildings and structural compo-
37 nents of buildings, described in subparagraphs (i), (ii), (iii), (iv)
38 and clause (A) or (C) of subparagraph (v) of paragraph (b) of subdivi-
39 sion [twelve-B] THREE of section two hundred [ten] TEN-B of the tax law,
40 the basis of which for federal income tax purposes will equal or exceed
41 seven hundred fifty million dollars, (iii) which is constructed after
42 the basis for federal income tax purposes of the property comprising
43 such qualified investment project equals or exceeds seven hundred fifty
44 million dollars, and (iv) at which five hundred or more jobs will be
45 created, provided such jobs are new to the state and are in addition to
46 any other jobs previously created by the owner of such project in the
47 state.

48 S 91. Intentionally omitted.

49 S 92. Intentionally omitted.

50 S 93. Intentionally omitted.

51 S 94. Intentionally omitted.

52 S 95. Intentionally omitted.

53 S 96. Intentionally omitted.

54 S 97. Intentionally omitted.

55 S 98. Intentionally omitted.

1 S 99. Notwithstanding any provisions of law to the contrary and
2 notwithstanding the repeal of article 32 of the tax law by section one
3 of this act, the repeal of section 180 of the tax law by section two of
4 this act and the repeal of section 181 of the tax law by section three
5 of this act, all provisions of such article and such sections, in
6 respect to the imposition, exemption, assessment, payment, payment over,
7 determination, collection, and credit or refund of tax, interest and
8 penalty imposed thereunder, the filing of forms and returns, the preser-
9 vation of records for the purposes of such tax, the secrecy of returns,
10 the disposition of revenues, and the civil and criminal penalties appli-
11 cable to the violation of the provisions of such article 32 and such
12 sections 180 and 181, shall continue in full force and effect with
13 respect to all such tax accrued for taxable years beginning before Janu-
14 ary 1, 2015; and all actions and proceedings, civil or criminal,
15 commenced or authorized to be commenced under or by virtue of any
16 provision of such article 32 or by virtue of any provision of such
17 section 180 or 181 so repealed, and pending or able to be commenced
18 immediately prior to the taking effect of such repeal, may be commenced,
19 prosecuted and defended to final effect in the same manner as they might
20 if such provisions were not so repealed.

21 S 100. Subdivision 1 of section 187 of the tax law, as amended by
22 chapter 2 of the laws of 1995, is amended to read as follows:

23 1. A taxpayer shall be allowed a credit, to be credited against the
24 taxes imposed by this article, other than the taxes and fees imposed by
25 sections [one hundred eighty, one hundred eighty-one,] one hundred
26 eighty-six-a and one hundred eighty-six-e of this chapter. The amount of
27 the credit shall be the amount of the special additional mortgage
28 recording tax paid by the taxpayer pursuant to the provisions of subdivi-
29 sion one-a of section two hundred fifty-three of this chapter on mort-
30 gages recorded on and after January first, nineteen hundred seventy-
31 nine. Provided, however, that the amount of such credit allowable
32 against the tax imposed by section one hundred eighty-four of this chap-
33 ter shall be the excess of the amount of such special additional mort-
34 gage recording tax paid over the amount of any credit allowed by this
35 section against the tax imposed by section one hundred eighty-three of
36 this chapter. Provided further, however, no credit shall be allowed with
37 respect to a mortgage of real property principally improved or to be
38 improved by one or more structures containing in the aggregate not more
39 than six residential dwelling units, each dwelling unit having its own
40 separate cooking facilities, where the real property is located in one
41 or more of the counties comprising the metropolitan commuter transporta-
42 tion district and where the mortgage is recorded on or after May first,
43 nineteen hundred eighty-seven. Provided further, however, no credit
44 shall be allowed with respect to a mortgage of real property principally
45 improved or to be improved by one or more structures containing in the
46 aggregate not more than six residential dwelling units, each dwelling
47 unit having its own separate cooking facilities, where the real property
48 is located in the county of Erie and where the mortgage is recorded on
49 or after May first, nineteen hundred eighty-seven.

50 S 101. Subdivision 1 of section 187-a of the tax law, as added by
51 chapter 142 of the laws of 1997, is amended to read as follows:

52 1. Allowance of credit. A taxpayer shall be allowed a credit, to be
53 computed as hereinafter provided, against the taxes imposed by this
54 article, other than the taxes imposed by sections [one hundred eighty,
55 one hundred eighty-one,] one hundred eighty-six-a, one hundred eighty-
56 six-e and one hundred eighty-nine of this article, for employing within

1 the state a qualified employee. Provided, however, the amount of credit
2 allowed by this section against the tax imposed by section one hundred
3 eighty-four of this article shall be the excess of the credit computed
4 under this section over the amount of credit allowed by this section
5 against the tax imposed by section one hundred eighty-three of this
6 article.

7 S 102. Subdivision 1 of section 190 of the tax law, as amended by
8 section 17 of part B of chapter 58 of the laws of 2004, is amended to
9 read as follows:

10 1. General. A taxpayer shall be allowed a credit against the tax
11 imposed by this article[, other than the taxes and fees imposed by
12 sections one hundred eighty and one hundred eighty-one of this article,]
13 equal to twenty percent of the premium paid during the taxable year for
14 long-term care insurance. In order to qualify for such credit, the
15 taxpayer's premium payment must be for the purchase of or for continuing
16 coverage under a long-term care insurance policy that qualifies for such
17 credit pursuant to section one thousand one hundred seventeen of the
18 insurance law.

19 S 103. Subdivision 5 of section 192 of the tax law is REPEALED.

20 S 104. Clauses 1 and 2 of subparagraph (A) and subparagraph (B) of
21 paragraph (iii) of subdivision 9 of section 16-v of section 1 of chapter
22 174 of the laws of 1968 constituting the urban development corporation
23 act, as added by section 1 of part C of chapter 59 of the laws of 2013,
24 is amended to read as follows:

25 (1) over fifty percent of the number of shares of stock entitling the
26 holders thereof to vote for the election of directors or trustees is
27 owned or controlled, either directly or indirectly, by a taxpayer
28 subject to tax under the following provisions of the tax law: article
29 nine-A; section one hundred eighty-three, OR one hundred eighty-four [or
30 one hundred eighty-five] of article nine; [article thirty-two] or arti-
31 cle thirty-three; or

32 (2) is substantially similar in operation and in ownership to a busi-
33 ness entity (or entities) taxable or previously taxable under the
34 following provisions of the tax law: article nine-A; section one hundred
35 eighty-three, one hundred eighty-four, FORMER SECTION one hundred eight-
36 y-five or former section one hundred eighty-six of article nine; FORMER
37 article thirty-two; article thirty-three; article twenty-three, or would
38 have been subject to tax under such article twenty-three (as such arti-
39 cle was in effect on January first, nineteen hundred eighty) or the
40 income (or losses) of which is (or was) includable under article twen-
41 ty-two; or

42 (B) a sole proprietorship, partnership, limited partnership, limited
43 liability company, or New York subchapter S corporation that is not
44 substantially similar in operation and in ownership to a business entity
45 (or entities) taxable, or previously taxable, under article nine-A of
46 the tax law, section one hundred eighty-three, one hundred eighty-four,
47 FORMER SECTION one hundred eighty-five or former section one hundred
48 eighty-six of article nine of the tax law, FORMER article thirty-two or
49 ARTICLE thirty-three of the tax law, article twenty-three of the tax law
50 or which would have been subject to tax under such article twenty-three
51 (as such article was in effect on January first, nineteen hundred
52 eighty) or the income (or losses) of which is (or was) includable under
53 article twenty-two of the tax law; and

54 S 105. Section 206 of the tax law, as added by chapter 69 of the laws
55 of 1978, is amended to read as follows:

1 S 206. Deposit and disposition of revenue. The [license fees,]
2 taxes, percentage, interest and other charges imposed by this article
3 shall be collected and deposited and receipts therefor issued by the
4 [tax commission, except that such license fees, taxes, percentage,
5 interest and other charges imposed by section one hundred eighty of this
6 chapter shall be collected and deposited and receipts therefor issued by
7 the proper state officer in accordance with the provisions of subdivi-
8 sion two of section one hundred eighty of this chapter,] COMMISSIONER
9 and all revenues so collected or received shall be deposited and
10 disposed of pursuant to the provisions of section one hundred seventy-
11 one-a of this chapter.

12 S 106. Subsection (a) of section 1080 of the tax law, as added by
13 chapter 188 of the laws of 1964, is amended to read as follows:

14 (a) General.--- The provisions of this article shall apply to the
15 administration of and the procedures with respect to the taxes imposed
16 by articles nine [(except section one hundred eighty)], AND nine-a[,
17 nine-b and nine-c] of this chapter for taxable years or periods ending
18 on or after December thirty-first, nineteen hundred sixty-four.

19 S 107. Subdivisions (a) and (c) of section 1809 of the tax law, as
20 added by section 1 of subpart A of part S of chapter 57 of the laws of
21 2010, are amended to read as follows:

22 (a) Any person who, with intent to evade payment of any tax imposed
23 under article nine [(other than under section one hundred eighty or one
24 hundred eighty-one)], nine-A, thirteen, [thirty-two,] thirty-three or
25 thirty-three-A of this chapter, fails to file a return or report for
26 three consecutive taxable years shall be guilty of a class E felony,
27 provided that such person had an unpaid tax liability, in excess of the
28 threshold amount with respect to each of the three consecutive taxable
29 years. The threshold amount in the case of a taxable year under article
30 nine-A of this chapter ending after June thirtieth, nineteen hundred
31 eighty-nine is the applicable fixed dollar minimum prescribed under
32 paragraph (d) of subdivision one of section two hundred ten of this
33 chapter. In the event such fixed dollar minimum is less than two hundred
34 fifty dollars, the threshold amount in the case of such taxable year is
35 two hundred fifty dollars. In all other cases the threshold amount is
36 two hundred fifty dollars.

37 (c) As used in this section, the terms "return" and "report" shall
38 mean a return or report required under section one hundred ninety-two,
39 two hundred eleven, two hundred ninety-four, [fourteen hundred sixty-
40 two,] fifteen hundred fifteen or fifteen hundred fifty-four of this
41 chapter. It shall not include any return or report referred to in
42 section one hundred ninety-seven-a, two hundred thirteen-a, [fourteen
43 hundred sixty] or fifteen hundred thirteen of this chapter.

44 S 108. Paragraphs (d), (e), (g), (h) and (q) of section 104-A of the
45 business corporation law, subdivisions (d), (e) and (q) as amended by
46 chapter 166 of the laws of 1991, subdivision (g) as added by chapter 591
47 of the laws of 1982, and subdivision (h) as amended by chapter 117 of
48 the laws of 1986, are amended to read as follows:

49 (d) For filing a certificate of incorporation pursuant to section four
50 hundred two of this chapter, one hundred twenty-five dollars [plus the
51 tax on shares prescribed by section one hundred eighty of the tax law].

52 (e) For filing a certificate of amendment pursuant to section eight
53 hundred five of this chapter, sixty dollars [plus the tax on shares
54 prescribed by section one hundred eighty of the tax law if such certif-
55 icate shows a change of shares].

1 (g) For filing a restated certificate of incorporation pursuant to
2 section eight hundred seven of this chapter, sixty dollars [plus the tax
3 on shares prescribed by section one hundred eighty of the tax law if
4 such certificate shows a change of shares].

5 (h) For filing a certificate of merger or consolidation pursuant to
6 section nine hundred four of this chapter, or a certificate of exchange
7 pursuant to section nine hundred thirteen (other than paragraph (g) of
8 section nine hundred thirteen) of this chapter, sixty dollars [plus the
9 tax on shares prescribed by section one hundred eighty of the tax law if
10 such certificate shows a change of shares].

11 (q) For filing a certificate of incorporation by a professional
12 service corporation pursuant to section fifteen hundred three of this
13 chapter, one hundred twenty-five dollars [plus the tax on shares
14 prescribed by section one hundred eighty of the tax law].

15 S 109. Subdivision 8 of section 7-a of the general associations law,
16 as added by chapter 575 of the laws of 1964, is amended to read as
17 follows:

18 8. The provisions of section ninety-six of the executive law prescrib-
19 ing the fee to be collected by the department of state for filing a
20 certificate of incorporation under the business corporation law shall
21 apply to the certificate of incorporation to be filed pursuant to this
22 section[, and the organization tax payable under section one hundred
23 eighty of the tax law in respect of a corporation formed under the busi-
24 ness corporation law shall be paid before the department of state shall
25 file such certificate of incorporation].

26 S 110. Paragraphs 1 and 2 of subdivision (l) of section 11-640 of the
27 administrative code of the city of New York, as amended by section 3 of
28 part R of chapter 59 of the laws of 2012, is amended to read as follows:

29 (l) Notwithstanding anything to the contrary contained in this section
30 other than subdivision (m) of this section, a corporation that was in
31 existence before January first, two thousand [twelve] FOURTEEN and was
32 subject to tax under subchapter two of this chapter for its last taxable
33 year beginning before January first, two thousand [twelve] FOURTEEN,
34 shall continue to be taxable under such subchapter for all taxable years
35 beginning on or after January first, two thousand [twelve] FOURTEEN and
36 before January first, two thousand [fifteen] SEVENTEEN. The preceding
37 sentence shall not apply to any taxable year during which such corpo-
38 ration is a banking corporation described in paragraphs one through
39 eight of subdivision (a) of this section. Notwithstanding anything to
40 the contrary contained in this section other than subdivision (m) of
41 this section, a banking corporation or corporation that was in existence
42 before January first, two thousand [twelve] FOURTEEN and was subject to
43 tax under this subchapter for its last taxable year beginning before
44 January first, two thousand [twelve] FOURTEEN, shall continue to be
45 taxable under this subchapter for all taxable years beginning on or
46 after January first, two thousand [twelve] FOURTEEN and before January
47 first, two thousand [fifteen] SEVENTEEN only if the corporation is a
48 banking corporation as defined in subdivision (a) of this section or the
49 corporation satisfies the requirements for a corporation to elect to be
50 taxable under this subchapter. Provided further, that nothing in this
51 subdivision shall prohibit a corporation that elected pursuant to subdivi-
52 sion (d) of this section to be taxable under subchapter two of this
53 chapter from revoking that election in accordance with subdivision (d)
54 of this section. For purposes of this paragraph, a corporation shall be
55 considered to be subject to tax under subchapter two of this chapter for
56 a taxable year if such corporation was not a taxpayer but was properly

1 included in a combined report filed pursuant to subdivision four of
2 section 11-605 of this chapter for such taxable year and a corporation
3 shall be considered to be subject to tax under this subchapter for a
4 taxable year if such corporation was not a taxpayer but was properly
5 included in a combined report filed pursuant to subdivision (f) or (g)
6 of section 11-646 of this part for such taxable year. A corporation that
7 was in existence before January first, two thousand [twelve] FOURTEEN
8 but first becomes a taxpayer in a taxable year beginning on or after
9 January first, two thousand [twelve] FOURTEEN and before January first,
10 two thousand [fifteen] SEVENTEEN, shall be considered for purposes of
11 this paragraph to have been subject to tax under subchapter two of this
12 chapter for its last taxable year beginning before January first, two
13 thousand [twelve] FOURTEEN if such corporation would have been subject
14 to tax under such subchapter for such taxable year if it had been a
15 taxpayer during such taxable year. A corporation that was in existence
16 before January first, two thousand [twelve] FOURTEEN but first becomes a
17 taxpayer in a taxable year beginning on or after January first, two
18 thousand [twelve] FOURTEEN and before January first, two thousand
19 [fifteen] SEVENTEEN, shall be considered for purposes of this paragraph
20 to have been subject to tax under this subchapter for its last taxable
21 year beginning before January first, two thousand [twelve] FOURTEEN if
22 such corporation would have been subject to tax under this subchapter
23 for such taxable year if it had been a taxpayer during such taxable
24 year.

25 (2) Notwithstanding anything to the contrary contained in this section
26 other than subdivision (m) of this section, a corporation formed on or
27 after January first, two thousand [twelve] FOURTEEN and before January
28 first, two thousand [fifteen] SEVENTEEN may elect to be subject to tax
29 under this subchapter or under subchapter two of this chapter for its
30 first taxable year beginning on or after January first, two thousand
31 [twelve] FOURTEEN and before January first, two thousand [fifteen]
32 SEVENTEEN in which either (i) sixty-five percent or more of its voting
33 stock is owned or controlled, directly or indirectly by a financial
34 holding company, provided the corporation whose voting stock is so owned
35 or controlled is principally engaged in activities that are described in
36 section 4(k)(4) or 4(k)(5) of the federal bank holding company act of
37 nineteen hundred fifty-six, as amended and the regulations promulgated
38 pursuant to the authority of such section or (ii) it is a financial
39 subsidiary. An election under this paragraph may not be made by a corpo-
40 ration described in paragraphs one through eight of subdivision (a) of
41 this section or in subdivision (e) of this section. In addition, an
42 election under this paragraph may not be made by a corporation that is a
43 party to a reorganization, as defined in subsection (a) of section 368
44 of the internal revenue code of 1986, as amended, of a corporation
45 described in paragraph one of this subdivision if both corporations were
46 sixty-five percent or more owned or controlled, directly or indirectly
47 by the same interests at the time of the reorganization.

48 An election under this paragraph must be made by the taxpayer on or
49 before the due date for filing its return (determined with regard to
50 extensions of time for filing) for the applicable taxable year. The
51 election to be taxed under subchapter two of this chapter shall be made
52 by the taxpayer by filing the return required pursuant to subdivision
53 one of section 11-605 of this chapter and the election to be taxed under
54 this subchapter shall be made by the taxpayer by filing the return
55 required pursuant to subdivision (a) of section 11-646 of this part. Any
56 election made pursuant to this paragraph shall be irrevocable and shall

1 apply to each subsequent taxable year beginning on or after January
2 first, two thousand [twelve] FOURTEEN and before January first, two
3 thousand [fifteen] SEVENTEEN, provided that the stock ownership and
4 activities requirements described in subparagraph (i) of this paragraph
5 are met or such corporation described in subparagraph (ii) of this para-
6 graph continues as a financial subsidiary.

7 S 111. Subparagraph (iv) of paragraph 2 of subdivision (f) of section
8 11-646 of the administrative code of the city of New York, as amended by
9 section 4 of part R of chapter 59 of the laws of 2012, is amended to
10 read as follows:

11 (iv) (A) Notwithstanding any provision of this paragraph, any bank
12 holding company exercising its corporate franchise or doing business in
13 the city may make a return on a combined basis without seeking the
14 permission of the commissioner with any banking corporation exercising
15 its corporate franchise or doing business in the city in a corporate or
16 organized capacity sixty-five percent or more of whose voting stock is
17 owned or controlled, directly or indirectly, by such bank holding compa-
18 ny, for the first taxable year beginning on or after January first, two
19 thousand and before January first, two thousand [fifteen] SEVENTEEN
20 during which such bank holding company registers for the first time
21 under the federal bank holding company act, as amended, and also elects
22 to be a financial holding company. In addition, for each subsequent
23 taxable year beginning after January first, two thousand and before
24 January first, two thousand [fifteen] SEVENTEEN, any such bank holding
25 company may file on a combined basis without seeking the permission of
26 the commissioner with any banking corporation that is exercising its
27 corporate franchise or doing business in the city and sixty-five percent
28 or more of whose voting stock is owned or controlled, directly or indi-
29 rectly, by such bank holding company if either such banking corporation
30 is exercising its corporate franchise or doing business in the city in a
31 corporate or organized capacity for the first time during such subse-
32 quent taxable year, or sixty-five percent or more of the voting stock of
33 such banking corporation is owned or controlled, directly or indirectly,
34 by such bank holding company for the first time during such subsequent
35 taxable year. Provided however, for each subsequent taxable year begin-
36 ning after January first, two thousand and before January first, two
37 thousand [fifteen] SEVENTEEN, a banking corporation described in either
38 of the two preceding sentences which filed on a combined basis with any
39 such bank holding company in a previous taxable year, must continue to
40 file on a combined basis with such bank holding company if such banking
41 corporation, during such subsequent taxable year, continues to exercise
42 its corporate franchise or do business in the city in a corporate or
43 organized capacity and sixty-five percent or more of such banking corpo-
44 ration's voting stock continues to be owned or controlled, directly or
45 indirectly, by such bank holding company, unless the permission of the
46 commissioner has been obtained to file on a separate basis for such
47 subsequent taxable year. Provided further, however, for each subsequent
48 taxable year beginning after January first, two thousand and before
49 January first, two thousand [fifteen] SEVENTEEN, a banking corporation
50 described in either of the first two sentences of this clause which did
51 not file on a combined basis with any such bank holding company in a
52 previous taxable year, may not file on a combined basis with such bank
53 holding company during any such subsequent taxable year unless the
54 permission of the commissioner has been obtained to file on a combined
55 basis for such subsequent taxable year.

1 (B) Notwithstanding any provision of this paragraph other than clause
2 (A) of this subparagraph, the commissioner may not require a bank hold-
3 ing company which, during a taxable year beginning on or after January
4 first, two thousand and before January first, two thousand [fifteen]
5 SEVENTEEN, registers for the first time during such taxable year under
6 the federal bank holding company act, as amended, and also elects to be
7 a financial holding company, to make a return on a combined basis for
8 any taxable year beginning on or after January first, two thousand and
9 before January first, two thousand [fifteen] SEVENTEEN with a banking
10 corporation sixty-five percent or more of whose voting stock is owned or
11 controlled, directly or indirectly, by such bank holding company.

12 S 112. Severability. If any provision of this act shall for any reason
13 be finally adjudged by any court of competent jurisdiction to be inval-
14 id, such judgment shall not affect, impair, or invalidate the remainder
15 of this act, but shall be confined in its operation to the provision
16 directly involved in the controversy in which such judgment shall have
17 been rendered. It is hereby declared to be in the intent of the legisla-
18 ture that this act would have been enacted even if such invalid
19 provision had not been included in this act. Provided further, if a
20 court of final, competent jurisdiction adjudges the tax rates imposed on
21 qualified New York manufacturers to be invalid, qualified New York
22 manufacturers shall be subject to the same tax rates as all other
23 taxpayers subject to tax under article 9-A of the tax law. Provided
24 further, if a court of final, competent jurisdiction adjudges the tax
25 rate of the metropolitan transportation business tax surcharge imposed
26 under section 209-B of the tax law to be invalid, the rate of such
27 surcharge shall be twenty-seven and one tenth percent. Provided further,
28 if a court of final, competent jurisdiction adjudges that any of the tax
29 credits provided by this act to be invalid, such credit or credits shall
30 be deemed repealed and shall be of no force and effect as to any taxpay-
31 ers.

32 S 113. This act shall take effect January 1, 2015 and shall apply to
33 taxable years commencing on or after such date; provided that the amend-
34 ments to section 25 of the tax law made by section forty-three of this
35 act shall not affect the repeal of such section and shall be deemed
36 repealed therewith; provided, further, that the amendments to the open-
37 ing paragraph of subdivision (a), subparagraph (C) of paragraph 2 of
38 subdivision (e) and subdivision (f) of section 35 of the tax law made by
39 section fifty of this act shall not affect the repeal of such provisions
40 and shall be deemed repealed therewith; provided, further, that the
41 amendments to clause (xxxii) of subparagraph (B) of paragraph 1 of
42 subsection (i) of section 606 of the tax law made by section sixty-eight
43 of this act shall not affect the repeal of such clause and shall be
44 deemed repealed therewith; provided, further, that the amendments to
45 clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection (i) of
46 section 606 of the tax law made by section sixty-eight of this act shall
47 not affect the repeal of such clause and shall be deemed repealed there-
48 with; and provided, further, that the amendments to clause (ii) of
49 subparagraph (B) of paragraph 2 of subsection (q), paragraph 3 of
50 subsection (s) and the closing paragraph of paragraph 1 of subsection
51 (t) of section 1085 of the tax law made by section eighty-one of this
52 act shall not affect the repeal of such provisions and shall be deemed
53 repealed therewith.

1 Section 1. Subparagraph (iii) of paragraph (a) of subdivision 14 of
2 section 425 of the real property tax law, as added by section 1 of part
3 J of chapter 57 of the laws of 2013, is amended to read as follows:

4 (iii) An owner who fails to register by the registration deadline so
5 established shall be permitted to file a petition with the commissioner
6 requesting that the commissioner excuse such failure and accept a late
7 registration, provided that such petition shall explain why such failure
8 occurred and shall be filed no later than one year after such deadline,
9 AND PROVIDED FURTHER THAT IF THE COMMISSIONER ACCEPTS A LATE REGISTRA-
10 TION AFTER HAVING DIRECTED THE REMOVAL OF THE BASIC STAR EXEMPTION FROM
11 THE PROPERTY TO WHICH THE REGISTRATION PERTAINS, THEN IN LIEU OF DIRECT-
12 ING THE EXEMPTION TO BE RESTORED, THE COMMISSIONER IS AUTHORIZED IN HIS
13 OR HER DISCRETION TO REMIT DIRECTLY TO THE PROPERTY OWNER OR OWNERS THE
14 TAX SAVINGS THAT THE EXEMPTION WOULD HAVE YIELDED HAD IT NOT BEEN
15 REMOVED, AND TO FURTHER DIRECT THE ASSESSOR TO RESTORE THE EXEMPTION ON
16 A PROSPECTIVE BASIS WITHOUT A NEW APPLICATION UNLESS THE ASSESSOR HAS
17 REASON TO BELIEVE THAT THE PROPERTY OWNER IS NO LONGER ELIGIBLE FOR
18 REASONS OTHER THAN A FAILURE TO REGISTER;

19 S 2. This act shall take effect immediately and shall be deemed to
20 have been in full force and effect on and after April 1, 2014.

21 PART C

22 Section 1. Section 2 of chapter 540 of the laws of 1992, amending the
23 real property tax law relating to oil and gas charges, as amended by
24 section 1 of part A of chapter 59 of the laws of 2012, is amended to
25 read as follows:

26 S 2. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 1992; provided,
28 however that any charges imposed by section 593 of the real property tax
29 law as added by section one of this act shall first be due for values
30 for assessment rolls with tentative completion dates after July 1, 1992,
31 and provided further, that this act shall remain in full force and
32 effect until March 31, [2015] 2018, at which time section 593 of the
33 real property tax law as added by section one of this act shall be
34 repealed.

35 S 2. This act shall take effect immediately.

36 PART D

37 Intentionally Omitted

38 PART E

39 Section 1. Subsection (a) of section 653 of the tax law, as amended by
40 chapter 65 of the laws of 1985, is amended to read as follows:

41 (a) General. (1) Any return, statement or other document required to
42 be made pursuant to this article shall be signed in accordance with
43 regulations or instructions prescribed by the [tax commission] COMMIS-
44 SIONER. The fact that an individual's name is signed to a return,
45 statement, or other document, shall be prima facie evidence for all
46 purposes that the return, statement or other document was actually
47 signed by him OR HER.

48 (2) IN THE CASE OF AN ELECTRONICALLY FILED INDIVIDUAL'S PERSONAL
49 INCOME TAX RETURN PREPARED BY A TAX PREPARER, AN AUTHORIZATION TO FILE

1 ANY RETURN, STATEMENT OR OTHER DOCUMENT REQUIRED TO BE MADE PURSUANT TO
2 THIS ARTICLE SIGNED BY THE TAXPAYER IN ACCORDANCE WITH THE REGULATIONS
3 OR INSTRUCTIONS PRESCRIBED BY THE COMMISSIONER AND RECEIVED ELECTRON-
4 ICALLY BY THE TAX PREPARER SHALL SATISFY THE SIGNATURE REQUIREMENTS
5 UNDER THIS ARTICLE.

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

8 PART F

9 Intentionally Omitted

10 PART G

11 Section 1. Section 2 of part I of chapter 58 of the laws of 2006,
12 relating to providing an enhanced earned income tax credit, as amended
13 by section 1 of part L of chapter 59 of the laws of 2012, is amended to
14 read as follows:

15 S 2. This act shall take effect immediately and shall apply to taxable
16 years beginning on or after January 1, 2006 and before January 1, [2015]
17 2017.

18 S 2. This act shall take effect immediately.

19 PART H

20 Intentionally Omitted

21 PART I

22 Section 1. Subsection (b) of section 612 of the tax law is amended by
23 adding a new paragraph 40 to read as follows:

24 (40) IN THE CASE OF A BENEFICIARY OF A TRUST THAT, IN ANY TAX YEAR
25 AFTER ITS CREATION INCLUDING ITS FIRST TAX YEAR, WAS NOT SUBJECT TO TAX
26 PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF
27 SECTION SIX HUNDRED FIVE OF THIS ARTICLE (EXCEPT FOR AN INCOMPLETE GIFT
28 NON-GRANTOR TRUST, AS DEFINED BY PARAGRAPH FORTY-ONE OF THIS
29 SUBSECTION), THE AMOUNT DESCRIBED IN THE FIRST SENTENCE OF SECTION SIX
30 HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE FOR THE TAX YEAR TO THE
31 EXTENT NOT ALREADY INCLUDED IN FEDERAL GROSS INCOME FOR THE TAX YEAR,
32 EXCEPT THAT, IN COMPUTING THE AMOUNT TO BE ADDED UNDER THIS PARAGRAPH,
33 SUCH BENEFICIARY SHALL DISREGARD (I) SUBSECTION (C) OF SECTION SIX
34 HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE; (II) THE INCOME EARNED
35 BY SUCH TRUST IN ANY TAX YEAR IN WHICH THE TRUST WAS SUBJECT TO TAX
36 UNDER THIS ARTICLE; AND (III) THE INCOME EARNED BY SUCH TRUST IN A TAXA-
37 BLE YEAR PRIOR TO WHEN THE BENEFICIARY FIRST BECAME A RESIDENT OF THE
38 STATE OR IN ANY TAXABLE YEAR STARTING BEFORE JANUARY FIRST, TWO THOUSAND
39 FOURTEEN. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, ALL OF THE
40 PROVISIONS OF THE INTERNAL REVENUE CODE THAT ARE RELEVANT TO COMPUTING
41 THE AMOUNT DESCRIBED IN THE FIRST SENTENCE OF SUBSECTION (A) OF SECTION
42 SIX HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE SHALL APPLY TO THE
43 PROVISIONS OF THIS PARAGRAPH WITH THE SAME FORCE AND EFFECT AS IF THE
44 LANGUAGE OF THOSE INTERNAL REVENUE CODE PROVISIONS HAD BEEN INCORPORATED
45 IN FULL INTO THIS PARAGRAPH, EXCEPT TO THE EXTENT THAT ANY SUCH
46 PROVISION IS EITHER INCONSISTENT WITH OR NOT RELEVANT TO THIS PARAGRAPH.

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

3 (41) IN THE CASE OF A TAXPAYER WHO TRANSFERRED PROPERTY TO AN INCOM-
4 PLETE GIFT NON-GRANTOR TRUST, THE INCOME OF THE TRUST, LESS ANY
5 DEDUCTIONS OF THE TRUST, TO THE EXTENT SUCH INCOME AND DEDUCTIONS OF
6 SUCH TRUST WOULD BE TAKEN INTO ACCOUNT IN COMPUTING THE TAXPAYER'S
7 FEDERAL TAXABLE INCOME IF SUCH TRUST IN ITS ENTIRETY WERE TREATED AS A
8 GRANTOR TRUST FOR FEDERAL TAX PURPOSES. FOR PURPOSES OF THIS PARAGRAPH,
9 AN "INCOMPLETE GIFT NON-GRANTOR TRUST" MEANS A RESIDENT TRUST THAT MEETS
10 THE FOLLOWING CONDITIONS: (I) THE TRUST DOES NOT QUALIFY AS A GRANTOR
11 TRUST UNDER SECTION SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVEN-
12 TY-NINE OF THE INTERNAL REVENUE CODE, AND (2) THE GRANTOR'S TRANSFER OF
13 ASSETS TO THE TRUST IS TREATED AS AN INCOMPLETE GIFT UNDER SECTION TWEN-
14 TY-FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS
15 THEREUNDER.

16 S 3. Section 621 of the tax law, as added by chapter 272 of the laws
17 of 1963 and subsection (a) as amended by chapter 267 of the laws of
18 1987, is amended to read as follows:

19 S 621. [Credit] CREDITS to trust beneficiary receiving accumulation
20 distribution. (a) General. A resident beneficiary of a trust whose New
21 York adjusted gross income includes all or part of an accumulation
22 distribution by such trust, as defined in section six hundred sixty-five
23 of the internal revenue code, INCLUDING A BENEFICIARY WHO IS REQUIRED TO
24 MAKE THE MODIFICATION REQUIRED BY PARAGRAPH FORTY OF SUBSECTION (B) OF
25 SECTION SIX HUNDRED TWELVE OF THIS PART, shall be allowed (1) a credit
26 against the tax otherwise due under this article for all or a propor-
27 tionate part of any tax paid by the trust under this article or under
28 FORMER article sixteen of this chapter (as such article was in effect on
29 or before December thirtieth, nineteen hundred sixty), for any preceding
30 taxable year which would not have been payable if the trust had in fact
31 made distributions to its beneficiaries at the times and in the amounts
32 specified in section six hundred sixty-six of the internal revenue code;
33 AND (2) A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE FOR THE TAXA-
34 BLE YEAR FOR ANY INCOME TAX IMPOSED ON THE TRUST FOR THE TAXABLE YEAR OR
35 ANY PRIOR TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLI-
36 TICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, UPON INCOME BOTH
37 DERIVED THEREFROM AND SUBJECT TO TAX UNDER THIS ARTICLE, PROVIDED THAT
38 THE AMOUNT OF THE CREDIT SHALL NOT EXCEED THE PERCENTAGE OF THE TAX
39 OTHERWISE DUE UNDER THIS ARTICLE DETERMINED BY DIVIDING THE PORTION OF
40 THE INCOME THAT IS BOTH TAXABLE TO THE TRUST IN SUCH OTHER JURISDICTION
41 AND TAXABLE TO THE BENEFICIARY UNDER THIS ARTICLE BY THE TOTAL AMOUNT OF
42 THE BENEFICIARY'S NEW YORK INCOME.

43 (b) Limitation. The [credit] CREDITS under this section shall not
44 reduce the tax otherwise due from the beneficiary under this article to
45 an amount less than would have been due if the accumulation distribution
46 or his part thereof were excluded from his New York adjusted gross
47 income.

48 S 4. Section 658 of the tax law is amended by adding a new subsection
49 (f) to read as follows:

50 (F) (1) EVERY TRUST DESCRIBED BY SUBPARAGRAPH (D) OF PARAGRAPH THREE
51 OF SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE SHALL MAKE
52 A RETURN FOR ANY TAXABLE YEAR IN WHICH IT MAKES AN ACCUMULATION DISTRIB-
53 UTION WITHIN THE MEANING OF SUBDIVISION (B) OF SECTION SIX HUNDRED
54 SIXTY-FIVE OF THE INTERNAL REVENUE CODE TO A BENEFICIARY WHO IS A RESI-
55 DENT, WHICH RETURN SHALL INCLUDE (I) INFORMATION IDENTIFYING SUCH RESI-
56 DENT, (II) THE AMOUNT OF SUCH ACCUMULATION DISTRIBUTION, AND (III) SUCH

1 OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE. IN DETERMINING
2 WHETHER THERE HAS BEEN AN ACCUMULATION DISTRIBUTION FOR PURPOSES OF THIS
3 PARAGRAPH, SUCH TRUST SHALL EXCLUDE DISTRIBUTIONS FROM INCOME EARNED BY
4 THE TRUST PRIOR TO THE BENEFICIARY'S BIRTH OR ATTAINING THE AGE OF TWEN-
5 TY-ONE.

6 (2) EVERY RESIDENT TRUST THAT DOES NOT FILE THE RETURN REQUIRED BY
7 SECTION SIX HUNDRED FIFTY-ONE OF THIS PART ON THE GROUND THAT IT IS NOT
8 SUBJECT TO TAX PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF
9 SUBSECTION (B) OF SECTION SIX HUNDRED FIVE OF THIS ARTICLE FOR THE TAXA-
10 BLE YEAR SHALL MAKE A RETURN FOR SUCH TAXABLE YEAR SUBSTANTIATING ITS
11 ENTITLEMENT TO THAT EXEMPTION AND PROVIDING SUCH OTHER INFORMATION AS
12 THE COMMISSIONER MAY REQUIRE.

13 (3) THE RETURNS REQUIRED BY THIS SUBSECTION SHALL BE FILED ON OR
14 BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF EACH
15 TAXABLE YEAR. FOR PURPOSES OF THIS PARAGRAPH, "TAXABLE YEAR" MEANS A
16 YEAR OR A PERIOD WHICH WOULD BE A TAXABLE YEAR OF THE TRUST IF IT WERE
17 SUBJECT TO TAX UNDER THIS ARTICLE.

18 S 5. Paragraph 2 of subsection (h) of section 685 of the tax law, as
19 amended by chapter 190 of the laws of 1990, is amended to read as
20 follows:

21 (2) If any partnership [or], S corporation, OR TRUST required to file
22 a return or report under subsection (c) OR SUBSECTION (F) of section six
23 hundred fifty-eight or under section six hundred fifty-nine OF THIS
24 ARTICLE for any taxable year fails to file such return or report at the
25 time prescribed therefor (determined with regard to any extension of
26 time for filing), or files a return or report which fails to show the
27 information required under such subsection (c) or section six hundred
28 fifty-nine OF THIS ARTICLE, unless it is shown that such failure is due
29 to reasonable cause and not due to willful neglect, there shall, upon
30 notice and demand by the commissioner and in the same manner as tax, be
31 paid by the partnership or S corporation a penalty for each month (or
32 fraction thereof) during which such failure continues (but not to exceed
33 five months). The amount of such penalty for any month is the product of
34 fifty dollars, multiplied by the number of partners in the partnership
35 or shareholders in the S corporation during any part of the taxable year
36 who were subject to tax under this article during any part of such taxa-
37 ble year, EXCEPT THAT, IN THE CASE OF A TRUST, THE PENALTY SHALL BE
38 EQUAL TO ONE HUNDRED FIFTY DOLLARS A MONTH UP TO A MAXIMUM OF FIFTEEN
39 HUNDRED DOLLARS PER TAXABLE YEAR.

40 S 6. Subdivision (b) of section 11-1712 of the administrative code of
41 the city of New York is amended by adding a new paragraph 36 to read as
42 follows:

43 (36) IN THE CASE OF A BENEFICIARY OF A TRUST THAT, IN ANY TAX YEAR
44 AFTER ITS CREATION INCLUDING ITS FIRST TAX YEAR, WAS NOT SUBJECT TO TAX
45 PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH THREE OF SUBSECTION (B) OF
46 SECTION 11-1705 OF THIS CHAPTER (EXCEPT FOR AN INCOMPLETE GIFT NON-GRAN-
47 TOR TRUST, AS DEFINED BY PARAGRAPH THIRTY-SEVEN OF THIS SUBDIVISION),
48 THE AMOUNT DESCRIBED IN THE FIRST SENTENCE OF SECTION SIX HUNDRED
49 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE FOR THE TAX YEAR TO THE EXTENT
50 NOT ALREADY INCLUDED IN FEDERAL GROSS INCOME FOR THE TAX YEAR, EXCEPT
51 THAT, IN COMPUTING THE AMOUNT TO BE ADDED UNDER THIS PARAGRAPH, SUCH
52 BENEFICIARY SHALL DISREGARD (I) SUBSECTION (C) OF SECTION SIX HUNDRED
53 SIXTY-FIVE OF THE INTERNAL REVENUE CODE; (II) THE INCOME EARNED BY SUCH
54 TRUST IN ANY TAX YEAR IN WHICH THE TRUST WAS SUBJECT TO TAX UNDER THIS
55 ARTICLE; AND (III) THE INCOME EARNED BY SUCH TRUST IN A TAXABLE YEAR
56 PRIOR TO WHEN THE BENEFICIARY FIRST BECAME A RESIDENT OF THE CITY OR IN

1 ANY TAXABLE YEAR STARTING BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN.
2 EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, ALL OF THE PROVISIONS OF
3 THE INTERNAL REVENUE CODE THAT ARE RELEVANT TO COMPUTING THE AMOUNT
4 DESCRIBED IN THE FIRST SENTENCE OF SUBSECTION (A) OF SECTION SIX HUNDRED
5 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE SHALL APPLY TO THE PROVISIONS
6 OF THIS PARAGRAPH WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF
7 THOSE INTERNAL REVENUE CODE PROVISIONS HAD BEEN INCORPORATED IN FULL
8 INTO THIS PARAGRAPH, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS
9 EITHER INCONSISTENT WITH OR NOT RELEVANT TO THIS PARAGRAPH.

10 S 7. Subdivision (b) of section 11-1712 of the administrative code of
11 the city of New York is amended by adding a new paragraph 37 to read as
12 follows:

13 (37) IN THE CASE OF A TAXPAYER WHO TRANSFERRED PROPERTY TO AN INCOM-
14 PLETE GIFT NON-GRANTOR TRUST, THE INCOME OF THE TRUST, LESS ANY
15 DEDUCTIONS OF SUCH TRUST, TO THE EXTENT SUCH INCOME AND DEDUCTIONS OF
16 SUCH TRUST WOULD BE TAKEN INTO ACCOUNT IN COMPUTING THE TAXPAYER'S
17 FEDERAL TAXABLE INCOME IF SUCH TRUST IN ITS ENTIRETY WERE TREATED AS A
18 GRANTOR TRUST FOR FEDERAL TAX PURPOSES. FOR PURPOSES OF THIS PARAGRAPH,
19 AN "INCOMPLETE GIFT NON-GRANTOR TRUST" MEANS A RESIDENT TRUST THAT MEETS
20 THE FOLLOWING CONDITIONS: (1) THE TRUST DOES NOT QUALIFY AS A GRANTOR
21 TRUST UNDER SECTION SIX HUNDRED SEVENTY-ONE THROUGH SIX HUNDRED SEVEN-
22 TY-NINE OF THE INTERNAL REVENUE CODE, AND (2) THE GRANTOR'S TRANSFER OF
23 ASSETS TO THE TRUST IS TREATED AS AN INCOMPLETE GIFT UNDER SECTION TWEN-
24 TY FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE, AND THE REGULATIONS
25 THEREUNDER.

26 S 8. Section 11-1721 of the administrative code of the city of New
27 York, subdivisions (a) and (b) as amended by section 72 and such section
28 as renumbered by section 43 of chapter 639 of the laws of 1986, is
29 amended to read as follows:

30 S 11-1721 [Credit] CREDITS to trust beneficiary receiving accumulation
31 distribution. (a) General. A city resident beneficiary of a trust whose
32 city adjusted gross income includes all or part of an accumulation
33 distribution by such trust, as defined in section six hundred sixty-five
34 of the internal revenue code, INCLUDING A BENEFICIARY WHO IS REQUIRED TO
35 MAKE THE MODIFICATION REQUIRED BY PARAGRAPH THIRTY-SIX OF SUBDIVISION
36 (B) OF SECTION 11-1712 OF THIS SUBCHAPTER, shall be allowed (1) a credit
37 against the tax otherwise due under this chapter for all or a propor-
38 tionate part of any tax paid by the trust under this chapter or under
39 FORMER title T of chapter forty-six of this code, as it was in effect
40 prior to September first, nineteen hundred eighty-six, for any preceding
41 taxable year which would not have been payable if the trust had in fact
42 made distributions to its beneficiaries at the times and in the amounts
43 specified in section six hundred sixty-six of the internal revenue code;
44 AND (2) A CREDIT AGAINST THE TAXES IMPOSED BY THIS CHAPTER FOR THE TAXA-
45 BLE YEAR FOR ANY INCOME TAX IMPOSED FOR THE TAXABLE YEAR OR ANY PRIOR
46 TAXABLE YEAR BY ANOTHER STATE OF THE UNITED STATES, A POLITICAL SUBDIVI-
47 SION THEREOF, OR THE DISTRICT OF COLUMBIA, UPON INCOME BOTH DERIVED
48 THEREFROM AND SUBJECT TO TAX UNDER THIS CHAPTER, PROVIDED THAT THE
49 AMOUNT OF THE CREDIT SHALL NOT EXCEED THE PERCENTAGE OF THE TAX OTHER-
50 WISE DUE UNDER THIS CHAPTER DETERMINED BY DIVIDING THE PORTION OF THE
51 INCOME THAT IS BOTH TAXABLE TO THE TRUST IN SUCH OTHER JURISDICTION AND
52 TAXABLE TO THE BENEFICIARY UNDER THIS CHAPTER BY THE TOTAL AMOUNT OF THE
53 BENEFICIARY'S NEW YORK CITY INCOME.

54 (b) Limitation. The [credit] CREDITS under this section shall not
55 reduce the tax otherwise due from the beneficiary under this chapter to
56 an amount less than would have been due if the accumulation distribution

1 or his or her part thereof were excluded from his or her city adjusted
2 gross income.

3 S 9. This act shall take effect immediately and shall apply to taxable
4 years beginning on or after January 1, 2014, provided that sections one
5 and six of this act shall not apply to income of a nonresident trust or
6 an exempt resident trust paid to a beneficiary before June 1, 2014, and
7 sections two and seven of this act shall not apply to income from a
8 trust that is liquidated before June 1, 2014.

9

PART J

10 Section 1. Section 602 of the tax law is REPEALED.

11 S 2. Paragraph 4 of subsection (c) and paragraph 4 of subsection (d)
12 of section 606 of the tax law, paragraph 4 of subsection (c) as added by
13 chapter 309 of the laws of 1996 and paragraph 4 of subsection (d) as
14 amended by chapter 2 of the laws of 1995, are amended to read as
15 follows:

16 (4) Part-year residents. In the case of a part-year resident taxpayer,
17 the credit under this subsection shall be allowed against the tax deter-
18 mined under subsections (a) through (d) of section six hundred one
19 reduced by the credit permitted under subsection (b) of this section,
20 and any excess credit after such application shall be allowed against
21 the [taxes] TAX imposed by [sections six hundred two and] SECTION six
22 hundred three. Any remaining excess, after such application, shall be
23 refunded as provided in paragraph two hereof, provided, however, that
24 any overpayment under such paragraph shall be limited to the amount of
25 the remaining excess multiplied by a fraction, the numerator of which is
26 federal adjusted gross income for the period of residence, computed as
27 if the taxable year for federal income tax purposes were limited to the
28 period of residence, and the denominator of which is federal adjusted
29 gross income for the taxable year.

30 (4) Part-year residents. In the case of a part-year resident taxpayer,
31 the credit under this subsection shall be allowed against the tax deter-
32 mined under subsections (a) through (d) of section six hundred one
33 reduced by the credits permitted under subsections (b), (c) and (m) of
34 this section, and any excess credit after such application shall be
35 allowed against the [taxes] TAX imposed by [sections six hundred two
36 and] SECTION six hundred three. Any remaining excess, after such appli-
37 cation, shall be refunded as provided in paragraph two hereof, provided,
38 however, that any overpayment under such paragraph shall be limited to
39 the amount of the remaining excess multiplied by a fraction, the numera-
40 tor of which is federal adjusted gross income for the period of resi-
41 dence, computed as if the taxable year for federal income tax purposes
42 were limited to the period of residence, and the denominator of which is
43 federal adjusted gross income for the taxable year.

44 S 3. Section 622 of the tax law is REPEALED.

45 S 4. Section 636 of the tax law is REPEALED.

46 S 5. Subsections (a), (b) and (c) of section 639 of the tax law, as
47 added by chapter 170 of the laws of 1994, are amended to read as
48 follows:

49 (a) If an individual changes status from resident to nonresident he
50 shall, regardless of his method of accounting, accrue to the period of
51 residence any items of income, gain, loss, deduction, [items of tax
52 preference] or ordinary income portion of a lump sum distribution accru-
53 ing prior to the change of status, with the applicable modifications and
54 adjustments to federal adjusted gross income[,] AND itemized deductions

1 [and items of tax preference] under sections six hundred twelve[,] AND
2 six hundred fifteen [and six hundred twenty-two], if not otherwise prop-
3 erly includible or allowable for New York income tax purposes for such
4 period or a prior taxable year under his method of accounting.

5 (b) If an individual changes status from nonresident to resident he
6 shall, regardless of his method of accounting, accrue to the period of
7 nonresidence any items of income, gain, loss or deduction, [items of tax
8 preference] or ordinary income portion of a lump sum distribution accru-
9 ing prior to the change of status, with the applicable modifications and
10 adjustments to federal adjusted gross income[,] AND itemized deductions
11 [and items of tax preference] under sections six hundred twelve[,] AND
12 six hundred fifteen [and six hundred twenty-two], other than items
13 derived from or connected with New York sources, if not otherwise prop-
14 erly includible or allowable for New York income tax purposes for such
15 period or for a prior taxable year under his method of accounting.

16 (c) No item of income, gain, loss, deduction, [item of tax prefer-
17 ence,] ordinary income portion of a lump sum distribution or modifica-
18 tion or adjustment which is accrued under this section shall be taken
19 into account in determining the tax under this article for any subse-
20 quent taxable year.

21 S 6. Paragraphs 1, 2, 3 and 4 of subsection (a) of section 651 of the
22 tax law, paragraph 1 as amended by chapter 333 of the laws of 1987,
23 paragraph 2 as amended by chapter 28 of the laws of 1987, and paragraphs
24 3 and 4 as amended by chapter 170 of the laws of 1994, are amended to
25 read as follows:

26 (1) every resident individual (A) required to file a federal income
27 tax return for the taxable year, or (B) having federal adjusted gross
28 income for the taxable year, increased by the modifications under
29 subsection (b) of section six hundred twelve, in excess of four thousand
30 dollars, or in excess of his New York standard deduction, if lower, or
31 (C) [subject to tax under section six hundred two, or (D)] having
32 received during the taxable year a lump sum distribution any portion of
33 which is subject to tax under section six hundred three;

34 (2) every resident estate or trust required to file a federal income
35 tax return for the taxable year, or having any New York taxable income
36 for the taxable year, determined under section six hundred eighteen, [or
37 subject to tax under section six hundred two,] or having received during
38 the taxable year a lump sum distribution any portion of which is subject
39 to tax under section six hundred three;

40 (3) every nonresident or part-year resident individual having New York
41 source income for the taxable year, determined under part III of this
42 article, and having New York adjusted gross income for the taxable year,
43 determined under part II of this article, in excess of the taxpayer's
44 New York standard deduction, [or subject to tax under section six
45 hundred two,] or having received during the taxable year a lump sum
46 distribution any portion of which is subject to tax under section six
47 hundred three; and

48 (4) every nonresident estate or trust or part-year resident trust
49 having New York source income for the taxable year, determined under
50 part III of this article, and having New York adjusted gross income for
51 the taxable year, determined under paragraph four of subsection (e) of
52 section six hundred one, [or subject to tax under section six hundred
53 two,] or having received during the taxable year a lump sum distribution
54 any portion of which is subject to tax under section six hundred three.

1 S 7. Paragraph 6 of subsection (b) of section 654 of the tax law, as
2 added by section 5 of part Q of chapter 407 of the laws of 1999, is
3 amended to read as follows:

4 (6) In subparagraph (B) of paragraph two of subsection (d), the phrase
5 "section 1 or 55" shall be read as "section six hundred one [or six
6 hundred two] of this article".

7 S 8. Section 659 of the tax law, as amended by chapter 577 of the laws
8 of 1997, is amended to read as follows:

9 S 659. Report of federal changes, corrections or disallowances. If
10 the amount of a taxpayer's federal taxable income, [federal items of tax
11 preference,] total taxable amount or ordinary income portion of a lump
12 sum distribution or includible gain of a trust reported on his federal
13 income tax return for any taxable year, or the amount of a taxpayer's
14 earned income credit or credit for employment-related expenses set forth
15 on such return, or the amount of any federal foreign tax credit affect-
16 ing the calculation of the credit for Canadian provincial taxes under
17 section six hundred twenty or six hundred twenty-A of this article, or
18 the amount of any claim of right adjustment, is changed or corrected by
19 the United States internal revenue service or other competent authority
20 or as the result of a renegotiation of a contract or subcontract with
21 the United States, or the amount an employer is required to deduct and
22 withhold from wages for federal income tax withholding purposes is
23 changed or corrected by such service or authority or if a taxpayer's
24 claim for credit or refund of federal income tax is disallowed in whole
25 or in part, the taxpayer or employer shall report such change or
26 correction or disallowance within ninety days after the final determi-
27 nation of such change, correction, renegotiation or disallowance, or as
28 otherwise required by the commissioner, and shall concede the accuracy
29 of such determination or state wherein it is erroneous. The allowance
30 of a tentative carryback adjustment based upon a net operating loss
31 carryback pursuant to section sixty-four hundred eleven of the internal
32 revenue code shall be treated as a final determination for purposes of
33 this section. Any taxpayer filing an amended federal income tax return
34 and any employer filing an amended federal return of income tax withheld
35 shall also file within ninety days thereafter an amended return under
36 this article, and shall give such information as the commissioner may
37 require. The commissioner may by regulation prescribe such exceptions
38 to the requirements of this section as he or she deems appropriate. For
39 purposes of this section, (i) the term "taxpayer" shall include a part-
40 nership having a resident partner or having any income derived from New
41 York sources, and a corporation with respect to which the taxable year
42 of such change, correction, disallowance or amendment is a year with
43 respect to which the election provided for in subsection (a) of section
44 six hundred sixty of this article is in effect, and (ii) the term
45 "federal income tax return" shall include the returns of income required
46 under sections six thousand thirty-one and six thousand thirty-seven of
47 the internal revenue code. In the case of such a corporation, such
48 report shall also include any change or correction of the taxes
49 described in paragraphs two and three of subsection (f) of section thir-
50 teen hundred sixty-six of the internal revenue code. Reports made under
51 this section by a partnership or corporation shall indicate the portion
52 of the change in each item of income, gain, loss or deduction (and, in
53 the case of a corporation, of each change in, or disallowance of a claim
54 for credit or refund of, a tax referred to in the preceding sentence)
55 allocable to each partner or shareholder and shall set forth such iden-

1 tifying information with respect to such partner or shareholder as may
2 be prescribed by the commissioner.

3 S 9. Subsection (d) of section 683 of the tax law, as amended by chap-
4 ter 170 of the laws of 1994, is amended to read as follows:

5 (d) Omission of income, [item of tax preference,] total taxable amount
6 or ordinary income portion of a lump sum distribution on return.--The
7 tax may be assessed at any time within six years after the return was
8 filed if--

9 (1) an individual omits from his New York adjusted gross income, [the
10 sum of his items of tax preference,] or the total taxable amount or
11 ordinary income portion of a lump sum distribution an amount properly
12 includible therein which is in excess of twenty-five percent of the
13 amount of New York adjusted gross income, [the sum of the items of tax
14 preference,] or the total taxable amount or ordinary income portion of a
15 lump sum distribution stated in the return, or

16 (2) an estate or trust omits from its New York adjusted gross income,
17 [the sum of its items of tax preference,] or the total taxable amount or
18 ordinary income portion of a lump sum distribution an amount properly
19 includible therein which is in excess of twenty-five percent of the
20 amount stated in the return of New York adjusted gross income determined
21 in accordance with paragraph four of subsection (e) of section six
22 hundred one, [or the sum of the items of tax preference,] or the total
23 taxable amount or ordinary income portion of a lump sum distribution,
24 respectively. For purposes of this subsection there shall not be taken
25 into account any amount which is omitted in the return if such amount is
26 disclosed in the return, or in a statement attached to the return, in a
27 manner adequate to apprise the commissioner of the nature and amount of
28 the item of income, [tax preference,] total taxable amount or ordinary
29 income portion of a lump sum distribution.

30 S 10. Subparagraph (B) of paragraph 4 of subsection (c) of section 685
31 of the tax law, as amended by chapter 28 of the laws of 1987, is amended
32 to read as follows:

33 (B) Determination of annualized income installment.--In the case of
34 any required installment, the annualized income installment is the
35 excess, if any, of an amount equal to the applicable percentage of the
36 tax for the taxable year computed by placing on an annualized basis the
37 taxable income [and minimum taxable income] for months in the taxable
38 year ending before the due date for the installment, over the aggregate
39 amount of any prior required installments for the taxable year. The
40 applicable percentage of the tax shall be twenty-two and one-half
41 percent in the case of the first installment, forty-five percent in the
42 case of the second installment, sixty-seven and one-half percent in the
43 case of the third installment and ninety percent in the case of the
44 fourth installment, and shall be computed without regard to any increase
45 in the rates applicable to the taxable year unless such increase was
46 enacted at least thirty days prior to the due date of the installment.

47 S 11. Paragraphs 2 and 3 of subsection (a) of section 1301 of the tax
48 law, as amended by chapter 209 of the laws of 2011, are amended to read
49 as follows:

50 (2) [for taxable years beginning before two thousand fifteen, a city
51 minimum income tax on such residents, and

52 (3)] for taxable years beginning after nineteen hundred seventy-six, a
53 separate tax on the ordinary income portion of lump sum distributions of
54 such residents, at the rates provided for herein, such taxes to be
55 administered, collected and distributed by the commissioner as provided
56 for in this article.

1 S 12. Section 1301-A of the tax law is REPEALED.

2 S 13. Subsection (a) of section 1302 of the tax law, as amended by
3 chapter 333 of the laws of 1987, is amended to read as follows:

4 (a) Imposition of tax. The city personal income tax (other than the
5 [city minimum income tax and the] city separate tax on the ordinary
6 income portion of lump sum distributions) imposed pursuant to the
7 authority of this article shall be imposed for each taxable year on the
8 city taxable income of every city resident individual, estate and trust.
9 A taxpayer's taxable year for purposes of a tax imposed pursuant to the
10 authority of this article shall be the same as his taxable year under
11 article twenty-two of this chapter.

12 S 14. The opening paragraph of subsection (a) of section 1304 of the
13 tax law, as amended by section 134 of part A of chapter 389 of the laws
14 of 1997, is amended to read as follows:

15 A tax (other than the [city minimum income tax, the] city separate tax
16 relating to qualified higher education funds and the city separate tax
17 on the ordinary income portion of lump sum distributions) imposed pursu-
18 ant to the authority of section thirteen hundred one of this article
19 shall be determined as follows:

20 S 15. Subsection (c) of section 1307 of the tax law, as amended by
21 chapter 712 of the laws of 2004, is amended to read as follows:

22 (c) When an individual changes his status from city resident to city
23 nonresident, or from city nonresident to city resident, he shall,
24 regardless of his method of accounting, accrue any items of income,
25 gain, loss, deduction[, items of tax preference] or ordinary income
26 portion of a lump sum distribution accruing prior to the change of
27 status, with the applicable modifications and adjustments to federal
28 adjusted gross income[, AND itemized deductions [and items of tax pref-
29 erence] under sections six hundred twelve[, AND six hundred fifteen
30 [and six hundred twenty-two], if not otherwise properly includible or
31 allowable for New York income tax purposes for such period or a prior
32 taxable year under his method of accounting. Such accruals shall be made
33 as provided in section six hundred thirty-nine of this chapter.

34 S 16. Subsection (a) of section 1306 of the tax law, as amended by
35 chapter 333 of the laws of 1987, is amended to read as follows:

36 (a) General. On or before the fifteenth day of the fourth month
37 following the close of a taxable year, an income tax return under a city
38 tax imposed pursuant to the authority of this article shall be made and
39 filed by or for every city resident individual, estate or trust required
40 to file a New York state personal income tax (including [a minimum
41 income tax and] a city separate tax on the ordinary income portion of
42 lump sum distributions) return for the taxable year.

43 S 17. Section 11-1702 of the administrative code of the city of New
44 York is REPEALED.

45 S 18. Subdivision (a) of section 11-1704 of the administrative code of
46 the city of New York, as amended by chapter 17 of the laws of 1997, is
47 amended to read as follows:

48 (a) In addition to the taxes imposed by sections 11-1701[, 11-1702]
49 and 11-1703, there is hereby imposed for each taxable year beginning
50 after nineteen hundred eighty-nine but before nineteen hundred ninety-
51 nine, a tax surcharge on the city taxable income of every city resident
52 individual, estate and trust.

53 S 19. Subdivision (c) of section 11-1704 of the administrative code of
54 the city of New York, as amended by chapter 271 of the laws of 1991, is
55 amended to read as follows:

1 (c) The tax surcharge imposed pursuant to this section shall be admin-
2 istered, collected and distributed by the commissioner of taxation and
3 finance in the same manner as the taxes imposed pursuant to sections
4 11-1701[, 11-1702] and 11-1703, and all of the provisions of this chap-
5 ter, including sections 11-1706, 11-1721 and 11-1773, shall apply to the
6 tax surcharge imposed by this section.

7 S 20. Section 11-1722 of the administrative code of the city of New
8 York is REPEALED.

9 S 21. Subdivision (a) of section 11-1751 of the administrative code of
10 the city of New York, as amended by chapter 333 of the laws of 1987, is
11 amended to read as follows:

12 (a) General. On or before the fifteenth day of the fourth month
13 following the close of a taxable year, an income tax return under this
14 chapter shall be made and filed by or for every city resident individ-
15 ual, estate or trust required to file a New York state personal income
16 tax (including a [minimum income tax and] separate tax on the ordinary
17 income portion of lump sum distributions) return for the taxable year.

18 S 22. Subdivision (b) of section 11-1754 of the administrative code of
19 the city of New York, as amended by chapter 712 of the laws of 2004, is
20 amended to read as follows:

21 (b) City taxable income [and city minimum taxable income] as city
22 resident. The city taxable income [and city minimum taxable income] for
23 the portion of the year during which he or she is a city resident shall
24 be determined, except as provided in subdivision (c), as if his or her
25 taxable year for federal income tax purposes were limited to the period
26 of his or her city resident status.

27 S 23. Paragraph 6 of subdivision (b) of section 11-1755 of the admin-
28 istrative code of the city of New York, as added by section 17 of part Q
29 of chapter 407 of the laws of 1999, is amended to read as follows:

30 (6) In subparagraph (B) of paragraph two of subsection (d), the phrase
31 "section 1 or 55" shall be read as "section 11-1701 [or 11-1702] of this
32 chapter".

33 S 24. Section 11-1759 of the administrative code of the city of New
34 York, as amended by chapter 577 of the laws of 1997, is amended to read
35 as follows:

36 S 11-1759 Report of federal changes, corrections or disallowances. If
37 the amount of a taxpayer's federal taxable income, [federal items of tax
38 preference,] total taxable amount or ordinary income portion of a lump
39 sum distribution or includible gain of a trust reported on his federal
40 income tax return for any taxable year, or the amount of any claim of
41 right adjustment, is changed or corrected by the United States internal
42 revenue service or other competent authority, or as the result of a
43 renegotiation of a contract or subcontract with the United States or the
44 amount an employer is required to deduct and withhold from wages for
45 federal income tax withholding purposes is changed or corrected by such
46 service or authority or if a taxpayer's claim for credit or refund of
47 federal income tax is disallowed in whole or in part, the taxpayer or
48 employer shall report such change or correction or disallowance within
49 ninety days after the final determination of such change, correction,
50 renegotiation, or disallowance, or as otherwise required by the commis-
51 sioner, and shall concede the accuracy of such determination or state
52 wherein it is erroneous. The allowance of a tentative carryback adjust-
53 ment based upon a net operating loss carryback pursuant to section
54 sixty-four hundred eleven of the internal revenue code shall be treated
55 as a final determination for purposes of this section. Any taxpayer
56 filing an amended federal income tax return and any employer filing an

1 amended federal return of income tax withheld shall also file within
2 ninety days thereafter an amended return under this chapter, and shall
3 give such information as the commissioner may require. The commissioner
4 may by regulation prescribe such exceptions to the requirements of this
5 section as he or she deems appropriate. For purposes of this section,
6 (i) the term "taxpayer" shall include a partnership having a resident
7 partner or having any income derived from New York sources, and a corpo-
8 ration with respect to which the taxable year of such change,
9 correction, disallowance or amendment is a year with respect to which
10 the election provided for in subsection (a) of section six hundred sixty
11 of the tax law is in effect, and (ii) the term "federal income tax
12 return" shall include the returns of income required under sections six
13 thousand thirty-one and six thousand thirty-seven of the internal reven-
14 ue code. In the case of such a corporation, such report shall also
15 include any change or correction of the taxes described in paragraphs
16 two and three of subsection (f) of section thirteen hundred sixty-six of
17 the internal revenue code. Reports made under this section by a partner-
18 ship or corporation shall indicate the portion of the change in each
19 item of income, gain, loss or deduction (and, in the case of a corpo-
20 ration, of each change in, or disallowance of a claim for credit or
21 refund of, a tax referred to in the preceding sentence) allocable to
22 each partner or shareholder and shall set forth such identifying infor-
23 mation with respect to such partner or shareholder as may be prescribed
24 by the commissioner.

25 S 25. Subdivision (d) of section 11-1783 of the administrative code of
26 the city of New York, as amended by chapter 170 of the laws of 1994, is
27 amended to read as follows:

28 (d) Omission of income, [item of tax preference,] total taxable amount
29 or ordinary income portion of a lump sum distribution on return. The tax
30 may be assessed at any time within six years after the return was filed
31 if:

32 (1) an individual omits from his city adjusted gross income[, the sum
33 of his items of tax preference, or] the total taxable amount or ordinary
34 income portion of a lump sum distribution an amount properly includible
35 therein which is in excess of twenty-five percent of the amount of city
36 adjusted gross income[, the sum of the items of tax preference] or the
37 total taxable amount or ordinary income portion of a lump sum distrib-
38 ution stated in the return, or

39 (2) an estate or trust omits from its city adjusted gross income, [the
40 sum of its items of tax preference,] or the total taxable amount or
41 ordinary income portion of a lump sum distribution an amount properly
42 includible therein which is in excess of twenty-five percent of the
43 amount stated in the return of city adjusted gross income, [or the sum
44 of the items of tax preference,] or the total taxable amount or ordinary
45 income portion of a lump sum distribution, respectively. For purposes of
46 this paragraph, city adjusted gross income means New York adjusted gross
47 income as determined under paragraph four of subsection (e) of section
48 six hundred one of the tax law.

49 For purposes of this subdivision there shall not be taken into account
50 any amount which is omitted in the return if such amount is disclosed in
51 the return, or in a statement attached to the return, in a manner
52 adequate to apprise the commissioner of the nature and amount of the
53 item of income, [tax preference,] the total taxable amount or ordinary
54 income portion of a lump sum distribution.

1 S 26. Subparagraph (B) of paragraph 4 of subdivision (c) of section
2 11-1785 of the administrative code of the city of New York, as amended
3 by chapter 333 of the laws of 1987, is amended to read as follows:

4 (B) Determination of annualized income installment. In the case of any
5 required installment, the annualized income installment is the excess,
6 if any, of an amount equal to the applicable percentage of the tax for
7 the taxable year computed by placing on an annualized basis the taxable
8 income [and minimum taxable income] for months in the taxable year
9 ending before the due date for the installment, over the aggregate
10 amount of any prior required installments for the taxable year. The
11 applicable percentage of the tax shall be twenty-two and one-half
12 percent in the case of the first installment, forty-five percent in the
13 case of the second installment, sixty-seven and one-half percent in the
14 case of the third installment and ninety percent in the case of the
15 fourth installment, and shall be computed without regard to any increase
16 in the rates applicable to the taxable year unless such increase was
17 enacted at least thirty days prior to the due date of the installment.

18 S 27. This act shall take effect immediately and apply to taxable
19 years beginning on or after January 1, 2014.

20 PART K

21 Section 1. Subsection (e-1) of section 606 of the tax law is relet-
22 tered subsection (e-2).

23 S 2. Section 606 of the tax law is amended by adding a new subsection
24 (e-1) to read as follows:

25 (E-1) ENHANCED REAL PROPERTY TAX CIRCUIT BREAKER CREDIT. (1) FOR
26 PURPOSES OF THIS SUBSECTION:

27 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE, WHO
28 (I) IS A RESIDENT OF A CITY WITH A POPULATION OVER ONE MILLION, (II) HAS
29 OCCUPIED THE SAME RESIDENCE FOR SIX MONTHS OR MORE OF THE TAXABLE YEAR,
30 AND (III) IS REQUIRED OR CHOOSES TO FILE A RETURN UNDER THIS ARTICLE.

31 (B) "HOUSEHOLD" OR "MEMBERS OF THE HOUSEHOLD" MEANS A QUALIFIED
32 TAXPAYER AND ALL OTHER PERSONS, NOT NECESSARILY RELATED, WHO HAVE THE
33 SAME RESIDENCE AND SHARE ITS FURNISHINGS, FACILITIES AND ACCOMMODATIONS.
34 SUCH TERMS SHALL NOT INCLUDE A TENANT, SUBTENANT, ROOMER OR BOARDER WHO
35 IS NOT RELATED TO THE QUALIFIED TAXPAYER IN ANY DEGREE SPECIFIED IN
36 PARAGRAPHS ONE THROUGH EIGHT OF SUBSECTION (A) OF SECTION ONE HUNDRED
37 FIFTY-TWO OF THE INTERNAL REVENUE CODE. PROVIDED, HOWEVER, NO PERSON
38 MAY BE A MEMBER OF MORE THAN ONE HOUSEHOLD AT ONE TIME.

39 (C) "HOUSEHOLD GROSS INCOME" MEANS THE AGGREGATE ADJUSTED GROSS INCOME
40 OF ALL MEMBERS OF THE HOUSEHOLD FOR THE TAXABLE YEAR AS REPORTED FOR
41 FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
42 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
43 WITH THE MODIFICATIONS IN SUBSECTION (B) OF SECTION SIX HUNDRED TWELVE
44 OF THIS ARTICLE BUT WITHOUT THE MODIFICATIONS IN SUBSECTION (C) OF SUCH
45 SECTION, PLUS ANY PORTION OF THE GAIN FROM THE SALE OR EXCHANGE OF PROP-
46 erty OTHERWISE EXCLUDED FROM SUCH AMOUNT; EARNED INCOME FROM SOURCES
47 WITHOUT THE UNITED STATES EXCLUDABLE FROM FEDERAL GROSS INCOME BY
48 SECTION NINE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE; SUPPORT MONEY
49 NOT INCLUDED IN ADJUSTED GROSS INCOME; NONTAXABLE STRIKE BENEFITS;
50 SUPPLEMENTAL SECURITY INCOME PAYMENTS; THE GROSS AMOUNT OF ANY PENSION
51 OR ANNUITY BENEFITS TO THE EXTENT NOT INCLUDED IN SUCH ADJUSTED GROSS
52 INCOME (INCLUDING, BUT NOT LIMITED TO, RAILROAD RETIREMENT BENEFITS AND
53 ALL PAYMENTS RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT AND VETER-
54 ANS' DISABILITY PENSIONS); NONTAXABLE INTEREST RECEIVED FROM THE STATE

1 OF NEW YORK, ITS AGENCIES, INSTRUMENTALITIES, PUBLIC CORPORATIONS, OR
2 POLITICAL SUBDIVISIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT
3 TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA); WORKERS' COMPEN-
4 SATION; THE GROSS AMOUNT OF "LOSS-OF-TIME" INSURANCE; AND THE AMOUNT OF
5 CASH PUBLIC ASSISTANCE AND RELIEF, OTHER THAN MEDICAL ASSISTANCE FOR THE
6 NEEDY, PAID TO OR FOR THE BENEFIT OF THE QUALIFIED TAXPAYER OR MEMBERS
7 OF HIS OR HER HOUSEHOLD. HOUSEHOLD GROSS INCOME SHALL NOT INCLUDE
8 SURPLUS FOODS OR OTHER RELIEF IN KIND OR PAYMENTS MADE TO INDIVIDUALS
9 BECAUSE OF THEIR STATUS AS VICTIMS OF NAZI PERSECUTION AS DEFINED IN
10 P.L. 103-286. PROVIDED, FURTHER, HOUSEHOLD GROSS INCOME SHALL ONLY
11 INCLUDE ALL SUCH INCOME RECEIVED BY ALL MEMBERS OF THE HOUSEHOLD WHILE
12 MEMBERS OF SUCH HOUSEHOLD. IN COMPUTING HOUSEHOLD GROSS INCOME, THE NET
13 AMOUNT OF LOSS REPORTED ON FEDERAL SCHEDULE C, D, E, OR F SHALL NOT
14 EXCEED THREE THOUSAND DOLLARS PER SCHEDULE. IN ADDITION, THE NET AMOUNT
15 OF ANY OTHER SEPARATE CATEGORY OF LOSS SHALL NOT EXCEED THREE THOUSAND
16 DOLLARS. THE AGGREGATE AMOUNT OF ALL LOSSES INCLUDED IN COMPUTING HOUSE-
17 HOLD GROSS INCOME SHALL NOT EXCEED FIFTEEN THOUSAND DOLLARS.

18 (D) "RESIDENCE" MEANS A DWELLING IN THIS STATE OWNED OR RENTED BY THE
19 TAXPAYER, AND SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE,
20 AS IS REASONABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY
21 CONSIST OF A PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUD-
22 ING A COOPERATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE
23 DWELLING. RESIDENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY
24 FOR RESIDENTIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARA-
25 GRAPH (G) OF SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL
26 PROPERTY TAX LAW.

27 (E) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES,
28 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-
29 TIES AND INTEREST, LEVIED ON THE RESIDENCE OF A QUALIFIED TAXPAYER AND
30 PAID DURING THE TAXABLE YEAR. A QUALIFIED TAXPAYER MAY ELECT TO INCLUDE
31 ANY ADDITIONAL AMOUNT THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN
32 EXEMPTION FROM REAL PROPERTY TAXATION PURSUANT TO SECTION FOUR HUNDRED
33 SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW. IF TENANT-STOCKHOLDERS IN A
34 COOPERATIVE HOUSING CORPORATION HAVE MET THE REQUIREMENTS OF SECTION TWO
35 HUNDRED SIXTEEN OF THE INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A
36 DEDUCTION FOR REAL ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR
37 WHICH WOULD BE ALLOWABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH
38 BASIS, SHALL BE QUALIFYING REAL PROPERTY TAXES. IF A RESIDENCE IS OWNED
39 BY TWO OR MORE INDIVIDUALS AS JOINT TENANTS OR TENANTS IN COMMON, AND
40 ONE OR MORE THAN ONE INDIVIDUAL IS NOT A MEMBER OF THE HOUSEHOLD, QUALI-
41 FYING REAL PROPERTY TAXES IS THAT PART OF SUCH TAXES ON THE RESIDENCE
42 WHICH REFLECTS THE OWNERSHIP PERCENTAGE OF THE QUALIFIED TAXPAYER AND
43 MEMBERS OF HIS OR HER HOUSEHOLD. IF A RESIDENCE IS AN INTEGRAL PART OF A
44 LARGER UNIT, QUALIFYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT
45 AMOUNT OF SUCH TAXES PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESI-
46 DENCE. IF A HOUSEHOLD OWNS AND OCCUPIES TWO OR MORE RESIDENCES DURING
47 DIFFERENT PERIODS IN THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY
48 TAXES SHALL BE THE SUM OF THE PRORATED QUALIFYING REAL PROPERTY TAXES
49 ATTRIBUTABLE TO THE HOUSEHOLD DURING THE PERIODS SUCH HOUSEHOLD OCCUPIES
50 EACH OF SUCH RESIDENCES. IF THE HOUSEHOLD OWNS AND OCCUPIES A RESIDENCE
51 FOR PART OF THE TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME
52 TAXABLE YEAR, IT MAY INCLUDE THE PRORATION OF QUALIFYING REAL PROPERTY
53 TAXES ON THE RESIDENCE OWNED. PROVIDED, HOWEVER, FOR PURPOSES OF THE
54 CREDIT ALLOWED UNDER THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY
55 BE INCLUDED BY A QUALIFIED TAXPAYER ONLY TO THE EXTENT THAT SUCH TAXPAY-
56 ER OR THE SPOUSE OF SUCH TAXPAYER, OCCUPYING SUCH RESIDENCE FOR ONE

1 HUNDRED EIGHTY-THREE DAYS OR MORE OF THE TAXABLE YEAR, OWNS OR HAS OWNED
2 THE RESIDENCE AND PAID SUCH TAXES.

3 (F) "REAL PROPERTY TAX EQUIVALENT" MEANS FIFTEEN AND THREE-QUARTERS
4 PERCENT OF THE ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A
5 HOUSEHOLD SOLELY FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE
6 FOR THE TAXABLE YEAR. IF (I) A RESIDENCE IS RENTED TO TWO OR MORE INDI-
7 VIDUALS AS COTENANTS, OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A
8 SINGLE RENT FOR THE RIGHT OF OCCUPANCY OF SUCH RESIDENCE, AND (II) EACH
9 OF SUCH INDIVIDUALS IS A MEMBER OF A DIFFERENT HOUSEHOLD, ONE OR MORE OF
10 WHICH INDIVIDUALS SHARES SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS
11 THAT PORTION OF FIFTEEN AND THREE-QUARTERS PERCENT OF THE ADJUSTED RENT
12 PAID IN THE TAXABLE YEAR WHICH REFLECTS THAT PORTION OF THE RENT ATTRIB-
13 UTABLE TO THE QUALIFIED TAXPAYER AND THE MEMBERS OF HIS OR HER HOUSE-
14 HOLD.

15 (G) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF A
16 RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND
17 BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS OR BOARD
18 ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THEREOF ARE
19 NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR PURPOSES OF
20 DETERMINING ADJUSTED RENT THE QUALIFIED TAXPAYER SHALL REDUCE RENTAL
21 PAID AS FOLLOWS:

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

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

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

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

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

33 (2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN
34 PARAGRAPH THREE OF THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS
35 ARTICLE REDUCED BY THE CREDITS PERMITTED BY THIS ARTICLE. IF THE CREDIT
36 EXCEEDS THE TAX AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE
37 EXCESS SHALL BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED,
38 WITHOUT INTEREST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A
39 RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A
40 QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CRED-
41 IT TO BE CREDITED OR REPAID AS AN OVERPAYMENT, WITHOUT INTEREST.

42 (3) DETERMINATION OF CREDIT. FOR TAXABLE YEARS AFTER TWO THOUSAND
43 THIRTEEN AND PRIOR TO TWO THOUSAND SIXTEEN, THE AMOUNT OF THE CREDIT
44 ALLOWABLE UNDER THIS SUBSECTION SHALL BE DETERMINED AS FOLLOWS:

45 IF HOUSEHOLD GROSS INCOME	EXCESS REAL PROPERTY	THE CREDIT AMOUNT IS
46 FOR THE TAXABLE YEAR IS:	TAXES ARE THE EXCESS	THE FOLLOWING
47	OF REAL PROPERTY TAX	PERCENTAGE OF EXCESS
48	EQUIVALENT OR THE	PROPERTY TAXES:
49	EXCESS OF QUALIFYING	
50	REAL PROPERTY TAXES	
51	OVER THE FOLLOWING	
52	PERCENTAGE OF	
53	HOUSEHOLD GROSS	
54	INCOME:	
55 LESS THAN \$100,000	4	4.5
56 \$100,000 TO LESS THAN	5	3.0

1 \$150,000
 2 \$150,000 TO LESS THAN
 3 \$200,000

6

1.5

4 NOTWITHSTANDING THE FOREGOING PROVISIONS, THE MAXIMUM CREDIT DETERMINED UNDER THIS SUBPARAGRAPH MAY NOT EXCEED FIVE HUNDRED DOLLARS.

6 (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, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESIDENCES AND SUCH PERIOD OR PERIODS.

13 (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.

17 (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.

23 (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.

30 (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.

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

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

40 (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.

45 (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.

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

50 (E) TO AN INDIVIDUAL WHO IS NOT A RESIDENT INDIVIDUAL OF A CITY, WITHIN THE STATE, WITH A POPULATION OVER ONE MILLION, FOR THE ENTIRE TAXABLE YEAR.

53 (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

1 RIGHT MAY BE EXERCISED ON BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUAR-
2 DIAN OR ATTORNEY IN FACT DURING HIS OR HER LIFETIME.

3 (9) RETURNS. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN
4 PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A
5 CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE
6 YEARS FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED
7 PURSUANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR
8 ENDING ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE
9 IN SUCH FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHICH SHALL
10 MAKE AVAILABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

11 (10) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER
12 TO FURNISH THE FOLLOWING INFORMATION IN SUPPORT OF HIS CLAIM FOR CREDIT
13 UNDER THIS SUBSECTION: HOUSEHOLD GROSS INCOME, REAL PROPERTY TAXES
14 LEVIED OR THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION
15 FROM REAL PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF
16 THE REAL PROPERTY TAX LAW, THE NAMES OF MEMBERS OF THE HOUSEHOLD AND
17 OTHER QUALIFYING TAXPAYERS OCCUPYING THE SAME RESIDENCE AND THEIR IDEN-
18 TIFYING NUMBERS INCLUDING SOCIAL SECURITY NUMBERS, HOUSEHOLD GROSS
19 INCOME, SIZE AND NATURE OF PROPERTY CLAIMED AS RESIDENCE AND ALL OTHER
20 INFORMATION WHICH MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE
21 CREDIT.

22 (11) ADMINISTRATION. THE PROVISIONS OF THIS ARTICLE, INCLUDING THE
23 PROVISIONS OF SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT,
24 AND SIX HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE PROVISIONS OF PART
25 SIX OF THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING
26 THE JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH
27 OF SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A
28 CLAIM FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN
29 PARAGRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED
30 FIFTY-SEVEN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS
31 ARTICLE, SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME
32 MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE
33 PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD
34 EXPRESSLY REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS
35 SUBSECTION, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER
36 INCONSISTENT WITH A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO
37 THIS SUBSECTION. AS USED IN SUCH SECTIONS AND SUCH PART, THE TERM
38 "TAXPAYER" SHALL INCLUDE A QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND,
39 NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED
40 NINETY-SEVEN OF THIS ARTICLE, WHERE A QUALIFIED TAXPAYER HAS PROTESTED
41 THE DENIAL OF A CLAIM FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO
42 FILE A PETITION FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS
43 NOT EXPIRED, HE SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE
44 COMMISSIONER, RECEIVE SUCH INFORMATION (A) WHICH IS CONTAINED IN ANY
45 RETURN FILED UNDER THIS ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR
46 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, AND (B) WHICH THE
47 COMMISSIONER FINDS IS RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH
48 CLAIM WAS PROPERLY DENIED.

49 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE CREDIT
50 ALLOWED UNDER THIS SUBSECTION SHALL BE DETERMINED AFTER THE DETERMI-
51 NATION AND APPLICATION OF ANY OTHER CREDITS PERMITTED UNDER THE
52 PROVISIONS OF THIS ARTICLE.

53 (13) THE COMMISSIONER SHALL PREPARE A WRITTEN REPORT AFTER DECEMBER
54 THIRTY-FIRST OF EACH CALENDAR YEAR, WHICH SHALL CONTAIN STATISTICAL
55 INFORMATION REGARDING THE CREDITS GRANTED ON OR BEFORE SUCH DATES UNDER
56 THIS SUBSECTION DURING SUCH CALENDAR YEAR. COPIES OF THE REPORT SHALL BE

1 SUBMITTED BY THE COMMISSIONER TO THE GOVERNOR, THE TEMPORARY PRESIDENT
 2 OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIRMAN OF THE SENATE
 3 FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS
 4 COMMITTEE WITHIN FORTY-FIVE DAYS OF DECEMBER THIRTY-FIRST. SUCH REPORT
 5 SHALL CONTAIN, BUT NEED NOT BE LIMITED TO, THE NUMBER OF CREDITS AND THE
 6 AVERAGE AMOUNT OF SUCH CREDITS ALLOWED; AND OF THOSE, THE NUMBER OF
 7 CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED
 8 TAXPAYERS IN EACH COUNTY; AND OF THOSE, THE NUMBER OF CREDITS AND THE
 9 AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE
 10 HOUSEHOLD GROSS INCOME FALLS WITHIN EACH OF THE HOUSEHOLD GROSS INCOME
 11 RANGES SET FORTH IN PARAGRAPH THREE OF THIS SUBSECTION.

12 S 3. This act shall take effect immediately and shall apply to taxable
 13 years beginning on or after January 1, 2014 and shall expire and be
 14 deemed repealed January 1, 2016.

15 PART L

16 Intentionally Omitted

17 PART M

18 Section 1. Paragraphs 2, 4 and 5 of subsection (vv) of section 606 of
 19 the tax law, as added by section 1 of part CC of chapter 59 of the laws
 20 of 2013, are amended to read as follows:

21 2. To be eligible for the credit, the taxpayer (or taxpayers filing
 22 joint returns) on the personal income tax return filed for the taxable
 23 year [two years prior], must [have] (a) [been] BE a resident, (b)
 24 [claimed] CLAIM one or more dependent children who were under the age of
 25 seventeen on the last day of the taxable year, (c) [had] HAVE New York
 26 adjusted gross income of at least forty thousand dollars but no greater
 27 than three hundred thousand dollars, and (d) [had] HAVE a tax liability
 28 as determined under paragraph three of this subsection of greater than
 29 or equal to zero.

30 4. [For each year this credit is allowed, on or before October
 31 fifteenth of such year, the commissioner shall determine the taxpayer's
 32 eligibility for this credit utilizing the information available to the
 33 commissioner on the taxpayer's personal income tax return filed for the
 34 taxable year two years prior to the taxable year in which the credit is
 35 allowed. For those taxpayers whom the commissioner has determined eligi-
 36 ble for this credit, the commissioner shall advance a payment of three
 37 hundred fifty dollars. When a taxpayer files his or her return for the
 38 taxable year, such taxpayer shall properly reconcile that payment on his
 39 or her return.

40 5.] If the amount of the credit allowed under this subsection shall
 41 exceed the taxpayer's tax for the taxable year, the excess shall be
 42 treated as an overpayment of tax to be credited or refunded in accord-
 43 ance with the provisions of SECTION six hundred eighty-six of this arti-
 44 cle, provided, however, that no interest shall be paid thereon.

45 S 2. This act shall take effect immediately and apply to taxable years
 46 beginning on or after January 1, 2015.

47 PART N

48 Intentionally Omitted

1

PART O

2 Section 1. Paragraph 1 of subdivision (a) of section 28 of the tax
3 law, as amended by section 1 of part I of chapter 59 of the laws of
4 2012, is amended to read as follows:

5 (1) A taxpayer which is a qualified commercial production company, or
6 which is a sole proprietor of a qualified commercial production company,
7 and which is subject to tax under article nine-A or twenty-two of this
8 chapter, shall be allowed a credit against such tax, pursuant to the
9 provisions referenced in subdivision (c) of this section, to be computed
10 as provided in this section. Provided, however, to be eligible for such
11 credit, at least seventy-five percent of the production costs (excluding
12 post production costs) paid or incurred directly and predominantly in
13 the actual filming or recording of the qualified commercial must be
14 costs incurred in New York state. The tax credit allowed pursuant to
15 this section shall apply to taxable years beginning before January
16 first, two thousand [fifteen] SEVENTEEN.

17 S 2. Subparagraph (iii) of paragraph 2 of subdivision (a) of section
18 28 of the tax law, as amended by section 2 of part I of chapter 59 of
19 the laws of 2012, is amended to read as follows:

20 (iii) The state annually will disburse three million of the total
21 seven million in tax credits to all eligible production companies who
22 film or record a qualified commercial outside of the metropolitan commu-
23 ter transportation district as defined in section twelve hundred sixty-
24 two of the public authorities law; provided, however, that if, after
25 JULY THIRTY-FIRST the state reviews all applications from eligible
26 production companies who film or record a qualified commercial outside
27 of the metropolitan commuter district for a given year, tax credits
28 remain unallocated under this subparagraph, those credits shall be
29 allotted to the credits set forth in subparagraph (i) of this paragraph
30 for use consistent with the purposes of such subparagraph. The amount of
31 the credit shall be the product (or pro rata share of the product, in
32 the case of a member of a partnership) of five percent of the qualified
33 production costs paid or incurred in the production of a qualified
34 commercial, provided that the qualified production costs paid or
35 incurred are attributable to the use of tangible property or the
36 performance of services within the state in the production of such qual-
37 ified commercial. To be eligible for said credit the total qualified
38 production costs of a qualified production company must be greater than
39 [two] ONE hundred thousand dollars in the aggregate during the calendar
40 year. Such credit will be applied to qualified production costs exceed-
41 ing [two] ONE hundred thousand dollars in a calendar year.

42 S 3. Paragraph (a) of subdivision 38 of section 210 of the tax law,
43 as amended by section 3 of part I of chapter 59 of the laws of 2012, is
44 amended to read as follows:

45 (a) Allowance of credit. A taxpayer that is eligible pursuant to
46 provisions of section twenty-eight of this chapter shall be allowed a
47 credit to be computed as provided in such section against the tax
48 imposed by this article. The tax credit allowed pursuant to this section
49 shall apply to taxable years beginning before January first, two thou-
50 sand [fifteen] SEVENTEEN.

51 S 4. Paragraph 1 of subsection (jj) of section 606 of the tax law, as
52 amended by section 4 of part I of chapter 59 of the laws of 2012, is
53 amended to read as follows:

54 (1) Allowance of credit. A taxpayer that is eligible pursuant to the
55 provisions of section twenty-eight of this chapter shall be allowed a

1 credit to be computed as provided in such section against the tax
2 imposed by this article. The tax credit allowed pursuant to this section
3 shall apply to taxable years beginning before January first, two thou-
4 sand [fifteen] SEVENTEEN.

5 S 5. This act shall take effect immediately.

6 PART P

7 Section 1. Subdivision 4 of section 22 of the public housing law, as
8 amended by section 2 of part J of chapter 59 of the laws of 2012, is
9 amended to read as follows:

10 4. Statewide limitation. The aggregate dollar amount of credit which
11 the commissioner may allocate to eligible low-income buildings under
12 this article shall be [forty-eight] FIFTY-SIX million dollars. The limi-
13 tation provided by this subdivision applies only to allocation of the
14 aggregate dollar amount of credit by the commissioner, and does not
15 apply to allowance to a taxpayer of the credit with respect to an eligi-
16 ble low-income building for each year of the credit period.

17 S 2. Subdivision 4 of section 22 of the public housing law, as amended
18 by section one of this act, is amended to read as follows:

19 4. Statewide limitation. The aggregate dollar amount of credit which
20 the commissioner may allocate to eligible low-income buildings under
21 this article shall be [fifty-six] SIXTY-FOUR million dollars. The limi-
22 tation provided by this subdivision applies only to allocation of the
23 aggregate dollar amount of credit by the commissioner, and does not
24 apply to allowance to a taxpayer of the credit with respect to an eligi-
25 ble low-income building for each year of the credit period.

26 S 3. This act shall take effect immediately; provided, however, that
27 section two of this act shall take effect April 1, 2015.

28 PART Q

29 Intentionally Omitted

30 PART R

31 Section 1. Section 210 of the tax law is amended by adding a new
32 subdivision 48 to read as follows:

33 48. REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (A) A QUALIFIED NEW
34 YORK MANUFACTURER, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF
35 SUBDIVISION ONE OF THIS SECTION, WILL BE ALLOWED A CREDIT EQUAL TO TWEN-
36 TY PERCENT OF THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR
37 REAL PROPERTY OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCI-
38 PALLY USED DURING THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT
39 DEDUCTED IN DETERMINING ENTIRE NET INCOME. THIS CREDIT WILL NOT BE
40 ALLOWED IF THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT
41 ARE INCLUDED IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAY-
42 ER.

43 (B) (1) FOR PURPOSES OF THIS SUBDIVISION, THE TERM REAL PROPERTY TAX
44 MEANS A CHARGE IMPOSED UPON REAL PROPERTY BY OR ON BEHALF OF A COUNTY,
45 CITY, TOWN, VILLAGE OR SCHOOL DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT
46 PURPOSES, PROVIDED THAT THE CHARGE IS LEVIED FOR THE GENERAL PUBLIC
47 WELFARE BY THE PROPER TAXING AUTHORITIES AT A LIKE RATE AGAINST ALL
48 PROPERTY OVER WHICH SUCH AUTHORITIES HAVE JURISDICTION, AND PROVIDED
49 THAT WHERE TAXES ARE LEVIED PURSUANT TO ARTICLE EIGHTEEN OR NINETEEN OF

1 THE REAL PROPERTY TAX LAW, THE PROPERTY MUST HAVE BEEN TAXED AT THE RATE
2 DETERMINED FOR THE CLASS IN WHICH IT IS CONTAINED, AS PROVIDED BY SUCH
3 ARTICLE EIGHTEEN OR NINETEEN, WHICHEVER IS APPLICABLE. THE TERM REAL
4 PROPERTY TAX DOES NOT INCLUDE A CHARGE FOR LOCAL BENEFITS, INCLUDING ANY
5 PORTION OF THAT CHARGE THAT IS PROPERLY ALLOCATED TO THE COSTS ATTRIBUT-
6 ABLE TO MAINTENANCE OR INTEREST, WHEN (I) THE PROPERTY SUBJECT TO THE
7 CHARGE IS LIMITED TO THE PROPERTY THAT BENEFITS FROM THE CHARGE, OR (II)
8 THE AMOUNT OF THE CHARGE IS DETERMINED BY THE BENEFIT TO THE PROPERTY
9 ASSESSED, OR (III) THE IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED
10 TENDS TO INCREASE THE PROPERTY VALUE.

11 (2) IN ADDITION, THE TERM REAL PROPERTY TAX INCLUDES TAXES PAID BY THE
12 TAXPAYER UPON REAL PROPERTY PRINCIPALLY USED DURING THE TAXABLE YEAR BY
13 THE TAXPAYER IN MANUFACTURING WHERE THE TAXPAYER LEASES SUCH REAL PROP-
14 ERTY FROM AN UNRELATED THIRD PARTY IF THE FOLLOWING CONDITIONS ARE
15 SATISFIED: (I) THE TAX MUST BE PAID BY THE TAXPAYER AS LESSEE PURSUANT
16 TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE, AND (II) THE TAXPAYER AS
17 LESSEE HAS PAID SUCH TAXES DIRECTLY TO THE TAXING AUTHORITY AND HAS
18 RECEIVED A WRITTEN RECEIPT FOR PAYMENT OF TAXES FROM THE TAXING AUTHORI-
19 TY. IN THE CASE OF A COMBINED GROUP THAT CONSTITUTES A QUALIFIED NEW
20 YORK MANUFACTURER, THE CONDITIONS IN THE PRECEDING SENTENCE ARE SATIS-
21 FIED IF ONE CORPORATION IN THE COMBINED GROUP IS THE LESSEE AND ANOTHER
22 CORPORATION IN THE COMBINED GROUP MAKES THE PAYMENTS TO THE TAXING
23 AUTHORITY.

24 (3) THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT MADE BY THE
25 TAXPAYER IN CONNECTION WITH AN AGREEMENT FOR THE PAYMENT IN LIEU OF
26 TAXES ON REAL PROPERTY, WHETHER SUCH PROPERTY IS OWNED OR LEASED BY THE
27 TAXPAYER.

28 (4) THE REAL PROPERTY TAXES MUST BE PAID BY THE TAXPAYER IN THE YEAR
29 SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY.

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

43 (D) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
44 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN TWENTY-FIVE
45 DOLLARS.

46 S 2. Paragraph (b) of subdivision 9 of section 208 of the tax law is
47 amended by adding a new subparagraph 21 to read as follows:

48 (21) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR REAL PROPERTY TAXES TO
49 THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF THE
50 REAL PROPERTY TAX CREDIT FOR MANUFACTURERS ALLOWED UNDER SUBDIVISION
51 FORTY-EIGHT OF SECTION TWO HUNDRED TEN OF THIS ARTICLE.

52 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
53 of the tax law is amended by adding a new clause (xxxviii) to read as
54 follows:

55 (XXXVIII) REAL PROPERTY TAX

AMOUNT OF CREDIT UNDER

1 CREDIT FOR MANUFACTURERS UNDER SUBDIVISION FORTY-EIGHT OF
2 SUBSECTION (XX) SECTION TWO HUNDRED TEN

3 S 4. Subsections (yy) and (zz) of section 606 of the tax law, as
4 relettered by section 5 of part H of chapter 1 of the laws of 2003, are
5 relettered subsections (yyy) and (zzz) and a new subsection (xx) is
6 added to read as follows:

7 (XX) REAL PROPERTY TAX CREDIT FOR MANUFACTURERS. (1) A QUALIFIED NEW
8 YORK MANUFACTURER WILL BE ALLOWED A CREDIT EQUAL TO TWENTY PERCENT OF
9 THE REAL PROPERTY TAX IT PAID DURING THE TAXABLE YEAR FOR REAL PROPERTY
10 OWNED BY SUCH MANUFACTURER IN NEW YORK WHICH WAS PRINCIPALLY USED DURING
11 THE TAXABLE YEAR FOR MANUFACTURING TO THE EXTENT NOT DEDUCTED IN COMPUT-
12 ING FEDERAL ADJUSTED GROSS INCOME. THIS CREDIT WILL NOT BE ALLOWED IF
13 THE REAL PROPERTY TAXES THAT ARE THE BASIS FOR THIS CREDIT ARE INCLUDED
14 IN THE CALCULATION OF ANOTHER CREDIT CLAIMED BY THE TAXPAYER.

15 (2)(A) THE TERM QUALIFIED NEW YORK MANUFACTURER HAS THE SAME MEANING
16 AS UNDER SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF SUBDIVISION ONE OF
17 SECTION TWO HUNDRED TEN OF THIS CHAPTER.

18 (B) (I) THE TERM REAL PROPERTY TAX MEANS A CHARGE IMPOSED UPON REAL
19 PROPERTY BY OR ON BEHALF OF A COUNTY, CITY, TOWN, VILLAGE OR SCHOOL
20 DISTRICT FOR MUNICIPAL OR SCHOOL DISTRICT PURPOSES, PROVIDED THAT THE
21 CHARGE IS LEVIED FOR THE GENERAL PUBLIC WELFARE BY THE PROPER TAXING
22 AUTHORITIES AT A LIKE RATE AGAINST ALL PROPERTY OVER WHICH SUCH AUTHORI-
23 TIES HAVE JURISDICTION, AND PROVIDED THAT WHERE TAXES ARE LEVIED PURSU-
24 ANT TO ARTICLE EIGHTEEN OR NINETEEN OF THE REAL PROPERTY TAX LAW, THE
25 PROPERTY MUST HAVE BEEN TAXED AT THE RATE DETERMINED FOR THE CLASS IN
26 WHICH IT IS CONTAINED, AS PROVIDED BY SUCH ARTICLE EIGHTEEN OR NINETEEN,
27 WHICHEVER IS APPLICABLE. THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A
28 CHARGE FOR LOCAL BENEFITS, INCLUDING ANY PORTION OF THAT CHARGE THAT IS
29 PROPERLY ALLOCATED TO THE COSTS ATTRIBUTABLE TO MAINTENANCE OR INTEREST,
30 WHEN (I) THE PROPERTY SUBJECT TO THE CHARGE IS LIMITED TO THE PROPERTY
31 THAT BENEFITS FROM THE CHARGE, OR (II) THE AMOUNT OF THE CHARGE IS
32 DETERMINED BY THE BENEFIT TO THE PROPERTY ASSESSED, OR (III) THE
33 IMPROVEMENT FOR WHICH THE CHARGE IS ASSESSED TENDS TO INCREASE THE PROP-
34 erty value.

35 (II) IN ADDITION, THE TERM REAL PROPERTY TAX INCLUDES TAXES PAID BY
36 THE TAXPAYER UPON REAL PROPERTY PRINCIPALLY USED DURING THE TAXABLE YEAR
37 BY THE TAXPAYER IN MANUFACTURING WHERE THE TAXPAYER LEASES SUCH REAL
38 PROPERTY FROM AN UNRELATED THIRD PARTY IF THE FOLLOWING CONDITIONS ARE
39 SATISFIED: (I) THE TAX MUST BE PAID BY THE TAXPAYER AS LESSEE PURSUANT
40 TO EXPLICIT REQUIREMENTS IN A WRITTEN LEASE, AND (II) THE TAXPAYER AS
41 LESSEE HAS PAID SUCH TAXES DIRECTLY TO THE TAXING AUTHORITY AND HAS
42 RECEIVED A WRITTEN RECEIPT FOR PAYMENT OF TAXES FROM THE TAXING AUTHORI-
43 TY. IN THE CASE OF A COMBINED GROUP THAT CONSTITUTES A QUALIFIED NEW
44 YORK MANUFACTURER, THE CONDITIONS IN THE PRECEDING SENTENCE ARE SATIS-
45 FIED IF ONE CORPORATION IN THE COMBINED GROUP IS THE LESSEE AND ANOTHER
46 CORPORATION IN THE COMBINED GROUP MAKES THE PAYMENTS TO THE TAXING
47 AUTHORITY.

48 (III) THE TERM REAL PROPERTY TAX DOES NOT INCLUDE A PAYMENT MADE BY
49 THE TAXPAYER IN CONNECTION WITH AN AGREEMENT FOR THE PAYMENT IN LIEU OF
50 TAXES ON REAL PROPERTY, WHETHER SUCH PROPERTY IS OWNED OR LEASED BY THE
51 TAXPAYER.

52 (IV) THE REAL PROPERTY TAXES MUST BE PAID BY THE TAXPAYER IN THE YEAR
53 SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY.

54 (3) CREDIT RECAPTURE. WHERE A QUALIFIED NEW YORK MANUFACTURER'S REAL
55 PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE CREDIT

1 PROVIDED FOR UNDER THIS SUBDIVISION ARE SUBSEQUENTLY REDUCED AS A RESULT
2 OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE REAL PROP-
3 ERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD BACK, IN
4 THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE EXCESS OF (I)
5 THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR OVER (II) THE
6 AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED REAL PROPERTY TAXES.
7 IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR MORE THAN ONE YEAR,
8 THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH REDUCTION IS ATTRIBUTABLE
9 TO EACH YEAR COVERED BY SUCH FINAL ORDER AND CALCULATE THE AMOUNT OF
10 CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO BE RECAPTURED FOR EACH
11 YEAR BASED ON SUCH REDUCTION.

12 (4) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY
13 TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS WILL
14 BE TREATED AS AN OVERPAYMENT TO BE CREDITED OR REFUNDED IN ACCORDANCE
15 WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE,
16 PROVIDED HOWEVER, NO INTEREST WILL BE PAID THEREON.

17 S 4-a. Subsection (b) of section 612 of the tax law is amended by
18 adding a new paragraph 40 to read as follows:

19 (40) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR REAL PROPERTY TAXES TO
20 THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF THE CALCULATION OF THE
21 REAL PROPERTY TAX CREDIT FOR MANUFACTURERS ALLOWED UNDER SUBSECTION (XX)
22 OF SECTION SIX HUNDRED SIX OF THIS ARTICLE.

23 S 5. Subparagraphs (vi) and (vii) of paragraph (a) of subdivision 1 of
24 section 210 of the tax law, subparagraph (vi) as amended by section 1 of
25 part C of chapter 56 of the laws of 2011 and subparagraph (vii) as added
26 by section 1 of part Z of chapter 59 of the laws of 2013, are amended to
27 read as follows:

28 (vi) for taxable years beginning on or after January [thirty-first]
29 FIRST, two thousand [seven] FOURTEEN, the amount prescribed by this
30 paragraph for a taxpayer which is a qualified New York manufacturer,
31 shall be computed at the rate of [six and one-half (6.5)] ZERO percent
32 of the taxpayer's entire net income base. For taxable years beginning on
33 or after January first, two thousand twelve and before January first,
34 two thousand fifteen, the amount prescribed by this paragraph for a
35 taxpayer which is an eligible qualified New York manufacturer shall be
36 computed at the rate of three and one-quarter (3.25) percent of the
37 taxpayer's entire net income base. The term "manufacturer" shall mean a
38 taxpayer which during the taxable year is principally engaged in the
39 production of goods by manufacturing, processing, assembling, refining,
40 mining, extracting, farming, agriculture, horticulture, floriculture,
41 viticulture or commercial fishing. However, the generation and distrib-
42 ution of electricity, the distribution of natural gas, and the
43 production of steam associated with the generation of electricity shall
44 not be qualifying activities for a manufacturer under this subparagraph.
45 Moreover, the combined group shall be considered a "manufacturer" for
46 purposes of this subparagraph only if the combined group during the
47 taxable year is principally engaged in the activities set forth in this
48 paragraph, or any combination thereof. A taxpayer or a combined group
49 shall be "principally engaged" in activities described above if, during
50 the taxable year, more than fifty percent of the gross receipts of the
51 taxpayer or combined group, respectively, are derived from receipts from
52 the sale of goods produced by such activities. In computing a combined
53 group's gross receipts, intercorporate receipts shall be eliminated. A
54 "qualified New York manufacturer" is a manufacturer which has property
55 in New York which is described in clause (A) of subparagraph (i) of
56 paragraph (b) of subdivision twelve of this section and either (I) the

1 adjusted basis of such property for federal income tax purposes at the
2 close of the taxable year is at least one million dollars or (II) all of
3 its real and personal property is located in New York. [In addition, a
4 "qualified New York manufacturer" means a taxpayer which is defined as]
5 A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, THAT
6 DOES NOT SATISFY THE PRINCIPALLY ENGAGED TEST MAY BE A QUALIFIED NEW
7 YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED GROUP EMPLOYS DURING
8 THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED EMPLOYEES IN MANU-
9 FACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED GROUP HAS PROPER-
10 TY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED BASIS OF WHICH FOR
11 FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST
12 ONE HUNDRED MILLION DOLLARS. THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR
13 A TAXPAYER THAT IS a qualified emerging technology company under para-
14 graph (c) of subdivision one of section thirty-one hundred two-e of the
15 public authorities law regardless of the ten million dollar limitation
16 expressed in subparagraph one of such paragraph (c) SHALL BE COMPUTED AT
17 THE RATE OF FIVE AND NINE-TENTHS PERCENT OF THE TAXPAYER'S ENTIRE NET
18 INCOME BASE. The commissioner shall establish guidelines and criteria
19 that specify requirements by which a manufacturer may be classified as
20 an eligible qualified New York manufacturer. Criteria may include but
21 not be limited to factors such as regional unemployment, the economic
22 impact that manufacturing has on the surrounding community, population
23 decline within the region and median income within the region in which
24 the manufacturer is located. In establishing these guidelines and crite-
25 ria, the commissioner shall endeavor that the total annual cost of the
26 lower rates shall not exceed twenty-five million dollars.

27 [(vii) For a qualified New York manufacturer, as defined in subpara-
28 graph (vi) of this paragraph, the rate at which the tax is computed in
29 effect for taxable years beginning on or after January first, two thou-
30 sand thirteen and before January first, two thousand fourteen for quali-
31 fied New York manufacturers shall be reduced by nine and two-tenths
32 percent for taxable years commencing on or after January first, two
33 thousand fourteen and before January first, two thousand fifteen, twelve
34 and three-tenths percent for taxable years commencing on or after Janu-
35 ary first, two thousand fifteen and before January first, two thousand
36 sixteen, fifteen and four-tenths percent for taxable years commencing on
37 or after January first, two thousand sixteen and before January first,
38 two thousand eighteen, and twenty-five percent for taxable years begin-
39 ning on or after January first, two thousand eighteen.]

40 S 6. Subparagraph 2 of paragraph (b) of subdivision 1 of section 210
41 of the tax law, as amended by section 1 of part GG-1 of chapter 57 of
42 the laws of 2008, is amended to read as follows:

43 (2) For purposes of subparagraph one of this paragraph, the term
44 "manufacturer" shall mean a taxpayer which during the taxable year is
45 principally engaged in the production of goods by manufacturing, proc-
46 essing, assembling, refining, mining, extracting, farming, agriculture,
47 horticulture, floriculture, viticulture or commercial fishing. Moreover,
48 for purposes of computing the capital base in a combined report, the
49 combined group shall be considered a "manufacturer" for purposes of this
50 subparagraph only if the combined group during the taxable year is prin-
51 cipally engaged in the activities set forth in this subparagraph, or any
52 combination thereof. A taxpayer or a combined group shall be "principal-
53 ly engaged" in activities described above if, during the taxable year,
54 more than fifty percent of the gross receipts of the taxpayer or
55 combined group, respectively, are derived from receipts from the sale of
56 goods produced by such activities. In computing a combined group's gross

1 receipts, intercorporate receipts shall be eliminated. A "qualified New
2 York manufacturer" is a manufacturer that has property in New York that
3 is described in clause (A) of subparagraph (i) of paragraph (b) of
4 subdivision twelve of this section and either (i) the adjusted basis of
5 that property for federal income tax purposes at the close of the taxa-
6 ble year is at least one million dollars or (ii) all of its real and
7 personal property is located in New York. In addition, a "qualified New
8 York manufacturer" means a taxpayer that is defined as a qualified
9 emerging technology company under paragraph (c) of subdivision one of
10 section thirty-one hundred two-e of the public authorities law regard-
11 less of the ten million dollar limitation expressed in subparagraph one
12 of such paragraph. A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A
13 COMBINED GROUP, THAT DOES NOT SATISFY THE PRINCIPALLY ENGAGED TEST MAY
14 BE A QUALIFIED NEW YORK MANUFACTURER IF THE TAXPAYER OR THE COMBINED
15 GROUP EMPLOYS DURING THE TAXABLE YEAR AT LEAST TWO THOUSAND FIVE HUNDRED
16 EMPLOYEES IN MANUFACTURING IN NEW YORK AND THE TAXPAYER OR THE COMBINED
17 GROUP HAS PROPERTY IN THE STATE USED IN MANUFACTURING, THE ADJUSTED
18 BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXA-
19 BLE YEAR IS AT LEAST ONE HUNDRED MILLION DOLLARS.

20 S 7. Subparagraph (iii) of paragraph (c) of subdivision 1 of section
21 210 of the tax law, as added by section 3 of part Z of chapter 59 of the
22 laws of 2013, is amended to read as follows:

23 (iii) For a qualified New York manufacturer, as defined in subpara-
24 graph (vi) of paragraph (a) of this subdivision AND A QUALIFIED EMERGING
25 TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION
26 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE
27 TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH
28 PARAGRAPH (C), the rate at which the tax is computed in effect for taxa-
29 ble years beginning on or after January first, two thousand thirteen and
30 before January first, two thousand fourteen for qualified New York
31 manufacturers shall be reduced by nine and two-tenths percent for taxa-
32 ble years commencing on or after January first, two thousand fourteen
33 and before January first, two thousand fifteen, twelve and three-tenths
34 percent for taxable years commencing on or after January first, two
35 thousand fifteen and before January first, two thousand sixteen, fifteen
36 and four-tenths percent for taxable years commencing on or after January
37 first, two thousand sixteen and before January first, two thousand eigh-
38 teen, and twenty-five percent for taxable years beginning on or after
39 January first, two thousand eighteen.

40 S 8. Subparagraph 6 of paragraph (d) of subdivision 1 of section 210
41 of the tax law, as added by section 4 of part Z of chapter 59 of the
42 laws of 2013, is amended to read as follows:

43 (6) For a qualified New York manufacturer, as defined in subparagraph
44 (vi) of paragraph (a) of this subdivision, AND A QUALIFIED EMERGING
45 TECHNOLOGY COMPANY UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION
46 THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE
47 TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH
48 PARAGRAPH (C), the amounts prescribed in subparagraphs one and four of
49 this paragraph in effect for taxable years beginning on or after January
50 first, two thousand thirteen and before January first, two thousand
51 fourteen for qualified New York manufacturers shall be reduced by nine
52 and two-tenths percent for taxable years commencing on or after January
53 first, two thousand fourteen and before January first, two thousand
54 fifteen, twelve and three-tenths percent for taxable years commencing on
55 or after January first, two thousand fifteen and before January first,
56 two thousand sixteen, fifteen and four-tenths percent for taxable years

1 commencing on or after January first, two thousand sixteen and before
2 January first, two thousand eighteen, and twenty-five percent for taxa-
3 ble years beginning on or after January first, two thousand eighteen.

4 S 9. Severability. The legislature intends by this act to provide
5 needed tax relief to New York manufacturers. However, if a court of
6 final, competent jurisdiction adjudges the tax rates imposed on quali-
7 fied New York manufacturers to be invalid, qualified New York manufac-
8 turers shall be subject to the same tax rates as all other taxpayers
9 subject to tax under article 9-A of the tax law. Provided further, if a
10 court of final, competent jurisdiction adjudges that the tax credits
11 provided by this act to qualified New York manufacturers to be invalid,
12 such credits shall be deemed repealed and shall be of no force and
13 effect as to any taxpayers.

14 S 10. This act shall take effect immediately and shall apply to taxa-
15 ble years beginning on or after January 1, 2014 provided that sections
16 one, two, three, five, six, seven, eight and nine of this act shall
17 expire December 31, 2014 when upon such date such provisions shall be
18 deemed repealed.

19 PART S

20 Section 1. Sections 185, 187-j, 187-k, 187-l, 187-m, 187-q, 187-r and
21 187-s of the tax law are REPEALED.

22 S 2. Paragraph (c) of subdivision 9 of section 400 of the economic
23 development law, as added by section 2 of part V of chapter 61 of the
24 laws of 2011, is amended to read as follows:

25 (c) the business entity must not be substantially similar in ownership
26 and operation to another taxpayer taxable or previously taxable under
27 section one hundred eighty-three[,] OR one hundred eighty-four or FORMER
28 SECTION one hundred eighty-five of article nine, former section one
29 hundred eighty-six or article nine-A, twenty-two, thirty-two or thirty-
30 three of the tax law or the income or losses of which is or was includa-
31 ble under article twenty-two of the tax law;

32 S 3. Paragraph (c) of subdivision 6 of section 431 of the economic
33 development law, as added by section 1 of part A of chapter 68 of the
34 laws of 2013, is amended to read as follows:

35 (c) the business is not substantially similar in operation and in
36 ownership to a business entity (or entities) taxable, or previously
37 taxable within the last five taxable years, under section one hundred
38 eighty-three[,] OR one hundred eighty-four, FORMER SECTION one hundred
39 eighty-five or FORMER SECTION one hundred eighty-six of the tax law,
40 article nine-A, thirty-two or thirty-three of the tax law, article twen-
41 ty-three of the tax law or which would have been subject to tax under
42 such article twenty-three (as such article was in effect on January
43 first, nineteen hundred eighty), or the income (or losses) of which is
44 (or was) includable under article twenty-two of the tax law; and

45 S 4. Paragraph 1 of subdivision (a), subdivision (f), paragraph 1 of
46 subdivision (i) and subdivisions (j) and (k) of section 14 of the tax
47 law, paragraph 1 of subdivision (a) as amended by section 3 of part VI
48 of chapter 109 of the laws of 2006, subdivisions (f) and (j) as amended
49 by section 10 of part CC of chapter 85 of the laws of 2002, paragraph 1
50 of subdivision (i) and subdivision (k) as amended and paragraph 4 of
51 subdivision (j) as added by section 5 of part A of chapter 63 of the
52 laws of 2005, subparagraph (B) of paragraph 4 of subdivision (j) as
53 amended by chapter 161 of the laws of 2005 and paragraph 5 of subdivi-

1 sion (j) as amended by section 4 of part VI of chapter 109 of the laws
2 of 2006, are amended to read as follows:

3 (1) except as provided in paragraphs one-a and one-b of this subdivi-
4 sion, for purposes of [section one hundred eighty-seven-j and] articles
5 nine-A, twenty-two, thirty-two and thirty-three of this chapter, for
6 each of the taxable years within the "business tax benefit period,"
7 which period shall consist of (A) in the case of a business enterprise
8 with a test date occurring on or before December thirty-first, two thou-
9 sand one, the first fifteen taxable years beginning on or after January
10 first, two thousand one, (B) in the case of a business enterprise with a
11 test date occurring on or after January first, two thousand two, but
12 prior to April first, two thousand five, the fifteen taxable years next
13 following the business enterprise's test year, and (C) in the case of a
14 business enterprise which is first certified under article eighteen-B of
15 the general municipal law on or after April first, two thousand five,
16 the ten taxable years starting with the taxable year in which the busi-
17 ness enterprise's first date of certification under article eighteen-B
18 of the general municipal law occurs, but only with respect to each of
19 such business tax benefit period years for which the employment test is
20 met,

21 (f) Taxable year. The term "taxable year" means the taxable year of
22 the business enterprise under section one hundred eighty-three[,] OR one
23 hundred eighty-four[, one hundred eighty-five] or former section one
24 hundred eighty-six of article nine, or under article nine-A, twenty-two,
25 thirty-two or thirty-three of this chapter. If a business enterprise
26 does not have a taxable year because it is exempt from taxation or
27 otherwise not required to file a return under any of such sections of
28 article nine or under article nine-A, twenty-two, thirty-two or thirty-
29 three, then the term "taxable year" means (i) the business enterprise's
30 federal taxable year, or, (ii) if the enterprise does not have a federal
31 taxable year, the calendar year.

32 (1) for purposes of [section one hundred eighty-seven-j of article
33 nine, and] articles nine-A, twenty-two, thirty-two and thirty-three of
34 this chapter, on the first day of the taxable year during which revoca-
35 tion of its certification under article eighteen-B of the general munic-
36 ipal law occurs, and

37 (j) New business. (1) A new business shall include any corporation,
38 except a corporation which is substantially similar in operation and in
39 ownership to a business entity (or entities) taxable, or previously
40 taxable, under section one hundred eighty-three, one hundred eighty-
41 four, FORMER SECTION one hundred eighty-five or FORMER SECTION one
42 hundred eighty-six of article nine; article nine-A, article thirty-two
43 or thirty-three of this chapter; article twenty-three of this chapter or
44 which would have been subject to tax under such article twenty-three (as
45 such article was in effect on January first, nineteen hundred eighty) or
46 the income (or losses) of which is (or was) includable under article
47 twenty-two of this chapter.

48 (2) For purposes of article twenty-two of this chapter, an individual
49 who is either a sole proprietor or a member of a partnership shall qual-
50 ify as an owner of a new business unless the business of which the indi-
51 vidual is an owner is substantially similar in operation and in owner-
52 ship to a business entity taxable, or previously taxable, under section
53 one hundred eighty-three, one hundred eighty-four, FORMER SECTION one
54 hundred eighty-five or FORMER SECTION one hundred eighty-six of article
55 nine; article nine-A, thirty-two or thirty-three of this chapter; arti-
56 cle twenty-three of this chapter or which would have been subject to tax

1 under such article twenty-three (as such article was in effect on Janu-
2 ary first, nineteen hundred eighty) or the income (or losses) of which
3 is (or was) includable under article twenty-two.

4 (3) For purposes of article twenty-two of this chapter, a shareholder
5 of a New York S corporation shall be treated as the owner of a new busi-
6 ness with respect to such share if the corporation qualifies as a new
7 business pursuant to paragraph one of this subdivision.

8 (4) (A)(i) Notwithstanding paragraphs one and two of this subdivision,
9 a new business shall include any corporation which is identical in oper-
10 ation and ownership to a business entity (or entities) taxable under
11 section one hundred eighty-three[,] OR one hundred eighty-four or FORMER
12 SECTION one hundred eighty-five of article nine; article nine-A, article
13 thirty-two or thirty-three of this chapter or the income (or losses) of
14 which is includable under article twenty-two of this chapter, provided
15 such corporation and such business entity or entities are operating in
16 different counties in the state.

17 (ii) Notwithstanding paragraphs one and two of this subdivision, an
18 individual who is either a sole proprietor or a member of a partnership
19 shall qualify as an owner of a new business if the business of which the
20 individual is an owner is identical in operation and in ownership to a
21 business entity (or entities) taxable under section one hundred eighty-
22 three[,] OR one hundred eighty-four or FORMER SECTION one hundred eight-
23 y-five of article nine; article nine-A, article thirty-two or thirty-
24 three of this chapter or the income (or losses) of which is includable
25 under article twenty-two of this chapter, provided such business and
26 such business entity or entities are operating in different counties in
27 the state.

28 (iii) Any corporation qualifying as a new business or any individual
29 qualifying as an owner of a new business as a result of the provisions
30 of this subparagraph shall have the same business tax benefit period and
31 sales and use tax benefit period as the business entity to which it is
32 identical in operation and in ownership.

33 (B) Notwithstanding any provisions of this subdivision to the contrary
34 and notwithstanding subdivision c of section eighteen of part CC of
35 chapter eighty-five of the laws of two thousand two, a corporation or
36 partnership, which was first certified under article eighteen-B of the
37 general municipal law before August first, two thousand two, has a base
38 period of zero years or zero employment for its base period, and is
39 similar in operation and in ownership to a business entity or entities
40 taxable, or previously taxable, under sections specified in paragraph
41 one or two of this subdivision or which would have been subject to tax
42 under article twenty-three of this chapter (as such article was in
43 effect on January first, nineteen hundred eighty) or the income or loss-
44 es of which is or was includable under article twenty-two of this chap-
45 ter shall not be deemed a new business if it was not formed for a valid
46 business purpose, as such term is defined in clause (D) of subparagraph
47 one of paragraph (o) of subdivision nine of section two hundred eight of
48 this chapter and was formed solely to gain empire zone benefits.

49 (5) Notwithstanding any other provision of this section, a business
50 enterprise which is approved by the commissioner of economic development
51 as the owner of a qualified investment project or a significant capital
52 investment project pursuant to subdivision (w) of section nine hundred
53 fifty-nine of the general municipal law, has a base period of zero years
54 and places in service property (or a project that includes such proper-
55 ty) which comprises such qualified investment project or such signif-
56 icant capital investment project[,], shall be deemed to be a new busi-

1 ness under this section. Provided, however, to be deemed a new business
2 under this paragraph, such business enterprise shall have received
3 certification under article eighteen-B of the general business law by
4 December thirty-first, two thousand seven.

5 (k) If the designation of an area as an empire zone is no longer in
6 effect because section nine hundred sixty-nine of the general municipal
7 law was not amended to extend the effective date of such designation so
8 that the designations of all empire zones pursuant to article eighteen-B
9 of the general municipal law have expired, a business enterprise that
10 was certified pursuant to article eighteen-B of the general municipal
11 law on the day immediately preceding the day on which such designation
12 expired shall be deemed to continue to be certified under such article
13 eighteen-B for purposes of this section, and sections fifteen, sixteen,
14 [section one hundred eighty-seven-j,] subdivisions twenty-seven and
15 twenty-eight of section two hundred ten, subsections (bb) and (cc) of
16 section six hundred six, subdivision [(z)] (D) of section eleven hundred
17 [fifteen] NINETEEN, subsections (o) and (p) of section fourteen hundred
18 fifty-six, and subdivisions (r) and (s) of section fifteen hundred elev-
19 en of this chapter. In addition, if the designation of an area as an
20 empire zone is no longer in effect because section nine hundred sixty-
21 nine of the general municipal law was not amended to extend the effec-
22 tive date of such designation so that the designations of all empire
23 zones pursuant to article eighteen-B of the general municipal law have
24 expired, all references to empire zones in the provisions of this chap-
25 ter listed in the previous sentence shall be read as meaning areas
26 designated as empire zones on the day immediately preceding the day on
27 which such designation expired.

28 S 5. Paragraph 1 of subdivision (h) of section 15 of the tax law is
29 REPEALED.

30 S 6. The closing paragraph of subdivision (a) of section 28 of the tax
31 law, as added by section 2 of part V of chapter 62 of the laws of 2006,
32 is amended to read as follows:

33 (4) Notwithstanding any provisions of this section to the contrary, a
34 corporation or partnership, which otherwise qualifies as a qualified
35 commercial production company, and is similar in operation and in owner-
36 ship to a business entity or entities taxable, or previously taxable,
37 under section one hundred eighty-three[,] OR one hundred eighty-four or
38 FORMER SECTION one hundred eighty-five of article nine; article nine-A,
39 article thirty-two or thirty-three of this chapter or which would have
40 been subject to tax under article twenty-three of this chapter (as such
41 article was in effect on January first, nineteen hundred eighty) or the
42 income or losses of which is or was includable under article twenty-two
43 of this chapter shall not be deemed a new or separate business, and
44 therefore shall not be eligible for empire state commercial production
45 benefits, if it was not formed for a valid business purpose, as such
46 term is defined in clause (D) of subparagraph one of paragraph (o) of
47 subdivision nine of section two hundred eight of this chapter and was
48 formed solely to gain empire state commercial production credit bene-
49 fits.

50 S 7. Subdivision (a) of section 31 of the tax law, as amended by
51 section 7 of part G of chapter 61 of the laws of 2011, is amended to
52 read as follows:

53 (a) General. A taxpayer subject to tax under [section one hundred
54 eighty-five,] article nine-A, twenty-two, thirty-two or thirty-three of
55 this chapter shall be allowed a credit against such tax, pursuant to the
56 provisions referenced in subdivision (g) of this section. The amount of

1 the credit, allowable for up to ten consecutive taxable years, is the
2 sum of the following four credit components:

- 3 (1) the excelsior jobs tax credit component;
- 4 (2) the excelsior investment tax credit component;
- 5 (3) the excelsior research and development tax credit component; and
- 6 (4) the excelsior real property tax credit component.

7 S 8. Paragraph 1 of subdivision (g) of section 31 of the tax law is
8 REPEALED.

9 S 9. The opening paragraph of paragraph 1 of subdivision (a) and
10 subparagraph (C) of paragraph 2 of subdivision (e) of section 35 of the
11 tax law, as added by section 3 of part V of chapter 61 of the laws of
12 2011, are amended to read as follows:

13 A taxpayer which is a participant or the owner of a participant in the
14 economic transformation and facility redevelopment program under article
15 eighteen of the economic development law that is subject to tax under
16 [section one hundred eighty-five of article nine, or] article nine-A,
17 twenty-two, thirty-two or thirty-three of this chapter shall be allowed
18 the sum of following components against such tax, pursuant to the
19 provisions referenced in subdivision (f) of this section.

20 (C) the business entity must not be substantially similar in ownership
21 and operation to another taxpayer taxable or previously taxable under
22 section one hundred eighty-three[,] OR one hundred eighty-four or FORMER
23 SECTION one hundred eighty-five of article nine, former section one
24 hundred eighty-six of this chapter or article nine-A, twenty-two, thir-
25 ty-two or thirty-three of this chapter or the income or losses of which
26 is or was includable under article twenty-two of this chapter;

27 S 10. Paragraph 1 of subdivision (f) of section 35 of the tax law, as
28 added by section 3 of part V of chapter 61 of the laws of 2011, is
29 REPEALED.

30 S 11. Paragraph 1 of subdivision (e) of section 38 of the tax law, as
31 added by section 1 of part EE of chapter 59 of the laws of 2013, is
32 REPEALED.

33 S 12. Subdivision 2 of section 187 of the tax law, as added by chapter
34 788 of the laws of 1978, is amended to read as follows:

35 2. In no event shall the credit herein provided for be allowed in an
36 amount which will reduce the tax payable to less than the applicable
37 minimum tax fixed by section one hundred eighty-three[, one hundred
38 eighty-five] or FORMER SECTION one hundred eighty-six. If, however, the
39 amount of credit allowable under this section for any taxable year
40 reduces the tax to such amount, any amount of credit not deductible in
41 such taxable year may be carried over to the following year or years and
42 may be deducted from the taxpayer's tax for such year or years.

43 S 13. Subdivision 5 of section 187-a of the tax law, as added by chap-
44 ter 142 of the laws of 1997, is amended to read as follows:

45 5. Carryover. In no event shall the credit under this section be
46 allowed in an amount which will reduce the tax payable to less than the
47 applicable minimum tax fixed by section one hundred eighty-three[, one
48 hundred eighty-five] or FORMER SECTION one hundred eighty-six of this
49 article. If, however, the amount of credit allowable under this section
50 for any taxable year reduces the tax to such amount, any amount of cred-
51 it not deductible in such taxable year may be carried over to the
52 following year or years and may be deducted from the taxpayer's tax for
53 such year or years.

54 S 14. Subdivisions 1 and 4 of section 187-b of the tax law, as amended
55 by section 1 of part G of chapter 59 of the laws of 2013, are amended to
56 read as follows:

1 1. General. A taxpayer shall be allowed a credit, to be credited
2 against the taxes imposed under sections one hundred eighty-three[,] AND
3 one hundred eighty-four[, and one hundred eighty-five] of this article.
4 Such credit, to be computed as hereinafter provided, shall be allowed
5 for alternative fuel vehicle refueling and electric vehicle recharging
6 property placed in service during the taxable year. Provided, however,
7 that the amount of such credit allowable against the tax imposed by
8 section one hundred eighty-four of this article shall be the excess of
9 the credit allowed by this section over the amount of such credit allow-
10 able against the tax imposed by section one hundred eighty-three of this
11 article.

12 4. Carryovers. In no event shall the credit under this section be
13 allowed in an amount which will reduce the tax payable to less than the
14 applicable minimum tax fixed by section one hundred eighty-three [or one
15 hundred eighty-five] of this article. If, however, the amount of credit
16 allowable under this section for any taxable year reduces the tax to
17 such amount, any amount of credit not deductible in such taxable year
18 may be carried over to the following year or years and may be deducted
19 from the taxpayer's tax for such year or years.

20 S 15. Section 187-c of the tax law, as amended by section 2 of part K
21 of chapter 59 of the laws of 2012, is amended to read as follows:

22 S 187-c. Biofuel production credit. A taxpayer shall be allowed a
23 credit to be computed as provided in section twenty-eight of this chap-
24 ter, as added by part X of chapter sixty-two of the laws of two thousand
25 six, against the tax imposed by this article. Provided, however, that
26 the amount of such credit allowed against the tax imposed by section one
27 hundred eighty-four of this article shall be the excess of the amount of
28 such credit over the amount of any credit allowed by this section
29 against the tax imposed by section one hundred eighty-three of this
30 article. In no event shall the credit under this section be allowed in
31 an amount which will reduce the tax payable to less than the applicable
32 minimum tax fixed by section one hundred eighty-three [or one hundred
33 eighty-five] of this article. If, however, the amount of the credit
34 allowed under this section for any taxable year reduces the tax to such
35 amount, the excess shall be treated as an overpayment of tax to be cred-
36 ited or refunded in accordance with the provisions of section six
37 hundred eighty-six of this chapter. Provided, however, the provisions of
38 subsection (c) of section one thousand eighty-eight of this chapter
39 notwithstanding, no interest shall be paid thereon. The tax credit
40 allowed pursuant to this section shall apply to taxable years beginning
41 before January first, two thousand twenty.

42 S 16. Section 187-d of the tax law, as added by section 3 of part II
43 of chapter 63 of the laws of 2000, is amended to read as follows:

44 S 187-d. Green building credit. 1. Allowance of credit. A taxpayer
45 shall be allowed a credit, to be computed as provided in section nine-
46 teen of this chapter, against the taxes imposed by sections one hundred
47 eighty-three, one hundred eighty-four[, one hundred eighty-five] and
48 FORMER SECTION one hundred eighty-six of this article. Provided, howev-
49 er, that the amount of such credit allowable against the tax imposed by
50 section one hundred eighty-four of this article shall be the excess of
51 the amount of such credit over the amount of any credit allowed by this
52 section against the tax imposed by section one hundred eighty-three of
53 this article.

54 2. Carryovers. In no event shall the credit under this section be
55 allowed in an amount which will reduce the tax payable to less than the
56 applicable minimum tax fixed by section one hundred eighty-three[, one

1 hundred eighty-five] or FORMER SECTION one hundred eighty-six of this
2 article. If, however, the amount of credit allowable under this section
3 for any taxable year reduces the tax to such amount, any amount of cred-
4 it not deductible in such taxable year may be carried over to the
5 following year or years and may be deducted from the taxpayer's tax for
6 such year or years.

7 S 17. Subdivisions 1 and 2 of section 187-e of the tax law, as added
8 by section 2 of part I of chapter 63 of the laws of 2000, are amended to
9 read as follows:

10 1. Allowance of credit. A taxpayer shall be allowed a credit, to be
11 computed as provided in section twenty of this chapter, against the
12 taxes imposed by sections one hundred eighty-three, one hundred eighty-
13 four[, one hundred eighty-five] and FORMER SECTION one hundred eighty-
14 six of this article. Provided, however, that the amount of such credit
15 allowable against the tax imposed by section one hundred eighty-four of
16 this article shall be the excess of the amount of such credit over the
17 amount of any credit allowed by this section against the tax imposed by
18 section one hundred eighty-three of this article.

19 2. Application of credit. In no event shall the credit under this
20 section be allowed in an amount which will reduce the tax payable to
21 less than the applicable minimum tax fixed by section one hundred eight-
22 y-three[, one hundred eighty-five] or FORMER SECTION one hundred eight-
23 y-six of this article. If, however, the amount of credit allowable under
24 this section for any taxable year reduces the tax to such amount, any
25 amount of credit not thus deductible in such taxable year shall be
26 treated as an overpayment of tax to be credited or refunded in accord-
27 ance with the provisions of section ten hundred eighty-six of this chap-
28 ter. Provided, however, the provisions of subsection (c) of section ten
29 hundred eighty-eight of this chapter notwithstanding, no interest shall
30 be paid thereon.

31 S 18. Section 187-g of the tax law, as added by section 2 of part H of
32 chapter 1 of the laws of 2003, is amended to read as follows:

33 S 187-g. Brownfield redevelopment tax credit. 1. Allowance of credit.
34 A taxpayer shall be allowed a credit, to be computed as provided in
35 section twenty-one of this chapter, against the taxes imposed by
36 sections one hundred eighty-three[,] AND one hundred eighty-four [and
37 one hundred eighty-five] of this article. Provided, however, that the
38 amount of such credit allowable against the tax imposed by section one
39 hundred eighty-four of this article shall be the excess of the amount of
40 such credit over the amount of any credit allowed by this section
41 against the tax imposed by section one hundred eighty-three of this
42 article.

43 2. Application of credit. In no event shall the credit under this
44 section be allowed in an amount which will reduce the tax payable to
45 less than the applicable minimum tax fixed by section one hundred eight-
46 y-three [or one hundred eighty-five] of this article. If, however, the
47 amount of credit allowable under this section for any taxable year
48 reduces the tax to such amount, any amount of credit not deductible in
49 such taxable year shall be treated as an overpayment of tax to be
50 refunded in accordance with the provisions of section ten hundred eight-
51 y-six of this chapter. Provided, however, the provisions of subsection
52 (c) of section ten hundred eighty-eight of this chapter notwithstanding,
53 no interest shall be paid thereon.

54 S 19. Section 187-h of the tax law, as added by section 13 of part H
55 of chapter 1 of the laws of 2003, subdivision 1 as amended by section 5

1 of part H of chapter 577 of the laws of 2004, is amended to read as
2 follows:

3 S 187-h. Remediated brownfield credit for real property taxes for
4 qualified sites. 1. Allowance of credit. A taxpayer shall be allowed a
5 credit, to be computed as provided in subdivision (b) of section twen-
6 ty-two of this chapter, against the taxes imposed by sections one
7 hundred eighty-three[,] AND one hundred eighty-four [and one hundred
8 eighty-five] of this article. Provided, however, that the amount of such
9 credit allowed against the tax imposed by section one hundred eighty-
10 four of this article shall be the excess of the amount of such credit
11 over the amount of any credit allowed by this section against the tax
12 imposed by section one hundred eighty-three of this article.

13 2. Application of credit. In no event shall the credit under this
14 section be allowed in an amount which will reduce the tax payable to
15 less than the applicable minimum tax fixed by section one hundred eight-
16 y-three [or one hundred eighty-five] of this article. If, however, the
17 amount of credit allowed under this section for any taxable year reduces
18 the tax to such amount, any amount of credit not thus deductible in such
19 taxable year shall be treated as an overpayment of tax to be credited or
20 refunded in accordance with the provisions of section ten hundred eight-
21 y-six of this chapter. Provided, however, the provisions of subsection
22 (c) of section ten hundred eighty-eight of this chapter notwithstanding,
23 no interest shall be paid thereon.

24 S 20. Section 187-i of the tax law, as added by section 20 of part H
25 of chapter 1 of the laws of 2003, is amended to read as follows:

26 S 187-i. Environmental remediation insurance credit. 1. Allowance of
27 credit. A taxpayer shall be allowed a credit, to be computed as provided
28 in section twenty-three of this chapter, against the taxes imposed by
29 sections one hundred eighty-three[,] AND one hundred eighty-four [and
30 one hundred eighty-five] of this article. Provided, however, that the
31 amount of such credit allowable against the tax imposed by section one
32 hundred eighty-four of this article shall be the excess of the amount of
33 such credit over the amount of any credit allowed by this section
34 against the tax imposed by section one hundred eighty-three of this
35 article.

36 2. Application of credit. In no event shall the credit under this
37 section be allowed in an amount which will reduce the tax payable to
38 less than the applicable minimum tax fixed by section one hundred
39 eighty-three [or one hundred eighty-five] of this article. If, however,
40 the amount of credit allowable under this section for any taxable year
41 reduces the tax to such amount, any amount of credit not deductible in
42 such taxable year shall be treated as an overpayment of tax to be
43 refunded in accordance with the provisions of section one thousand
44 eighty-six of this chapter. Provided, however, the provisions of
45 subsection (c) of section one thousand eighty-eight of this chapter
46 notwithstanding, no interest shall be paid thereon.

47 S 21. Subdivision 2 of section 187-n of the tax law, as added by
48 chapter 537 of the laws of 2005, is amended to read as follows:

49 2. Application of credit. In no event shall the credit under this
50 section be allowed in an amount which will reduce the tax payable to
51 less than the applicable minimum tax fixed by section one hundred
52 eighty-three [or one hundred eighty-five] of this article. If, however,
53 the amount of credit allowable under this section for any taxable year
54 reduces the tax to such amount, any amount of credit not deductible in
55 such taxable year shall be treated as an overpayment of tax to be
56 refunded in accordance with the provisions of section one thousand

1 eighty-six of this chapter. Provided, however, the provisions of
2 subsection (c) of section one thousand eighty-eight of this chapter
3 notwithstanding, no interest shall be paid thereon.

4 S 22. Subdivisions 1 and 3 of section 187-n of the tax law, subdivi-
5 sion 1 as amended by section 1 of part C1 of chapter 57 of the laws of
6 2009 and subdivision 3 as added by chapter 446 of the laws of 2005, are
7 amended to read as follows:

8 (1) Allowance of credit. For taxable years beginning before January
9 first, two thousand nine, a taxpayer whose business is not substantially
10 engaged in the commercial generation, distribution, transmission, or
11 servicing of energy or energy products shall be allowed a credit against
12 the taxes imposed by sections one hundred eighty-three[,] AND one
13 hundred eighty-four [and one hundred eighty-five] of this article, equal
14 to its qualified fuel cell electric generating equipment expenditures.
15 Provided, however, that the amount of such credit allowable against the
16 tax imposed by section one hundred eighty-four of this article shall be
17 the excess of the amount of such credit over the amount of any credit
18 allowed by this section against the tax imposed by section one hundred
19 eighty-three of this article. This credit shall not exceed one thousand
20 five hundred dollars per generating unit with respect to any taxable
21 year. The credit provided for herein shall be allowed with respect to
22 the taxable year in which the fuel cell electric generating equipment is
23 placed in service.

24 (3) Application of credit. In no event shall the credit under this
25 section be allowed in an amount which will reduce the tax payable to
26 less than the applicable minimum tax fixed by section one hundred eight-
27 y-three [or one hundred eighty-five] of this article. If, however, the
28 amount of credit allowable under this section for any taxable year
29 reduces the tax to such amount, any amount of credit not deductible in
30 such taxable year may be carried over to the following year or years and
31 may be deducted from the taxpayer's tax for such year or years.

32 S 23. Section 187-o of the tax law, as added by section 3 of part Y of
33 chapter 57 of the laws of 2010, is amended to read as follows:

34 S 187-o. Temporary deferral nonrefundable payout credit. 1. Allowance
35 of credit. A taxpayer shall be allowed a credit, to be computed as
36 provided in subdivision one of section thirty-four of this chapter,
37 against either the taxes imposed by sections one hundred eighty-three[,]
38 AND one hundred eighty-four, [and one hundred eighty-five,] or the tax
39 imposed by section one hundred eighty-six-a of this article. However,
40 the amount of such credit against the tax imposed by section one hundred
41 eighty-four of this article shall be the excess of the amount of that
42 credit over the amount of any credit allowed by this section against the
43 tax imposed by section one hundred eighty-three of this article.

44 2. Application of credit. In no event shall the credit under this
45 section be allowed in an amount which will reduce the tax to less than
46 the applicable minimum tax fixed by section one hundred eighty-three [or
47 one hundred eighty-five] of this article. If, however, the amount of
48 credit allowed under this section for any taxable year reduces the tax
49 to such amount, any amount of credit not deductible in such taxable year
50 may be carried over to the following year or years and may be deducted
51 from the taxpayer's tax for such year or years.

52 S 24. Section 187-p of the tax law, as added by section 3 of part Y of
53 chapter 57 of the laws of 2010, is amended to read as follows:

54 S 187-p. Temporary deferral refundable payout credit. 1. Allowance of
55 credit. A taxpayer shall be allowed a credit, to be computed as provided
56 in subdivision two of section thirty-four of this chapter, against the

1 taxes imposed by sections one hundred eighty-three[,] AND one hundred
2 eighty-four [and one hundred eighty-five] of this article, or the tax
3 imposed by section one hundred eighty-six-a of this article. However,
4 the amount of such credit against the tax imposed by section one hundred
5 eighty-four of this article shall be the excess of the amount of that
6 credit over the amount of any credit allowed by this section against the
7 tax imposed by section one hundred eighty-three of this article.

8 2. Application of credit. In no event shall the credit under this
9 section be allowed in an amount which will reduce the tax to less than
10 the applicable minimum tax fixed by section one hundred eighty-three [or
11 one hundred eighty-five] of this article. If, however, the amount of
12 credit allowed under this section for any taxable year reduces the tax
13 to such amount, any amount of credit not deductible in such taxable year
14 shall be treated as an overpayment of tax to be refunded in accordance
15 with the provisions of section one thousand eighty-six of this chapter,
16 provided however, that no interest shall be paid thereon.

17 S 25. Subdivisions 2 and 3 of section 190 of the tax law, as added by
18 section 1 of part E of chapter 63 of the laws of 2000, are amended to
19 read as follows:

20 2. Computation. The credit allowed by this section shall first be
21 deducted from the taxes imposed by section one hundred eighty-three[,
22 one hundred eighty-five] or FORMER SECTION one hundred eighty-six of
23 this article. The amount of any such credit remaining shall next be
24 deducted from the taxes imposed by section one hundred eighty-four of
25 this article.

26 3. Carryover. In no event shall the amount of credit allowed under
27 this section reduce the tax payable to less than the minimum tax fixed
28 by section one hundred eighty-three[, one hundred eighty-five] or FORMER
29 SECTION one hundred eighty-six of this article. If, however, the amount
30 of credit allowable under this section for any taxable year reduces the
31 tax to such amount, any amount of credit not deductible in such taxable
32 year may be carried over to the following year or years and may be
33 deducted from the taxpayer's tax for such year or years.

34 S 26. Subdivision 1 of section 192 of the tax law, as amended by chap-
35 ter 96 of the laws of 1976, is amended to read as follows:

36 1. Corporations paying franchise tax. Every corporation, association
37 or joint-stock company liable to pay a tax under section one hundred
38 eighty-three [or one hundred eighty-five] of this chapter shall, on or
39 before March fifteenth in each year, make a written report to the tax
40 commission of its condition at the close of its business on the preced-
41 ing December thirty-first, stating the amount of its authorized capital
42 stock, the amount of stock paid in, the date and rate per centum of each
43 dividend paid by it during the year ending with such day, the entire
44 amount of the capital of such corporation, and the capital employed by
45 it in this state during such year.

46 S 27. Subdivision 4 of section 209 of the tax law, as amended by
47 section 2 of part FF1 of chapter 57 of the laws of 2008, is amended to
48 read as follows:

49 4. Corporations liable to tax under sections one hundred eighty-three
50 to one hundred [eighty-five] EIGHTY-FOUR-A, inclusive, corporations
51 taxable under articles thirty-two and thirty-three of this chapter, any
52 trust company organized under a law of this state all of the stock of
53 which is owned by not less than twenty savings banks organized under a
54 law of this state, bank holding companies filing a combined return in
55 accordance with [subdivision] SUBSECTION (f) of section fourteen hundred
56 sixty-two of this chapter, a captive REIT or a captive RIC filing a

1 combined return under either [subdivision] SUBSECTION (f) of section
2 fourteen hundred sixty-two or subdivision (f) of section fifteen hundred
3 fifteen of this chapter, and housing companies organized and operating
4 pursuant to the provisions of article two or article five of the private
5 housing finance law and housing development fund companies organized
6 pursuant to the provisions of article eleven of the private housing
7 finance law shall not be subject to tax under this article.

8 S 28. Section 209 of the tax law is amended by adding a new subdivi-
9 sion 12 to read as follows:

10 12. ALL FARMERS', FRUIT GROWERS' AND OTHER LIKE AGRICULTURAL CORPO-
11 RATIONS ORGANIZED AND OPERATED ON A CO-OPERATIVE BASIS FOR THE PURPOSES
12 EXPRESSED IN AND AS PROVIDED UNDER THE CO-OPERATIVE CORPORATIONS LAW OF
13 THE STATE OF NEW YORK, WHETHER OR NOT SUCH CORPORATIONS HAVE CAPITAL
14 STOCK, SHALL BE EXEMPT FROM TAXATION UNDER THE PROVISIONS OF THIS ARTI-
15 CLE.

16 S 29. Paragraphs (b) and (c) of subdivision 1-c, clause (i) of subpar-
17 agraph 1 of paragraph (b) of subdivision 3, and subparagraphs 1 and 2 of
18 paragraph (j) of subdivision 12 of section 210 of the tax law, paragraph
19 (b) of subdivision 1-c as amended by section 12 of part Y of chapter 63
20 of the laws of 2000, paragraph (c) of subdivision 1-c and subparagraph 2
21 of paragraph (j) of subdivision 12 as amended by chapter 1043 of the
22 laws of 1981, clause (i) of subparagraph 1 of paragraph (b) of subdivi-
23 sion 3 as amended by chapter 61 of the laws of 1989 and subparagraph 1
24 of paragraph (j) of subdivision 12 as amended by section 14 of part Y of
25 chapter 63 of the laws of 2000, are amended to read as follows:

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

37 (c) is not a corporation which is substantially similar in operation
38 and in ownership to a business entity (or entities) taxable, or previ-
39 ously taxable, under this article; section one hundred eighty-three, one
40 hundred eighty-four, OR FORMER SECTION one hundred eighty-five or FORMER
41 SECTION one hundred eighty-six of article nine; article thirty-two or
42 thirty-three of this chapter; article twenty-three of this chapter or
43 which would have been subject to tax under such article twenty-three (as
44 such article was in effect on January first, nineteen hundred eighty) or
45 the income (or losses) of which is (or was) includable under article
46 twenty-two of this chapter, and

47 (i) In the case of an issuer or obligor subject to tax under section
48 one hundred eighty-three[, one hundred eighty-five] or FORMER SECTION
49 one hundred eighty-six of this chapter or under this article or article
50 thirty-three of this chapter (except for savings and insurance banks
51 described in subdivision (b) of section fifteen hundred of this chap-
52 ter), the issuer's allocation percentage shall be the percentage of the
53 appropriate measure (as defined hereinafter) which is required to be
54 allocated within the state on the report, if any, required of the issuer
55 or obligor under this chapter for the preceding year. The appropriate
56 measure referred to in the preceding sentence shall be: in the case of

1 an issuer or obligor subject to section one hundred eighty-three of this
2 chapter, issued capital stock; in the case of an issuer or obligor
3 [subject to section one hundred eighty-five] EXEMPT FROM TAX UNDER
4 SUBDIVISION TWELVE OF SECTION TWO HUNDRED NINE of this [chapter]
5 ARTICLE, issued capital stock; in the case of an issuer or obligor
6 subject to FORMER section one hundred eighty-six of this chapter, gross
7 earnings; in the case of an issuer or obligor subject to this article,
8 entire capital; and in the case of an issuer or obligor subject to arti-
9 cle thirty-three of this chapter, gross direct premiums.

10 (1) over fifty percent of the number of shares of stock entitling the
11 holders thereof to vote for the election of directors or trustees is
12 owned or controlled, either directly or indirectly, by a taxpayer
13 subject to tax under this article; section one hundred eighty-three, one
14 hundred eighty-four or FORMER SECTION one hundred eighty-five of article
15 nine; article thirty-two or thirty-three of this chapter; or

16 (2) is substantially similar in operation and in ownership to a busi-
17 ness entity (or entities) taxable, or previously taxable, under this
18 article; section one hundred eighty-three, one hundred eighty-four,
19 FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred
20 eighty-six of article nine; article thirty-two or thirty-three of this
21 chapter; article twenty-three of this chapter or which would have been
22 subject to tax under such article twenty-three (as such article was in
23 effect on January first, nineteen hundred eighty) or the income (or
24 losses) of which is (or was) includable under article twenty-two of this
25 chapter whereby the intent and purpose of this paragraph and paragraph
26 (e) of this subdivision with respect to refunding of credit to new busi-
27 ness would be evaded; or

28 S 30. Subparagraph (A) of paragraph 10 of subsection (a) of section
29 606 of the tax law, as amended by section 3 of part CC of chapter 85 of
30 the laws of 2002, is amended to read as follows:

31 (A) the business of which the individual is an owner is substantially
32 similar in operation and in ownership to a business entity taxable, or
33 previously taxable, under section one hundred eighty-three, one hundred
34 eighty-four, FORMER SECTION one hundred eighty-five or FORMER SECTION
35 one hundred eighty-six of article nine; article nine-A, thirty-two or
36 thirty-three of this chapter; article twenty-three of this chapter or
37 which would have been subject to tax under such article twenty-three (as
38 such article was in effect on January first, nineteen hundred eighty) or
39 the income (or losses) of which is (or was) includable under article
40 twenty-two of this chapter whereby the intent and purpose of this para-
41 graph and paragraph five of this subsection with respect to refunding of
42 credit to new business would be evaded; or

43 S 31. Subparagraphs (A) and (B) of paragraph 8 of subsection (i) of
44 section 1456 of the tax law, as added by section 27 of part A of chapter
45 56 of the laws of 1998, are amended to read as follows:

46 (A) over fifty percent of the number of shares of stock entitling the
47 holders thereof to vote for the election of directors or trustees is
48 owned or controlled, either directly or indirectly, by a taxpayer
49 subject to tax under this article; section one hundred eighty-three, one
50 hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER
51 SECTION one hundred eighty-six of article nine; article nine-A or arti-
52 cle thirty-three of this chapter; or

53 (B) is substantially similar in operation and in ownership to a busi-
54 ness entity (or entities) taxable, or previously taxable, under this
55 article; section one hundred eighty-three, one hundred eighty-four,
56 FORMER SECTION one hundred eighty-five or FORMER SECTION one hundred

1 eighty-six of article nine; article nine-A or article thirty-three of
2 this chapter; article twenty-three of this chapter or which would have
3 been subject to tax under such article twenty-three (as such article was
4 in effect on January first, nineteen hundred eighty) or the income (or
5 losses) of which is (or was) includable under article twenty-two of this
6 chapter whereby the intent and purpose of this paragraph and paragraph
7 five of this subsection with respect to refunding of credit to new busi-
8 ness would be evaded; or

9 S 32. Subparagraph (A) of paragraph 7 of subdivision (q) of section
10 1511 of the tax law, as added by section 1 of part L of chapter 63 of
11 the laws of 2000, is amended to read as follows:

12 (A) over fifty percent of the number of shares of stock entitling the
13 holders thereof to vote for the election of directors or trustees is
14 owned or controlled, either directly or indirectly, by a taxpayer
15 subject to tax under this article; section one hundred eighty-three, one
16 hundred eighty-four, FORMER SECTION one hundred eighty-five or FORMER
17 SECTION one hundred eighty-six of article nine; article nine-A or arti-
18 cle thirty-two of this chapter; or

19 S 33. Subdivision 13 of section 171 of the transportation law, as
20 added by chapter 478 of the laws of 1991, is amended to read as follows:

21 13. The transportation for compensation performed by an agricultural
22 cooperative corporation[, which corporation is subject to tax under
23 section one hundred eighty-five of the tax law,] for non-members who are
24 not farmers or cooperative corporations when such transportation is
25 limited to that which is incidental to the agricultural cooperative
26 corporation's primary transportation operation and is necessary for its
27 effective performance. Such transportation shall be provided only after
28 the agricultural cooperative corporation notifies the commissioner in
29 writing of its intent to provide the transportation and it shall not
30 exceed twenty-five percent of the agricultural cooperative corporation's
31 total transportation services in each calendar year measured in terms of
32 tonnage. The commissioner may prescribe the records to be kept and the
33 information to be furnished by all agricultural cooperative corporations
34 performing transportation pursuant to this subdivision.

35 S 34. Subclause 2 of clause (v) of subparagraph (B) of paragraph 1 of
36 subdivision (o) of section 11-1712 of the administrative code of the
37 city of New York, such subdivision as relettered by chapter 639 of the
38 laws of 1986, is amended to read as follows:

39 (2) A new business does not include: (i) any new business of which
40 twenty-five percent or more of the number of shares of stock that enti-
41 tle the holders thereof to vote for the election of directors or trus-
42 tees is owned, directly or indirectly, by a taxpayer subject to tax
43 under section one hundred eighty-three, one hundred eighty-four, FORMER
44 SECTION one hundred eighty-five or FORMER SECTION one hundred eighty-six
45 of article nine of the tax law, or under article [nine-a] NINE-A, thir-
46 ty-two or thirty-three of the tax law or (ii) any new business substan-
47 tially similar in operation and in ownership, directly or indirectly, to
48 a business entity (or entities) taxable, or previously taxable, under
49 such section, such article, article twenty-three of the tax law or which
50 would have been subject to tax under such article twenty-three (as such
51 article was in effect on January first, nineteen hundred eighty) or the
52 income (or losses) of which is (or was) includible under article twen-
53 ty-two of such tax law whereby the intent and purpose of this section
54 would be evaded.

55 S 35. Paragraph (iii) of subdivision 9 of section 16-v of section 1 of
56 chapter 174 of the laws of 1968, constituting the New York state urban

1 development corporation act, as added by section 1 of part C of chapter
2 59 of the laws of 2013, is amended to read as follows:

3 (iii) either: (A) any corporation, except a corporation which:

4 (1) over fifty percent of the number of shares of stock entitling the
5 holders thereof to vote for the election of directors or trustees is
6 owned or controlled, either directly or indirectly, by a taxpayer
7 subject to tax under the following provisions of the tax law: article
8 nine-A; section one hundred eighty-three[,] OR one hundred eighty-four
9 or FORMER SECTION one hundred eighty-five of article nine; article thir-
10 ty-two or article thirty-three; or

11 (2) is substantially similar in operation and in ownership to a busi-
12 ness entity (or entities) taxable or previously taxable under the
13 following provisions of the tax law: article nine-A; section one hundred
14 eighty-three, one hundred eighty-four, FORMER SECTION one hundred eight-
15 y-five or former section one hundred eighty-six of article nine; article
16 thirty-two; article thirty-three; article twenty-three, or would have
17 been subject to tax under such article twenty-three (as such article was
18 in effect on January first, nineteen hundred eighty) or the income (or
19 losses) of which is (or was) includable under article twenty-two; or

20 (B) a sole proprietorship, partnership, limited partnership, limited
21 liability company, or New York subchapter S corporation that is not
22 substantially similar in operation and in ownership to a business entity
23 (or entities) taxable, or previously taxable, under article nine-A of
24 the tax law, section one hundred eighty-three, one hundred eighty-four,
25 FORMER SECTION one hundred eighty-five or former section one hundred
26 eighty-six of article nine of the tax law, article thirty-two or thir-
27 ty-three of the tax law, article twenty-three of the tax law or which
28 would have been subject to tax under such article twenty-three (as such
29 article was in effect on January first, nineteen hundred eighty) or the
30 income (or losses) of which is (or was) includable under article twen-
31 ty-two of the tax law; and

32 S 36. Notwithstanding the repeal of section 185 of the tax law by
33 section one of this act, all provisions of such section 185, in respect
34 to the imposition, exemption, assessment, payment, payment over, deter-
35 mination, collection, and credit or refund of tax imposed thereunder,
36 the filing of forms and returns, the preservation of records for the
37 purposes of such tax, the secrecy of returns, the disposition of reven-
38 ues, and the civil and criminal penalties applicable to the violation of
39 the provisions of such section 185, shall continue in full force and
40 effect with respect to all such tax accrued up to December 31, 2017; all
41 actions and proceedings, civil or criminal, commenced or authorized to
42 be commenced under or by virtue of any provision of such section 185 so
43 repealed, and pending or able to commence prior to the taking effect of
44 such repeal, may be commenced, prosecuted and defended to final effect
45 in the same manner as they might if such provisions were not so
46 repealed.

47 S 37. This act shall take effect January 1, 2018 and shall apply to
48 taxable years beginning on or after January 1, 2018; provided, however
49 that:

50 a. the amendments to subdivision 9 of section 400 of the economic
51 development law made by section two of this act shall not affect the
52 repeal of such section and shall be deemed repealed therewith; and

53 b. the amendments to subdivisions (a) and (e) of section 35 of the tax
54 law made by section nine of this act shall not affect the repeal of such
55 section and shall be deemed repealed therewith.

1

PART T

2 Section 1. Section 39 of the tax law is amended by adding a new subdi-
3 vision (c-1) to read as follows:

4 (C-1) EXCISE TAX ON TELECOMMUNICATION SERVICES. SUCH BUSINESS OR OWNER
5 OF A BUSINESS SHALL BE ELIGIBLE FOR A CREDIT OF THE EXCISE TAX ON TELE-
6 COMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED EIGHTY-SIX-E OF
7 THIS CHAPTER THAT IS PASSED THROUGH TO SUCH BUSINESS, PURSUANT TO THE
8 PROVISIONS REFERENCED IN SUBDIVISION (K) OF THIS SECTION.

9 S 2. Paragraph 4 of subdivision (k) of section 39 of the tax law, as
10 added by section 2 of part A of chapter 68 of the laws of 2013, is
11 amended to read as follows:

12 (4) Article 9-A: section 210, subdivision 47 AND SUBDIVISION 49.

13 S 2-a. Paragraph 6 of subdivision (k) of section 39 of the tax law, as
14 added by section 2 of part A of chapter 68 of the laws of 2013, is
15 amended to read as follows:

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

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

19 (20-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELE-
20 COMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF
21 THE CALCULATION OF THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION
22 SERVICES CREDIT ALLOWED UNDER SUBDIVISION FORTY-NINE OF SECTION TWO
23 HUNDRED TEN OF THIS ARTICLE.

24 S 3. Section 210 of the tax law is amended by adding a new subdivision
25 49 to read as follows:

26 49. THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES
27 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS
28 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF
29 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE
30 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED
31 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING
32 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING
33 ENTIRE NET INCOME. HOWEVER, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH
34 TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
35 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
36 EIGHTY-SIX OF THIS CHAPTER. THIS CREDIT MAY BE CLAIMED ONLY WHERE ANY
37 TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPARATELY
38 STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES AND
39 PAID BY SUCH BUSINESS WITH RESPECT TO SUCH SERVICES RENDERED WITHIN A
40 TAX-FREE NY AREA DURING THE TAXABLE YEAR. UNLESS THE TAXPAYER HAS A
41 TAX-FREE NY AREA ALLOCATION FACTOR OF ONE HUNDRED PERCENT, THE CREDIT
42 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE
43 TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH
44 (D) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, THE
45 PROVISIONS OF SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF
46 THIS CHAPTER NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

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

49 (YY) THE TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION SERVICES
50 CREDIT. A TAXPAYER THAT IS A BUSINESS OR OWNER OF A BUSINESS THAT IS
51 LOCATED IN A TAX-FREE NY AREA APPROVED PURSUANT TO ARTICLE TWENTY-ONE OF
52 THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED A CREDIT EQUAL TO THE
53 EXCISE TAX ON TELECOMMUNICATION SERVICES IMPOSED BY SECTION ONE HUNDRED
54 EIGHTY-SIX-E OF THIS CHAPTER AND PASSED THROUGH TO SUCH BUSINESS DURING
55 THE TAXABLE YEAR TO THE EXTENT NOT OTHERWISE DEDUCTED IN COMPUTING

1 FEDERAL ADJUSTED GROSS INCOME. THIS CREDIT MAY BE CLAIMED ONLY WHERE
 2 ANY TAX IMPOSED BY SUCH SECTION ONE HUNDRED EIGHTY-SIX-E HAS BEEN SEPA-
 3 RATELY STATED ON A BILL FROM THE PROVIDER OF TELECOMMUNICATION SERVICES
 4 AND PAID BY SUCH TAXPAYER WITH RESPECT TO SUCH SERVICES RENDERED WITHIN
 5 A TAX-FREE NY AREA DURING THE TAXABLE YEAR. IF THE AMOUNT OF THE CREDIT
 6 ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE TAXPAY-
 7 ER'S TAX FOR SUCH YEAR, THE EXCESS WILL BE TREATED AS AN OVERPAYMENT TO
 8 BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
 9 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
 10 WILL BE PAID THEREON.

11 S 5. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 12 of the tax law is amended by adding a new clause (xxxviii) to read as
 13 follows:

14 (XXXVIII) TAX FREE NY AREA EXCISE	AMOUNT OF CREDIT UNDER
15 TAX ON TELECOMMUNICATION SERVICES	SUBDIVISION FORTY-NINE
16 CREDIT UNDER SUBSECTION (YY)	OF SECTION TWO HUNDRED TEN

17 S 5-a. Subsection (b) of section 612 of the tax law is amended by
 18 adding a new paragraph 39-a to read as follows:

19 (39-A) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR THE EXCISE TAX ON TELE-
 20 COMMUNICATION SERVICES TO THE EXTENT SUCH TAXES ARE USED AS THE BASIS OF
 21 THE CALCULATION OF TAX-FREE NY AREA EXCISE TAX ON TELECOMMUNICATION
 22 SERVICES CREDIT ALLOWED UNDER SUBSECTION (YY) OF SECTION SIX HUNDRED SIX
 23 OF THIS ARTICLE.

24 S 6. This act shall take effect immediately and shall apply to taxable
 25 years beginning on or after January 1, 2014; provided that sections two,
 26 two-b, three and five of this act shall expire December 31, 2014 when
 27 upon such date such provisions shall be deemed repealed.

28 PART U

29 Section 1. Paragraph (a) of subdivision 44 of section 210 of the tax
 30 law, as amended by section 2 of part T of chapter 59 of the laws of
 31 2012, is amended to read as follows:

32 (a) A taxpayer that has been certified by the commissioner of labor as
 33 a qualified employer pursuant to section twenty-five-a of the labor law
 34 shall be allowed a credit against the tax imposed by this article equal
 35 to (i) five hundred dollars per month for up to six months for each
 36 qualified employee the employer employs in a full-time job or two
 37 hundred fifty dollars per month for up to six months for each qualified
 38 employee the employer employs in a part-time job of at least twenty
 39 hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS
 40 ENROLLED IN HIGH SCHOOL FULL-TIME, and (ii) one thousand dollars for
 41 each qualified employee who is employed for at least an additional six
 42 months by the qualified employer in a full-time job or five hundred
 43 dollars for each qualified employee who is employed for at least an
 44 additional six months by the qualified employer in a part-time job of at
 45 least twenty hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED
 46 EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME, AND (III) AN ADDITIONAL
 47 ONE THOUSAND DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT
 48 LEAST AN ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOY-
 49 MENT BY THE QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED
 50 DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN
 51 ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE
 52 QUALIFIED EMPLOYER IN A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK
 53 OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH
 54 SCHOOL FULL-TIME. For purposes of this subdivision, the term "qualified

1 employee" shall have the same meaning as set forth in subdivision (b) of
2 section twenty-five-a of the labor law. The portion of the credit
3 described in subparagraph (i) of this paragraph shall be allowed for the
4 taxable year in which the wages are paid to the qualified employee, and
5 the portion of the credit described in subparagraph (ii) of this para-
6 graph shall be allowed in the taxable year in which the additional six
7 month period ends.

8 S 2. Paragraph 1 of subsection (tt) of section 606 of the tax law, as
9 amended by section 3 of part T of chapter 59 of the laws of 2012, is
10 amended to read as follows:

11 (1) A taxpayer that has been certified by the commissioner of labor as
12 a qualified employer pursuant to section twenty-five-a of the labor law
13 shall be allowed a credit against the tax imposed by this article equal
14 to (A) five hundred dollars per month for up to six months for each
15 qualified employee the employer employs in a full-time job or two
16 hundred fifty dollars per month for up to six months for each qualified
17 employee the employer employs in a part-time job of at least twenty
18 hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS
19 ENROLLED IN HIGH SCHOOL FULL-TIME, and (B) one thousand dollars for each
20 qualified employee who is employed for at least an additional six months
21 by the qualified employer in a full-time job or five hundred dollars for
22 each qualified employee who is employed for at least an additional six
23 months by the qualified employer in a part-time job of at least twenty
24 hours per week OR TEN HOURS PER WEEK WHEN THE QUALIFIED EMPLOYEE IS
25 ENROLLED IN HIGH SCHOOL FULL-TIME, AND (C) AN ADDITIONAL ONE THOUSAND
26 DOLLARS FOR EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN
27 ADDITIONAL YEAR AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE
28 QUALIFIED EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH
29 QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER
30 THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN
31 A PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK
32 WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL-TIME. A
33 taxpayer that is a partner in a partnership, member of a limited liabil-
34 ity company or shareholder in an S corporation that has been certified
35 by the commissioner of labor as a qualified employer pursuant to section
36 twenty-five-a of the labor law shall be allowed its pro rata share of
37 the credit earned by the partnership, limited liability company or S
38 corporation. For purposes of this subsection, the term "qualified
39 employee" shall have the same meaning as set forth in subdivision (b) of
40 section twenty-five-a of the labor law. The portion of the credit
41 described in subparagraph (A) of this paragraph shall be allowed for the
42 taxable year in which the wages are paid to the qualified employee, and
43 the portion of the credit described in subparagraph (B) of this para-
44 graph shall be allowed in the taxable year in which the additional six
45 month period ends.

46 S 3. Subdivision (a) of section 25-a of the labor law, as amended by
47 section 2 of part DD of chapter 59 of the laws of 2013, is amended to
48 read as follows:

49 (a) The commissioner is authorized to establish and administer the New
50 York youth works tax credit program to provide tax incentives to employ-
51 ers for employing at risk youth in part-time and full-time positions.
52 There will be five distinct pools of tax incentives. Program one will
53 cover tax incentives allocated for two thousand twelve and two thousand
54 thirteen. Program two will cover tax incentives allocated in two thou-
55 sand fourteen to be used in two thousand fourteen and fifteen. Program
56 three will cover tax incentives allocated in two thousand fifteen to be

1 used in two thousand fifteen and sixteen. Program four will cover tax
2 incentives allocated in two thousand sixteen to be used in two thousand
3 sixteen and seventeen. Program five will cover tax incentives allocated
4 in two thousand seventeen to be used in two thousand seventeen and eigh-
5 teen. The commissioner is authorized to allocate up to twenty-five
6 million dollars of tax credits under program one, [six] TEN million
7 dollars of tax credits under program two, [six] TEN million dollars of
8 tax credits under program three, [and six] TEN million dollars of tax
9 credits under program four, and [six] TEN million dollars of tax credits
10 under program five.

11 S 4. Subdivision (c) of section 25-a of the labor law, as amended by
12 chapter 536 of the laws of 2013, is amended to read as follows:

13 (c) A qualified employer shall be entitled to a tax credit equal to
14 (1) five hundred dollars per month for up to six months for each quali-
15 fied employee the employer employs in a full-time job or two hundred
16 fifty dollars per month for up to six months for each qualified employee
17 the employer employs in a part-time job of at least twenty hours per
18 week or ten hours per week when the qualified employee is enrolled in
19 high school full-time, [and] (2) one thousand dollars for each qualified
20 employee who is employed for at least an additional six months by the
21 qualified employer in a full-time job or five hundred dollars for each
22 qualified employee who is employed for at least an additional six months
23 by the qualified employer in a part-time job of at least twenty hours
24 per week or ten hours per week when the qualified employee is enrolled
25 in high school full-time, AND (3) AN ADDITIONAL ONE THOUSAND DOLLARS FOR
26 EACH QUALIFIED EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR
27 AFTER THE FIRST YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED
28 EMPLOYER IN A FULL-TIME JOB OR FIVE HUNDRED DOLLARS FOR EACH QUALIFIED
29 EMPLOYEE WHO IS EMPLOYED FOR AT LEAST AN ADDITIONAL YEAR AFTER THE FIRST
30 YEAR OF THE EMPLOYEE'S EMPLOYMENT BY THE QUALIFIED EMPLOYER IN A
31 PART-TIME JOB OF AT LEAST TWENTY HOURS PER WEEK OR TEN HOURS PER WEEK
32 WHEN THE QUALIFIED EMPLOYEE IS ENROLLED IN HIGH SCHOOL FULL TIME. The
33 tax credits shall be claimed by the qualified employer as specified in
34 subdivision forty-four of section two hundred ten and subsection (tt) of
35 section six hundred six of the tax law.

36 S 5. Section 25-a of the labor law is amended by adding a new subdivi-
37 sion (f) to read as follows:

38 (F) THE COMMISSIONER SHALL ANNUALLY PUBLISH A REPORT. SUCH REPORT MUST
39 CONTAIN THE NAMES AND ADDRESSES OF ANY EMPLOYER ISSUED A CERTIFICATE OF
40 ELIGIBILITY UNDER THIS SECTION, AND THE MAXIMUM AMOUNT OF NEW YORK YOUTH
41 WORKS TAX CREDIT ALLOWED TO THE EMPLOYER AS SPECIFIED ON SUCH CERTIF-
42 ICATE OF ELIGIBILITY.

43 S 6. This act shall take effect immediately; provided, however,
44 sections one and two of this act shall apply to taxable years beginning
45 on or after January 1, 2014.

46

PART V

47 Section 1. Section 19 of Part W-1 of chapter 109 of the laws of 2006
48 amending the tax law and other laws relating to providing exemptions,
49 reimbursements and credits from various taxes for certain alternative
50 fuels, as amended by section 1 of part D of chapter 59 of the laws of
51 2012, is amended to read as follows:

52 S 19. This act shall take effect immediately; provided, however, that
53 sections one through thirteen of this act shall take effect September 1,
54 2006 and shall be deemed repealed on September 1, [2014] 2016 and such

1 repeal shall apply in accordance with the applicable transitional
2 provisions of sections 1106 and 1217 of the tax law, and shall apply to
3 sales made, fuel compounded or manufactured, and uses occurring on or
4 after such date, and with respect to sections seven through eleven of
5 this act, in accordance with applicable transitional provisions of
6 sections 1106 and 1217 of the tax law; provided, however, that the
7 commissioner of taxation and finance shall be authorized on and after
8 the date this act shall have become a law to adopt and amend any rules
9 or regulations and to take any steps necessary to implement the
10 provisions of this act; provided further that sections fourteen through
11 sixteen of this act shall take effect immediately and shall apply to
12 taxable years beginning on or after January 1, 2006.

13 S 2. This act shall take effect immediately.

14

PART W

15 Section 1. Section 11 of part EE of chapter 63 of the laws of 2000,
16 amending the tax law and other laws relating to modifying the distrib-
17 ution of funds from the motor vehicle fuel excise tax, as amended by
18 section 1 of part M of chapter 61 of the laws of 2011, is amended to
19 read as follows:

20 S 11. Notwithstanding any other law, rule or regulation to the contra-
21 ry, the comptroller is hereby authorized and directed to deposit in
22 equal monthly installments and distribute pursuant to the provisions of
23 subdivision (d) of section 301-j of the tax law amounts listed below to
24 the credit of the dedicated highway and bridge trust fund and the dedi-
25 cated mass transportation trust fund from all motor vehicle receipts now
26 deposited into the general fund pursuant to provisions of the vehicle
27 and traffic law: twenty-eight million four hundred thousand dollars
28 from April 1, 2002 through March 31, 2003, sixty-seven million nine
29 hundred thousand dollars from April 1, 2003 through March 31, 2004, one
30 hundred seventy million one hundred thousand dollars from April 1, 2004
31 through March 31, 2005, and one hundred percent of all motor vehicle
32 receipts pursuant to provisions of the vehicle and traffic law that are
33 not otherwise directed to be deposited in a fund other than the general
34 fund from April 1, 2005 through March 31, 2006, and the same amount each
35 year thereafter UNTIL MARCH 31, 2014. FROM APRIL 1, 2014 THROUGH MARCH
36 31, 2015, AND EACH YEAR THEREAFTER, THE COMPTROLLER SHALL, ON A QUARTER-
37 LY BASIS, CERTIFY AND TRANSFER SIXTEEN MILLION FOUR HUNDRED NINETY-EIGHT
38 THOUSAND TWO HUNDRED FIFTY-FIVE DOLLARS TO THE DEDICATED HIGHWAY AND
39 BRIDGE TRUST FUND AND FIFTEEN MILLION SIX HUNDRED SIXTY-FIVE THOUSAND
40 TWO HUNDRED FORTY-FIVE DOLLARS TO THE DEDICATED MASS TRANSPORTATION
41 TRUST FUND.

42 S 2. Paragraph (f) of subdivision 4 of section 503 of the vehicle and
43 traffic law, as added by section 1 of part W of chapter 59 of the laws
44 of 2006, is amended to read as follows:

45 (f) Notwithstanding any other provision of law to the contrary,
46 commencing April first, two thousand six and ending March thirty-first,
47 two thousand [seven] FOURTEEN, IN EACH YEAR, the first forty million
48 seven hundred thousand dollars of fees collected pursuant to this subdivi-
49 sion and section eleven hundred ninety-nine of this chapter, in the
50 aggregate, shall be paid to the state comptroller who shall deposit such
51 money in the state treasury pursuant to section one hundred twenty-one
52 of the state finance law to the credit of the general fund. Any such
53 fees collected in excess of such amount shall be paid to the credit of
54 the comptroller on account of the dedicated highway and bridge trust

1 fund established pursuant to section eighty-nine-b of the state finance
2 law. [Commencing April first, two thousand seven and ending March thir-
3 ty-first, two thousand eight, and for each such fiscal year thereafter,
4 the first forty million seven hundred thousand dollars of fees collected
5 pursuant to this subdivision and section eleven hundred ninety-nine of
6 this chapter, in the aggregate, shall be paid to the state comptroller
7 who shall deposit such money in the state treasury pursuant to section
8 one hundred twenty-one of the state finance law to the credit of the
9 general fund. Any such fees collected in excess of such amount for each
10 such state fiscal year, shall be paid to the credit of the comptroller
11 on account of the dedicated highway and bridge trust fund established
12 pursuant to section eighty-nine-b of the state finance law.] COMMENCING
13 APRIL FIRST, TWO THOUSAND FOURTEEN AND FOR EACH SUCH FISCAL YEAR THERE-
14 AFTER, ANY SUCH FEES COLLECTED PURSUANT TO THIS SUBDIVISION AND SECTION
15 ELEVEN HUNDRED NINETY-NINE OF THIS CHAPTER SHALL BE PAID TO THE CREDIT
16 OF THE COMPTROLLER ON ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST
17 FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE
18 LAW.

19 S 3. This act shall take effect immediately and shall be deemed to
20 have been in full force and effect on and after April 1, 2014.

21

PART X

22 Section 1. Section 951 of the tax law, as amended by chapter 67 of the
23 laws of 1978, subsection (a) as amended by section 1 of part T of chap-
24 ter 57 of the laws of 2010, subsection (b) as amended by section 5 of
25 part A of chapter 389 of the laws of 1997 and subsection (c) as added by
26 chapter 538 of the laws of 2013, is amended to read as follows:

27 S 951. Applicable internal revenue code provisions.-- (a) [Dates]
28 GENERAL. For purposes of this article, any reference to the internal
29 revenue code means the United States Internal Revenue Code of 1986, with
30 all amendments enacted on or before [July twenty-second, nineteen
31 hundred ninety-eight,] JANUARY FIRST, TWO THOUSAND FOURTEEN and, unless
32 specifically provided otherwise in this article, any reference to Decem-
33 ber thirty-first, nineteen hundred seventy-six or January first, nine-
34 teen hundred seventy-seven contained in the provisions of such code
35 which are applicable to the determination of the tax imposed by this
36 article shall be read as a reference to June thirtieth, nineteen hundred
37 seventy-eight or July first, nineteen hundred seventy-eight, respective-
38 ly. [Notwithstanding the foregoing, the unified credit against the
39 estate tax provided in section two thousand ten of the internal revenue
40 code shall, for purposes of this article, be the amount allowable as if
41 the federal applicable exclusion amount were one million dollars.]

42 (b) [Applicable generation-skipping transfer tax provisions.--Where
43 any reference is made in this article (or in the provisions of the
44 internal revenue code which are made applicable by section two, as
45 amended, of chapter one thousand thirteen of the laws of nineteen
46 hundred sixty-two, to the determination of the tax imposed by this arti-
47 cle and appended thereto) to provisions of the internal revenue code
48 contained in section one thousand twenty-five of this chapter, such
49 internal revenue code provisions contained in such section one thousand
50 twenty-five shall apply to the provisions of this article in the same
51 manner and with the same force and effect as if the language of such
52 provisions of the internal revenue code had been incorporated in full
53 into this article except to the extent that any such provision is either

1 inconsistent with a provision of this article or is not relevant there-
2 to.

3 (c)] Disposition to surviving spouse who is not a United States citi-
4 zen. In the case of an estate where a federal estate tax return is not
5 required for federal estate tax purposes, a disposition to a surviving
6 spouse that would qualify for the federal estate tax marital deduction
7 under section 2056 of the internal revenue code if not for the limita-
8 tion imposed by subsection (d)(1) of such section shall nonetheless be
9 treated as qualifying for the federal estate tax marital deduction for
10 purposes of computing the tax imposed by section nine hundred fifty-two
11 of this part, without requiring that such disposition pass to the
12 surviving spouse in a qualified domestic trust as required for federal
13 purposes by internal revenue code section 2056(d)(2).

14 S 2. Section 952 of the tax law, as added by section 9 of part A of
15 chapter 389 of the laws of 1997, subsection (b) as amended by section 3
16 of part I of chapter 60 of the laws of 2004, is amended to read as
17 follows:

18 S 952. Tax imposed. (a) A tax is hereby imposed on the transfer of the
19 New York estate by every deceased individual who at his or her death was
20 a resident of New York state. [The tax imposed by this subsection shall
21 be an amount equal to the maximum amount allowable against the federal
22 estate tax as a credit for state death taxes under section two thousand
23 eleven of the internal revenue code.]

24 (b) [If the transfer of any part of the estate of a deceased resident
25 includes real or tangible personal property having an actual situs
26 outside New York state, the tax imposed by subsection (a) of this
27 section shall be reduced by an amount determined by multiplying the
28 maximum amount of the federal credit for state death taxes by a frac-
29 tion, the numerator of which is the decedent's federal gross estate
30 reduced by his or her New York gross estate and the denominator of which
31 is his or her federal gross estate.] COMPUTATION OF TAX. THE TAX IMPOSED
32 BY THIS SECTION SHALL BE COMPUTED ON THE DECEASED RESIDENT'S NEW YORK
33 TAXABLE ESTATE AS FOLLOWS:

34	IN THE CASE OF DECEDENTS DYING ON OR AFTER APRIL 1, 2014 AND BEFORE	
35	APRIL 1, 2015	
36	IF THE NEW YORK TAXABLE ESTATE IS:	THE TAX IS:
37	NOT OVER \$500,000	3.06% OF TAXABLE ESTATE
38	OVER \$500,000 BUT NOT OVER \$1,000,000	\$15,300 PLUS 5.0% OF EXCESS OVER
39		\$500,000
40	OVER \$1,000,000 BUT NOT OVER \$1,500,000	\$40,300 PLUS 5.5% OF EXCESS OVER
41		\$1,000,000
42	OVER \$1,500,000 BUT NOT OVER \$2,100,000	\$67,800 PLUS 6.5% OF EXCESS OVER
43		\$1,500,000
44	OVER \$2,100,000 BUT NOT OVER \$2,600,000	\$106,800 PLUS 8.0% OF EXCESS
45		OVER \$2,100,000
46	OVER \$2,600,000 BUT NOT OVER \$3,100,000	\$146,800 PLUS 8.8% OF EXCESS OVER
47		\$2,600,000
48	OVER \$3,100,000 BUT NOT OVER \$3,600,000	\$190,800 PLUS 9.6% OF EXCESS OVER
49		\$3,100,000
50	OVER \$3,600,000 BUT NOT OVER \$4,100,000	\$238,800 PLUS 10.4% OF EXCESS
51		OVER \$3,600,000
52	OVER \$4,100,000 BUT NOT OVER \$5,100,000	\$290,800 PLUS 11.2% OF EXCESS
53		OVER \$4,100,000
54	OVER \$5,100,000 BUT NOT OVER \$6,100,000	\$402,800 PLUS 12.0% OF EXCESS
55		OVER \$5,100,000
56	OVER \$6,100,000 BUT NOT OVER \$7,100,000	\$522,800 PLUS 12.8% OF EXCESS

1		OVER \$6,100,000
2	OVER \$7,100,000 BUT NOT OVER \$8,100,000	\$650,800 PLUS 13.6% OF EXCESS
3		OVER \$7,100,000
4	OVER \$8,100,000 BUT NOT OVER \$9,100,000	\$786,800 PLUS 14.4% OF EXCESS
5		OVER \$8,100,000
6	OVER \$9,100,000 BUT NOT OVER	\$930,800 PLUS 15.2% OF EXCESS OVER
7	\$10,100,000	\$9,100,000
8	OVER \$10,100,000	\$1,082,800 PLUS 16.0% OF EXCESS
9		OVER \$10,100,000

10 (C) APPLICABLE CREDIT AMOUNT. (1) A CREDIT OF THE APPLICABLE CREDIT
 11 AMOUNT SHALL BE ALLOWED AGAINST THE TAX IMPOSED BY THIS SECTION AS
 12 PROVIDED IN THIS SUBSECTION. IN THE CASE OF A DECEDENT WHOSE NEW YORK
 13 TAXABLE ESTATE IS LESS THAN OR EQUAL TO THE BASIC EXCLUSION AMOUNT, THE
 14 APPLICABLE CREDIT AMOUNT SHALL BE THE AMOUNT OF TAX THAT WOULD BE DUE
 15 UNDER SUBSECTION (B) OF THIS SECTION ON SUCH DECEDENT'S NEW YORK TAXABLE
 16 ESTATE. IN THE CASE OF A DECEDENT WHOSE NEW YORK TAXABLE ESTATE EXCEEDS
 17 THE BASIC EXCLUSION AMOUNT BY AN AMOUNT THAT IS LESS THAN OR EQUAL TO
 18 FIVE PERCENT OF SUCH AMOUNT, THE APPLICABLE CREDIT AMOUNT SHALL BE THE
 19 AMOUNT OF TAX THAT WOULD BE DUE UNDER SUBSECTION (B) OF THIS SECTION IF
 20 THE AMOUNT ON WHICH THE TAX IS TO BE COMPUTED WERE EQUAL TO THE BASIC
 21 EXCLUSION AMOUNT MULTIPLIED BY ONE MINUS A FRACTION, THE NUMERATOR OF
 22 WHICH IS THE DECEDENT'S NEW YORK TAXABLE ESTATE MINUS THE BASIC EXCLU-
 23 SION AMOUNT, AND THE DENOMINATOR OF WHICH IS FIVE PERCENT OF THE BASIC
 24 EXCLUSION AMOUNT. PROVIDED, HOWEVER, THAT THE CREDIT ALLOWED BY THIS
 25 SUBSECTION SHALL NOT EXCEED THE TAX IMPOSED BY THIS SECTION, AND NO
 26 CREDIT SHALL BE ALLOWED TO THE ESTATE OF ANY DECEDENT WHOSE NEW YORK
 27 TAXABLE ESTATE EXCEEDS ONE HUNDRED FIVE PERCENT OF THE BASIC EXCLUSION
 28 AMOUNT.

29 (2) (A) FOR PURPOSES OF THIS SECTION, THE BASIC EXCLUSION AMOUNT SHALL
 30 BE AS FOLLOWS:
 31 IN THE CASE OF DECEDENTS DYING ON OR AFTER: THE BASIC EXCLUSION AMOUNT
 32 IS:

33	APRIL 1, 2014 AND BEFORE APRIL 1, 2015	\$ 2,062,500
34	APRIL 1, 2015 AND BEFORE APRIL 1, 2016	3,125,000
35	APRIL 1, 2016 AND BEFORE APRIL 1, 2017	4,187,500
36	APRIL 1, 2017 AND BEFORE JANUARY 1, 2019	5,250,000

37 (B) IN THE CASE OF ANY DECEDENT DYING IN A CALENDAR YEAR BEGINNING ON
 38 OR AFTER JANUARY FIRST, TWO THOUSAND NINETEEN, THE BASIC EXCLUSION
 39 AMOUNT SHALL BE EQUAL TO:

40 (I) FIVE MILLION DOLLARS, MULTIPLIED BY

41 (II) ONE PLUS THE COST-OF-LIVING ADJUSTMENT, WHICH SHALL BE THE
 42 PERCENTAGE BY WHICH THE CONSUMER PRICE INDEX FOR THE PRECEDING CALENDAR
 43 YEAR EXCEEDS THE CONSUMER PRICE INDEX FOR CALENDAR YEAR TWO THOUSAND
 44 TEN.

45 (C) (I) FOR PURPOSES OF THIS PARAGRAPH, "CONSUMER PRICE INDEX" MEANS
 46 THE MOST RECENT CONSUMER PRICE INDEX FOR ALL-URBAN CONSUMERS PUBLISHED
 47 BY THE UNITED STATES DEPARTMENT OF LABOR.

48 (II) FOR PURPOSES OF CLAUSE (II) OF SUBPARAGRAPH (B) OF THIS PARA-
 49 GRAPH, THE CONSUMER PRICE INDEX FOR ANY CALENDAR YEAR SHALL BE THE AVER-
 50 AGE OF THE CONSUMER PRICE INDEX AS OF THE CLOSE OF THE TWELVE-MONTH
 51 PERIOD ENDING ON AUGUST THIRTY-FIRST OF SUCH CALENDAR YEAR.

52 (III) IF ANY AMOUNT ADJUSTED UNDER THIS PARAGRAPH IS NOT A MULTIPLE OF
 53 TEN THOUSAND DOLLARS, SUCH AMOUNT SHALL BE ROUNDED TO THE NEAREST MULTI-
 54 PLE OF TEN THOUSAND DOLLARS.

55 S 3. Section 954 of the tax law, as amended by chapter 67 of the laws
 56 of 1978, paragraph 1 of subsection (a) as amended by section 10 and

1 subsection (b) as amended by section 11 of part A of chapter 389 of the
2 laws of 1997, subsection (c) as amended by chapter 916 of the laws of
3 1982, paragraph 1 of subsection (c) as amended by section 3 of part A of
4 chapter 407 of the laws of 1999 and such subsection (c) as relettered by
5 section 12 of part A of chapter 389 of the laws of 1997, is amended to
6 read as follows:

7 S 954. Resident's New York gross estate. (a) General.-- The New York
8 gross estate of a deceased resident means his OR HER federal gross
9 estate as defined in the internal revenue code (whether or not a federal
10 estate tax return is required to be filed) modified as follows:

11 (1) Reduced by the value of real or tangible personal property having
12 an actual situs outside New York state.

13 (2) Increased by the amount determined under section nine hundred
14 fifty-seven OF THIS PART (relating to limited powers of appointment
15 created prior to September first, nineteen hundred thirty).

16 (3) INCREASED BY THE AMOUNT OF ANY TAXABLE GIFT UNDER SECTION 2503 OF
17 THE INTERNAL REVENUE CODE NOT OTHERWISE INCLUDED IN THE DECEDENT'S
18 FEDERAL GROSS ESTATE, MADE DURING THE THREE YEAR PERIOD ENDING ON THE
19 DECEDENT'S DATE OF DEATH, BUT NOT INCLUDING ANY GIFT MADE: (1) WHEN THE
20 DECEDENT WAS NOT A RESIDENT OF NEW YORK STATE; (2) BEFORE APRIL FIRST,
21 TWO THOUSAND FOURTEEN; OR (3) ON OR AFTER JANUARY FIRST, TWO THOUSAND
22 NINETEEN.

23 (b) Valuation. -- (1) The New York gross estate shall be valued as of
24 the TIME OF THE DECEDENT'S DEATH, EXCEPT THAT IF A FEDERAL ESTATE TAX
25 RETURN IS FILED AND THE ALTERNATE VALUATION UNDER SECTION 2032 OF THE
26 INTERNAL REVENUE CODE IS ELECTED FOR FEDERAL ESTATE TAX PURPOSES, THE
27 NEW YORK GROSS ESTATE SHALL BE VALUED AS OF THE applicable federal valu-
28 ation date or dates. Any real property qualified under section two thou-
29 sand thirty-two-A of the internal revenue code shall have the same value
30 for purposes of the New York gross estate as it has for federal estate
31 tax purposes.

32 (2) IF SUCH ALTERNATE VALUATION COULD HAVE BEEN ELECTED PURSUANT TO
33 PARAGRAPH ONE OF THIS SUBSECTION, BUT FOR THE ABSENCE OF AN ESTATE
34 SUFFICIENT TO REQUIRE THE FILING OF A FEDERAL RETURN, THE NEW YORK GROSS
35 ESTATE MAY, UPON THE ELECTION OF THE EXECUTOR, BE VALUED AS OF THE
36 FEDERAL VALUATION DATE OR DATES WHICH WOULD HAVE APPLIED IF A FEDERAL
37 RETURN HAD BEEN FILED. HOWEVER, NO ELECTION MAY BE MADE UNDER THIS PARA-
38 GRAPH UNLESS SUCH ELECTION WILL DECREASE THE VALUE OF THE NEW YORK GROSS
39 ESTATE AND THE AMOUNT OF TAX IMPOSED BY THIS ARTICLE (REDUCED BY CREDITS
40 ALLOWABLE AGAINST SUCH TAX). ANY ELECTION MADE UNDER THIS PARAGRAPH
41 SHALL BE IRREVOCABLE. THE ELECTION ALLOWED BY THIS PARAGRAPH SHALL BE
42 MADE NO LATER THAN THE DATE PRESCRIBED FOR THE FILING OF THE RETURN
43 UNDER THIS ARTICLE (INCLUDING EXTENSIONS) OR ANY TIME THEREAFTER AS THE
44 COMMISSIONER MAY PRESCRIBE.

45 (c) Cross references.-- (1) For provisions of the internal revenue
46 code defining the federal gross estate, see:

47 Sec. 2031. Definition of gross estate.

48 Sec. 2032. Alternate valuation.

49 Sec. 2032A. Valuation of certain farm, etc., real property.

50 Sec. 2033. Property in which the decedent had an interest.

51 Sec. 2034. Dower or curtesy interest.

52 Sec. 2035. Adjustments for gifts made within three years of decedent's
53 death.

54 Sec. 2036. Transfers with retained life estate.

55 Sec. 2037. Transfers taking effect at death.

56 Sec. 2038. Revocable transfers.

- 1 Sec. 2039. Annuities.
2 Sec. 2040. Joint interests.
3 Sec. 2041. Powers of appointment.
4 Sec. 2042. Proceeds of life insurance.
5 Sec. 2043. Transfers for insufficient consideration.
6 Sec. 2044. Certain property for which marital deduction was previously
7 allowed.
8 Sec. 2045. Prior interests.
9 Sec. 2046. Disclaimers.

10 (2) FOR PROVISIONS OF THE INTERNAL REVENUE CODE WHICH, EXCEPT TO THE
11 EXTENT THEY ARE INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, ARE
12 PERTINENT TO THE COMPUTATION OF TAXABLE GIFTS AND THE TAX UNDER THIS
13 ARTICLE, SEE:

- 14 SEC. 2503. TAXABLE GIFTS.
15 SEC. 2511. TRANSFERS IN GENERAL.
16 SEC. 2512. VALUATION OF GIFTS.
17 SEC. 2513. GIFT BY HUSBAND OR WIFE TO THIRD PARTY.
18 SEC. 2514. POWERS OF APPOINTMENT.
19 SEC. 2516. CERTAIN PROPERTY SETTLEMENTS.
20 SEC. 2518. DISCLAIMERS.
21 SEC. 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES.
22 SEC. 2522. CHARITABLE AND SIMILAR GIFTS.
23 SEC. 2523. GIFT TO SPOUSE.
24 SEC. 2524. EXTENT OF DEDUCTIONS.
25 SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN
26 INTERESTS IN CORPORATIONS OR PARTNERSHIPS.
27 SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS
28 IN TRUSTS.
29 SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.
30 SEC. 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS.
31 SEC. 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES.

32 (3) For effect of federal estate tax determinations, see section nine
33 hundred sixty-one of this article.

34 S 4. The tax law is amended by adding a new section 955 to read as
35 follows:

36 S 955. RESIDENT'S NEW YORK TAXABLE ESTATE. (A) GENERAL.--THE TAXABLE
37 ESTATE OF A NEW YORK RESIDENT SHALL BE HIS OR HER NEW YORK GROSS ESTATE,
38 MINUS THE DEDUCTIONS ALLOWABLE FOR DETERMINING HIS OR HER FEDERAL TAXA-
39 BLE ESTATE UNDER THE INTERNAL REVENUE CODE (WHETHER OR NOT A FEDERAL
40 ESTATE TAX RETURN IS REQUIRED TO BE FILED), EXCEPT TO THE EXTENT THAT
41 SUCH DEDUCTIONS RELATE TO REAL OR TANGIBLE PERSONAL PROPERTY SITUED
42 OUTSIDE NEW YORK STATE.

43 (B) WAIVER OF DEDUCTIONS.-- IF THE RIGHT TO ANY DEDUCTION OTHERWISE
44 ALLOWABLE IS WAIVED FOR FEDERAL ESTATE TAX PURPOSES, IT SHALL BE CONSID-
45 ERED WAIVED FOR NEW YORK ESTATE TAX PURPOSES.

46 (C) QUALIFIED TERMINABLE INTEREST PROPERTY ELECTION.-- EXCEPT AS
47 OTHERWISE PROVIDED IN THIS SUBSECTION, THE ELECTION REFERRED TO IN PARA-
48 GRAPH (7) OF SUBSECTION (B) OF SECTION 2056 OF THE INTERNAL REVENUE CODE
49 SHALL NOT BE ALLOWED UNDER THIS ARTICLE UNLESS SUCH ELECTION WAS MADE
50 WITH RESPECT TO THE FEDERAL ESTATE TAX RETURN REQUIRED TO BE FILED UNDER
51 THE PROVISIONS OF THE INTERNAL REVENUE CODE. IF SUCH ELECTION WAS MADE
52 FOR THE PURPOSES OF THE FEDERAL ESTATE TAX, THEN SUCH ELECTION MUST ALSO
53 BE MADE BY THE EXECUTOR ON THE RETURN OF THE TAX IMPOSED BY THIS ARTI-
54 CLE. WHERE NO FEDERAL ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE
55 EXECUTOR MAY MAKE THE ELECTION REFERRED TO IN SUCH PARAGRAPH (7) WITH
56 RESPECT TO THE TAX IMPOSED BY THIS ARTICLE ON THE RETURN OF THE TAX

1 IMPOSED BY THIS ARTICLE. ANY ELECTION MADE UNDER THIS SUBSECTION SHALL
2 BE IRREVOCABLE.

3 (D) CROSS REFERENCES.-- FOR PROVISIONS OF THE INTERNAL REVENUE CODE
4 SPECIFYING THE DEDUCTIONS ALLOWABLE FOR FEDERAL ESTATE TAX PURPOSES,
5 SEE:

6 SEC.2032(B). ALTERNATE VALUATION--SPECIAL RULE FOR DEDUCTIONS.

7 SEC.2046. DISCLAIMERS.

8 SEC.2053. EXPENSES, INDEBTEDNESS, AND TAXES.

9 SEC.2054. LOSSES.

10 SEC.2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

11 SEC.2056. BEQUESTS, ETC., TO SURVIVING SPOUSE.

12 S 5. Subsections (b) and (d) of section 960 of the tax law, subsection
13 (b) as amended by section 4 of part I of chapter 60 of the laws of 2004
14 and subsection (d) as added by section 190 of the laws of 1980 and
15 relettered by section 15 of part A of chapter 389 of the laws of 1997,
16 are amended to read as follows:

17 (b) Computation of tax.--The tax imposed under subsection (a) shall be
18 the same as the tax that would be due, if the decedent had died a resi-
19 dent, under subsection (a) of section nine hundred fifty-two, except
20 that for purposes of [allocating] COMPUTING the tax under subsection (b)
21 of section nine hundred fifty-two, "New York [gross] TAXABLE estate"[,
22 in the numerator in subsection (b) of section nine hundred fifty-two,]
23 shall not include the value of any intangible personal property other-
24 wise includible in the deceased individual's New York gross estate, AND
25 SHALL NOT INCLUDE THE AMOUNT OF ANY GIFT UNLESS SUCH GIFT CONSISTS OF
26 REAL OR TANGIBLE PERSONAL PROPERTY HAVING AN ACTUAL SITUS IN NEW YORK
27 STATE OR INTANGIBLE PERSONAL PROPERTY EMPLOYED IN A BUSINESS, TRADE OR
28 PROFESSION CARRIED ON IN THIS STATE.

29 (d) Works of art on loan for exhibition. Notwithstanding the forego-
30 ing, the tax imposed under subsection (a) OF THIS SECTION on the trans-
31 fer, from any deceased individual who at his OR HER death was not a
32 resident of the state of New York, of works of art having an actual
33 situs in the state of New York and either (i) includible in his OR HER
34 federal gross estate or (ii) which would be includible in his OR HER New
35 York gross estate pursuant to section nine hundred fifty-seven (relating
36 to certain limited powers of appointment) if he OR SHE were a resident
37 of the state of New York, shall [be an amount equal to the transfer
38 taxes or death taxes of every character in respect of personal property
39 which would be imposed on such transfer or such works of art if the
40 actual situs of such works of art were the state or territory of the
41 United States of residence of such individual] NOT BE SUBJECT TO THE TAX
42 IMPOSED BY THIS SECTION if such works of art are [sited in the state of
43 New York solely for exhibition purposes,] loaned [for such] TO A PUBLIC
44 GALLERY LOCATED WITHIN THE STATE OF NEW YORK SOLELY FOR EXHIBITION
45 purposes [to a public gallery or museum () BUT ONLY IF no part of the
46 net earnings of [which] SUCH PUBLIC GALLERY OR MUSEUM inure to the bene-
47 fit of any private stockholder or individual[]], and [(), at the time of
48 the death of such individual[]] SUCH WORKS OF ART ARE on exhibition or
49 en route to or from exhibition in such a public gallery or museum.
50 [Provided however, that if the state or territory of the United States
51 of residence of such individual imposes transfer taxes or death taxes on
52 such works of art which are sited in the state of New York for the
53 purposes herein specified, then such works of art shall not be subject
54 to the tax imposed by this section.]

1 S 6. Subsection (a) of section 971 of the tax law, as added by section
2 17 of part A of chapter 389 of the laws of 1997, is amended to read as
3 follows:

4 (a) Returns by executor. (1) Residents. In the case of the estate of
5 every individual dying on or after [February first, two thousand] APRIL
6 FIRST, TWO THOUSAND FOURTEEN, who at his or her death was a resident of
7 New York state, [if] his or her executor [is required to file a return
8 with respect to the federal estate tax (determined as if the limitation
9 contained in subsection (a) of section nine hundred fifty-one of this
10 article were applicable in determining whether such executor is required
11 to file such federal return), the executor] shall make a return with
12 respect to the estate tax imposed by section nine hundred fifty-two of
13 this article IF THE DECEDENT'S FEDERAL GROSS ESTATE, INCREASED BY THE
14 AMOUNT OF ANY GIFT INCLUDIBLE IN HIS OR HER NEW YORK GROSS ESTATE,
15 EXCEEDS THE BASIC EXCLUSION AMOUNT APPLICABLE TO THE DECEDENT'S DATE OF
16 DEATH IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION NINE HUNDRED FIFTY-
17 TWO OF THIS ARTICLE.

18 (2) Nonresidents. In the case of the estate of every individual DYING
19 ON OR AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, who at his or her death
20 was not a resident of New York state, [if his or her executor is
21 required to file a return with respect to the federal estate tax (deter-
22 mined as if the limitation contained in subsection (a) of section nine
23 hundred fifty-one of this article were applicable in determining whether
24 such executor is required to file such federal return) and] if such
25 individual's federal gross estate includes real or tangible personal
26 property having an actual situs in New York state, the executor shall
27 make a return with respect to the estate tax imposed by section nine
28 hundred sixty of this article IF THE DECEDENT'S FEDERAL GROSS ESTATE,
29 INCREASED BY THE AMOUNT OF ANY GIFT INCLUDIBLE IN HIS OR HER NEW YORK
30 GROSS ESTATE, EXCEEDS THE BASIC EXCLUSION AMOUNT APPLICABLE TO THE
31 DECEDENT'S DATE OF DEATH IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION
32 NINE HUNDRED FIFTY-TWO OF THIS ARTICLE.

33 S 7. Subsection (a) of section 997 of the tax law, as amended by
34 section 27 of part A of chapter 389 of the laws of 1997, is amended to
35 read as follows:

36 (a) The phrase "adjusted gross estate" shall be read as "adjusted
37 federal gross estate determined without reference to paragraphs (1)
38 [and], (2) AND (3) of subsection (a) of section nine hundred fifty-four"
39 of this article.

40 S 8. Article 26-B of the tax law is REPEALED.

41 S 9. Section 2 of chapter 1013 of the laws of 1962 amending the tax
42 law relating to imposing a tax on the transfer of estates of decedents
43 dying on or after April first, nineteen hundred sixty-three is REPEALED.

44 S 10. The tax law is amended by adding a new section 999-a to read as
45 follows:

46 S 999-A. APPENDIX TO ARTICLE TWENTY-SIX. THE FOLLOWING PROVISIONS OF
47 THE UNITED STATES INTERNAL REVENUE CODE OF 1986, WITH ALL AMENDMENTS
48 ENACTED ON OR BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, SHALL APPLY
49 TO THE TAX IMPOSED BY THIS ARTICLE, TO THE EXTENT SPECIFIED IN THIS
50 ARTICLE.

51 S 2031. DEFINITION OF GROSS ESTATE.

52 (A) GENERAL.--THE VALUE OF THE GROSS ESTATE OF THE DECEDENT SHALL BE
53 DETERMINED BY INCLUDING TO THE EXTENT PROVIDED FOR IN THIS PART, THE
54 VALUE AT THE TIME OF HIS DEATH OF ALL PROPERTY, REAL OR PERSONAL, TANGI-
55 BLE OR INTANGIBLE, WHEREVER SITUATED.

1 (B) VALUATION OF UNLISTED STOCK AND SECURITIES.--IN THE CASE OF STOCK
 2 AND SECURITIES OF A CORPORATION THE VALUE OF WHICH, BY REASON OF THEIR
 3 NOT BEING LISTED ON AN EXCHANGE AND BY REASON OF THE ABSENCE OF SALES
 4 THEREOF, CANNOT BE DETERMINED WITH REFERENCE TO BID AND ASKED PRICES OR
 5 WITH REFERENCE TO SALES PRICES, THE VALUE THEREOF SHALL BE DETERMINED BY
 6 TAKING INTO CONSIDERATION, IN ADDITION TO ALL OTHER FACTORS, THE VALUE
 7 OF STOCK OR SECURITIES OF CORPORATIONS ENGAGED IN THE SAME OR A SIMILAR
 8 LINE OF BUSINESS WHICH ARE LISTED ON AN EXCHANGE.

9 (C) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVA-
 10 TION EASEMENT.--

11 (1) IN GENERAL.--IF THE EXECUTOR MAKES THE ELECTION DESCRIBED IN PARA-
 12 GRAPH (6), THEN, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THERE
 13 SHALL BE EXCLUDED FROM THE GROSS ESTATE THE LESSER OF--

14 (A) THE APPLICABLE PERCENTAGE OF THE VALUE OF LAND SUBJECT TO A QUALI-
 15 FIED CONSERVATION EASEMENT, REDUCED BY THE AMOUNT OF ANY DEDUCTION UNDER
 16 SECTION 2055(F) WITH RESPECT TO SUCH LAND, OR

17 (B) THE EXCLUSION LIMITATION.

18 (2) APPLICABLE PERCENTAGE.--FOR PURPOSES OF PARAGRAPH (1), THE TERM
 19 "APPLICABLE PERCENTAGE" MEANS 40 PERCENT REDUCED (BUT NOT BELOW ZERO) BY
 20 2 PERCENTAGE POINTS FOR EACH PERCENTAGE POINT (OR FRACTION THEREOF) BY
 21 WHICH THE VALUE OF THE QUALIFIED CONSERVATION EASEMENT IS LESS THAN 30
 22 PERCENT OF THE VALUE OF THE LAND (DETERMINED WITHOUT REGARD TO THE VALUE
 23 OF SUCH EASEMENT AND REDUCED BY THE VALUE OF ANY RETAINED DEVELOPMENT
 24 RIGHT (AS DEFINED IN PARAGRAPH (5)). THE VALUES TAKEN INTO ACCOUNT UNDER
 25 THE PRECEDING SENTENCE SHALL BE SUCH VALUES AS OF THE DATE OF THE
 26 CONTRIBUTION REFERRED TO IN PARAGRAPH (8)(B).

27 (3) EXCLUSION LIMITATION.--FOR PURPOSES OF PARAGRAPH (1), THE EXCLU-
 28 SION LIMITATION IS THE LIMITATION DETERMINED IN ACCORDANCE WITH THE
 29 FOLLOWING TABLE:

30 IN THE CASE OF ESTATES OF DECEDENTS DYING THE EXCLUSION LIMITATION
 31 DURING: IS:

32 1998.....	100,000
33 1999.....	200,000
34 2000.....	300,000
35 2001.....	400,000
36 2002 OR THEREAFTER.....	500,000

37 (4) TREATMENT OF CERTAIN INDEBTEDNESS.--

38 (A) IN GENERAL.--THE EXCLUSION PROVIDED IN PARAGRAPH (1) SHALL NOT
 39 APPLY TO THE EXTENT THAT THE LAND IS DEBT-FINANCED PROPERTY.

40 (B) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

41 (I) DEBT-FINANCED PROPERTY.--THE TERM "DEBT-FINANCED PROPERTY" MEANS
 42 ANY PROPERTY WITH RESPECT TO WHICH THERE IS AN ACQUISITION INDEBTEDNESS
 43 (AS DEFINED IN CLAUSE (II)) ON THE DATE OF THE DECEDENT'S DEATH.

44 (II) ACQUISITION INDEBTEDNESS.--THE TERM "ACQUISITION INDEBTEDNESS"
 45 MEANS, WITH RESPECT TO DEBT-FINANCED PROPERTY, THE UNPAID AMOUNT OF--

46 (I) THE INDEBTEDNESS INCURRED BY THE DONOR IN ACQUIRING SUCH PROPERTY,

47 (II) THE INDEBTEDNESS INCURRED BEFORE THE ACQUISITION OF SUCH PROPERTY
 48 IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUISI-
 49 TION,

50 (III) THE INDEBTEDNESS INCURRED AFTER THE ACQUISITION OF SUCH PROPERTY
 51 IF SUCH INDEBTEDNESS WOULD NOT HAVE BEEN INCURRED BUT FOR SUCH ACQUISI-
 52 TION AND THE INCURRENCE OF SUCH INDEBTEDNESS WAS REASONABLY FORESEEABLE
 53 AT THE TIME OF SUCH ACQUISITION, AND

54 (IV) THE EXTENSION, RENEWAL, OR REFINANCING OF AN ACQUISITION INDEBT-
 55 EDNESS.

56 (5) TREATMENT OF RETAINED DEVELOPMENT RIGHT.--

1 (A) IN GENERAL.--PARAGRAPH (1) SHALL NOT APPLY TO THE VALUE OF ANY
2 DEVELOPMENT RIGHT RETAINED BY THE DONOR IN THE CONVEYANCE OF A QUALIFIED
3 CONSERVATION EASEMENT.

4 (B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.--IF EVERY PERSON IN
5 BEING WHO HAS AN INTEREST (WHETHER OR NOT IN POSSESSION) IN THE LAND
6 EXECUTES AN AGREEMENT TO EXTINGUISH PERMANENTLY SOME OR ALL OF ANY
7 DEVELOPMENT RIGHTS (AS DEFINED IN SUBPARAGRAPH (D)) RETAINED BY THE
8 DONOR ON OR BEFORE THE DATE FOR FILING THE RETURN OF THE TAX IMPOSED BY
9 SECTION 2001, THEN ANY TAX IMPOSED BY SECTION 2001 SHALL BE REDUCED
10 ACCORDINGLY. SUCH AGREEMENT SHALL BE FILED WITH THE RETURN OF THE TAX
11 IMPOSED BY SECTION 2001. THE AGREEMENT SHALL BE IN SUCH FORM AS THE
12 SECRETARY SHALL PRESCRIBE.

13 (C) ADDITIONAL TAX.--ANY FAILURE TO IMPLEMENT THE AGREEMENT DESCRIBED
14 IN SUBPARAGRAPH (B) NOT LATER THAN THE EARLIER OF--

15 (I) THE DATE WHICH IS 2 YEARS AFTER THE DATE OF THE DECEDENT'S DEATH,
16 OR

17 (II) THE DATE OF THE SALE OF SUCH LAND SUBJECT TO THE QUALIFIED
18 CONSERVATION EASEMENT,

19 SHALL RESULT IN THE IMPOSITION OF AN ADDITIONAL TAX IN THE AMOUNT OF
20 THE TAX WHICH WOULD HAVE BEEN DUE ON THE RETAINED DEVELOPMENT RIGHTS
21 SUBJECT TO SUCH AGREEMENT. SUCH ADDITIONAL TAX SHALL BE DUE AND PAYABLE
22 ON THE LAST DAY OF THE 6TH MONTH FOLLOWING SUCH DATE.

23 (D) DEVELOPMENT RIGHT DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE
24 TERM "DEVELOPMENT RIGHT" MEANS ANY RIGHT TO USE THE LAND SUBJECT TO THE
25 QUALIFIED CONSERVATION EASEMENT IN WHICH SUCH RIGHT IS RETAINED FOR ANY
26 COMMERCIAL PURPOSE WHICH IS NOT SUBORDINATE TO AND DIRECTLY SUPPORTIVE
27 OF THE USE OF SUCH LAND AS A FARM FOR FARMING PURPOSES (WITHIN THE MEAN-
28 ING OF SECTION 2032A(E)(5)).

29 (6) ELECTION.--THE ELECTION UNDER THIS SUBSECTION SHALL BE MADE ON OR
30 BEFORE THE DUE DATE (INCLUDING EXTENSIONS) FOR FILING THE RETURN OF TAX
31 IMPOSED BY SECTION 2001 AND SHALL BE MADE ON SUCH RETURN. SUCH AN
32 ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

33 (7) CALCULATION OF ESTATE TAX DUE.--AN EXECUTOR MAKING THE ELECTION
34 DESCRIBED IN PARAGRAPH (6) SHALL, FOR PURPOSES OF CALCULATING THE AMOUNT
35 OF TAX IMPOSED BY SECTION 2001, INCLUDE THE VALUE OF ANY DEVELOPMENT
36 RIGHT (AS DEFINED IN PARAGRAPH (5)) RETAINED BY THE DONOR IN THE CONVEY-
37 ANCE OF SUCH QUALIFIED CONSERVATION EASEMENT. THE COMPUTATION OF TAX ON
38 ANY RETAINED DEVELOPMENT RIGHT PRESCRIBED IN THIS PARAGRAPH SHALL BE
39 DONE IN SUCH MANNER AND ON SUCH FORMS AS THE SECRETARY SHALL PRESCRIBE.

40 (8) DEFINITIONS.--FOR PURPOSES OF THIS SUBSECTION--

41 (A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.--THE TERM "LAND
42 SUBJECT TO A QUALIFIED CONSERVATION EASEMENT" MEANS LAND--

43 (I) WHICH IS LOCATED IN THE UNITED STATES OR ANY POSSESSION OF THE
44 UNITED STATES,

45 (II) WHICH WAS OWNED BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S
46 FAMILY AT ALL TIMES DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE
47 DECEDENT'S DEATH, AND

48 (III) WITH RESPECT TO WHICH A QUALIFIED CONSERVATION EASEMENT HAS BEEN
49 MADE BY AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (C), AS OF THE DATE OF
50 THE ELECTION DESCRIBED IN PARAGRAPH (6).

51 (B) QUALIFIED CONSERVATION EASEMENT.--THE TERM "QUALIFIED CONSERVATION
52 EASEMENT" MEANS A QUALIFIED CONSERVATION CONTRIBUTION (AS DEFINED IN
53 SECTION 170(H)(1)) OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN
54 SECTION 170(H)(2)(C)), EXCEPT THAT CLAUSE (IV) OF SECTION 170(H)(4)(A)
55 SHALL NOT APPLY, AND THE RESTRICTION ON THE USE OF SUCH INTEREST

1 DESCRIBED IN SECTION 170(H)(2)(C) SHALL INCLUDE A PROHIBITION ON MORE
2 THAN A DE MINIMIS USE FOR A COMMERCIAL RECREATIONAL ACTIVITY.

3 (C) INDIVIDUAL DESCRIBED.--AN INDIVIDUAL IS DESCRIBED IN THIS SUBPARA-
4 GRAPH IF SUCH INDIVIDUAL IS--

5 (I) THE DECEDENT,

6 (II) A MEMBER OF THE DECEDENT'S FAMILY,

7 (III) THE EXECUTOR OF THE DECEDENT'S ESTATE, OR

8 (IV) THE TRUSTEE OF A TRUST THE CORPUS OF WHICH INCLUDES THE LAND TO
9 BE SUBJECT TO THE QUALIFIED CONSERVATION EASEMENT.

10 (D) MEMBER OF FAMILY.--THE TERM "MEMBER OF THE DECEDENT'S FAMILY"
11 MEANS ANY MEMBER OF THE FAMILY (AS DEFINED IN SECTION 2032A(E)(2)) OF
12 THE DECEDENT.

13 (9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.--IN ANY CASE IN WHICH
14 THE QUALIFIED CONSERVATION EASEMENT IS GRANTED AFTER THE DATE OF THE
15 DECEDENT'S DEATH AND ON OR BEFORE THE DUE DATE (INCLUDING EXTENSIONS)
16 FOR FILING THE RETURN OF TAX IMPOSED BY SECTION 2001, THE DEDUCTION
17 UNDER SECTION 2055(F) WITH RESPECT TO SUCH EASEMENT SHALL BE ALLOWED TO
18 THE ESTATE BUT ONLY IF NO CHARITABLE DEDUCTION IS ALLOWED UNDER CHAPTER
19 1 TO ANY PERSON WITH RESPECT TO THE GRANT OF SUCH EASEMENT.

20 (10) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPO-
21 RATIONS, AND TRUSTS.--THIS SECTION SHALL APPLY TO AN INTEREST IN A PART-
22 NERSHIP, CORPORATION, OR TRUST IF AT LEAST 30 PERCENT OF THE ENTITY IS
23 OWNED (DIRECTLY OR INDIRECTLY) BY THE DECEDENT, AS DETERMINED UNDER THE
24 RULES DESCRIBED IN SECTION 2057(E)(3).

25 (D) CROSS REFERENCE.--

26 FOR EXECUTOR'S RIGHT TO BE FURNISHED ON REQUEST A STATEMENT REGARDING
27 ANY VALUATION MADE BY THE SECRETARY WITHIN THE GROSS ESTATE, SEE SECTION
28 7517.

29 S 2032. ALTERNATE VALUATION.

30 (A) GENERAL.--THE VALUE OF THE GROSS ESTATE MAY BE DETERMINED, IF THE
31 EXECUTOR SO ELECTS, BY VALUING ALL THE PROPERTY INCLUDED IN THE GROSS
32 ESTATE AS FOLLOWS:

33 (1) IN THE CASE OF PROPERTY DISTRIBUTED, SOLD, EXCHANGED, OR OTHERWISE
34 DISPOSED OF, WITHIN 6 MONTHS AFTER THE DECEDENT'S DEATH SUCH PROPERTY
35 SHALL BE VALUED AS OF THE DATE OF DISTRIBUTION, SALE, EXCHANGE, OR OTHER
36 DISPOSITION.

37 (2) IN THE CASE OF PROPERTY NOT DISTRIBUTED, SOLD, EXCHANGED, OR
38 OTHERWISE DISPOSED OF, WITHIN 6 MONTHS AFTER THE DECEDENT'S DEATH SUCH
39 PROPERTY SHALL BE VALUED AS OF THE DATE 6 MONTHS AFTER THE DECEDENT'S
40 DEATH.

41 (3) ANY INTEREST OR ESTATE WHICH IS AFFECTED BY MERE LAPSE OF TIME
42 SHALL BE INCLUDED AT ITS VALUE AS OF THE TIME OF DEATH (INSTEAD OF THE
43 LATER DATE) WITH ADJUSTMENT FOR ANY DIFFERENCE IN ITS VALUE AS OF THE
44 LATER DATE NOT DUE TO MERE LAPSE OF TIME.

45 (B) SPECIAL RULES.--NO DEDUCTION UNDER THIS CHAPTER OF ANY ITEM SHALL
46 BE ALLOWED IF ALLOWANCE FOR SUCH ITEMS IS IN EFFECT GIVEN BY THE ALTER-
47 NATE VALUATION PROVIDED BY THIS SECTION. WHEREVER IN ANY OTHER
48 SUBSECTION OR SECTION OF THIS CHAPTER REFERENCE IS MADE TO THE VALUE OF
49 PROPERTY AT THE TIME OF THE DECEDENT'S DEATH, SUCH REFERENCE SHALL BE
50 DEEMED TO REFER TO THE VALUE OF SUCH PROPERTY USED IN DETERMINING THE
51 VALUE OF THE GROSS ESTATE. IN CASE OF AN ELECTION MADE BY THE EXECUTOR
52 UNDER THIS SECTION, THEN--

53 (1) FOR PURPOSES OF THE CHARITABLE DEDUCTION UNDER SECTION 2055 OR
54 2106(A)(2), ANY BEQUEST, LEGACY, DEVISE, OR TRANSFER ENUMERATED THEREIN,
55 AND

1 (2) FOR THE PURPOSE OF THE MARITAL DEDUCTION UNDER SECTION 2056, ANY
2 INTEREST IN PROPERTY PASSING TO THE SURVIVING SPOUSE,

3 SHALL BE VALUED AS OF THE DATE OF THE DECEDENT'S DEATH WITH ADJUSTMENT
4 FOR ANY DIFFERENCE IN VALUE (NOT DUE TO MERE LAPSE OF TIME OR THE OCCUR-
5 RENCE OR NONOCCURRENCE OF A CONTINGENCY) OF THE PROPERTY AS OF THE DATE
6 6 MONTHS AFTER THE DECEDENT'S DEATH (SUBSTITUTING, IN THE CASE OF PROP-
7 ERTY DISTRIBUTED BY THE EXECUTOR OR TRUSTEE, OR SOLD, EXCHANGED, OR
8 OTHERWISE DISPOSED OF, DURING SUCH 6-MONTH PERIOD, THE DATE THEREOF).

9 (C) ELECTION MUST DECREASE GROSS ESTATE AND ESTATE TAX.--NO ELECTION
10 MAY BE MADE UNDER THIS SECTION WITH RESPECT TO AN ESTATE UNLESS SUCH
11 ELECTION WILL DECREASE--

12 (1) THE VALUE OF THE GROSS ESTATE, AND

13 (2) THE SUM OF THE TAX IMPOSED BY THIS CHAPTER AND THE TAX IMPOSED BY
14 CHAPTER 13 WITH RESPECT TO PROPERTY INCLUDIBLE IN THE DECEDENT'S GROSS
15 ESTATE (REDUCED BY CREDITS ALLOWABLE AGAINST SUCH TAXES).

16 (D) ELECTION.--

17 (1) IN GENERAL.--THE ELECTION PROVIDED FOR IN THIS SECTION SHALL BE
18 MADE BY THE EXECUTOR ON THE RETURN OF THE TAX IMPOSED BY THIS CHAPTER.
19 SUCH ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

20 (2) EXCEPTION.--NO ELECTION MAY BE MADE UNDER THIS SECTION IF SUCH
21 RETURN IS FILED MORE THAN 1 YEAR AFTER THE TIME PRESCRIBED BY LAW
22 (INCLUDING EXTENSIONS) FOR FILING SUCH RETURN.

23 S 2032A. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.

24 (A) VALUE BASED ON USE UNDER WHICH PROPERTY QUALIFIES.--

25 (1) GENERAL RULE.--IF--

26 (A) THE DECEDENT WAS (AT THE TIME OF HIS DEATH) A CITIZEN OR RESIDENT
27 OF THE UNITED STATES, AND

28 (B) THE EXECUTOR ELECTS THE APPLICATION OF THIS SECTION AND FILES THE
29 AGREEMENT REFERRED TO IN SUBSECTION (D)(2),

30 THEN, FOR PURPOSES OF THIS CHAPTER, THE VALUE OF QUALIFIED REAL PROP-
31 ERTY SHALL BE ITS VALUE FOR THE USE UNDER WHICH IT QUALIFIES, UNDER
32 SUBSECTION (B), AS QUALIFIED REAL PROPERTY.

33 (2) LIMITATION ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.--THE
34 AGGREGATE DECREASE IN THE VALUE OF QUALIFIED REAL PROPERTY TAKEN INTO
35 ACCOUNT FOR PURPOSES OF THIS CHAPTER WHICH RESULTS FROM THE APPLICATION
36 OF PARAGRAPH (1) WITH RESPECT TO ANY DECEDENT SHALL NOT EXCEED \$750,000.

37 (3) INFLATION ADJUSTMENT.--IN THE CASE OF ESTATES OF DECEDENTS DYING
38 IN A CALENDAR YEAR AFTER 1998, THE \$750,000 AMOUNT CONTAINED IN PARA-
39 GRAPH (2) SHALL BE INCREASED BY AN AMOUNT EQUAL TO--

40 (A) \$750,000, MULTIPLIED BY

41 (B) THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER SECTION 1(F)(3) FOR
42 SUCH CALENDAR YEAR BY SUBSTITUTING "CALENDAR YEAR 1997" FOR "CALENDAR
43 YEAR 1992" IN SUBPARAGRAPH (B) THEREOF.

44 IF ANY AMOUNT AS ADJUSTED UNDER THE PRECEDING SENTENCE IS NOT A MULTI-
45 PLE OF \$10,000, SUCH AMOUNT SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE
46 OF \$10,000.

47 (B) QUALIFIED REAL PROPERTY.--

48 (1) IN GENERAL.--FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED
49 REAL PROPERTY" MEANS REAL PROPERTY LOCATED IN THE UNITED STATES WHICH
50 WAS ACQUIRED FROM OR PASSED FROM THE DECEDENT TO A QUALIFIED HEIR OF THE
51 DECEDENT AND WHICH, ON THE DATE OF THE DECEDENT'S DEATH, WAS BEING USED
52 FOR A QUALIFIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMI-
53 LY, BUT ONLY IF--

54 (A) 50 PERCENT OR MORE OF THE ADJUSTED VALUE OF THE GROSS ESTATE
55 CONSISTS OF THE ADJUSTED VALUE OF REAL OR PERSONAL PROPERTY WHICH--

1 (I) ON THE DATE OF THE DECEDENT'S DEATH, WAS BEING USED FOR A QUALI-
2 FIED USE BY THE DECEDENT OR A MEMBER OF THE DECEDENT'S FAMILY, AND
3 (II) WAS ACQUIRED FROM OR PASSED FROM THE DECEDENT TO A QUALIFIED HEIR
4 OF THE DECEDENT.

5 (B) 25 PERCENT OR MORE OF THE ADJUSTED VALUE OF THE GROSS ESTATE
6 CONSISTS OF THE ADJUSTED VALUE OF REAL PROPERTY WHICH MEETS THE REQUIRE-
7 MENTS OF SUBPARAGRAPHS (A)(II) AND (C),
8 (C) DURING THE 8-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S
9 DEATH THERE HAVE BEEN PERIODS AGGREGATING 5 YEARS OR MORE DURING WHICH--
10 (I) SUCH REAL PROPERTY WAS OWNED BY THE DECEDENT OR A MEMBER OF THE
11 DECEDENT'S FAMILY AND USED FOR A QUALIFIED USE BY THE DECEDENT OR A
12 MEMBER OF THE DECEDENT'S FAMILY, AND
13 (II) THERE WAS MATERIAL PARTICIPATION BY THE DECEDENT OR A MEMBER OF
14 THE DECEDENT'S FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS,
15 AND
16 (D) SUCH REAL PROPERTY IS DESIGNATED IN THE AGREEMENT REFERRED TO IN
17 SUBSECTION (D)(2).

18 (2) QUALIFIED USE.--FOR PURPOSES OF THIS SECTION, THE TERM "QUALIFIED
19 USE" MEANS THE DEVOTION OF THE PROPERTY TO ANY OF THE FOLLOWING:
20 (A) USE AS A FARM FOR FARMING PURPOSES, OR
21 (B) USE IN A TRADE OR BUSINESS OTHER THAN THE TRADE OR BUSINESS OF
22 FARMING.

23 (3) ADJUSTED VALUE.--FOR PURPOSES OF PARAGRAPH (1), THE TERM "ADJUSTED
24 VALUE" MEANS--
25 (A) IN THE CASE OF THE GROSS ESTATE, THE VALUE OF THE GROSS ESTATE FOR
26 PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO THIS SECTION),
27 REDUCED BY ANY AMOUNTS ALLOWABLE AS A DEDUCTION UNDER PARAGRAPH (4) OF
28 SECTION 2053(A), OR
29 (B) IN THE CASE OF ANY REAL OR PERSONAL PROPERTY, THE VALUE OF SUCH
30 PROPERTY FOR PURPOSES OF THIS CHAPTER (DETERMINED WITHOUT REGARD TO THIS
31 SECTION), REDUCED BY ANY AMOUNTS ALLOWABLE AS A DEDUCTION IN RESPECT OF
32 SUCH PROPERTY UNDER PARAGRAPH (4) OF SECTION 2053(A).

33 (4) DECEDENTS WHO ARE RETIRED OR DISABLED.--
34 (A) IN GENERAL.--IF, ON THE DATE OF THE DECEDENT'S DEATH, THE REQUIRE-
35 MENTS OF PARAGRAPH (1)(C)(II) WITH RESPECT TO THE DECEDENT FOR ANY PROP-
36 erty ARE NOT MET, AND THE DECEDENT--
37 (I) WAS RECEIVING OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECU-
38 RITY ACT FOR A CONTINUOUS PERIOD ENDING ON SUCH DATE, OR
39 (II) WAS DISABLED FOR A CONTINUOUS PERIOD ENDING ON SUCH DATE,
40 THEN PARAGRAPH (1)(C)(II) SHALL BE APPLIED WITH RESPECT TO SUCH PROP-
41 erty BY SUBSTITUTING "THE DATE ON WHICH THE LONGER OF SUCH CONTINUOUS
42 PERIODS BEGAN" FOR "THE DATE OF THE DECEDENT'S DEATH" IN PARAGRAPH
43 (1)(C).

44 (B) DISABLED DEFINED.--FOR PURPOSES OF SUBPARAGRAPH (A), AN INDIVIDUAL
45 SHALL BE DISABLED IF SUCH INDIVIDUAL HAS A MENTAL OR PHYSICAL IMPAIRMENT
46 WHICH RENDERS HIM UNABLE TO MATERIALLY PARTICIPATE IN THE OPERATION OF
47 THE FARM OR OTHER BUSINESS.

48 (C) COORDINATION WITH RECAPTURE.--FOR PURPOSES OF SUBSECTION
49 (C)(6)(B)(I), IF THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) ARE MET WITH
50 RESPECT TO ANY DECEDENT BY REASON OF SUBPARAGRAPH (A), THE PERIOD ENDING
51 ON THE DATE ON WHICH THE CONTINUOUS PERIOD TAKEN INTO ACCOUNT UNDER
52 SUBPARAGRAPH (A) BEGAN SHALL BE TREATED AS THE PERIOD IMMEDIATELY BEFORE
53 THE DECEDENT'S DEATH.

54 (5) SPECIAL RULES FOR SURVIVING SPOUSES.--
55 (A) IN GENERAL.--IF PROPERTY IS QUALIFIED REAL PROPERTY WITH RESPECT
56 TO A DECEDENT (HEREINAFTER IN THIS PARAGRAPH REFERRED TO AS THE "FIRST

1 DECEDENT") AND SUCH PROPERTY WAS ACQUIRED FROM OR PASSED FROM THE FIRST
2 DECEDENT TO THE SURVIVING SPOUSE OF THE FIRST DECEDENT, FOR PURPOSES OF
3 APPLYING THIS SUBSECTION AND SUBSECTION (C) IN THE CASE OF THE ESTATE OF
4 SUCH SURVIVING SPOUSE, ACTIVE MANAGEMENT OF THE FARM OR OTHER BUSINESS
5 BY THE SURVIVING SPOUSE SHALL BE TREATED AS MATERIAL PARTICIPATION BY
6 SUCH SURVIVING SPOUSE IN THE OPERATION OF SUCH FARM OR BUSINESS.

7 (B) SPECIAL RULE.--FOR THE PURPOSES OF SUBPARAGRAPH (A), THE DETERMI-
8 NATION OF WHETHER PROPERTY IS QUALIFIED REAL PROPERTY WITH RESPECT TO
9 THE FIRST DECEDENT SHALL BE MADE WITHOUT REGARD TO SUBPARAGRAPH (D) OF
10 PARAGRAPH (1) AND WITHOUT REGARD TO WHETHER AN ELECTION UNDER THIS
11 SECTION WAS MADE.

12 (C) COORDINATION WITH PARAGRAPH (4).--IN ANY CASE IN WHICH TO DO SO
13 WILL ENABLE THE REQUIREMENTS OF PARAGRAPH (1)(C)(II) TO BE MET WITH
14 RESPECT TO THE SURVIVING SPOUSE, THIS SUBSECTION AND SUBSECTION (C)
15 SHALL BE APPLIED BY TAKING INTO ACCOUNT ANY APPLICATION OF PARAGRAPH
16 (4).

17 (C) TAX TREATMENT OF DISPOSITIONS AND FAILURES TO USE FOR QUALIFIED
18 USE.--

19 (1) IMPOSITION OF ADDITIONAL ESTATE TAX.--IF, WITHIN 10 YEARS AFTER
20 THE DECEDENT'S DEATH AND BEFORE THE DEATH OF THE QUALIFIED HEIR--

21 (A) THE QUALIFIED HEIR DISPOSES OF ANY INTEREST IN QUALIFIED REAL
22 PROPERTY (OTHER THAN BY A DISPOSITION TO A MEMBER OF HIS FAMILY), OR

23 (B) THE QUALIFIED HEIR CEASES TO USE FOR THE QUALIFIED USE THE QUALI-
24 FIED REAL PROPERTY WHICH WAS ACQUIRED (OR PASSED) FROM THE DECEDENT,
25 THEN, THERE IS HEREBY IMPOSED AN ADDITIONAL ESTATE TAX.

26 (2) AMOUNT OF ADDITIONAL TAX.--

27 (A) IN GENERAL.--THE AMOUNT OF THE ADDITIONAL TAX IMPOSED BY PARAGRAPH
28 (1) WITH RESPECT TO ANY INTEREST SHALL BE THE AMOUNT EQUAL TO THE LESSER
29 OF--

30 (I) THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO SUCH INTEREST, OR

31 (II) THE EXCESS OF THE AMOUNT REALIZED WITH RESPECT TO THE INTEREST
32 (OR, IN ANY CASE OTHER THAN A SALE OR EXCHANGE AT ARM'S LENGTH, THE FAIR
33 MARKET VALUE OF THE INTEREST) OVER THE VALUE OF THE INTEREST DETERMINED
34 UNDER SUBSECTION (A).

35 (B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.--FOR PURPOSES OF
36 SUBPARAGRAPH (A), THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO AN INTER-
37 EST IS THE AMOUNT WHICH BEARS THE SAME RATIO TO THE ADJUSTED TAX DIFFER-
38 ENCE WITH RESPECT TO THE ESTATE (DETERMINED UNDER SUBPARAGRAPH (C)) AS--

39 (I) THE EXCESS OF THE VALUE OF SUCH INTEREST FOR PURPOSES OF THIS
40 CHAPTER (DETERMINED WITHOUT REGARD TO SUBSECTION (A)) OVER THE VALUE OF
41 SUCH INTEREST DETERMINED UNDER SUBSECTION (A), BEARS TO

42 (II) A SIMILAR EXCESS DETERMINED FOR ALL QUALIFIED REAL PROPERTY.

43 (C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.--FOR PURPOSES
44 OF SUBPARAGRAPH (B), THE TERM "ADJUSTED TAX DIFFERENCE WITH RESPECT TO
45 THE ESTATE" MEANS THE EXCESS OF WHAT WOULD HAVE BEEN THE ESTATE TAX
46 LIABILITY BUT FOR SUBSECTION (A) OVER THE ESTATE TAX LIABILITY. FOR
47 PURPOSES OF THIS SUBPARAGRAPH, THE TERM "ESTATE TAX LIABILITY" MEANS THE
48 TAX IMPOSED BY SECTION 2001 REDUCED BY THE CREDITS ALLOWABLE AGAINST
49 SUCH TAX.

50 (D) PARTIAL DISPOSITIONS.--FOR PURPOSES OF THIS PARAGRAPH, WHERE THE
51 QUALIFIED HEIR DISPOSES OF A PORTION OF THE INTEREST ACQUIRED BY (OR
52 PASSING TO) SUCH HEIR (OR A PREDECESSOR QUALIFIED HEIR) OR THERE IS A
53 CESSATION OF USE OF SUCH A PORTION--

54 (I) THE VALUE DETERMINED UNDER SUBSECTION (A) TAKEN INTO ACCOUNT UNDER
55 SUBPARAGRAPH (A)(II) WITH RESPECT TO SUCH PORTION SHALL BE ITS PRO RATA
56 SHARE OF SUCH VALUE OF SUCH INTEREST, AND

1 (II) THE ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO THE INTEREST TAKEN
2 INTO ACCOUNT WITH RESPECT TO THE TRANSACTION INVOLVING THE SECOND OR ANY
3 SUCCEEDING PORTION SHALL BE REDUCED BY THE AMOUNT OF THE TAX IMPOSED BY
4 THIS SUBSECTION WITH RESPECT TO ALL PRIOR TRANSACTIONS INVOLVING
5 PORTIONS OF SUCH INTEREST.

6 (E) SPECIAL RULE FOR DISPOSITION OF TIMBER.--IN THE CASE OF QUALIFIED
7 WOODLAND TO WHICH AN ELECTION UNDER SUBSECTION (E)(13)(A) APPLIES, IF
8 THE QUALIFIED HEIR DISPOSES OF (OR SEVERES) ANY STANDING TIMBER ON SUCH
9 QUALIFIED WOODLAND--

10 (I) SUCH DISPOSITION (OR SEVERANCE) SHALL BE TREATED AS A DISPOSITION
11 OF A PORTION OF THE INTEREST OF THE QUALIFIED HEIR IN SUCH PROPERTY, AND

12 (II) THE AMOUNT OF THE ADDITIONAL TAX IMPOSED BY PARAGRAPH (1) WITH
13 RESPECT TO SUCH DISPOSITION SHALL BE AN AMOUNT EQUAL TO THE LESSER OF--

14 (I) THE AMOUNT REALIZED ON SUCH DISPOSITION (OR, IN ANY CASE OTHER
15 THAN A SALE OR EXCHANGE AT ARM'S LENGTH, THE FAIR MARKET VALUE OF THE
16 PORTION OF THE INTEREST DISPOSED OR SEVERED), OR

17 (II) THE AMOUNT OF ADDITIONAL TAX DETERMINED UNDER THIS PARAGRAPH
18 (WITHOUT REGARD TO THIS SUBPARAGRAPH) IF THE ENTIRE INTEREST OF THE
19 QUALIFIED HEIR IN THE QUALIFIED WOODLAND HAD BEEN DISPOSED OF, LESS THE
20 SUM OF THE AMOUNT OF THE ADDITIONAL TAX IMPOSED WITH RESPECT TO ALL
21 PRIOR TRANSACTIONS INVOLVING SUCH WOODLAND TO WHICH THIS SUBPARAGRAPH
22 APPLIED.

23 FOR PURPOSES OF THE PRECEDING SENTENCE, THE DISPOSITION OF A RIGHT TO
24 SEVER SHALL BE TREATED AS THE DISPOSITION OF THE STANDING TIMBER. THE
25 AMOUNT OF ADDITIONAL TAX IMPOSED UNDER PARAGRAPH (1) IN ANY CASE IN
26 WHICH A QUALIFIED HEIR DISPOSES OF HIS ENTIRE INTEREST IN THE QUALIFIED
27 WOODLAND SHALL BE REDUCED BY ANY AMOUNT DETERMINED UNDER THIS SUBPARA-
28 GRAPH WITH RESPECT TO SUCH WOODLAND.

29 (3) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.--IN
30 THE CASE OF AN INTEREST ACQUIRED FROM (OR PASSING FROM) ANY DECEDENT, IF
31 SUBPARAGRAPH (A) OR (B) OF PARAGRAPH (1) APPLIES TO ANY PORTION OF AN
32 INTEREST, SUBPARAGRAPH (B) OR (A), AS THE CASE MAY BE, OF PARAGRAPH (1)
33 SHALL NOT APPLY WITH RESPECT TO THE SAME PORTION OF SUCH INTEREST.

34 (4) DUE DATE.--THE ADDITIONAL TAX IMPOSED BY THIS SUBSECTION SHALL
35 BECOME DUE AND PAYABLE ON THE DAY WHICH IS 6 MONTHS AFTER THE DATE OF
36 THE DISPOSITION OR CESSATION REFERRED TO IN PARAGRAPH (1).

37 (5) LIABILITY FOR TAX; FURNISHING OF BOND.--THE QUALIFIED HEIR SHALL
38 BE PERSONALLY LIABLE FOR THE ADDITIONAL TAX IMPOSED BY THIS SUBSECTION
39 WITH RESPECT TO HIS INTEREST UNLESS THE HEIR HAS FURNISHED BOND WHICH
40 MEETS THE REQUIREMENTS OF SUBSECTION (E)(11).

41 (6) CESSATION OF QUALIFIED USE.--FOR PURPOSES OF PARAGRAPH (1)(B),
42 REAL PROPERTY SHALL CEASE TO BE USED FOR THE QUALIFIED USE IF--

43 (A) SUCH PROPERTY CEASES TO BE USED FOR THE QUALIFIED USE SET FORTH IN
44 SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER WHICH THE PROPERTY
45 QUALIFIED UNDER SUBSECTION (B), OR

46 (B) DURING ANY PERIOD OF 8 YEARS ENDING AFTER THE DATE OF THE
47 DECEDENT'S DEATH AND BEFORE THE DATE OF THE DEATH OF THE QUALIFIED HEIR,
48 THERE HAD BEEN PERIODS AGGREGATING MORE THAN 3 YEARS DURING WHICH--

49 (I) IN THE CASE OF PERIODS DURING WHICH THE PROPERTY WAS HELD BY THE
50 DECEDENT, THERE WAS NO MATERIAL PARTICIPATION BY THE DECEDENT OR ANY
51 MEMBER OF HIS FAMILY IN THE OPERATION OF THE FARM OR OTHER BUSINESS, AND

52 (II) IN THE CASE OF PERIODS DURING WHICH THE PROPERTY WAS HELD BY ANY
53 QUALIFIED HEIR, THERE WAS NO MATERIAL PARTICIPATION BY SUCH QUALIFIED
54 HEIR OR ANY MEMBER OF HIS FAMILY IN THE OPERATION OF THE FARM OR OTHER
55 BUSINESS.

56 (7) SPECIAL RULES.--

1 (A) NO TAX IF USE BEGINS WITHIN 2 YEARS.--IF THE DATE ON WHICH THE
2 QUALIFIED HEIR BEGINS TO USE THE QUALIFIED REAL PROPERTY (HEREINAFTER IN
3 THIS SUBPARAGRAPH REFERRED TO AS THE COMMENCEMENT DATE) IS BEFORE THE
4 DATE 2 YEARS AFTER THE DECEDENT'S DEATH--

5 (I) NO TAX SHALL BE IMPOSED UNDER PARAGRAPH (1) BY REASON OF THE FAIL-
6 URE BY THE QUALIFIED HEIR TO SO USE SUCH PROPERTY BEFORE THE COMMENCE-
7 MENT DATE, AND

8 (II) THE 10-YEAR PERIOD UNDER PARAGRAPH (1) SHALL BE EXTENDED BY THE
9 PERIOD AFTER THE DECEDENT'S DEATH AND BEFORE THE COMMENCEMENT DATE.

10 (B) ACTIVE MANAGEMENT BY ELIGIBLE QUALIFIED HEIR TREATED AS MATERIAL
11 PARTICIPATION.--FOR PURPOSES OF PARAGRAPH (6)(B)(II), THE ACTIVE MANAGE-
12 MENT OF A FARM OR OTHER BUSINESS BY--

13 (I) AN ELIGIBLE QUALIFIED HEIR, OR

14 (II) A FIDUCIARY OF AN ELIGIBLE QUALIFIED HEIR DESCRIBED IN CLAUSE
15 (II) OR (III) OF SUBPARAGRAPH (C),

16 SHALL BE TREATED AS MATERIAL PARTICIPATION BY SUCH ELIGIBLE QUALIFIED
17 HEIR IN THE OPERATION OF SUCH FARM OR BUSINESS. IN THE CASE OF AN ELIGI-
18 BLE QUALIFIED HEIR DESCRIBED IN CLAUSE (II), (III), OR (IV) OF SUBPARA-
19 GRAPH (C), THE PRECEDING SENTENCE SHALL APPLY ONLY DURING PERIODS DURING
20 WHICH SUCH HEIR MEETS THE REQUIREMENTS OF SUCH CLAUSE.

21 (C) ELIGIBLE QUALIFIED HEIR.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM
22 "ELIGIBLE QUALIFIED HEIR" MEANS A QUALIFIED HEIR WHO--

23 (I) IS THE SURVIVING SPOUSE OF THE DECEDENT,

24 (II) HAS NOT ATTAINED THE AGE OF 21,

25 (III) IS DISABLED (WITHIN THE MEANING OF SUBSECTION (B)(4)(B)), OR

26 (IV) IS A STUDENT.

27 (D) STUDENT.--FOR PURPOSES OF SUBPARAGRAPH (C), AN INDIVIDUAL SHALL BE
28 TREATED AS A STUDENT WITH RESPECT TO PERIODS DURING ANY CALENDAR YEAR IF
29 (AND ONLY IF) SUCH INDIVIDUAL IS A STUDENT (WITHIN THE MEANING OF
30 SECTION 152(F)(2)) FOR SUCH CALENDAR YEAR.

31 (E) CERTAIN RENTS TREATED AS QUALIFIED USE.--FOR PURPOSES OF THIS
32 SUBSECTION, A SURVIVING SPOUSE OR LINEAL DESCENDANT OF THE DECEDENT
33 SHALL NOT BE TREATED AS FAILING TO USE QUALIFIED REAL PROPERTY IN A
34 QUALIFIED USE SOLELY BECAUSE SUCH SPOUSE OR DESCENDANT RENTS SUCH PROP-
35 erty TO A MEMBER OF THE FAMILY OF SUCH SPOUSE OR DESCENDANT ON A NET
36 CASH BASIS. FOR PURPOSES OF THE PRECEDING SENTENCE, A LEGALLY ADOPTED
37 CHILD OF AN INDIVIDUAL SHALL BE TREATED AS THE CHILD OF SUCH INDIVIDUAL
38 BY BLOOD.

39 (8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.--A QUAL-
40 IFIED CONSERVATION CONTRIBUTION (AS DEFINED IN SECTION 170(H)) BY GIFT
41 OR OTHERWISE SHALL NOT BE DEEMED A DISPOSITION UNDER SUBSECTION
42 (C)(1)(A).

43 (D) ELECTION; AGREEMENT.--

44 (1) ELECTION.--THE ELECTION UNDER THIS SECTION SHALL BE MADE ON THE
45 RETURN OF THE TAX IMPOSED BY SECTION 2001. SUCH ELECTION SHALL BE MADE
46 IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. SUCH AN
47 ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

48 (2) AGREEMENT.--THE AGREEMENT REFERRED TO IN THIS PARAGRAPH IS A WRIT-
49 TEN AGREEMENT SIGNED BY EACH PERSON IN BEING WHO HAS AN INTEREST (WHETH-
50 ER OR NOT IN POSSESSION) IN ANY PROPERTY DESIGNATED IN SUCH AGREEMENT
51 CONSENTING TO THE APPLICATION OF SUBSECTION (C) WITH RESPECT TO SUCH
52 PROPERTY.

53 (3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.--THE
54 SECRETARY SHALL PRESCRIBE PROCEDURES WHICH PROVIDE THAT IN ANY CASE IN
55 WHICH THE EXECUTOR MAKES AN ELECTION UNDER PARAGRAPH (1) (AND SUBMITS

1 THE AGREEMENT REFERRED TO IN PARAGRAPH (2)) WITHIN THE TIME PRESCRIBED
2 THEREFOR, BUT--

3 (A) THE NOTICE OF ELECTION, AS FILED, DOES NOT CONTAIN ALL REQUIRED
4 INFORMATION, OR

5 (B) SIGNATURES OF 1 OR MORE PERSONS REQUIRED TO ENTER INTO THE AGREE-
6 MENT DESCRIBED IN PARAGRAPH (2) ARE NOT INCLUDED ON THE AGREEMENT AS
7 FILED, OR THE AGREEMENT DOES NOT CONTAIN ALL REQUIRED INFORMATION,

8 THE EXECUTOR WILL HAVE A REASONABLE PERIOD OF TIME (NOT EXCEEDING 90
9 DAYS) AFTER NOTIFICATION OF SUCH FAILURES TO PROVIDE SUCH INFORMATION OR
10 SIGNATURES.

11 (E) DEFINITIONS; SPECIAL RULES.--FOR PURPOSES OF THIS SECTION--

12 (1) QUALIFIED HEIR.--THE TERM "QUALIFIED HEIR" MEANS, WITH RESPECT TO
13 ANY PROPERTY, A MEMBER OF THE DECEDENT'S FAMILY WHO ACQUIRED SUCH PROP-
14 erty (OR TO WHOM SUCH PROPERTY PASSED) FROM THE DECEDENT. IF A QUALIFIED
15 HEIR DISPOSES OF ANY INTEREST IN QUALIFIED REAL PROPERTY TO ANY MEMBER
16 OF HIS FAMILY, SUCH MEMBER SHALL THEREAFTER BE TREATED AS THE QUALIFIED
17 HEIR WITH RESPECT TO SUCH INTEREST.

18 (2) MEMBER OF FAMILY.--THE TERM "MEMBER OF THE FAMILY" MEANS, WITH
19 RESPECT TO ANY INDIVIDUAL, ONLY--

20 (A) AN ANCESTOR OF SUCH INDIVIDUAL,

21 (B) THE SPOUSE OF SUCH INDIVIDUAL,

22 (C) A LINEAL DESCENDANT OF SUCH INDIVIDUAL, OF SUCH INDIVIDUAL'S
23 SPOUSE, OR OF A PARENT OF SUCH INDIVIDUAL, OR

24 (D) THE SPOUSE OF ANY LINEAL DESCENDANT DESCRIBED IN SUBPARAGRAPH (C).
25 FOR PURPOSES OF THE PRECEDING SENTENCE, A LEGALLY ADOPTED CHILD OF AN
26 INDIVIDUAL SHALL BE TREATED AS THE CHILD OF SUCH INDIVIDUAL BY BLOOD.

27 (3) CERTAIN REAL PROPERTY INCLUDED.--IN THE CASE OF REAL PROPERTY
28 WHICH MEETS THE REQUIREMENTS OF SUBPARAGRAPH (C) OF SUBSECTION (B)(1),
29 RESIDENTIAL BUILDINGS AND RELATED IMPROVEMENTS ON SUCH REAL PROPERTY
30 OCCUPIED ON A REGULAR BASIS BY THE OWNER OR LESSEE OF SUCH REAL PROPERTY
31 OR BY PERSONS EMPLOYED BY SUCH OWNER OR LESSEE FOR THE PURPOSE OF OPER-
32 ating OR MAINTAINING SUCH REAL PROPERTY, AND ROADS, BUILDINGS, AND OTHER
33 STRUCTURES AND IMPROVEMENTS FUNCTIONALLY RELATED TO THE QUALIFIED USE
34 SHALL BE TREATED AS REAL PROPERTY DEVOTED TO THE QUALIFIED USE.

35 (4) FARM.--THE TERM "FARM" INCLUDES STOCK, DAIRY, POULTRY, FRUIT,
36 FURBEARING ANIMAL, AND TRUCK FARMS, PLANTATIONS, RANCHES, NURSERIES,
37 RANGES, GREENHOUSES OR OTHER SIMILAR STRUCTURES USED PRIMARILY FOR THE
38 RAISING OF AGRICULTURAL OR HORTICULTURAL COMMODITIES, AND ORCHARDS AND
39 WOODLANDS.

40 (5) FARMING PURPOSES.--THE TERM "FARMING PURPOSES" MEANS--

41 (A) CULTIVATING THE SOIL OR RAISING OR HARVESTING ANY AGRICULTURAL OR
42 HORTICULTURAL COMMODITY (INCLUDING THE RAISING, SHEARING, FEEDING,
43 CARING FOR, TRAINING, AND MANAGEMENT OF ANIMALS) ON A FARM;

44 (B) HANDLING, DRYING, PACKING, GRADING, OR STORING ON A FARM ANY AGRI-
45 CULTURAL OR HORTICULTURAL COMMODITY IN ITS UNMANUFACTURED STATE, BUT
46 ONLY IF THE OWNER, TENANT, OR OPERATOR OF THE FARM REGULARLY PRODUCES
47 MORE THAN ONE-HALF OF THE COMMODITY SO TREATED; AND

48 (C)(I) THE PLANTING, CULTIVATING, CARING FOR, OR CUTTING OF TREES, OR

49 (II) THE PREPARATION (OTHER THAN MILLING) OF TREES FOR MARKET.

50 (6) MATERIAL PARTICIPATION.--MATERIAL PARTICIPATION SHALL BE DETER-
51 MINED IN A MANNER SIMILAR TO THE MANNER USED FOR PURPOSES OF PARAGRAPH
52 (1) OF SECTION 1402(A) (RELATING TO NET EARNINGS FROM SELF-EMPLOYMENT).

53 (7) METHOD OF VALUING FARMS.--

54 (A) IN GENERAL.--EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), THE VALUE OF
55 A FARM FOR FARMING PURPOSES SHALL BE DETERMINED BY DIVIDING--

1 (I) THE EXCESS OF THE AVERAGE ANNUAL GROSS CASH RENTAL FOR COMPARABLE
2 LAND USED FOR FARMING PURPOSES AND LOCATED IN THE LOCALITY OF SUCH FARM
3 OVER THE AVERAGE ANNUAL STATE AND LOCAL REAL ESTATE TAXES FOR SUCH
4 COMPARABLE LAND, BY

5 (II) THE AVERAGE ANNUAL EFFECTIVE INTEREST RATE FOR ALL NEW FEDERAL
6 LAND BANK LOANS.

7 FOR PURPOSES OF THE PRECEDING SENTENCE, EACH AVERAGE ANNUAL COMPUTA-
8 TION SHALL BE MADE ON THE BASIS OF THE 5 MOST RECENT CALENDAR YEARS
9 ENDING BEFORE THE DATE OF THE DECEDENT'S DEATH.

10 (B) VALUE BASED ON NET SHARE RENTAL IN CERTAIN CASES.--

11 (I) IN GENERAL.--IF THERE IS NO COMPARABLE LAND FROM WHICH THE AVERAGE
12 ANNUAL GROSS CASH RENTAL MAY BE DETERMINED BUT THERE IS COMPARABLE LAND
13 FROM WHICH THE AVERAGE NET SHARE RENTAL MAY BE DETERMINED, SUBPARAGRAPH
14 (A)(I) SHALL BE APPLIED BY SUBSTITUTING "AVERAGE ANNUAL NET SHARE
15 RENTAL" FOR "AVERAGE ANNUAL GROSS CASH RENTAL".

16 (II) NET SHARE RENTAL.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM "NET
17 SHARE RENTAL" MEANS THE EXCESS OF--

18 (I) THE VALUE OF THE PRODUCE RECEIVED BY THE LESSOR OF THE LAND ON
19 WHICH SUCH PRODUCE IS GROWN, OVER

20 (II) THE CASH OPERATING EXPENSES OF GROWING SUCH PRODUCE WHICH, UNDER
21 THE LEASE, ARE PAID BY THE LESSOR.

22 (C) EXCEPTION.--THE FORMULA PROVIDED BY SUBPARAGRAPH (A) SHALL NOT BE
23 USED--

24 (I) WHERE IT IS ESTABLISHED THAT THERE IS NO COMPARABLE LAND FROM
25 WHICH THE AVERAGE ANNUAL GROSS CASH RENTAL MAY BE DETERMINED, OR

26 (II) WHERE THE EXECUTOR ELECTS TO HAVE THE VALUE OF THE FARM FOR FARM-
27 ING PURPOSES DETERMINED AND THAT THERE IS NO COMPARABLE LAND FROM WHICH
28 THE AVERAGE NET SHARE RENTAL MAY BE DETERMINED UNDER PARAGRAPH (8).

29 (8) METHOD OF VALUING CLOSELY HELD BUSINESS INTERESTS, ETC.--IN ANY
30 CASE TO WHICH PARAGRAPH (7)(A) DOES NOT APPLY, THE FOLLOWING FACTORS
31 SHALL APPLY IN DETERMINING THE VALUE OF ANY QUALIFIED REAL PROPERTY:

32 (A) THE CAPITALIZATION OF INCOME WHICH THE PROPERTY CAN BE EXPECTED TO
33 YIELD FOR FARMING OR CLOSELY HELD BUSINESS PURPOSES OVER A REASONABLE
34 PERIOD OF TIME UNDER PRUDENT MANAGEMENT USING TRADITIONAL CROPPING
35 PATTERNS FOR THE AREA, TAKING INTO ACCOUNT SOIL CAPACITY, TERRAIN
36 CONFIGURATION, AND SIMILAR FACTORS,

37 (B) THE CAPITALIZATION OF THE FAIR RENTAL VALUE OF THE LAND FOR FARM-
38 LAND OR CLOSELY HELD BUSINESS PURPOSES,

39 (C) ASSESSED LAND VALUES IN A STATE WHICH PROVIDES A DIFFERENTIAL OR
40 USE VALUE ASSESSMENT LAW FOR FARMLAND OR CLOSELY HELD BUSINESS,

41 (D) COMPARABLE SALES OF OTHER FARM OR CLOSELY HELD BUSINESS LAND IN
42 THE SAME GEOGRAPHICAL AREA FAR ENOUGH REMOVED FROM A METROPOLITAN OR
43 RESORT AREA SO THAT NONAGRICULTURAL USE IS NOT A SIGNIFICANT FACTOR IN
44 THE SALES PRICE, AND

45 (E) ANY OTHER FACTOR WHICH FAIRLY VALUES THE FARM OR CLOSELY HELD
46 BUSINESS VALUE OF THE PROPERTY.

47 (9) PROPERTY ACQUIRED FROM DECEDENT.--PROPERTY SHALL BE CONSIDERED TO
48 HAVE BEEN ACQUIRED FROM OR TO HAVE PASSED FROM THE DECEDENT IF--

49 (A) SUCH PROPERTY IS SO CONSIDERED UNDER SECTION 1014(B) (RELATING TO
50 BASIS OF PROPERTY ACQUIRED FROM A DECEDENT),

51 (B) SUCH PROPERTY IS ACQUIRED BY ANY PERSON FROM THE ESTATE, OR

52 (C) SUCH PROPERTY IS ACQUIRED BY ANY PERSON FROM A TRUST (TO THE
53 EXTENT SUCH PROPERTY IS INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT).

54 (10) COMMUNITY PROPERTY.--IF THE DECEDENT AND HIS SURVIVING SPOUSE AT
55 ANY TIME HELD QUALIFIED REAL PROPERTY AS COMMUNITY PROPERTY, THE INTER-
56 EST OF THE SURVIVING SPOUSE IN SUCH PROPERTY SHALL BE TAKEN INTO ACCOUNT

1 UNDER THIS SECTION TO THE EXTENT NECESSARY TO PROVIDE A RESULT UNDER
2 THIS SECTION WITH RESPECT TO SUCH PROPERTY WHICH IS CONSISTENT WITH THE
3 RESULT WHICH WOULD HAVE OBTAINED UNDER THIS SECTION IF SUCH PROPERTY HAD
4 NOT BEEN COMMUNITY PROPERTY.

5 (11) BOND IN LIEU OF PERSONAL LIABILITY.--IF THE QUALIFIED HEIR MAKES
6 WRITTEN APPLICATION TO THE SECRETARY FOR DETERMINATION OF THE MAXIMUM
7 AMOUNT OF THE ADDITIONAL TAX WHICH MAY BE IMPOSED BY SUBSECTION (C) WITH
8 RESPECT TO THE QUALIFIED HEIR'S INTEREST, THE SECRETARY (AS SOON AS
9 POSSIBLE, AND IN ANY EVENT WITHIN 1 YEAR AFTER THE MAKING OF SUCH APPLI-
10 CATION) SHALL NOTIFY THE HEIR OF SUCH MAXIMUM AMOUNT. THE QUALIFIED
11 HEIR, ON FURNISHING A BOND IN SUCH AMOUNT AND FOR SUCH PERIOD AS MAY BE
12 REQUIRED, SHALL BE DISCHARGED FROM PERSONAL LIABILITY FOR ANY ADDITIONAL
13 TAX IMPOSED BY SUBSECTION (C) AND SHALL BE ENTITLED TO A RECEIPT OR
14 WRITING SHOWING SUCH DISCHARGE.

15 (12) ACTIVE MANAGEMENT.--THE TERM "ACTIVE MANAGEMENT" MEANS THE MAKING
16 OF THE MANAGEMENT DECISIONS OF A BUSINESS (OTHER THAN THE DAILY OPERAT-
17 ING DECISIONS).

18 (13) SPECIAL RULES FOR WOODLANDS.--

19 (A) IN GENERAL.--IN THE CASE OF ANY QUALIFIED WOODLAND WITH RESPECT TO
20 WHICH THE EXECUTOR ELECTS TO HAVE THIS SUBPARAGRAPH APPLY, TREES GROWING
21 ON SUCH WOODLAND SHALL NOT BE TREATED AS A CROP.

22 (B) QUALIFIED WOODLAND.--THE TERM "QUALIFIED WOODLAND" MEANS ANY REAL
23 PROPERTY WHICH--

24 (I) IS USED IN TIMBER OPERATIONS, AND

25 (II) IS AN IDENTIFIABLE AREA OF LAND SUCH AS AN ACRE OR OTHER AREA FOR
26 WHICH RECORDS ARE NORMALLY MAINTAINED IN CONDUCTING TIMBER OPERATIONS.

27 (C) TIMBER OPERATIONS.--THE TERM "TIMBER OPERATIONS" MEANS--

28 (I) THE PLANTING, CULTIVATING, CARING FOR, OR CUTTING OF TREES, OR

29 (II) THE PREPARATION (OTHER THAN MILLING) OF TREES FOR MARKET.

30 (D) ELECTION.--AN ELECTION UNDER SUBPARAGRAPH (A) SHALL BE MADE ON THE
31 RETURN OF THE TAX IMPOSED BY SECTION 2001. SUCH ELECTION SHALL BE MADE
32 IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE. SUCH AN
33 ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

34 (14) TREATMENT OF REPLACEMENT PROPERTY ACQUIRED IN SECTION 1031 OR
35 1033 TRANSACTIONS.--

36 (A) IN GENERAL.--IN THE CASE OF ANY QUALIFIED REPLACEMENT PROPERTY,
37 ANY PERIOD DURING WHICH THERE WAS OWNERSHIP, QUALIFIED USE, OR MATERIAL
38 PARTICIPATION WITH RESPECT TO THE REPLACED PROPERTY BY THE DECEDENT OR
39 ANY MEMBER OF HIS FAMILY SHALL BE TREATED AS A PERIOD DURING WHICH THERE
40 WAS SUCH OWNERSHIP, USE, OR MATERIAL PARTICIPATION (AS THE CASE MAY BE)
41 WITH RESPECT TO THE QUALIFIED REPLACEMENT PROPERTY.

42 (B) LIMITATION.--SUBPARAGRAPH (A) SHALL NOT APPLY TO THE EXTENT THAT
43 THE FAIR MARKET VALUE OF THE QUALIFIED REPLACEMENT PROPERTY (AS OF THE
44 DATE OF ITS ACQUISITION) EXCEEDS THE FAIR MARKET VALUE OF THE REPLACED
45 PROPERTY (AS OF THE DATE OF ITS DISPOSITION).

46 (C) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

47 (I) QUALIFIED REPLACEMENT PROPERTY.--THE TERM "QUALIFIED REPLACEMENT
48 PROPERTY" MEANS ANY REAL PROPERTY WHICH IS--

49 (I) ACQUIRED IN AN EXCHANGE WHICH QUALIFIES UNDER SECTION 1031, OR

50 (II) THE ACQUISITION OF WHICH RESULTS IN THE NONRECOGNITION OF GAIN
51 UNDER SECTION 1033.

52 SUCH TERM SHALL ONLY INCLUDE PROPERTY WHICH IS USED FOR THE SAME QUAL-
53 IFIED USE AS THE REPLACED PROPERTY WAS BEING USED BEFORE THE EXCHANGE.

54 (II) REPLACED PROPERTY.--THE TERM "REPLACED PROPERTY" MEANS--

55 (I) THE PROPERTY TRANSFERRED IN THE EXCHANGE WHICH QUALIFIES UNDER
56 SECTION 1031, OR

1 (II) THE PROPERTY COMPULSORILY OR INVOLUNTARILY CONVERTED (WITHIN THE
2 MEANING OF SECTION 1033).

3 (F) STATUTE OF LIMITATIONS.--IF QUALIFIED REAL PROPERTY IS DISPOSED OF
4 OR CEASES TO BE USED FOR A QUALIFIED USE, THEN--

5 (1) THE STATUTORY PERIOD FOR THE ASSESSMENT OF ANY ADDITIONAL TAX
6 UNDER SUBSECTION (C) ATTRIBUTABLE TO SUCH DISPOSITION OR CESSATION SHALL
7 NOT EXPIRE BEFORE THE EXPIRATION OF 3 YEARS FROM THE DATE THE SECRETARY
8 IS NOTIFIED (IN SUCH MANNER AS THE SECRETARY MAY BY REGULATIONS
9 PRESCRIBE) OF SUCH DISPOSITION OR CESSATION (OR IF LATER IN THE CASE OF
10 AN INVOLUNTARY CONVERSION OR EXCHANGE TO WHICH SUBSECTION (H) OR (I)
11 APPLIES, 3 YEARS FROM THE DATE THE SECRETARY IS NOTIFIED OF THE REPLACE-
12 MENT OF THE CONVERTED PROPERTY OR OF AN INTENTION NOT TO REPLACE OR OF
13 THE EXCHANGE OF PROPERTY), AND

14 (2) SUCH ADDITIONAL TAX MAY BE ASSESSED BEFORE THE EXPIRATION OF SUCH
15 3-YEAR PERIOD NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW OR RULE OF
16 LAW WHICH WOULD OTHERWISE PREVENT SUCH ASSESSMENT.

17 (G) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN
18 PARTNERSHIPS, CORPORATIONS, AND TRUSTS.--THE SECRETARY SHALL PRESCRIBE
19 REGULATIONS SETTING FORTH THE APPLICATION OF THIS SECTION AND SECTION
20 6324B IN THE CASE OF AN INTEREST IN A PARTNERSHIP, CORPORATION, OR TRUST
21 WHICH, WITH RESPECT TO THE DECEDENT, IS AN INTEREST IN A CLOSELY HELD
22 BUSINESS (WITHIN THE MEANING OF PARAGRAPH (1) OF SECTION 6166(B)). FOR
23 PURPOSES OF THE PRECEDING SENTENCE, AN INTEREST IN A DISCRETIONARY TRUST
24 ALL THE BENEFICIARIES OF WHICH ARE QUALIFIED HEIRS SHALL BE TREATED AS A
25 PRESENT INTEREST.

26 (H) SPECIAL RULES FOR INVOLUNTARY CONVERSIONS OF QUALIFIED REAL PROP-
27 ERTY.--

28 (1) TREATMENT OF CONVERTED PROPERTY.--

29 (A) IN GENERAL.--IF THERE IS AN INVOLUNTARY CONVERSION OF AN INTEREST
30 IN QUALIFIED REAL PROPERTY--

31 (I) NO TAX SHALL BE IMPOSED BY SUBSECTION (C) ON SUCH CONVERSION IF
32 THE COST OF THE QUALIFIED REPLACEMENT PROPERTY EQUALS OR EXCEEDS THE
33 AMOUNT REALIZED ON SUCH CONVERSION, OR

34 (II) IF CLAUSE (I) DOES NOT APPLY, THE AMOUNT OF THE TAX IMPOSED BY
35 SUBSECTION (C) ON SUCH CONVERSION SHALL BE THE AMOUNT DETERMINED UNDER
36 SUBPARAGRAPH (B).

37 (B) AMOUNT OF TAX WHERE THERE IS NOT COMPLETE REINVESTMENT.--THE
38 AMOUNT DETERMINED UNDER THIS SUBPARAGRAPH WITH RESPECT TO ANY INVOLUN-
39 TARY CONVERSION IS THE AMOUNT OF THE TAX WHICH (BUT FOR THIS SUBSECTION)
40 WOULD HAVE BEEN IMPOSED ON SUCH CONVERSION REDUCED BY AN AMOUNT WHICH--

41 (I) BEARS THE SAME RATIO TO SUCH TAX, AS

42 (II) THE COST OF THE QUALIFIED REPLACEMENT PROPERTY BEARS TO THE
43 AMOUNT REALIZED ON THE CONVERSION.

44 (2) TREATMENT OF REPLACEMENT PROPERTY.--FOR PURPOSES OF SUBSECTION
45 (C)--

46 (A) ANY QUALIFIED REPLACEMENT PROPERTY SHALL BE TREATED IN THE SAME
47 MANNER AS IF IT WERE A PORTION OF THE INTEREST IN QUALIFIED REAL PROP-
48 ERTY WHICH WAS INVOLUNTARILY CONVERTED; EXCEPT THAT WITH RESPECT TO SUCH
49 QUALIFIED REPLACEMENT PROPERTY THE 10-YEAR PERIOD UNDER PARAGRAPH (1) OF
50 SUBSECTION (C) SHALL BE EXTENDED BY ANY PERIOD, BEYOND THE 2-YEAR PERIOD
51 REFERRED TO IN SECTION 1033(A)(2)(B)(I), DURING WHICH THE QUALIFIED HEIR
52 WAS ALLOWED TO REPLACE THE QUALIFIED REAL PROPERTY,

53 (B) ANY TAX IMPOSED BY SUBSECTION (C) ON THE INVOLUNTARY CONVERSION
54 SHALL BE TREATED AS A TAX IMPOSED ON A PARTIAL DISPOSITION, AND

55 (C) PARAGRAPH (6) OF SUBSECTION (C) SHALL BE APPLIED--

1 (I) BY NOT TAKING INTO ACCOUNT PERIODS AFTER THE INVOLUNTARY CONVER-
2 SION AND BEFORE THE ACQUISITION OF THE QUALIFIED REPLACEMENT PROPERTY,
3 AND

4 (II) BY TREATING MATERIAL PARTICIPATION WITH RESPECT TO THE CONVERTED
5 PROPERTY AS MATERIAL PARTICIPATION WITH RESPECT TO THE QUALIFIED
6 REPLACEMENT PROPERTY.

7 (3) DEFINITIONS AND SPECIAL RULES.--FOR PURPOSES OF THIS SUBSECTION--

8 (A) INVOLUNTARY CONVERSION.--THE TERM "INVOLUNTARY CONVERSION" MEANS A
9 COMPULSORY OR INVOLUNTARY CONVERSION WITHIN THE MEANING OF SECTION 1033.

10 (B) QUALIFIED REPLACEMENT PROPERTY.--THE TERM "QUALIFIED REPLACEMENT
11 PROPERTY" MEANS--

12 (I) IN THE CASE OF AN INVOLUNTARY CONVERSION DESCRIBED IN SECTION
13 1033(A)(1), ANY REAL PROPERTY INTO WHICH THE QUALIFIED REAL PROPERTY IS
14 CONVERTED, OR

15 (II) IN THE CASE OF AN INVOLUNTARY CONVERSION DESCRIBED IN SECTION
16 1033(A)(2), ANY REAL PROPERTY PURCHASED BY THE QUALIFIED HEIR DURING THE
17 PERIOD SPECIFIED IN SECTION 1033(A)(2)(B) FOR PURPOSES OF REPLACING THE
18 QUALIFIED REAL PROPERTY.

19 SUCH TERM ONLY INCLUDES PROPERTY WHICH IS TO BE USED FOR THE QUALIFIED
20 USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION (B)(2) UNDER
21 WHICH THE QUALIFIED REAL PROPERTY QUALIFIED UNDER SUBSECTION (A).

22 (4) CERTAIN RULES MADE APPLICABLE.--THE RULES OF THE LAST SENTENCE OF
23 SECTION 1033(A)(2)(A) SHALL APPLY FOR PURPOSES OF PARAGRAPH (3)(B)(II).

24 (I) EXCHANGES OF QUALIFIED REAL PROPERTY.--

25 (1) TREATMENT OF PROPERTY EXCHANGED.--

26 (A) EXCHANGES SOLELY FOR QUALIFIED EXCHANGE PROPERTY.--IF AN INTEREST
27 IN QUALIFIED REAL PROPERTY IS EXCHANGED SOLELY FOR AN INTEREST IN QUALI-
28 FIED EXCHANGE PROPERTY IN A TRANSACTION WHICH QUALIFIES UNDER SECTION
29 1031, NO TAX SHALL BE IMPOSED BY SUBSECTION (C) BY REASON OF SUCH
30 EXCHANGE.

31 (B) EXCHANGES WHERE OTHER PROPERTY RECEIVED.--IF AN INTEREST IN QUALI-
32 FIED REAL PROPERTY IS EXCHANGED FOR AN INTEREST IN QUALIFIED EXCHANGE
33 PROPERTY AND OTHER PROPERTY IN A TRANSACTION WHICH QUALIFIES UNDER
34 SECTION 1031, THE AMOUNT OF THE TAX IMPOSED BY SUBSECTION (C) BY REASON
35 OF SUCH EXCHANGE SHALL BE THE AMOUNT OF TAX WHICH (BUT FOR THIS SUBPARA-
36 GRAPH) WOULD HAVE BEEN IMPOSED ON SUCH EXCHANGE UNDER SUBSECTION (C)(1),
37 REDUCED BY AN AMOUNT WHICH--

38 (I) BEARS THE SAME RATIO TO SUCH TAX, AS

39 (II) THE FAIR MARKET VALUE OF THE QUALIFIED EXCHANGE PROPERTY BEARS TO
40 THE FAIR MARKET VALUE OF THE QUALIFIED REAL PROPERTY EXCHANGED.

41 FOR PURPOSES OF CLAUSE (II) OF THE PRECEDING SENTENCE, FAIR MARKET
42 VALUE SHALL BE DETERMINED AS OF THE TIME OF THE EXCHANGE.

43 (2) TREATMENT OF QUALIFIED EXCHANGE PROPERTY.--FOR PURPOSES OF
44 SUBSECTION (C)--

45 (A) ANY INTEREST IN QUALIFIED EXCHANGE PROPERTY SHALL BE TREATED IN
46 THE SAME MANNER AS IF IT WERE A PORTION OF THE INTEREST IN QUALIFIED
47 REAL PROPERTY WHICH WAS EXCHANGED,

48 (B) ANY TAX IMPOSED BY SUBSECTION (C) BY REASON OF THE EXCHANGE SHALL
49 BE TREATED AS A TAX IMPOSED ON A PARTIAL DISPOSITION, AND

50 (C) PARAGRAPH (6) OF SUBSECTION (C) SHALL BE APPLIED BY TREATING MATE-
51 RIAL PARTICIPATION WITH RESPECT TO THE EXCHANGED PROPERTY AS MATERIAL
52 PARTICIPATION WITH RESPECT TO THE QUALIFIED EXCHANGE PROPERTY.

53 (3) QUALIFIED EXCHANGE PROPERTY.--FOR PURPOSES OF THIS SUBSECTION, THE
54 TERM "QUALIFIED EXCHANGE PROPERTY" MEANS REAL PROPERTY WHICH IS TO BE
55 USED FOR THE QUALIFIED USE SET FORTH IN SUBPARAGRAPH (A) OR (B) OF

1 SUBSECTION (B)(2) UNDER WHICH THE REAL PROPERTY EXCHANGED THEREFOR
2 ORIGINALLY QUALIFIED UNDER SUBSECTION (A).

3 S 2033. PROPERTY IN WHICH THE DECEDENT HAD AN INTEREST. THE VALUE OF
4 THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT
5 OF THE INTEREST THEREIN OF THE DECEDENT AT THE TIME OF HIS DEATH.

6 S 2034. DOWER OR CURTESY INTERESTS. THE VALUE OF THE GROSS ESTATE
7 SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF ANY INTEREST
8 THEREIN OF THE SURVIVING SPOUSE, EXISTING AT THE TIME OF THE DECEDENT'S
9 DEATH AS DOWER OR CURTESY, OR BY VIRTUE OF A STATUTE CREATING AN ESTATE
10 IN LIEU OF DOWER OR CURTESY.

11 S 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN THREE YEARS OF
12 DECEDENT'S DEATH. (A) INCLUSION OF CERTAIN PROPERTY IN GROSS
13 ESTATE.--IF--

14 (1) THE DECEDENT MADE A TRANSFER (BY TRUST OR OTHERWISE) OF AN INTER-
15 EST IN ANY PROPERTY, OR RELINQUISHED A POWER WITH RESPECT TO ANY PROPER-
16 TY, DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH,
17 AND

18 (2) THE VALUE OF SUCH PROPERTY (OR AN INTEREST THEREIN) WOULD HAVE
19 BEEN INCLUDED IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2036, 2037,
20 2038, OR 2042 IF SUCH TRANSFERRED INTEREST OR RELINQUISHED POWER HAD
21 BEEN RETAINED BY THE DECEDENT ON THE DATE OF HIS DEATH,

22 THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ANY PROPERTY
23 (OR INTEREST THEREIN) WHICH WOULD HAVE BEEN SO INCLUDED.

24 (B) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE
25 DECEDENT'S DEATH.--THE AMOUNT OF THE GROSS ESTATE (DETERMINED WITHOUT
26 REGARD TO THIS SUBSECTION) SHALL BE INCREASED BY THE AMOUNT OF ANY TAX
27 PAID UNDER CHAPTER 12 BY THE DECEDENT OR HIS ESTATE ON ANY GIFT MADE BY
28 THE DECEDENT OR HIS SPOUSE DURING THE 3-YEAR PERIOD ENDING ON THE DATE
29 OF THE DECEDENT'S DEATH.

30 (C) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.--

31 (1) IN GENERAL.--FOR PURPOSES OF--

32 (A) SECTION 303(B) (RELATING TO DISTRIBUTIONS IN REDEMPTION OF STOCK
33 TO PAY DEATH TAXES),

34 (B) SECTION 2032A (RELATING TO SPECIAL VALUATION OF CERTAIN FARMS,
35 ETC., REAL PROPERTY), AND

36 (C) SUBCHAPTER C OF CHAPTER 64 (RELATING TO LIEN FOR TAXES),

37 THE VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY
38 TO THE EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY
39 TIME MADE A TRANSFER, BY TRUST OR OTHERWISE, DURING THE 3-YEAR PERIOD
40 ENDING ON THE DATE OF THE DECEDENT'S DEATH.

41 (2) COORDINATION WITH SECTION 6166.--AN ESTATE SHALL BE TREATED AS
42 MEETING THE 35 PERCENT OF ADJUSTED GROSS ESTATE REQUIREMENT OF SECTION
43 6166(A)(1) ONLY IF THE ESTATE MEETS SUCH REQUIREMENT BOTH WITH AND WITH-
44 OUT THE APPLICATION OF SUBSECTION (A).

45 (3) MARITAL AND SMALL TRANSFERS.--PARAGRAPH (1) SHALL NOT APPLY TO ANY
46 TRANSFER (OTHER THAN A TRANSFER WITH RESPECT TO A LIFE INSURANCE POLICY)
47 MADE DURING A CALENDAR YEAR TO ANY DONEE IF THE DECEDENT WAS NOT
48 REQUIRED BY SECTION 6019 (OTHER THAN BY REASON OF SECTION 6019(2)) TO
49 FILE ANY GIFT TAX RETURN FOR SUCH YEAR WITH RESPECT TO TRANSFERS TO SUCH
50 DONEE.

51 (D) EXCEPTION.--SUBSECTION (A) AND PARAGRAPH (1) OF SUBSECTION (C)
52 SHALL NOT APPLY TO ANY BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDER-
53 ATION IN MONEY OR MONEY'S WORTH.

54 (E) TREATMENT OF CERTAIN TRANSFERS FROM REVOCABLE TRUSTS.--FOR
55 PURPOSES OF THIS SECTION AND SECTION 2038, ANY TRANSFER FROM ANY PORTION
56 OF A TRUST DURING ANY PERIOD THAT SUCH PORTION WAS TREATED UNDER SECTION

1 676 AS OWNED BY THE DECEDENT BY REASON OF A POWER IN THE GRANTOR (DETER-
2 MINED WITHOUT REGARD TO SECTION 672(E)) SHALL BE TREATED AS A TRANSFER
3 MADE DIRECTLY BY THE DECEDENT.

4 S 2036. TRANSFERS WITH RETAINED LIFE ESTATE. (A) GENERAL RULE.--THE
5 VALUE OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE
6 EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME
7 MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND
8 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE,
9 UNDER WHICH HE HAS RETAINED FOR HIS LIFE OR FOR ANY PERIOD NOT ASCER-
10 TAINABLE WITHOUT REFERENCE TO HIS DEATH OR FOR ANY PERIOD WHICH DOES NOT
11 IN FACT END BEFORE HIS DEATH--

12 (1) THE POSSESSION OR ENJOYMENT OF, OR THE RIGHT TO THE INCOME FROM,
13 THE PROPERTY, OR

14 (2) THE RIGHT, EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON, TO
15 DESIGNATE THE PERSONS WHO SHALL POSSESS OR ENJOY THE PROPERTY OR THE
16 INCOME THEREFROM.

17 (B) VOTING RIGHTS.--

18 (1) IN GENERAL.--FOR PURPOSES OF SUBSECTION (A)(1), THE RETENTION OF
19 THE RIGHT TO VOTE (DIRECTLY OR INDIRECTLY) SHARES OF STOCK OF A
20 CONTROLLED CORPORATION SHALL BE CONSIDERED TO BE A RETENTION OF THE
21 ENJOYMENT OF TRANSFERRED PROPERTY.

22 (2) CONTROLLED CORPORATION.--FOR PURPOSES OF PARAGRAPH (1), A CORPO-
23 RATION SHALL BE TREATED AS A CONTROLLED CORPORATION IF, AT ANY TIME
24 AFTER THE TRANSFER OF THE PROPERTY AND DURING THE 3-YEAR PERIOD ENDING
25 ON THE DATE OF THE DECEDENT'S DEATH, THE DECEDENT OWNED (WITH THE APPLI-
26 CATION OF SECTION 318), OR HAD THE RIGHT (EITHER ALONE OR IN CONJUNCTION
27 WITH ANY PERSON) TO VOTE, STOCK POSSESSING AT LEAST 20 PERCENT OF THE
28 TOTAL COMBINED VOTING POWER OF ALL CLASSES OF STOCK.

29 (3) COORDINATION WITH SECTION 2035.--FOR PURPOSES OF APPLYING SECTION
30 2035 WITH RESPECT TO PARAGRAPH (1), THE RELINQUISHMENT OR CESSATION OF
31 VOTING RIGHTS SHALL BE TREATED AS A TRANSFER OF PROPERTY MADE BY THE
32 DECEDENT.

33 (C) LIMITATION ON APPLICATION OF GENERAL RULE.--THIS SECTION SHALL NOT
34 APPLY TO A TRANSFER MADE BEFORE MARCH 4, 1931; NOR TO A TRANSFER MADE
35 AFTER MARCH 3, 1931, AND BEFORE JUNE 7, 1932, UNLESS THE PROPERTY TRANS-
36 FERRED WOULD HAVE BEEN INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE BY
37 REASON OF THE AMENDATORY LANGUAGE OF THE JOINT RESOLUTION OF MARCH 3,
38 1931 (46 STAT. 1516).

39 S 2037. TRANSFERS TAKING EFFECT AT DEATH. (A) GENERAL RULE.--THE VALUE
40 OF THE GROSS ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE
41 EXTENT OF ANY INTEREST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME
42 AFTER SEPTEMBER 7, 1916, MADE A TRANSFER (EXCEPT IN CASE OF A BONA FIDE
43 SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH),
44 BY TRUST OR OTHERWISE, IF--

45 (1) POSSESSION OR ENJOYMENT OF THE PROPERTY CAN, THROUGH OWNERSHIP OF
46 SUCH INTEREST, BE OBTAINED ONLY BY SURVIVING THE DECEDENT, AND

47 (2) THE DECEDENT HAS RETAINED A REVERSIONARY INTEREST IN THE PROPERTY
48 (BUT IN THE CASE OF A TRANSFER MADE BEFORE OCTOBER 8, 1949, ONLY IF SUCH
49 REVERSIONARY INTEREST AROSE BY THE EXPRESS TERMS OF THE INSTRUMENT OF
50 TRANSFER), AND THE VALUE OF SUCH REVERSIONARY INTEREST IMMEDIATELY
51 BEFORE THE DEATH OF THE DECEDENT EXCEEDS 5 PERCENT OF THE VALUE OF SUCH
52 PROPERTY.

53 (B) SPECIAL RULES.--FOR PURPOSES OF THIS SECTION, THE TERM "REVERSION-
54 ARY INTEREST" INCLUDES A POSSIBILITY THAT PROPERTY TRANSFERRED BY THE
55 DECEDENT--

56 (1) MAY RETURN TO HIM OR HIS ESTATE, OR

1 (2) MAY BE SUBJECT TO A POWER OF DISPOSITION BY HIM,
2 BUT SUCH TERM DOES NOT INCLUDE A POSSIBILITY THAT THE INCOME ALONE
3 FROM SUCH PROPERTY MAY RETURN TO HIM OR BECOME SUBJECT TO A POWER OF
4 DISPOSITION BY HIM. THE VALUE OF A REVERSIONARY INTEREST IMMEDIATELY
5 BEFORE THE DEATH OF THE DECEDENT SHALL BE DETERMINED (WITHOUT REGARD TO
6 THE FACT OF THE DECEDENT'S DEATH) BY USUAL METHODS OF VALUATION, INCLUD-
7 ING THE USE OF TABLES OF MORTALITY AND ACTUARIAL PRINCIPLES, UNDER REGU-
8 LATIONS PRESCRIBED BY THE SECRETARY. IN DETERMINING THE VALUE OF A
9 POSSIBILITY THAT PROPERTY MAY BE SUBJECT TO A POWER OF DISPOSITION BY
10 THE DECEDENT, SUCH POSSIBILITY SHALL BE VALUED AS IF IT WERE A POSSIBIL-
11 ITY THAT SUCH PROPERTY MAY RETURN TO THE DECEDENT OR HIS ESTATE.
12 NOTWITHSTANDING THE FOREGOING, AN INTEREST SO TRANSFERRED SHALL NOT BE
13 INCLUDED IN THE DECEDENT'S GROSS ESTATE UNDER THIS SECTION IF POSSESSION
14 OR ENJOYMENT OF THE PROPERTY COULD HAVE BEEN OBTAINED BY ANY BENEFICIARY
15 DURING THE DECEDENT'S LIFE THROUGH THE EXERCISE OF A GENERAL POWER OF
16 APPOINTMENT (AS DEFINED IN SECTION 2041) WHICH IN FACT WAS EXERCISABLE
17 IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

18 S 2038. REVOCABLE TRANSFERS. (A) IN GENERAL.--THE VALUE OF THE GROSS
19 ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

20 (1) TRANSFERS AFTER JUNE 22, 1936.--TO THE EXTENT OF ANY INTEREST
21 THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER (EXCEPT IN
22 CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDERATION IN MONEY
23 OR MONEY'S WORTH), BY TRUST OR OTHERWISE, WHERE THE ENJOYMENT THEREOF
24 WAS SUBJECT AT THE DATE OF HIS DEATH TO ANY CHANGE THROUGH THE EXERCISE
25 OF A POWER (IN WHATEVER CAPACITY EXERCISABLE) BY THE DECEDENT ALONE OR
26 BY THE DECEDENT IN CONJUNCTION WITH ANY OTHER PERSON (WITHOUT REGARD TO
27 WHEN OR FROM WHAT SOURCE THE DECEDENT ACQUIRED SUCH POWER), TO ALTER,
28 AMEND, REVOKE, OR TERMINATE, OR WHERE ANY SUCH POWER IS RELINQUISHED
29 DURING THE 3-YEAR PERIOD ENDING ON THE DATE OF THE DECEDENT'S DEATH.

30 (2) TRANSFERS ON OR BEFORE JUNE 22, 1936.--TO THE EXTENT OF ANY INTER-
31 EST THEREIN OF WHICH THE DECEDENT HAS AT ANY TIME MADE A TRANSFER
32 (EXCEPT IN CASE OF A BONA FIDE SALE FOR AN ADEQUATE AND FULL CONSIDER-
33 ATION IN MONEY OR MONEY'S WORTH), BY TRUST OR OTHERWISE, WHERE THE
34 ENJOYMENT THEREOF WAS SUBJECT AT THE DATE OF HIS DEATH TO ANY CHANGE
35 THROUGH THE EXERCISE OF A POWER, EITHER BY THE DECEDENT ALONE OR IN
36 CONJUNCTION WITH ANY PERSON, TO ALTER, AMEND, OR REVOKE, OR WHERE THE
37 DECEDENT RELINQUISHED ANY SUCH POWER DURING THE 3-YEAR PERIOD ENDING ON
38 THE DATE OF THE DECEDENT'S DEATH. EXCEPT IN THE CASE OF TRANSFERS MADE
39 AFTER JUNE 22, 1936, NO INTEREST OF THE DECEDENT OF WHICH HE HAS MADE A
40 TRANSFER SHALL BE INCLUDED IN THE GROSS ESTATE UNDER PARAGRAPH (1)
41 UNLESS IT IS INCLUDIBLE UNDER THIS PARAGRAPH.

42 (B) DATE OF EXISTENCE OF POWER.--FOR PURPOSES OF THIS SECTION, THE
43 POWER TO ALTER, AMEND, REVOKE, OR TERMINATE SHALL BE CONSIDERED TO EXIST
44 ON THE DATE OF THE DECEDENT'S DEATH EVEN THOUGH THE EXERCISE OF THE
45 POWER IS SUBJECT TO A PRECEDENT GIVING OF NOTICE OR EVEN THOUGH THE
46 ALTERATION, AMENDMENT, REVOCATION, OR TERMINATION TAKES EFFECT ONLY ON
47 THE EXPIRATION OF A STATED PERIOD AFTER THE EXERCISE OF THE POWER,
48 WHETHER OR NOT ON OR BEFORE THE DATE OF THE DECEDENT'S DEATH NOTICE HAS
49 BEEN GIVEN OR THE POWER HAS BEEN EXERCISED. IN SUCH CASES PROPER ADJUST-
50 MENT SHALL BE MADE REPRESENTING THE INTERESTS WHICH WOULD HAVE BEEN
51 EXCLUDED FROM THE POWER IF THE DECEDENT HAD LIVED, AND FOR SUCH PURPOSE,
52 IF THE NOTICE HAS NOT BEEN GIVEN OR THE POWER HAS NOT BEEN EXERCISED ON
53 OR BEFORE THE DATE OF HIS DEATH, SUCH NOTICE SHALL BE CONSIDERED TO HAVE
54 BEEN GIVEN, OR THE POWER EXERCISED, ON THE DATE OF HIS DEATH.

55 S 2039. ANNUITIES. (A) GENERAL.--THE GROSS ESTATE SHALL INCLUDE THE
56 VALUE OF AN ANNUITY OR OTHER PAYMENT RECEIVABLE BY ANY BENEFICIARY BY

1 REASON OF SURVIVING THE DECEDENT UNDER ANY FORM OF CONTRACT OR AGREEMENT
2 ENTERED INTO AFTER MARCH 3, 1931 (OTHER THAN AS INSURANCE UNDER POLICIES
3 ON THE LIFE OF THE DECEDENT), IF, UNDER SUCH CONTRACT OR AGREEMENT, AN
4 ANNUITY OR OTHER PAYMENT WAS PAYABLE TO THE DECEDENT, OR THE DECEDENT
5 POSSESSED THE RIGHT TO RECEIVE SUCH ANNUITY OR PAYMENT, EITHER ALONE OR
6 IN CONJUNCTION WITH ANOTHER FOR HIS LIFE OR FOR ANY PERIOD NOT ASCER-
7 TAINABLE WITHOUT REFERENCE TO HIS DEATH OR FOR ANY PERIOD WHICH DOES NOT
8 IN FACT END BEFORE HIS DEATH.

9 (B) AMOUNT INCLUDIBLE.--SUBSECTION (A) SHALL APPLY TO ONLY SUCH PART
10 OF THE VALUE OF THE ANNUITY OR OTHER PAYMENT RECEIVABLE UNDER SUCH
11 CONTRACT OR AGREEMENT AS IS PROPORTIONATE TO THAT PART OF THE PURCHASE
12 PRICE THEREFOR CONTRIBUTED BY THE DECEDENT. FOR PURPOSES OF THIS
13 SECTION, ANY CONTRIBUTION BY THE DECEDENT'S EMPLOYER OR FORMER EMPLOYER
14 TO THE PURCHASE PRICE OF SUCH CONTRACT OR AGREEMENT (WHETHER OR NOT TO
15 AN EMPLOYEE'S TRUST OR FUND FORMING PART OF A PENSION, ANNUITY, RETIRE-
16 MENT, BONUS OR PROFIT SHARING PLAN) SHALL BE CONSIDERED TO BE CONTRIB-
17 UTED BY THE DECEDENT IF MADE BY REASON OF HIS EMPLOYMENT.

18 S 2040. JOINT INTERESTS. (A) GENERAL RULE.--THE VALUE OF THE GROSS
19 ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY TO THE EXTENT OF THE
20 INTEREST THEREIN HELD AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP BY THE
21 DECEDENT AND ANY OTHER PERSON, OR AS TENANTS BY THE ENTIRETY BY THE
22 DECEDENT AND SPOUSE, OR DEPOSITED, WITH ANY PERSON CARRYING ON THE BANK-
23 ING BUSINESS, IN THEIR JOINT NAMES AND PAYABLE TO EITHER OR THE SURVI-
24 VOR, EXCEPT SUCH PART THEREOF AS MAY BE SHOWN TO HAVE ORIGINALLY
25 BELONGED TO SUCH OTHER PERSON AND NEVER TO HAVE BEEN RECEIVED OR
26 ACQUIRED BY THE LATTER FROM THE DECEDENT FOR LESS THAN AN ADEQUATE AND
27 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH: PROVIDED, THAT WHERE SUCH
28 PROPERTY OR ANY PART THEREOF, OR PART OF THE CONSIDERATION WITH WHICH
29 SUCH PROPERTY WAS ACQUIRED, IS SHOWN TO HAVE BEEN AT ANY TIME ACQUIRED
30 BY SUCH OTHER PERSON FROM THE DECEDENT FOR LESS THAN AN ADEQUATE AND
31 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THERE SHALL BE EXCEPTED
32 ONLY SUCH PART OF THE VALUE OF SUCH PROPERTY AS IS PROPORTIONATE TO THE
33 CONSIDERATION FURNISHED BY SUCH OTHER PERSON: PROVIDED FURTHER, THAT
34 WHERE ANY PROPERTY HAS BEEN ACQUIRED BY GIFT, BEQUEST, DEVISE, OR INHER-
35 ITANCE, AS A TENANCY BY THE ENTIRETY BY THE DECEDENT AND SPOUSE, THEN TO
36 THE EXTENT OF ONE-HALF OF THE VALUE THEREOF, OR, WHERE SO ACQUIRED BY
37 THE DECEDENT AND ANY OTHER PERSON AS JOINT TENANTS WITH RIGHT OF SURVI-
38 VORSHIP AND THEIR INTERESTS ARE NOT OTHERWISE SPECIFIED OR FIXED BY LAW,
39 THEN TO THE EXTENT OF THE VALUE OF A FRACTIONAL PART TO BE DETERMINED BY
40 DIVIDING THE VALUE OF THE PROPERTY BY THE NUMBER OF JOINT TENANTS WITH
41 RIGHT OF SURVIVORSHIP.

42 (B) CERTAIN JOINT INTERESTS OF HUSBAND AND WIFE.--

43 (1) INTERESTS OF SPOUSE EXCLUDED FROM GROSS ESTATE.--NOTWITHSTANDING
44 SUBSECTION (A), IN THE CASE OF ANY QUALIFIED JOINT INTEREST, THE VALUE
45 INCLUDED IN THE GROSS ESTATE WITH RESPECT TO SUCH INTEREST BY REASON OF
46 THIS SECTION IS ONE-HALF OF THE VALUE OF SUCH QUALIFIED JOINT INTEREST.

47 (2) QUALIFIED JOINT INTEREST DEFINED.--FOR PURPOSES OF PARAGRAPH (1),
48 THE TERM "QUALIFIED JOINT INTEREST" MEANS ANY INTEREST IN PROPERTY HELD
49 BY THE DECEDENT AND THE DECEDENT'S SPOUSE AS--

50 (A) TENANTS BY THE ENTIRETY, OR

51 (B) JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, BUT ONLY IF THE DECEDENT
52 AND THE SPOUSE OF THE DECEDENT ARE THE ONLY JOINT TENANTS.

53 S 2041. POWERS OF APPOINTMENT. (A) IN GENERAL.--THE VALUE OF THE GROSS
54 ESTATE SHALL INCLUDE THE VALUE OF ALL PROPERTY--

55 (1) POWERS OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942.--TO
56 THE EXTENT OF ANY PROPERTY WITH RESPECT TO WHICH A GENERAL POWER OF

1 APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, IS EXERCISED BY THE
2 DECEDENT--

3 (A) BY WILL, OR

4 (B) BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANS-
5 FER OF PROPERTY OWNED BY THE DECEDENT, SUCH PROPERTY WOULD BE INCLUDIBLE
6 IN THE DECEDENT'S GROSS ESTATE UNDER SECTIONS 2035 TO 2038, INCLUSIVE;

7 BUT THE FAILURE TO EXERCISE SUCH A POWER OR THE COMPLETE RELEASE OF
8 SUCH A POWER SHALL NOT BE DEEMED AN EXERCISE THEREOF. IF A GENERAL POWER
9 OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942, HAS BEEN PARTIALLY
10 RELEASED SO THAT IT IS NO LONGER A GENERAL POWER OF APPOINTMENT, THE
11 EXERCISE OF SUCH POWER SHALL NOT BE DEEMED TO BE THE EXERCISE OF A
12 GENERAL POWER OF APPOINTMENT IF--

13 (I) SUCH PARTIAL RELEASE OCCURRED BEFORE NOVEMBER 1, 1951, OR

14 (II) THE DONEE OF SUCH POWER WAS UNDER A LEGAL DISABILITY TO RELEASE
15 SUCH POWER ON OCTOBER 21, 1942, AND SUCH PARTIAL RELEASE OCCURRED NOT
16 LATER THAN 6 MONTHS AFTER THE TERMINATION OF SUCH LEGAL DISABILITY.

17 (2) POWERS CREATED AFTER OCTOBER 21, 1942.--TO THE EXTENT OF ANY PROP-
18 ERTY WITH RESPECT TO WHICH THE DECEDENT HAS AT THE TIME OF HIS DEATH A
19 GENERAL POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, OR WITH
20 RESPECT TO WHICH THE DECEDENT HAS AT ANY TIME EXERCISED OR RELEASED SUCH
21 A POWER OF APPOINTMENT BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF
22 IT WERE A TRANSFER OF PROPERTY OWNED BY THE DECEDENT, SUCH PROPERTY
23 WOULD BE INCLUDIBLE IN THE DECEDENT'S GROSS ESTATE UNDER SECTIONS 2035
24 TO 2038, INCLUSIVE. FOR PURPOSES OF THIS PARAGRAPH (2), THE POWER OF
25 APPOINTMENT SHALL BE CONSIDERED TO EXIST ON THE DATE OF THE DECEDENT'S
26 DEATH EVEN THOUGH THE EXERCISE OF THE POWER IS SUBJECT TO A PRECEDENT
27 GIVING OF NOTICE OR EVEN THOUGH THE EXERCISE OF THE POWER TAKES EFFECT
28 ONLY ON THE EXPIRATION OF A STATED PERIOD AFTER ITS EXERCISE, WHETHER OR
29 NOT ON OR BEFORE THE DATE OF THE DECEDENT'S DEATH NOTICE HAS BEEN GIVEN
30 OR THE POWER HAS BEEN EXERCISED.

31 (3) CREATION OF ANOTHER POWER IN CERTAIN CASES.--TO THE EXTENT OF ANY
32 PROPERTY WITH RESPECT TO WHICH THE DECEDENT--

33 (A) BY WILL, OR

34 (B) BY A DISPOSITION WHICH IS OF SUCH NATURE THAT IF IT WERE A TRANS-
35 FER OF PROPERTY OWNED BY THE DECEDENT SUCH PROPERTY WOULD BE INCLUDIBLE
36 IN THE DECEDENT'S GROSS ESTATE UNDER SECTION 2035, 2036, OR 2037,

37 EXERCISES A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, BY
38 CREATING ANOTHER POWER OF APPOINTMENT WHICH UNDER THE APPLICABLE LOCAL
39 LAW CAN BE VALIDLY EXERCISED SO AS TO POSTPONE THE VESTING OF ANY ESTATE
40 OR INTEREST IN SUCH PROPERTY, OR SUSPEND THE ABSOLUTE OWNERSHIP OR POWER
41 OF ALIENATION OF SUCH PROPERTY, FOR A PERIOD ASCERTAINABLE WITHOUT
42 REGARD TO THE DATE OF THE CREATION OF THE FIRST POWER.

43 (B) DEFINITIONS.--FOR PURPOSES OF SUBSECTION (A)--

44 (1) GENERAL POWER OF APPOINTMENT.--THE TERM "GENERAL POWER OF APPOINT-
45 MENT" MEANS A POWER WHICH IS EXERCISABLE IN FAVOR OF THE DECEDENT, HIS
46 ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE; EXCEPT THAT--

47 (A) A POWER TO CONSUME, INVADe, OR APPROPRIATE PROPERTY FOR THE BENE-
48 FIT OF THE DECEDENT WHICH IS LIMITED BY AN ASCERTAINABLE STANDARD RELAT-
49 ING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE DECEDENT
50 SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

51 (B) A POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942,
52 WHICH IS EXERCISABLE BY THE DECEDENT ONLY IN CONJUNCTION WITH ANOTHER
53 PERSON SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

54 (C) IN THE CASE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21,
55 1942, WHICH IS EXERCISABLE BY THE DECEDENT ONLY IN CONJUNCTION WITH
56 ANOTHER PERSON--

1 (I) IF THE POWER IS NOT EXERCISABLE BY THE DECEDENT EXCEPT IN CONJUNC-
2 TION WITH THE CREATOR OF THE POWER--SUCH POWER SHALL NOT BE DEEMED A
3 GENERAL POWER OF APPOINTMENT.

4 (II) IF THE POWER IS NOT EXERCISABLE BY THE DECEDENT EXCEPT IN
5 CONJUNCTION WITH A PERSON HAVING A SUBSTANTIAL INTEREST IN THE PROPERTY,
6 SUBJECT TO THE POWER, WHICH IS ADVERSE TO EXERCISE OF THE POWER IN FAVOR
7 OF THE DECEDENT--SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF
8 APPOINTMENT. FOR THE PURPOSES OF THIS CLAUSE A PERSON WHO, AFTER THE
9 DEATH OF THE DECEDENT, MAY BE POSSESSED OF A POWER OF APPOINTMENT (WITH
10 RESPECT TO THE PROPERTY SUBJECT TO THE DECEDENT'S POWER) WHICH HE MAY
11 EXERCISE IN HIS OWN FAVOR SHALL BE DEEMED AS HAVING AN INTEREST IN THE
12 PROPERTY AND SUCH INTEREST SHALL BE DEEMED ADVERSE TO SUCH EXERCISE OF
13 THE DECEDENT'S POWER.

14 (III) IF (AFTER THE APPLICATION OF CLAUSES (I) AND (II)) THE POWER IS
15 A GENERAL POWER OF APPOINTMENT AND IS EXERCISABLE IN FAVOR OF SUCH OTHER
16 PERSON--SUCH POWER SHALL BE DEEMED A GENERAL POWER OF APPOINTMENT ONLY
17 IN RESPECT OF A FRACTIONAL PART OF THE PROPERTY SUBJECT TO SUCH POWER,
18 SUCH PART TO BE DETERMINED BY DIVIDING THE VALUE OF SUCH PROPERTY BY THE
19 NUMBER OF SUCH PERSONS (INCLUDING THE DECEDENT) IN FAVOR OF WHOM SUCH
20 POWER IS EXERCISABLE.

21 FOR PURPOSES OF CLAUSES (II) AND (III), A POWER SHALL BE DEEMED TO BE
22 EXERCISABLE IN FAVOR OF A PERSON IF IT IS EXERCISABLE IN FAVOR OF SUCH
23 PERSON, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE.

24 (2) LAPSE OF POWER.--THE LAPSE OF A POWER OF APPOINTMENT CREATED AFTER
25 OCTOBER 21, 1942, DURING THE LIFE OF THE INDIVIDUAL POSSESSING THE POWER
26 SHALL BE CONSIDERED A RELEASE OF SUCH POWER. THE PRECEDING SENTENCE
27 SHALL APPLY WITH RESPECT TO THE LAPSE OF POWERS DURING ANY CALENDAR YEAR
28 ONLY TO THE EXTENT THAT THE PROPERTY, WHICH COULD HAVE BEEN APPOINTED BY
29 EXERCISE OF SUCH LAPSED POWERS, EXCEEDED IN VALUE, AT THE TIME OF SUCH
30 LAPSE, THE GREATER OF THE FOLLOWING AMOUNTS:

31 (A) \$5,000, OR

32 (B) 5 PERCENT OF THE AGGREGATE VALUE, AT THE TIME OF SUCH LAPSE, OF
33 THE ASSETS OUT OF WHICH, OR THE PROCEEDS OF WHICH, THE EXERCISE OF THE
34 LAPSED POWERS COULD HAVE BEEN SATISFIED.

35 (3) DATE OF CREATION OF POWER.--FOR PURPOSES OF THIS SECTION, A POWER
36 OF APPOINTMENT CREATED BY A WILL EXECUTED ON OR BEFORE OCTOBER 21, 1942,
37 SHALL BE CONSIDERED A POWER CREATED ON OR BEFORE SUCH DATE IF THE PERSON
38 EXECUTING SUCH WILL DIES BEFORE JULY 1, 1949, WITHOUT HAVING REPUBLISHED
39 SUCH WILL, BY CODICIL OR OTHERWISE, AFTER OCTOBER 21, 1942.

40 S 2042. PROCEEDS OF LIFE INSURANCE. THE VALUE OF THE GROSS ESTATE
41 SHALL INCLUDE THE VALUE OF ALL PROPERTY--

42 (1) RECEIVABLE BY THE EXECUTOR.--TO THE EXTENT OF THE AMOUNT RECEIV-
43 ABLE BY THE EXECUTOR AS INSURANCE UNDER POLICIES ON THE LIFE OF THE
44 DECEDENT.

45 (2) RECEIVABLE BY OTHER BENEFICIARIES.--TO THE EXTENT OF THE AMOUNT
46 RECEIVABLE BY ALL OTHER BENEFICIARIES AS INSURANCE UNDER POLICIES ON THE
47 LIFE OF THE DECEDENT WITH RESPECT TO WHICH THE DECEDENT POSSESSED AT HIS
48 DEATH ANY OF THE INCIDENTS OF OWNERSHIP, EXERCISABLE EITHER ALONE OR IN
49 CONJUNCTION WITH ANY OTHER PERSON. FOR PURPOSES OF THE PRECEDING
50 SENTENCE, THE TERM "INCIDENT OF OWNERSHIP" INCLUDES A REVERSIONARY
51 INTEREST (WHETHER ARISING BY THE EXPRESS TERMS OF THE POLICY OR OTHER
52 INSTRUMENT OR BY OPERATION OF LAW) ONLY IF THE VALUE OF SUCH REVERSION-
53 ARY INTEREST EXCEEDED 5 PERCENT OF THE VALUE OF THE POLICY IMMEDIATELY
54 BEFORE THE DEATH OF THE DECEDENT. AS USED IN THIS PARAGRAPH, THE TERM
55 "REVERSIONARY INTEREST" INCLUDES A POSSIBILITY THAT THE POLICY, OR THE
56 PROCEEDS OF THE POLICY, MAY RETURN TO THE DECEDENT OR HIS ESTATE, OR MAY

1 BE SUBJECT TO A POWER OF DISPOSITION BY HIM. THE VALUE OF A REVERSIONARY
2 INTEREST AT ANY TIME SHALL BE DETERMINED (WITHOUT REGARD TO THE FACT OF
3 THE DECEDENT'S DEATH) BY USUAL METHODS OF VALUATION, INCLUDING THE USE
4 OF TABLES OF MORTALITY AND ACTUARIAL PRINCIPLES, PURSUANT TO REGULATIONS
5 PRESCRIBED BY THE SECRETARY. IN DETERMINING THE VALUE OF A POSSIBILITY
6 THAT THE POLICY OR PROCEEDS THEREOF MAY BE SUBJECT TO A POWER OF DISPO-
7 SITION BY THE DECEDENT, SUCH POSSIBILITY SHALL BE VALUED AS IF IT WERE A
8 POSSIBILITY THAT SUCH POLICY OR PROCEEDS MAY RETURN TO THE DECEDENT OR
9 HIS ESTATE.

10 S 2043. TRANSFERS FOR INSUFFICIENT CONSIDERATION. (A) IN GENERAL.--IF
11 ANY ONE OF THE TRANSFERS, TRUSTS, INTERESTS, RIGHTS, OR POWERS ENUMER-
12 ATED AND DESCRIBED IN SECTIONS 2035 TO 2038, INCLUSIVE, AND SECTION 2041
13 IS MADE, CREATED, EXERCISED, OR RELINQUISHED FOR A CONSIDERATION IN
14 MONEY OR MONEY'S WORTH, BUT IS NOT A BONA FIDE SALE FOR AN ADEQUATE AND
15 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH, THERE SHALL BE INCLUDED IN
16 THE GROSS ESTATE ONLY THE EXCESS OF THE FAIR MARKET VALUE AT THE TIME OF
17 DEATH OF THE PROPERTY OTHERWISE TO BE INCLUDED ON ACCOUNT OF SUCH TRANS-
18 ACTION, OVER THE VALUE OF THE CONSIDERATION RECEIVED THEREFOR BY THE
19 DECEDENT.

20 (B) MARITAL RIGHTS NOT TREATED AS CONSIDERATION.--

21 (1) IN GENERAL.--FOR PURPOSES OF THIS CHAPTER, A RELINQUISHMENT OR
22 PROMISED RELINQUISHMENT OF DOWER OR CURTESY, OR OF A STATUTORY ESTATE
23 CREATED IN LIEU OF DOWER OR CURTESY, OR OF OTHER MARITAL RIGHTS IN THE
24 DECEDENT'S PROPERTY OR ESTATE, SHALL NOT BE CONSIDERED TO ANY EXTENT A
25 CONSIDERATION "IN MONEY OR MONEY'S WORTH".

26 (2) EXCEPTION.--FOR PURPOSES OF SECTION 2053 (RELATING TO EXPENSES,
27 INDEBTEDNESS, AND TAXES), A TRANSFER OF PROPERTY WHICH SATISFIES THE
28 REQUIREMENTS OF PARAGRAPH (1) OF SECTION 2516 (RELATING TO CERTAIN PROP-
29 erty SETTLEMENTS) SHALL BE CONSIDERED TO BE MADE FOR AN ADEQUATE AND
30 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH.

31 S 2044. CERTAIN PROPERTY FOR WHICH MARITAL DEDUCTION WAS PREVIOUSLY
32 ALLOWED. (A) GENERAL RULE.--THE VALUE OF THE GROSS ESTATE SHALL INCLUDE
33 THE VALUE OF ANY PROPERTY TO WHICH THIS SECTION APPLIES IN WHICH THE
34 DECEDENT HAD A QUALIFYING INCOME INTEREST FOR LIFE.

35 (B) PROPERTY TO WHICH THIS SECTION APPLIES.--THIS SECTION APPLIES TO
36 ANY PROPERTY IF--

37 (1) A DEDUCTION WAS ALLOWED WITH RESPECT TO THE TRANSFER OF SUCH PROP-
38 erty TO THE DECEDENT--

39 (A) UNDER SECTION 2056 BY REASON OF SUBSECTION (B)(7) THEREOF, OR

40 (B) UNDER SECTION 2523 BY REASON OF SUBSECTION (F) THEREOF, AND

41 (2) SECTION 2519 (RELATING TO DISPOSITIONS OF CERTAIN LIFE ESTATES)
42 DID NOT APPLY WITH RESPECT TO A DISPOSITION BY THE DECEDENT OF PART OR
43 ALL OF SUCH PROPERTY.

44 (C) PROPERTY TREATED AS HAVING PASSED FROM DECEDENT.--FOR PURPOSES OF
45 THIS CHAPTER AND CHAPTER 13, PROPERTY INCLUDIBLE IN THE GROSS ESTATE OF
46 THE DECEDENT UNDER SUBSECTION (A) SHALL BE TREATED AS PROPERTY PASSING
47 FROM THE DECEDENT.

48 S 2045. PRIOR INTERESTS. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY
49 LAW, SECTIONS 2034 TO 2042, INCLUSIVE, SHALL APPLY TO THE TRANSFERS,
50 TRUSTS, ESTATES, INTERESTS, RIGHTS, POWERS, AND RELINQUISHMENT OF
51 POWERS, AS SEVERALLY ENUMERATED AND DESCRIBED THEREIN, WHENEVER MADE,
52 CREATED, ARISING, EXISTING, EXERCISED, OR RELINQUISHED.

53 S 2046. DISCLAIMERS. FOR PROVISIONS RELATING TO THE EFFECT OF A QUALI-
54 FIED DISCLAIMER FOR PURPOSES OF THIS CHAPTER, SEE SECTION 2518.

55 S 2053. EXPENSES, INDEBTEDNESS, AND TAXES. (A) GENERAL RULE.--FOR
56 PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF THE TAXABLE

1 ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS
2 ESTATE SUCH AMOUNTS--

3 (1) FOR FUNERAL EXPENSES,

4 (2) FOR ADMINISTRATION EXPENSES,

5 (3) FOR CLAIMS AGAINST THE ESTATE, AND

6 (4) FOR UNPAID MORTGAGES ON, OR ANY INDEBTEDNESS IN RESPECT OF, PROP-
7 ERTY WHERE THE VALUE OF THE DECEDENT'S INTEREST THEREIN, UNDIMINISHED BY
8 SUCH MORTGAGE OR INDEBTEDNESS, IS INCLUDED IN THE VALUE OF THE GROSS
9 ESTATE,

10 AS ARE ALLOWABLE BY THE LAWS OF THE JURISDICTION, WHETHER WITHIN OR
11 WITHOUT THE UNITED STATES, UNDER WHICH THE ESTATE IS BEING ADMINISTERED.

12 (B) OTHER ADMINISTRATION EXPENSES.--SUBJECT TO THE LIMITATIONS IN
13 PARAGRAPH (1) OF SUBSECTION (C), THERE SHALL BE DEDUCTED IN DETERMINING
14 THE TAXABLE ESTATE AMOUNTS REPRESENTING EXPENSES INCURRED IN ADMINISTER-
15 ING PROPERTY NOT SUBJECT TO CLAIMS WHICH IS INCLUDED IN THE GROSS ESTATE
16 TO THE SAME EXTENT SUCH AMOUNTS WOULD BE ALLOWABLE AS A DEDUCTION UNDER
17 SUBSECTION (A) IF SUCH PROPERTY WERE SUBJECT TO CLAIMS, AND SUCH AMOUNTS
18 ARE PAID BEFORE THE EXPIRATION OF THE PERIOD OF LIMITATION FOR ASSESS-
19 MENT PROVIDED IN SECTION 6501.

20 (C) LIMITATIONS.--

21 (1) LIMITATIONS APPLICABLE TO SUBSECTIONS (A) AND (B).--

22 (A) CONSIDERATION FOR CLAIMS.--THE DEDUCTION ALLOWED BY THIS SECTION
23 IN THE CASE OF CLAIMS AGAINST THE ESTATE, UNPAID MORTGAGES, OR ANY
24 INDEBTEDNESS SHALL, WHEN FOUNDED ON A PROMISE OR AGREEMENT, BE LIMITED
25 TO THE EXTENT THAT THEY WERE CONTRACTED BONA FIDE AND FOR AN ADEQUATE
26 AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH; EXCEPT THAT IN ANY
27 CASE IN WHICH ANY SUCH CLAIM IS FOUNDED ON A PROMISE OR AGREEMENT OF THE
28 DECEDENT TO MAKE A CONTRIBUTION OR GIFT TO OR FOR THE USE OF ANY DONEE
29 DESCRIBED IN SECTION 2055 FOR THE PURPOSES SPECIFIED THEREIN, THE
30 DEDUCTION FOR SUCH CLAIMS SHALL NOT BE SO LIMITED, BUT SHALL BE LIMITED
31 TO THE EXTENT THAT IT WOULD BE ALLOWABLE AS A DEDUCTION UNDER SECTION
32 2055 IF SUCH PROMISE OR AGREEMENT CONSTITUTED A BEQUEST.

33 (B) CERTAIN TAXES.--ANY INCOME TAXES ON INCOME RECEIVED AFTER THE
34 DEATH OF THE DECEDENT, OR PROPERTY TAXES NOT ACCRUED BEFORE HIS DEATH,
35 OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAXES, SHALL NOT BE
36 DEDUCTIBLE UNDER THIS SECTION.

37 (C) CERTAIN CLAIMS BY REMAINDERMEN.--NO DEDUCTION SHALL BE ALLOWED
38 UNDER THIS SECTION FOR A CLAIM AGAINST THE ESTATE BY A REMAINDERMAN
39 RELATING TO ANY PROPERTY DESCRIBED IN SECTION 2044.

40 (D) SECTION 6166 INTEREST.--NO DEDUCTION SHALL BE ALLOWED UNDER THIS
41 SECTION FOR ANY INTEREST PAYABLE UNDER SECTION 6601 ON ANY UNPAID
42 PORTION OF THE TAX IMPOSED BY SECTION 2001 FOR THE PERIOD DURING WHICH
43 AN EXTENSION OF TIME FOR PAYMENT OF SUCH TAX IS IN EFFECT UNDER SECTION
44 6166.

45 (2) LIMITATIONS APPLICABLE ONLY TO SUBSECTION (A).--IN THE CASE OF THE
46 AMOUNTS DESCRIBED IN SUBSECTION (A), THERE SHALL BE DISALLOWED THE
47 AMOUNT BY WHICH THE DEDUCTIONS SPECIFIED THEREIN EXCEED THE VALUE, AT
48 THE TIME OF THE DECEDENT'S DEATH, OF PROPERTY SUBJECT TO CLAIMS, EXCEPT
49 TO THE EXTENT THAT SUCH DEDUCTIONS REPRESENT AMOUNTS PAID BEFORE THE
50 DATE PRESCRIBED FOR THE FILING OF THE ESTATE TAX RETURN. FOR PURPOSES OF
51 THIS SECTION, THE TERM "PROPERTY SUBJECT TO CLAIMS" MEANS PROPERTY
52 INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT WHICH, OR THE AVAILS OF
53 WHICH, WOULD UNDER THE APPLICABLE LAW, BEAR THE BURDEN OF THE PAYMENT OF
54 SUCH DEDUCTIONS IN THE FINAL ADJUSTMENT AND SETTLEMENT OF THE ESTATE,
55 EXCEPT THAT THE VALUE OF THE PROPERTY SHALL BE REDUCED BY THE AMOUNT OF
56 THE DEDUCTION UNDER SECTION 2054 ATTRIBUTABLE TO SUCH PROPERTY.

1 (D) CERTAIN FOREIGN DEATH TAXES.--

2 (1) IN GENERAL.--NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
3 (C)(1)(B), FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE OF
4 THE TAXABLE ESTATE MAY BE DETERMINED, IF THE EXECUTOR SO ELECTS BEFORE
5 THE EXPIRATION OF THE PERIOD OF LIMITATION FOR ASSESSMENT PROVIDED IN
6 SECTION 6501, BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE THE AMOUNT
7 (AS DETERMINED IN ACCORDANCE WITH REGULATIONS PRESCRIBED BY THE SECRE-
8 TARY) OF ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAX IMPOSED BY
9 AND ACTUALLY PAID TO ANY FOREIGN COUNTRY, IN RESPECT OF ANY PROPERTY
10 SITUATED WITHIN SUCH FOREIGN COUNTRY AND INCLUDED IN THE GROSS ESTATE OF
11 A CITIZEN OR RESIDENT OF THE UNITED STATES, UPON A TRANSFER BY THE DECE-
12 DENT FOR PUBLIC, CHARITABLE, OR RELIGIOUS USES DESCRIBED IN SECTION
13 2055. THE DETERMINATION UNDER THIS PARAGRAPH OF THE COUNTRY WITHIN WHICH
14 PROPERTY IS SITUATED SHALL BE MADE IN ACCORDANCE WITH THE RULES APPLICA-
15 BLE UNDER SUBCHAPTER B (SEC. 2101 AND FOLLOWING) IN DETERMINING WHETHER
16 PROPERTY IS SITUATED WITHIN OR WITHOUT THE UNITED STATES. ANY ELECTION
17 UNDER THIS PARAGRAPH SHALL BE EXERCISED IN ACCORDANCE WITH REGULATIONS
18 PRESCRIBED BY THE SECRETARY.

19 (2) CONDITION FOR ALLOWANCE OF DEDUCTION.--NO DEDUCTION SHALL BE
20 ALLOWED UNDER PARAGRAPH (1) FOR A FOREIGN DEATH TAX SPECIFIED THEREIN
21 UNLESS THE DECREASE IN THE TAX IMPOSED BY SECTION 2001 WHICH RESULTS
22 FROM THE DEDUCTION PROVIDED IN PARAGRAPH (1) WILL INURE SOLELY FOR THE
23 BENEFIT OF THE PUBLIC, CHARITABLE, OR RELIGIOUS TRANSFEREES DESCRIBED IN
24 SECTION 2055 OR SECTION 2106(A)(2). IN ANY CASE WHERE THE TAX IMPOSED
25 BY SECTION 2001 IS EQUITABLY APPORTIONED AMONG ALL THE TRANSFEREES OF
26 PROPERTY INCLUDED IN THE GROSS ESTATE, INCLUDING THOSE DESCRIBED IN
27 SECTIONS 2055 AND 2106(A)(2) (TAKING INTO ACCOUNT ANY EXEMPTIONS, CRED-
28 ITS, OR DEDUCTIONS ALLOWED BY THIS CHAPTER), IN DETERMINING SUCH
29 DECREASE, THERE SHALL BE DISREGARDED ANY DECREASE IN THE FEDERAL ESTATE
30 TAX WHICH ANY TRANSFEREES OTHER THAN THOSE DESCRIBED IN SECTIONS 2055
31 AND 2106(A)(2) ARE REQUIRED TO PAY.

32 (3) EFFECT ON CREDIT FOR FOREIGN DEATH TAXES OF DEDUCTION UNDER THIS
33 SUBSECTION.--

34 (A) ELECTION.--AN ELECTION UNDER THIS SUBSECTION SHALL BE DEEMED A
35 WAIVER OF THE RIGHT TO CLAIM A CREDIT, AGAINST THE FEDERAL ESTATE TAX,
36 UNDER A DEATH TAX CONVENTION WITH ANY FOREIGN COUNTRY FOR ANY TAX OR
37 PORTION THEREOF IN RESPECT OF WHICH A DEDUCTION IS TAKEN UNDER THIS
38 SUBSECTION.

39 (B) CROSS REFERENCE.--

40 SEE SECTION 2011(D) FOR THE EFFECT OF A DEDUCTION TAKEN UNDER THIS
41 PARAGRAPH ON THE CREDIT FOR FOREIGN DEATH TAXES.

42 (E) MARITAL RIGHTS.--

43 FOR PROVISIONS TREATING CERTAIN RELINQUISHMENTS OF MARITAL RIGHTS AS
44 CONSIDERATION IN MONEY OR MONEY'S WORTH, SEE SECTION 2043(B)(2).

45 S 2054. LOSSES. FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE
46 VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE
47 VALUE OF THE GROSS ESTATE LOSSES INCURRED DURING THE SETTLEMENT OF
48 ESTATES ARISING FROM FIRES, STORMS, SHIPWRECKS, OR OTHER CASUALTIES, OR
49 FROM THEFT, WHEN SUCH LOSSES ARE NOT COMPENSATED FOR BY INSURANCE OR
50 OTHERWISE.

51 S 2055. TRANSFERS FOR PUBLIC, CHARITABLE, AND RELIGIOUS USES.

52 (A) IN GENERAL.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE
53 VALUE OF THE TAXABLE ESTATE SHALL BE DETERMINED BY DEDUCTING FROM THE
54 VALUE OF THE GROSS ESTATE THE AMOUNT OF ALL BEQUESTS, LEGACIES, DEVISES,
55 OR TRANSFERS--

1 (1) TO OR FOR THE USE OF THE UNITED STATES, ANY STATE, ANY POLITICAL
2 SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC
3 PURPOSES;

4 (2) TO OR FOR THE USE OF ANY CORPORATION ORGANIZED AND OPERATED EXCLU-
5 SIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL
6 PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART, OR TO FOSTER NATIONAL OR
7 INTERNATIONAL AMATEUR SPORTS COMPETITION (BUT ONLY IF NO PART OF ITS
8 ACTIVITIES INVOLVE THE PROVISION OF ATHLETIC FACILITIES OR EQUIPMENT),
9 AND THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO PART OF THE NET
10 EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE STOCKHOLDER OR
11 INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX EXEMPTION UNDER SECTION
12 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE LEGISLATION, AND WHICH
13 DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUDING THE PUBLISHING OR
14 DISTRIBUTING OF STATEMENTS), ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN
15 OPPOSITION TO) ANY CANDIDATE FOR PUBLIC OFFICE;

16 (3) TO A TRUSTEE OR TRUSTEES, OR A FRATERNAL SOCIETY, ORDER, OR ASSO-
17 CIATION OPERATING UNDER THE LODGE SYSTEM, BUT ONLY IF SUCH CONTRIBUTIONS
18 OR GIFTS ARE TO BE USED BY SUCH TRUSTEE OR TRUSTEES, OR BY SUCH FRATER-
19 NAL SOCIETY, ORDER, OR ASSOCIATION, EXCLUSIVELY FOR RELIGIOUS, CHARITA-
20 BLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES, OR FOR THE
21 PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, SUCH TRUST, FRATERNAL
22 SOCIETY, ORDER, OR ASSOCIATION WOULD NOT BE DISQUALIFIED FOR TAX
23 EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE
24 LEGISLATION, AND SUCH TRUSTEE OR TRUSTEES, OR SUCH FRATERNAL SOCIETY,
25 ORDER, OR ASSOCIATION, DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUD-
26 ING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL
27 CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC
28 OFFICE;

29 (4) TO OR FOR THE USE OF ANY VETERANS' ORGANIZATION INCORPORATED BY
30 ACT OF CONGRESS, OR OF ITS DEPARTMENTS OR LOCAL CHAPTERS OR POSTS, NO
31 PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE
32 SHAREHOLDER OR INDIVIDUAL; OR

33 (5) TO AN EMPLOYEE STOCK OWNERSHIP PLAN IF SUCH TRANSFER QUALIFIES AS
34 A QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES WITHIN
35 THE MEANING OF SECTION 664(G).

36 FOR PURPOSES OF THIS SUBSECTION, THE COMPLETE TERMINATION BEFORE THE
37 DATE PRESCRIBED FOR THE FILING OF THE ESTATE TAX RETURN OF A POWER TO
38 CONSUME, INVADÉ, OR APPROPRIATE PROPERTY FOR THE BENEFIT OF AN INDIVID-
39 UAL BEFORE SUCH POWER HAS BEEN EXERCISED BY REASON OF THE DEATH OF SUCH
40 INDIVIDUAL OR FOR ANY OTHER REASON SHALL BE CONSIDERED AND DEEMED TO BE
41 A QUALIFIED DISCLAIMER WITH THE SAME FULL FORCE AND EFFECT AS THOUGH HE
42 HAD FILED SUCH QUALIFIED DISCLAIMER. RULES SIMILAR TO THE RULES OF
43 SECTION 501(J) SHALL APPLY FOR PURPOSES OF PARAGRAPH (2).

44 (B) POWERS OF APPOINTMENT.--PROPERTY INCLUDIBLE IN THE DECEDENT'S
45 GROSS ESTATE UNDER SECTION 2041 (RELATING TO POWERS OF APPOINTMENT)
46 RECEIVED BY A DONEE DESCRIBED IN THIS SECTION SHALL, FOR PURPOSES OF
47 THIS SECTION, BE CONSIDERED A BEQUEST OF SUCH DECEDENT.

48 (C) DEATH TAXES PAYABLE OUT OF BEQUESTS.--IF THE TAX IMPOSED BY
49 SECTION 2001, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAXES,
50 ARE, EITHER BY THE TERMS OF THE WILL, BY THE LAW OF THE JURISDICTION
51 UNDER WHICH THE ESTATE IS ADMINISTERED, OR BY THE LAW OF THE JURISDIC-
52 TION IMPOSING THE PARTICULAR TAX, PAYABLE IN WHOLE OR IN PART OUT OF THE
53 BEQUESTS, LEGACIES, OR DEVISES OTHERWISE DEDUCTIBLE UNDER THIS SECTION,
54 THEN THE AMOUNT DEDUCTIBLE UNDER THIS SECTION SHALL BE THE AMOUNT OF
55 SUCH BEQUESTS, LEGACIES, OR DEVISES REDUCED BY THE AMOUNT OF SUCH TAXES.

1 (D) LIMITATION ON DEDUCTION.--THE AMOUNT OF THE DEDUCTION UNDER THIS
2 SECTION FOR ANY TRANSFER SHALL NOT EXCEED THE VALUE OF THE TRANSFERRED
3 PROPERTY REQUIRED TO BE INCLUDED IN THE GROSS ESTATE.

4 (E) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES.--

5 (1) NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR A TRANSFER TO
6 OR FOR THE USE OF AN ORGANIZATION OR TRUST DESCRIBED IN SECTION 508(D)
7 OR 4948(C)(4) SUBJECT TO THE CONDITIONS SPECIFIED IN SUCH SECTIONS.

8 (2) WHERE AN INTEREST IN PROPERTY (OTHER THAN AN INTEREST DESCRIBED IN
9 SECTION 170(F)(3)(B)) PASSES OR HAS PASSED FROM THE DECEDENT TO A
10 PERSON, OR FOR A USE, DESCRIBED IN SUBSECTION (A), AND AN INTEREST
11 (OTHER THAN AN INTEREST WHICH IS EXTINGUISHED UPON THE DECEDENT'S DEATH)
12 IN THE SAME PROPERTY PASSES OR HAS PASSED (FOR LESS THAN AN ADEQUATE AND
13 FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM THE DECEDENT TO A
14 PERSON, OR FOR A USE, NOT DESCRIBED IN SUBSECTION (A), NO DEDUCTION
15 SHALL BE ALLOWED UNDER THIS SECTION FOR THE INTEREST WHICH PASSES OR HAS
16 PASSED TO THE PERSON, OR FOR THE USE, DESCRIBED IN SUBSECTION (A)
17 UNLESS--

18 (A) IN THE CASE OF A REMAINDER INTEREST, SUCH INTEREST IS IN A TRUST
19 WHICH IS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER
20 UNITRUST (DESCRIBED IN SECTION 664) OR A POOLED INCOME FUND (DESCRIBED
21 IN SECTION 642(C)(5)), OR

22 (B) IN THE CASE OF ANY OTHER INTEREST, SUCH INTEREST IS IN THE FORM OF
23 A GUARANTEED ANNUITY OR IS A FIXED PERCENTAGE DISTRIBUTED YEARLY OF THE
24 FAIR MARKET VALUE OF THE PROPERTY (TO BE DETERMINED YEARLY).

25 (3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).--

26 (A) IN GENERAL.--A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN
27 RESPECT OF ANY QUALIFIED REFORMATION.

28 (B) QUALIFIED REFORMATION.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM
29 "QUALIFIED REFORMATION" MEANS A CHANGE OF A GOVERNING INSTRUMENT BY
30 REFORMATION, AMENDMENT, CONSTRUCTION, OR OTHERWISE WHICH CHANGES A
31 REFORMABLE INTEREST INTO A QUALIFIED INTEREST BUT ONLY IF--

32 (I) ANY DIFFERENCE BETWEEN--

33 (I) THE ACTUARIAL VALUE (DETERMINED AS OF THE DATE OF THE DECEDENT'S
34 DEATH) OF THE QUALIFIED INTEREST, AND

35 (II) THE ACTUARIAL VALUE (AS SO DETERMINED) OF THE REFORMABLE INTER-
36 EST,

37 DOES NOT EXCEED 5 PERCENT OF THE ACTUARIAL VALUE (AS SO DETERMINED) OF
38 THE REFORMABLE INTEREST,

39 (II) IN THE CASE OF--

40 (I) A CHARITABLE REMAINDER INTEREST, THE NONREMAINDER INTEREST (BEFORE
41 AND AFTER THE QUALIFIED REFORMATION) TERMINATED AT THE SAME TIME, OR

42 (II) ANY OTHER INTEREST, THE REFORMABLE INTEREST AND THE QUALIFIED
43 INTEREST ARE FOR THE SAME PERIOD, AND

44 (III) SUCH CHANGE IS EFFECTIVE AS OF THE DATE OF THE DECEDENT'S DEATH.

45 A NONREMAINDER INTEREST (BEFORE REFORMATION) FOR A TERM OF YEARS IN
46 EXCESS OF 20 YEARS SHALL BE TREATED AS SATISFYING SUBCLAUSE (I) OF
47 CLAUSE (II) IF SUCH INTEREST (AFTER REFORMATION) IS FOR A TERM OF 20
48 YEARS.

49 (C) REFORMABLE INTEREST.--FOR PURPOSES OF THIS PARAGRAPH--

50 (I) IN GENERAL.--THE TERM "REFORMABLE INTEREST" MEANS ANY INTEREST FOR
51 WHICH A DEDUCTION WOULD BE ALLOWABLE UNDER SUBSECTION (A) AT THE TIME OF
52 THE DECEDENT'S DEATH BUT FOR PARAGRAPH (2).

53 (II) BENEFICIARY'S INTEREST MUST BE FIXED.--THE TERM "REFORMABLE
54 INTEREST" DOES NOT INCLUDE ANY INTEREST UNLESS, BEFORE THE REMAINDER
55 VESTS IN POSSESSION, ALL PAYMENTS TO PERSONS OTHER THAN AN ORGANIZATION
56 DESCRIBED IN SUBSECTION (A) ARE EXPRESSED EITHER IN SPECIFIED DOLLAR

1 AMOUNTS OR A FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY.
2 FOR PURPOSES OF DETERMINING WHETHER ALL SUCH PAYMENTS ARE EXPRESSED AS A
3 FIXED PERCENTAGE OF THE FAIR MARKET VALUE OF THE PROPERTY, SECTION
4 664(D)(3) SHALL BE TAKEN INTO ACCOUNT.

5 (III) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.--CLAUSE
6 (II) SHALL NOT APPLY TO ANY INTEREST IF A JUDICIAL PROCEEDING IS
7 COMMENCED TO CHANGE SUCH INTEREST INTO A QUALIFIED INTEREST NOT LATER
8 THAN THE 90TH DAY AFTER--

9 (I) IF AN ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE LAST DATE
10 (INCLUDING EXTENSIONS) FOR FILING SUCH RETURN, OR

11 (II) IF NO ESTATE TAX RETURN IS REQUIRED TO BE FILED, THE LAST DATE
12 (INCLUDING EXTENSIONS) FOR FILING THE INCOME TAX RETURN FOR THE 1ST
13 TAXABLE YEAR FOR WHICH SUCH A RETURN IS REQUIRED TO BE FILED BY THE
14 TRUST.

15 (IV) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.--IN
16 THE CASE OF ANY INTEREST PASSING UNDER A WILL EXECUTED BEFORE JANUARY 1,
17 1979, OR UNDER A TRUST CREATED BEFORE SUCH DATE, CLAUSE (II) SHALL NOT
18 APPLY.

19 (D) QUALIFIED INTEREST.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM
20 "QUALIFIED INTEREST" MEANS AN INTEREST FOR WHICH A DEDUCTION IS ALLOW-
21 ABLE UNDER SUBSECTION (A).

22 (E) LIMITATION.--THE DEDUCTION REFERRED TO IN SUBPARAGRAPH (A) SHALL
23 NOT EXCEED THE AMOUNT OF THE DEDUCTION WHICH WOULD HAVE BEEN ALLOWABLE
24 FOR THE REFORMABLE INTEREST BUT FOR PARAGRAPH (2).

25 (F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.--IF (BY REASON OF THE
26 DEATH OF ANY INDIVIDUAL, OR BY TERMINATION OR DISTRIBUTION OF A TRUST IN
27 ACCORDANCE WITH THE TERMS OF THE TRUST INSTRUMENT) BY THE DUE DATE FOR
28 FILING THE ESTATE TAX RETURN (INCLUDING ANY EXTENSION THEREOF) A REFORM-
29 ABLE INTEREST IS IN A WHOLLY CHARITABLE TRUST OR PASSES DIRECTLY TO A
30 PERSON OR FOR A USE DESCRIBED IN SUBSECTION (A), A DEDUCTION SHALL BE
31 ALLOWED FOR SUCH REFORMABLE INTEREST AS IF IT HAD MET THE REQUIREMENTS
32 OF PARAGRAPH (2) ON THE DATE OF THE DECEDENT'S DEATH. FOR PURPOSES OF
33 THE PRECEDING SENTENCE, THE TERM "WHOLLY CHARITABLE TRUST" MEANS A CHAR-
34 ITABLE TRUST WHICH, UPON THE ALLOWANCE OF A DEDUCTION, WOULD BE
35 DESCRIBED IN SECTION 4947(A)(1).

36 (G) STATUTE OF LIMITATIONS.--THE PERIOD FOR ASSESSING ANY DEFICIENCY
37 OF ANY TAX ATTRIBUTABLE TO THE APPLICATION OF THIS PARAGRAPH SHALL NOT
38 EXPIRE BEFORE THE DATE 1 YEAR AFTER THE DATE ON WHICH THE SECRETARY IS
39 NOTIFIED THAT SUCH REFORMATION (OR OTHER PROCEEDING PURSUANT TO SUBPARA-
40 GRAPH (J)1 HAS OCCURRED.

41 (H) REGULATIONS.--THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS
42 MAY BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS PARAGRAPH, INCLUDING
43 REGULATIONS PROVIDING SUCH ADJUSTMENTS IN THE APPLICATION OF THE
44 PROVISIONS OF SECTION 508 (RELATING TO SPECIAL RULES RELATING TO SECTION
45 501(C)(3) ORGANIZATIONS), SUBCHAPTER J (RELATING TO ESTATES, TRUSTS,
46 BENEFICIARIES, AND DECEDENTS), AND CHAPTER 42 (RELATING TO PRIVATE FOUN-
47 DATIONS) AS MAY BE NECESSARY BY REASON OF THE QUALIFIED REFORMATION.

48 (I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE
49 OR FARM, POOLED INCOME FUNDS, ETC.--THE SECRETARY SHALL PRESCRIBE REGU-
50 LATIONS (CONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH) PERMITTING
51 REFORMATIONS IN THE CASE OF ANY FAILURE--

52 (I) TO MEET THE REQUIREMENTS OF SECTION 170(F)(3)(B) (RELATING TO
53 REMAINDER INTERESTS IN PERSONAL RESIDENCE OR FARM, ETC.), OR

54 (II) TO MEET THE REQUIREMENTS OF SECTION 642(C)(5).

55 (J) VOID OR REFORMED TRUST IN CASES OF INSUFFICIENT REMAINDER INTER-
56 ESTS.--IN THE CASE OF A TRUST THAT WOULD QUALIFY (OR COULD BE REFORMED

1 TO QUALIFY PURSUANT TO SUBPARAGRAPH (B)) BUT FOR FAILURE TO SATISFY THE
2 REQUIREMENT OF PARAGRAPH (1)(D) OR (2)(D) OF SECTION 664(D), SUCH TRUST
3 MAY BE--

4 (I) DECLARED NULL AND VOID AB INITIO, OR
5 (II) CHANGED BY REFORMATION, AMENDMENT, OR OTHERWISE TO MEET SUCH
6 REQUIREMENT BY REDUCING THE PAYOUT RATE OR THE DURATION (OR BOTH) OF ANY
7 NONCHARITABLE BENEFICIARY'S INTEREST TO THE EXTENT NECESSARY TO SATISFY
8 SUCH REQUIREMENT,

9 PURSUANT TO A PROCEEDING THAT IS COMMENCED WITHIN THE PERIOD REQUIRED
10 IN SUBPARAGRAPH (C)(III). IN A CASE DESCRIBED IN CLAUSE (I), NO
11 DEDUCTION SHALL BE ALLOWED UNDER THIS TITLE FOR ANY TRANSFER TO THE
12 TRUST AND ANY TRANSACTIONS ENTERED INTO BY THE TRUST PRIOR TO BEING
13 DECLARED VOID SHALL BE TREATED AS ENTERED INTO BY THE TRANSFEROR.

14 (4) WORKS OF ART AND THEIR COPYRIGHTS TREATED AS SEPARATE PROPERTIES
15 IN CERTAIN CASES.--

16 (A) IN GENERAL.--IN THE CASE OF A QUALIFIED CONTRIBUTION OF A WORK OF
17 ART, THE WORK OF ART AND THE COPYRIGHT ON SUCH WORK OF ART SHALL BE
18 TREATED AS SEPARATE PROPERTIES FOR PURPOSES OF PARAGRAPH (2).

19 (B) WORK OF ART DEFINED.--FOR PURPOSES OF THIS PARAGRAPH, THE TERM
20 "WORK OF ART" MEANS ANY TANGIBLE PERSONAL PROPERTY WITH RESPECT TO WHICH
21 THERE IS A COPYRIGHT UNDER FEDERAL LAW.

22 (C) QUALIFIED CONTRIBUTION DEFINED.--FOR PURPOSES OF THIS PARAGRAPH,
23 THE TERM "QUALIFIED CONTRIBUTION" MEANS ANY TRANSFER OF PROPERTY TO A
24 QUALIFIED ORGANIZATION IF THE USE OF THE PROPERTY BY THE ORGANIZATION IS
25 RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR ITS
26 EXEMPTION UNDER SECTION 501.

27 (D) QUALIFIED ORGANIZATION DEFINED.--FOR PURPOSES OF THIS PARAGRAPH,
28 THE TERM "QUALIFIED ORGANIZATION" MEANS ANY ORGANIZATION DESCRIBED IN
29 SECTION 501(C)(3) OTHER THAN A PRIVATE FOUNDATION (AS DEFINED IN SECTION
30 509). FOR PURPOSES OF THE PRECEDING SENTENCE, A PRIVATE OPERATING FOUN-
31 DATION (AS DEFINED IN SECTION 4942(J)(3)) SHALL NOT BE TREATED AS A
32 PRIVATE FOUNDATION.

33 (5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.--A DEDUCTION OTHERWISE
34 ALLOWED UNDER SUBSECTION (A) FOR ANY CONTRIBUTION TO A DONOR ADVISED
35 FUND (AS DEFINED IN SECTION 4966(D)(2)) SHALL ONLY BE ALLOWED IF--

36 (A) THE SPONSORING ORGANIZATION (AS DEFINED IN SECTION 4966(D)(1))
37 WITH RESPECT TO SUCH DONOR ADVISED FUND IS NOT--

38 (I) DESCRIBED IN PARAGRAPH (3) OR (4) OF SUBSECTION (A), OR

39 (II) A TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION
40 4943(F)(5)(A)) WHICH IS NOT A FUNCTIONALLY INTEGRATED TYPE III SUPPORT-
41 ING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(B)), AND

42 (B) THE TAXPAYER OBTAINS A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT
43 (DETERMINED UNDER RULES SIMILAR TO THE RULES OF SECTION 170(F)(8)(C))
44 FROM THE SPONSORING ORGANIZATION (AS SO DEFINED) OF SUCH DONOR ADVISED
45 FUND THAT SUCH ORGANIZATION HAS EXCLUSIVE LEGAL CONTROL OVER THE ASSETS
46 CONTRIBUTED.

47 (F) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL
48 PROPERTY.--A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT
49 OF ANY TRANSFER OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN
50 SECTION 170(H)(2)(C)) WHICH MEETS THE REQUIREMENTS OF SECTION 170(H)
51 (WITHOUT REGARD TO PARAGRAPH (4)(A) THEREOF).

52 (G) CROSS REFERENCES.--

53 (1) FOR OPTION AS TO TIME FOR VALUATION FOR PURPOSE OF DEDUCTION UNDER
54 THIS SECTION, SEE SECTION 2032.

55 (2) FOR TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE, SEE
56 SECTION 501(K).

1 (3) FOR EXEMPTION OF GIFTS AND BEQUESTS TO OR FOR THE BENEFIT OF
2 LIBRARY OF CONGRESS, SEE SECTION 5 OF THE ACT OF MARCH 3, 1925, AS
3 AMENDED (2 U.S.C. 161).

4 (4) FOR TREATMENT OF GIFTS AND BEQUESTS FOR THE BENEFIT OF THE NAVAL
5 HISTORICAL CENTER AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED
6 STATES, SEE SECTION 7222 OF TITLE 10, UNITED STATES CODE.

7 (5) FOR TREATMENT OF GIFTS AND BEQUESTS TO OR FOR THE BENEFIT OF
8 NATIONAL PARK FOUNDATION AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE
9 UNITED STATES, SEE SECTION 8 OF THE ACT OF DECEMBER 18, 1967 (16 U.S.C.
10 191).

11 (6) FOR TREATMENT OF GIFTS, DEVISES, OR BEQUESTS ACCEPTED BY THE
12 SECRETARY OF STATE, THE DIRECTOR OF THE INTERNATIONAL COMMUNICATION
13 AGENCY, OR THE DIRECTOR OF THE UNITED STATES INTERNATIONAL DEVELOPMENT
14 COOPERATION AGENCY AS GIFTS, DEVISES, OR BEQUESTS TO OR FOR THE USE OF
15 THE UNITED STATES, SEE SECTION 25 OF THE STATE DEPARTMENT BASIC AUTHORI-
16 TIES ACT OF 1956.

17 (7) FOR TREATMENT OF GIFTS OR BEQUESTS OF MONEY ACCEPTED BY THE ATTOR-
18 NEY GENERAL FOR CREDIT TO "COMMISSARY FUNDS, FEDERAL PRISONS" AS GIFTS
19 OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE SECTION 4043 OF
20 TITLE 18, UNITED STATES CODE.

21 (8) FOR PAYMENT OF TAX ON GIFTS AND BEQUESTS OF UNITED STATES OBLI-
22 GATIONS TO THE UNITED STATES, SEE SECTION 3113(E) OF TITLE 31, UNITED
23 STATES CODE.

24 (9) FOR TREATMENT OF GIFTS AND BEQUESTS FOR BENEFIT OF THE NAVAL ACAD-
25 EMY AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED STATES, SEE
26 SECTION 6973 OF TITLE 10, UNITED STATES CODE.

27 (10) FOR TREATMENT OF GIFTS AND BEQUESTS FOR BENEFIT OF THE NAVAL
28 ACADEMY MUSEUM AS GIFTS OR BEQUESTS TO OR FOR THE USE OF THE UNITED
29 STATES, SEE SECTION 6974 OF TITLE 10, UNITED STATES CODE.

30 (11) FOR EXEMPTION OF GIFTS AND BEQUESTS RECEIVED BY NATIONAL ARCHIVES
31 TRUST FUND BOARD, SEE SECTION 2308 OF TITLE 44, UNITED STATES CODE.

32 (12) FOR TREATMENT OF GIFTS AND BEQUESTS TO OR FOR THE USE OF INDIAN
33 TRIBAL GOVERNMENTS (OR THEIR SUBDIVISIONS), SEE SECTION 7871.

34 S 2056. BEQUESTS, ETC., TO SURVIVING SPOUSE. (A) ALLOWANCE OF MARITAL
35 DEDUCTION.--FOR PURPOSES OF THE TAX IMPOSED BY SECTION 2001, THE VALUE
36 OF THE TAXABLE ESTATE SHALL, EXCEPT AS LIMITED BY SUBSECTION (B), BE
37 DETERMINED BY DEDUCTING FROM THE VALUE OF THE GROSS ESTATE AN AMOUNT
38 EQUAL TO THE VALUE OF ANY INTEREST IN PROPERTY WHICH PASSES OR HAS
39 PASSED FROM THE DECEDENT TO HIS SURVIVING SPOUSE, BUT ONLY TO THE EXTENT
40 THAT SUCH INTEREST IS INCLUDED IN DETERMINING THE VALUE OF THE GROSS
41 ESTATE.

42 (B) LIMITATION IN THE CASE OF LIFE ESTATE OR OTHER TERMINABLE INTER-
43 EST.--

44 (1) GENERAL RULE.--WHERE, ON THE LAPSE OF TIME, ON THE OCCURRENCE OF
45 AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF AN EVENT OR CONTINGENCY TO
46 OCCUR, AN INTEREST PASSING TO THE SURVIVING SPOUSE WILL TERMINATE OR
47 FAIL, NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION WITH RESPECT TO
48 SUCH INTEREST--

49 (A) IF AN INTEREST IN SUCH PROPERTY PASSES OR HAS PASSED (FOR LESS
50 THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH) FROM
51 THE DECEDENT TO ANY PERSON OTHER THAN SUCH SURVIVING SPOUSE (OR THE
52 ESTATE OF SUCH SPOUSE); AND

53 (B) IF BY REASON OF SUCH PASSING SUCH PERSON (OR HIS HEIRS OR ASSIGNS)
54 MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER SUCH TERMINATION OR
55 FAILURE OF THE INTEREST SO PASSING TO THE SURVIVING SPOUSE;

1 AND NO DEDUCTION SHALL BE ALLOWED WITH RESPECT TO SUCH INTEREST (EVEN
2 IF SUCH DEDUCTION IS NOT DISALLOWED UNDER SUBPARAGRAPHS (A) AND (B))--

3 (C) IF SUCH INTEREST IS TO BE ACQUIRED FOR THE SURVIVING SPOUSE,
4 PURSUANT TO DIRECTIONS OF THE DECEDENT, BY HIS EXECUTOR OR BY THE TRUS-
5 TEE OF A TRUST.

6 FOR PURPOSES OF THIS PARAGRAPH, AN INTEREST SHALL NOT BE CONSIDERED AS
7 AN INTEREST WHICH WILL TERMINATE OR FAIL MERELY BECAUSE IT IS THE OWNER-
8 SHIP OF A BOND, NOTE, OR SIMILAR CONTRACTUAL OBLIGATION, THE DISCHARGE
9 OF WHICH WOULD NOT HAVE THE EFFECT OF AN ANNUITY FOR LIFE OR FOR A TERM.

10 (2) INTEREST IN UNIDENTIFIED ASSETS.--WHERE THE ASSETS (INCLUDED IN
11 THE DECEDENT'S GROSS ESTATE) OUT OF WHICH, OR THE PROCEEDS OF WHICH, AN
12 INTEREST PASSING TO THE SURVIVING SPOUSE MAY BE SATISFIED INCLUDE A
13 PARTICULAR ASSET OR ASSETS WITH RESPECT TO WHICH NO DEDUCTION WOULD BE
14 ALLOWED IF SUCH ASSET OR ASSETS PASSED FROM THE DECEDENT TO SUCH SPOUSE,
15 THEN THE VALUE OF SUCH INTEREST PASSING TO SUCH SPOUSE SHALL, FOR
16 PURPOSES OF SUBSECTION (A), BE REDUCED BY THE AGGREGATE VALUE OF SUCH
17 PARTICULAR ASSETS.

18 (3) INTEREST OF SPOUSE CONDITIONAL ON SURVIVAL FOR LIMITED
19 PERIOD.--FOR PURPOSES OF THIS SUBSECTION, AN INTEREST PASSING TO THE
20 SURVIVING SPOUSE SHALL NOT BE CONSIDERED AS AN INTEREST WHICH WILL
21 TERMINATE OR FAIL ON THE DEATH OF SUCH SPOUSE IF--

22 (A) SUCH DEATH WILL CAUSE A TERMINATION OR FAILURE OF SUCH INTEREST
23 ONLY IF IT OCCURS WITHIN A PERIOD NOT EXCEEDING 6 MONTHS AFTER THE
24 DECEDENT'S DEATH, OR ONLY IF IT OCCURS AS A RESULT OF A COMMON DISASTER
25 RESULTING IN THE DEATH OF THE DECEDENT AND THE SURVIVING SPOUSE, OR ONLY
26 IF IT OCCURS IN THE CASE OF EITHER SUCH EVENT; AND

27 (B) SUCH TERMINATION OR FAILURE DOES NOT IN FACT OCCUR.

28 (4) VALUATION OF INTEREST PASSING TO SURVIVING SPOUSE.--IN DETERMINING
29 FOR PURPOSES OF SUBSECTION (A) THE VALUE OF ANY INTEREST IN PROPERTY
30 PASSING TO THE SURVIVING SPOUSE FOR WHICH A DEDUCTION IS ALLOWED BY THIS
31 SECTION--

32 (A) THERE SHALL BE TAKEN INTO ACCOUNT THE EFFECT WHICH THE TAX IMPOSED
33 BY SECTION 2001, OR ANY ESTATE, SUCCESSION, LEGACY, OR INHERITANCE TAX,
34 HAS ON THE NET VALUE TO THE SURVIVING SPOUSE OF SUCH INTEREST; AND

35 (B) WHERE SUCH INTEREST OR PROPERTY IS ENCUMBERED IN ANY MANNER, OR
36 WHERE THE SURVIVING SPOUSE INCURS ANY OBLIGATION IMPOSED BY THE DECEDENT
37 WITH RESPECT TO THE PASSING OF SUCH INTEREST, SUCH ENCUMBRANCE OR OBLI-
38 GATION SHALL BE TAKEN INTO ACCOUNT IN THE SAME MANNER AS IF THE AMOUNT
39 OF A GIFT TO SUCH SPOUSE OF SUCH INTEREST WERE BEING DETERMINED.

40 (5) LIFE ESTATE WITH POWER OF APPOINTMENT IN SURVIVING SPOUSE.--IN THE
41 CASE OF AN INTEREST IN PROPERTY PASSING FROM THE DECEDENT, IF HIS
42 SURVIVING SPOUSE IS ENTITLED FOR LIFE TO ALL THE INCOME FROM THE ENTIRE
43 INTEREST, OR ALL THE INCOME FROM A SPECIFIC PORTION THEREOF, PAYABLE
44 ANNUALLY OR AT MORE FREQUENT INTERVALS, WITH POWER IN THE SURVIVING
45 SPOUSE TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION (EXER-
46 CISABLE IN FAVOR OF SUCH SURVIVING SPOUSE, OR OF THE ESTATE OF SUCH
47 SURVIVING SPOUSE, OR IN FAVOR OF EITHER, WHETHER OR NOT IN EACH CASE THE
48 POWER IS EXERCISABLE IN FAVOR OF OTHERS), AND WITH NO POWER IN ANY OTHER
49 PERSON TO APPOINT ANY PART OF THE INTEREST, OR SUCH SPECIFIC PORTION, TO
50 ANY PERSON OTHER THAN THE SURVIVING SPOUSE--

51 (A) THE INTEREST OR SUCH PORTION THEREOF SO PASSING SHALL, FOR
52 PURPOSES OF SUBSECTION (A), BE CONSIDERED AS PASSING TO THE SURVIVING
53 SPOUSE, AND

54 (B) NO PART OF THE INTEREST SO PASSING SHALL, FOR PURPOSES OF PARA-
55 GRAPH (1)(A), BE CONSIDERED AS PASSING TO ANY PERSON OTHER THAN THE
56 SURVIVING SPOUSE.

1 THIS PARAGRAPH SHALL APPLY ONLY IF SUCH POWER IN THE SURVIVING SPOUSE
2 TO APPOINT THE ENTIRE INTEREST, OR SUCH SPECIFIC PORTION THEREOF, WHETH-
3 ER EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE
4 ALONE AND IN ALL EVENTS.

5 (6) LIFE INSURANCE OR ANNUITY PAYMENTS WITH POWER OF APPOINTMENT IN
6 SURVIVING SPOUSE.--IN THE CASE OF AN INTEREST IN PROPERTY PASSING FROM
7 THE DECEDENT CONSISTING OF PROCEEDS UNDER A LIFE INSURANCE, ENDOWMENT,
8 OR ANNUITY CONTRACT, IF UNDER THE TERMS OF THE CONTRACT SUCH PROCEEDS
9 ARE PAYABLE IN INSTALLMENTS OR ARE HELD BY THE INSURER SUBJECT TO AN
10 AGREEMENT TO PAY INTEREST THEREON (WHETHER THE PROCEEDS, ON THE TERMI-
11 NATION OF ANY INTEREST PAYMENTS, ARE PAYABLE IN A LUMP SUM OR IN ANNUAL
12 OR MORE FREQUENT INSTALLMENTS), AND SUCH INSTALLMENT OR INTEREST
13 PAYMENTS ARE PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, COMMENCING
14 NOT LATER THAN 13 MONTHS AFTER THE DECEDENT'S DEATH, AND ALL AMOUNTS, OR
15 A SPECIFIC PORTION OF ALL SUCH AMOUNTS, PAYABLE DURING THE LIFE OF THE
16 SURVIVING SPOUSE ARE PAYABLE ONLY TO SUCH SPOUSE, AND SUCH SPOUSE HAS
17 THE POWER TO APPOINT ALL AMOUNTS, OR SUCH SPECIFIC PORTION, PAYABLE
18 UNDER SUCH CONTRACT (EXERCISABLE IN FAVOR OF SUCH SURVIVING SPOUSE, OR
19 OF THE ESTATE OF SUCH SURVIVING SPOUSE, OR IN FAVOR OF EITHER, WHETHER
20 OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF OTHERS), WITH
21 NO POWER IN ANY OTHER PERSON TO APPOINT SUCH AMOUNTS TO ANY PERSON OTHER
22 THAN THE SURVIVING SPOUSE--

23 (A) SUCH AMOUNTS SHALL, FOR PURPOSES OF SUBSECTION (A), BE CONSIDERED
24 AS PASSING TO THE SURVIVING SPOUSE, AND

25 (B) NO PART OF SUCH AMOUNTS SHALL, FOR PURPOSES OF PARAGRAPH (1)(A),
26 BE CONSIDERED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

27 THIS PARAGRAPH SHALL APPLY ONLY IF, UNDER THE TERMS OF THE CONTRACT,
28 SUCH POWER IN THE SURVIVING SPOUSE TO APPOINT SUCH AMOUNTS, WHETHER
29 EXERCISABLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE
30 AND IN ALL EVENTS.

31 (7) ELECTION WITH RESPECT TO LIFE ESTATE FOR SURVIVING SPOUSE.--

32 (A) IN GENERAL.--IN THE CASE OF QUALIFIED TERMINABLE INTEREST PROPER-
33 TY--

34 (I) FOR PURPOSES OF SUBSECTION (A), SUCH PROPERTY SHALL BE TREATED AS
35 PASSING TO THE SURVIVING SPOUSE, AND

36 (II) FOR PURPOSES OF PARAGRAPH (1)(A), NO PART OF SUCH PROPERTY SHALL
37 BE TREATED AS PASSING TO ANY PERSON OTHER THAN THE SURVIVING SPOUSE.

38 (B) QUALIFIED TERMINABLE INTEREST PROPERTY DEFINED.--FOR PURPOSES OF
39 THIS PARAGRAPH--

40 (I) IN GENERAL.--THE TERM "QUALIFIED TERMINABLE INTEREST PROPERTY"
41 MEANS PROPERTY--

42 (I) WHICH PASSES FROM THE DECEDENT,

43 (II) IN WHICH THE SURVIVING SPOUSE HAS A QUALIFYING INCOME INTEREST
44 FOR LIFE, AND

45 (III) TO WHICH AN ELECTION UNDER THIS PARAGRAPH APPLIES.

46 (II) QUALIFYING INCOME INTEREST FOR LIFE.--THE SURVIVING SPOUSE HAS A
47 QUALIFYING INCOME INTEREST FOR LIFE IF--

48 (I) THE SURVIVING SPOUSE IS ENTITLED TO ALL THE INCOME FROM THE PROP-
49 erty, PAYABLE ANNUALLY OR AT MORE FREQUENT INTERVALS, OR HAS A USUFRUCT
50 INTEREST FOR LIFE IN THE PROPERTY, AND

51 (II) NO PERSON HAS A POWER TO APPOINT ANY PART OF THE PROPERTY TO ANY
52 PERSON OTHER THAN THE SURVIVING SPOUSE.

53 SUBCLAUSE (II) SHALL NOT APPLY TO A POWER EXERCISABLE ONLY AT OR AFTER
54 THE DEATH OF THE SURVIVING SPOUSE. TO THE EXTENT PROVIDED IN REGU-
55 LATIONS, AN ANNUITY SHALL BE TREATED IN A MANNER SIMILAR TO AN INCOME

1 INTEREST IN PROPERTY (REGARDLESS OF WHETHER THE PROPERTY FROM WHICH THE
2 ANNUITY IS PAYABLE CAN BE SEPARATELY IDENTIFIED).

3 (III) PROPERTY INCLUDES INTEREST THEREIN.--THE TERM "PROPERTY"
4 INCLUDES AN INTEREST IN PROPERTY.

5 (IV) SPECIFIC PORTION TREATED AS SEPARATE PROPERTY.--A SPECIFIC
6 PORTION OF PROPERTY SHALL BE TREATED AS SEPARATE PROPERTY.

7 (V) ELECTION.--AN ELECTION UNDER THIS PARAGRAPH WITH RESPECT TO ANY
8 PROPERTY SHALL BE MADE BY THE EXECUTOR ON THE RETURN OF TAX IMPOSED BY
9 SECTION 2001. SUCH AN ELECTION, ONCE MADE, SHALL BE IRREVOCABLE.

10 (C) TREATMENT OF SURVIVOR ANNUITIES.--IN THE CASE OF AN ANNUITY
11 INCLUDED IN THE GROSS ESTATE OF THE DECEDENT UNDER SECTION 2039 (OR, IN
12 THE CASE OF AN INTEREST IN AN ANNUITY ARISING UNDER THE COMMUNITY PROP-
13 erty LAWS OF A STATE, INCLUDED IN THE GROSS ESTATE OF THE DECEDENT UNDER
14 SECTION 2033) WHERE ONLY THE SURVIVING SPOUSE HAS THE RIGHT TO RECEIVE
15 PAYMENTS BEFORE THE DEATH OF SUCH SURVIVING SPOUSE--

16 (I) THE INTEREST OF SUCH SURVIVING SPOUSE SHALL BE TREATED AS A QUALI-
17 FYING INCOME INTEREST FOR LIFE, AND

18 (II) THE EXECUTOR SHALL BE TREATED AS HAVING MADE AN ELECTION UNDER
19 THIS SUBSECTION WITH RESPECT TO SUCH ANNUITY UNLESS THE EXECUTOR OTHER-
20 WISE ELECTS ON THE RETURN OF TAX IMPOSED BY SECTION 2001.

21 AN ELECTION UNDER CLAUSE (II), ONCE MADE, SHALL BE IRREVOCABLE.

22 (8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.--

23 (A) IN GENERAL.--IF THE SURVIVING SPOUSE OF THE DECEDENT IS THE ONLY
24 BENEFICIARY OF A QUALIFIED CHARITABLE REMAINDER TRUST WHO IS NOT A CHAR-
25 ITABLE BENEFICIARY NOR AN ESOP BENEFICIARY, PARAGRAPH (1) SHALL NOT
26 APPLY TO ANY INTEREST IN SUCH TRUST WHICH PASSES OR HAS PASSED FROM THE
27 DECEDENT TO SUCH SURVIVING SPOUSE.

28 (B) DEFINITIONS.--FOR PURPOSES OF SUBPARAGRAPH (A)--

29 (I) CHARITABLE BENEFICIARY.--THE TERM "CHARITABLE BENEFICIARY" MEANS
30 ANY BENEFICIARY WHICH IS AN ORGANIZATION DESCRIBED IN SECTION 170(C).

31 (II) ESOP BENEFICIARY.--THE TERM "ESOP BENEFICIARY" MEANS ANY BENEFI-
32 CIARY WHICH IS AN EMPLOYEE STOCK OWNERSHIP PLAN (AS DEFINED IN SECTION
33 4975(E)(7)) THAT HOLDS A REMAINDER INTEREST IN QUALIFIED EMPLOYER SECU-
34 RITIES (AS DEFINED IN SECTION 664(G)(4)) TO BE TRANSFERRED TO SUCH PLAN
35 IN A QUALIFIED GRATUITOUS TRANSFER (AS DEFINED IN SECTION 664(G)(1)).

36 (III) QUALIFIED CHARITABLE REMAINDER TRUST.--THE TERM "QUALIFIED CHAR-
37 ITABLE REMAINDER TRUST" MEANS A CHARITABLE REMAINDER ANNUITY TRUST OR A
38 CHARITABLE REMAINDER UNITRUST (DESCRIBED IN SECTION 664).

39 (9) DENIAL OF DOUBLE DEDUCTION.--NOTHING IN THIS SECTION OR ANY OTHER
40 PROVISION OF THIS CHAPTER SHALL ALLOW THE VALUE OF ANY INTEREST IN PROP-
41 erty TO BE DEDUCTED UNDER THIS CHAPTER MORE THAN ONCE WITH RESPECT TO
42 THE SAME DECEDENT.

43 (10) SPECIFIC PORTION.--FOR PURPOSES OF PARAGRAPHS (5), (6), AND
44 (7)(B)(IV), THE TERM "SPECIFIC PORTION" ONLY INCLUDES A PORTION DETER-
45 MINED ON A FRACTIONAL OR PERCENTAGE BASIS.

46 (C) DEFINITION.--FOR PURPOSES OF THIS SECTION, AN INTEREST IN PROPERTY
47 SHALL BE CONSIDERED AS PASSING FROM THE DECEDENT TO ANY PERSON IF AND
48 ONLY IF--

49 (1) SUCH INTEREST IS BEQUEATHED OR DEvised TO SUCH PERSON BY THE DECE-
50 DENT;

51 (2) SUCH INTEREST IS INHERITED BY SUCH PERSON FROM THE DECEDENT;

52 (3) SUCH INTEREST IS THE DOWER OR CURTESY INTEREST (OR STATUTORY
53 INTEREST IN LIEU THEREOF) OF SUCH PERSON AS SURVIVING SPOUSE OF THE
54 DECEDENT;

55 (4) SUCH INTEREST HAS BEEN TRANSFERRED TO SUCH PERSON BY THE DECEDENT
56 AT ANY TIME;

1 (5) SUCH INTEREST WAS, AT THE TIME OF THE DECEDENT'S DEATH, HELD BY
2 SUCH PERSON AND THE DECEDENT (OR BY THEM AND ANY OTHER PERSON) IN JOINT
3 OWNERSHIP WITH RIGHT OF SURVIVORSHIP;

4 (6) THE DECEDENT HAD A POWER (EITHER ALONE OR IN CONJUNCTION WITH ANY
5 PERSON) TO APPOINT SUCH INTEREST AND IF HE APPOINTS OR HAS APPOINTED
6 SUCH INTEREST TO SUCH PERSON, OR IF SUCH PERSON TAKES SUCH INTEREST IN
7 DEFAULT ON THE RELEASE OR NONEXERCISE OF SUCH POWER; OR

8 (7) SUCH INTEREST CONSISTS OF PROCEEDS OF INSURANCE ON THE LIFE OF THE
9 DECEDENT RECEIVABLE BY SUCH PERSON.

10 EXCEPT AS PROVIDED IN PARAGRAPH (5) OR (6) OF SUBSECTION (B), WHERE AT
11 THE TIME OF THE DECEDENT'S DEATH IT IS NOT POSSIBLE TO ASCERTAIN THE
12 PARTICULAR PERSON OR PERSONS TO WHOM AN INTEREST IN PROPERTY MAY PASS
13 FROM THE DECEDENT, SUCH INTEREST SHALL, FOR PURPOSES OF SUBPARAGRAPHS
14 (A) AND (B) OF SUBSECTION (B)(1), BE CONSIDERED AS PASSING FROM THE
15 DECEDENT TO A PERSON OTHER THAN THE SURVIVING SPOUSE.

16 S 2103. DEFINITION OF GROSS ESTATE. FOR THE PURPOSE OF THE TAX IMPOSED
17 BY SECTION 2101, THE VALUE OF THE GROSS ESTATE OF EVERY DECEDENT NONRES-
18 IDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE THAT PART OF HIS GROSS
19 ESTATE (DETERMINED AS PROVIDED IN SECTION 2031) WHICH AT THE TIME OF HIS
20 DEATH IS SITUATED IN THE UNITED STATES.

21 S 2104. PROPERTY WITHIN THE UNITED STATES. (A) STOCK IN CORPORA-
22 TION.--FOR PURPOSES OF THIS SUBCHAPTER SHARES OF STOCK OWNED AND HELD BY
23 A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES SHALL BE DEEMED PROPER-
24 TY WITHIN THE UNITED STATES ONLY IF ISSUED BY A DOMESTIC CORPORATION.

25 (B) REVOCABLE TRANSFERS AND TRANSFERS WITHIN 3 YEARS OF DEATH.--FOR
26 PURPOSES OF THIS SUBCHAPTER, ANY PROPERTY OF WHICH THE DECEDENT HAS MADE
27 A TRANSFER, BY TRUST OR OTHERWISE, WITHIN THE MEANING OF SECTIONS 2035
28 TO 2038, INCLUSIVE, SHALL BE DEEMED TO BE SITUATED IN THE UNITED STATES,
29 IF SO SITUATED EITHER AT THE TIME OF THE TRANSFER OR AT THE TIME OF THE
30 DECEDENT'S DEATH.

31 (C) DEBT OBLIGATIONS.--FOR PURPOSES OF THIS SUBCHAPTER, DEBT OBLI-
32 GATIONS OF-

33 (1) A UNITED STATES PERSON, OR

34 (2) THE UNITED STATES, A STATE OR ANY POLITICAL SUBDIVISION THEREOF,
35 OR THE DISTRICT OF COLUMBIA,

36 OWNED AND HELD BY A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES
37 SHALL BE DEEMED PROPERTY WITHIN THE UNITED STATES. WITH RESPECT TO
38 ESTATES OF DECEDENTS DYING AFTER DECEMBER 31, 1969, DEPOSITS WITH A
39 DOMESTIC BRANCH OF A FOREIGN CORPORATION, IF SUCH BRANCH IS ENGAGED IN
40 THE COMMERCIAL BANKING BUSINESS, SHALL, FOR PURPOSES OF THIS SUBCHAPTER,
41 BE DEEMED PROPERTY WITHIN THE UNITED STATES. THIS SUBSECTION SHALL NOT
42 APPLY TO A DEBT OBLIGATION TO WHICH SECTION 2105(B) APPLIES.

43 S 2105. PROPERTY WITHOUT THE UNITED STATES. (A) PROCEEDS OF LIFE INSU-
44 RANCE.--FOR PURPOSES OF THIS SUBCHAPTER, THE AMOUNT RECEIVABLE AS INSUR-
45 ANCE ON THE LIFE OF A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES
46 SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES.

47 (B) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.--FOR PURPOSES OF
48 THIS SUBCHAPTER, THE FOLLOWING SHALL NOT BE DEEMED PROPERTY WITHIN THE
49 UNITED STATES--

50 (1) AMOUNTS DESCRIBED IN SECTION 871(I)(3), IF ANY INTEREST THEREON
51 WOULD NOT BE SUBJECT TO TAX BY REASON OF SECTION 871(I)(1) WERE SUCH
52 INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS DEATH,

53 (2) DEPOSITS WITH A FOREIGN BRANCH OF A DOMESTIC CORPORATION OR DOMES-
54 TIC PARTNERSHIP, IF SUCH BRANCH IS ENGAGED IN THE COMMERCIAL BANKING
55 BUSINESS,

1 (3) DEBT OBLIGATIONS, IF, WITHOUT REGARD TO WHETHER A STATEMENT MEET-
2 ING THE REQUIREMENTS OF SECTION 871(H)(5) HAS BEEN RECEIVED, ANY INTER-
3 EST THEREON WOULD BE ELIGIBLE FOR THE EXEMPTION FROM TAX UNDER SECTION
4 871(H)(1) WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE TIME OF HIS
5 DEATH, AND

6 (4) OBLIGATIONS WHICH WOULD BE ORIGINAL ISSUE DISCOUNT OBLIGATIONS AS
7 DEFINED IN SECTION 871(G)(1) BUT FOR SUBPARAGRAPH (B)(I) THEREOF, IF ANY
8 INTEREST THEREON (WERE SUCH INTEREST RECEIVED BY THE DECEDENT AT THE
9 TIME OF HIS DEATH) WOULD NOT BE EFFECTIVELY CONNECTED WITH THE CONDUCT
10 OF A TRADE OR BUSINESS WITHIN THE UNITED STATES.

11 NOTWITHSTANDING THE PRECEDING SENTENCE, IF ANY PORTION OF THE INTEREST
12 ON AN OBLIGATION REFERRED TO IN PARAGRAPH (3) WOULD NOT BE ELIGIBLE FOR
13 THE EXEMPTION REFERRED TO IN PARAGRAPH (3) BY REASON OF SECTION
14 871(H)(4) IF THE INTEREST WERE RECEIVED BY THE DECEDENT AT THE TIME OF
15 HIS DEATH, THEN AN APPROPRIATE PORTION (AS DETERMINED IN A MANNER
16 PRESCRIBED BY THE SECRETARY) OF THE VALUE (AS DETERMINED FOR PURPOSES OF
17 THIS CHAPTER) OF SUCH DEBT OBLIGATION SHALL BE DEEMED PROPERTY WITHIN
18 THE UNITED STATES.

19 (C) WORKS OF ART ON LOAN FOR EXHIBITION.--FOR PURPOSES OF THIS
20 SUBCHAPTER, WORKS OF ART OWNED BY A NONRESIDENT NOT A CITIZEN OF THE
21 UNITED STATES SHALL NOT BE DEEMED PROPERTY WITHIN THE UNITED STATES IF
22 SUCH WORKS OF ART ARE--

23 (1) IMPORTED INTO THE UNITED STATES SOLELY FOR EXHIBITION PURPOSES,

24 (2) LOANED FOR SUCH PURPOSES, TO A PUBLIC GALLERY OR MUSEUM, NO PART
25 OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE STOCK-
26 HOLDER OR INDIVIDUAL, AND

27 (3) AT THE TIME OF THE DEATH OF THE OWNER, ON EXHIBITION, OR ENROUTE
28 TO OR FROM EXHIBITION, IN SUCH A PUBLIC GALLERY OR MUSEUM.

29 S 2503. (A) GENERAL DEFINITION - THE TERM "TAXABLE GIFTS" MEANS THE
30 TOTAL AMOUNT OF GIFTS MADE DURING THE CALENDAR YEAR, LESS DEDUCTIONS
31 PROVIDED IN SUBCHAPTER C (SECTION 2522 AND FOLLOWING).

32 (B) EXCLUSIONS FROM GIFTS. (1) IN GENERAL.--IN THE CASE OF GIFTS
33 (OTHER THAN GIFTS OF FUTURE INTERESTS IN PROPERTY) MADE TO ANY PERSON BY
34 THE DONOR DURING THE CALENDAR YEAR, THE FIRST \$10,000 OF SUCH GIFTS TO
35 SUCH PERSON SHALL NOT, FOR PURPOSES OF SUBSECTION (A), BE INCLUDED IN
36 THE TOTAL AMOUNT OF GIFTS MADE DURING SUCH YEAR. WHERE THERE HAS BEEN A
37 TRANSFER TO ANY PERSON OF A PRESENT INTEREST IN PROPERTY, THE POSSIBIL-
38 ITY THAT SUCH INTEREST MAY BE DIMINISHED BY THE EXERCISE OF A POWER
39 SHALL BE DISREGARDED IN APPLYING THIS SUBSECTION, IF NO PART OF SUCH
40 INTEREST WILL AT ANY TIME PASS TO ANY OTHER PERSON.

41 (2) INFLATION ADJUSTMENT.--IN THE CASE OF GIFTS MADE IN A CALENDAR
42 YEAR AFTER 1998, THE \$10,000 AMOUNT CONTAINED IN PARAGRAPH (1) SHALL BE
43 INCREASED BY AN AMOUNT EQUAL TO--

44 (A) \$10,000, MULTIPLIED BY

45 (B) THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER SECTION 1(F)(3) FOR
46 SUCH CALENDAR YEAR BY SUBSTITUTING "CALENDAR YEAR 1997" FOR "CALENDAR
47 YEAR 1992" IN SUBPARAGRAPH (B) THEREOF.

48 IF ANY AMOUNT AS ADJUSTED UNDER THE PRECEDING SENTENCE IS NOT A MULTI-
49 PLE OF \$1,000, SUCH AMOUNT SHALL BE ROUNDED TO THE NEXT LOWEST MULTIPLE
50 OF \$1,000.

51 (C) TRANSFER FOR THE BENEFIT OF MINOR. -- NO PART OF A GIFT TO AN
52 INDIVIDUAL WHO HAS NOT ATTAINED THE AGE OF 21 YEARS ON THE DATE OF SUCH
53 TRANSFER SHALL BE CONSIDERED A GIFT OF A FUTURE INTEREST IN PROPERTY FOR
54 PURPOSES OF SUBSECTION (B) IF THE PROPERTY AND THE INCOME THEREFROM--

55 (1) MAY BE EXPENDED BY, OR FOR THE BENEFIT OF, THE DONEE BEFORE HIS
56 ATTAINING THE AGE OF 21 YEARS, AND

1 (2) WILL TO THE EXTENT NOT SO EXPENDED-

2 (A) PASS TO THE DONEE ON HIS ATTAINING THE AGE OF 21 YEARS, AND

3 (B) IN THE EVENT THE DONEE DIES BEFORE ATTAINING THE AGE OF 21 YEARS,

4 BE PAYABLE TO THE ESTATE OF THE DONEE OR AS HE MAY APPOINT UNDER A

5 GENERAL POWER OF APPOINTMENT AS DEFINED IN SECTION 2514(C).

6 {(D) REPEALED. PUB. L. 97-34, TITLE III, S 311(H)(5), AUG. 13, 1981,

7 95 STAT. 282}

8 (E) EXCLUSION FOR CERTAIN TRANSFERS FOR EDUCATIONAL EXPENSES OR

9 MEDICAL EXPENSES. (1) IN GENERAL. ANY QUALIFIED TRANSFER SHALL NOT BE

10 TREATED AS A TRANSFER OF PROPERTY BY GIFT FOR PURPOSES OF THIS CHAPTER.

11 (2) QUALIFIED TRANSFER. FOR PURPOSES OF THIS SUBSECTION, THE TERM

12 "QUALIFIED TRANSFER" MEANS ANY AMOUNT PAID ON BEHALF OF AN INDIVIDUAL-

13 (A) AS TUITION TO AN EDUCATIONAL ORGANIZATION DESCRIBED IN SECTION

14 170(B)(1)(A)(II) FOR THE EDUCATION OR TRAINING OF SUCH INDIVIDUAL, OR

15 (B) TO ANY PERSON WHO PROVIDES MEDICAL CARE (AS DEFINED IN SECTION

16 213(D)) WITH RESPECT TO SUCH INDIVIDUAL AS PAYMENT FOR SUCH MEDICAL

17 CARE.

18 (F) WAIVER OF CERTAIN PENSION RIGHTS. IF ANY INDIVIDUAL WAIVES, BEFORE

19 THE DEATH OF A PARTICIPANT, ANY SURVIVOR BENEFIT, OR RIGHT TO SUCH BENE-

20 FIT, UNDER SECTION 401(A)(11) OR 417, SUCH WAIVER SHALL NOT BE TREATED

21 AS A TRANSFER OF PROPERTY BY GIFT FOR PURPOSES OF THIS CHAPTER.

22 (G) TREATMENT OF CERTAIN LOANS OF ARTWORKS. (1) IN GENERAL. FOR

23 PURPOSES OF THIS SUBTITLE, ANY LOAN OF A QUALIFIED WORK OF ART SHALL NOT

24 BE TREATED AS A TRANSFER (AND THE VALUE OF SUCH QUALIFIED WORK OF ART

25 SHALL BE DETERMINED AS IF SUCH LOAN HAD NOT BEEN MADE) IF-

26 (A) SUCH LOAN IS TO AN ORGANIZATION DESCRIBED IN SECTION 501(C)(3) AND

27 EXEMPT FROM TAX UNDER SECTION 501(C) (OTHER THAN A PRIVATE FOUNDATION),

28 AND

29 (B) THE USE OF SUCH WORK BY SUCH ORGANIZATION IS RELATED TO THE

30 PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR ITS EXEMPTION UNDER

31 SECTION 501.

32 (2) DEFINITIONS. FOR PURPOSES OF THIS SECTION-

33 (A) QUALIFIED WORK OF ART. THE TERM "QUALIFIED WORK OF ART" MEANS ANY

34 ARCHAEOLOGICAL, HISTORIC, OR CREATIVE TANGIBLE PERSONAL PROPERTY.

35 (B) PRIVATE FOUNDATION. THE TERM "PRIVATE FOUNDATION" HAS THE MEANING

36 GIVEN SUCH TERM BY SECTION 509, EXCEPT THAT SUCH TERM SHALL NOT INCLUDE

37 ANY PRIVATE OPERATING FOUNDATION (AS DEFINED IN SECTION 4942(J)(3)).

38 S 2511. TRANSFERS IN GENERAL. (A) SCOPE. SUBJECT TO THE LIMITATIONS

39 CONTAINED IN THIS CHAPTER, THE TAX IMPOSED BY SECTION 2501 SHALL APPLY

40 WHETHER THE TRANSFER IS IN TRUST OR OTHERWISE, WHETHER THE GIFT IS

41 DIRECT OR INDIRECT, AND WHETHER THE PROPERTY IS REAL OR PERSONAL, TANGI-

42 BLE OR INTANGIBLE; BUT IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE

43 UNITED STATES, SHALL APPLY TO A TRANSFER ONLY IF THE PROPERTY IS SITU-

44 ATED WITHIN THE UNITED STATES.

45 (B) INTANGIBLE PROPERTY. FOR PURPOSES OF THIS CHAPTER, IN THE CASE OF

46 A NONRESIDENT NOT A CITIZEN OF THE UNITED STATES WHO IS EXCEPTED FROM

47 THE APPLICATION OF SECTION 2501(A)(2)-

48 (1) SHARES OF STOCK ISSUED BY A DOMESTIC CORPORATION, AND

49 (2) DEBT OBLIGATIONS OF-

50 --(A) A UNITED STATES PERSON, OR

51 --(B) THE UNITED STATES, A STATE OR ANY POLITICAL SUBDIVISION THEREOF,

52 OR THE DISTRICT OF COLUMBIA,

53 --WHICH ARE OWNED AND HELD BY SUCH NONRESIDENT SHALL BE DEEMED TO BE

54 PROPERTY SITUATED WITHIN THE UNITED STATES.

1 S 2512. VALUATION OF GIFTS. (A) IF THE GIFT IS MADE IN PROPERTY, THE
2 VALUE THEREOF AT THE DATE OF THE GIFT SHALL BE CONSIDERED THE AMOUNT OF
3 THE GIFT.

4 (B) WHERE PROPERTY IS TRANSFERRED FOR LESS THAN AN ADEQUATE AND FULL
5 CONSIDERATION IN MONEY OR MONEY'S WORTH, THEN THE AMOUNT BY WHICH THE
6 VALUE OF THE PROPERTY EXCEEDED THE VALUE OF THE CONSIDERATION SHALL BE
7 DEEMED A GIFT, AND SHALL BE INCLUDED IN COMPUTING THE AMOUNT OF GIFTS
8 MADE DURING THE CALENDAR YEAR.

9 S 2513. GIFT BY HUSBAND OR WIFE TO THIRD PARTY. (A) CONSIDERED AS MADE
10 ONE-HALF BY EACH. (1) IN GENERAL. A GIFT MADE BY ONE SPOUSE TO ANY
11 PERSON OTHER THAN HIS SPOUSE SHALL, FOR THE PURPOSES OF THIS CHAPTER, BE
12 CONSIDERED AS MADE ONE-HALF BY HIM AND ONE-HALF BY HIS SPOUSE, BUT ONLY
13 IF AT THE TIME OF THE GIFT EACH SPOUSE IS A CITIZEN OR RESIDENT OF THE
14 UNITED STATES. THIS PARAGRAPH SHALL NOT APPLY WITH RESPECT TO A GIFT BY
15 A SPOUSE OF AN INTEREST IN PROPERTY IF HE CREATES IN HIS SPOUSE A GENER-
16 AL POWER OF APPOINTMENT, AS DEFINED IN SECTION 2514(C), OVER SUCH INTER-
17 EST. FOR PURPOSES OF THIS SECTION, AN INDIVIDUAL SHALL BE CONSIDERED AS
18 THE SPOUSE OF ANOTHER INDIVIDUAL ONLY IF HE IS MARRIED TO SUCH INDIVID-
19 UAL AT THE TIME OF THE GIFT AND DOES NOT REMARRY DURING THE REMAINDER OF
20 THE CALENDAR YEAR.

21 (2) CONSENT OF BOTH SPOUSES. PARAGRAPH (1) SHALL APPLY ONLY IF BOTH
22 SPOUSES HAVE SIGNIFIED (UNDER THE REGULATIONS PROVIDED FOR IN SUBSECTION
23 (B)) THEIR CONSENT TO THE APPLICATION OF PARAGRAPH (1) IN THE CASE OF
24 ALL SUCH GIFTS MADE DURING THE CALENDAR YEAR BY EITHER WHILE MARRIED TO
25 THE OTHER.

26 (B) MANNER AND TIME OF SIGNIFYING CONSENT. (1) MANNER. A CONSENT UNDER
27 THIS SECTION SHALL BE SIGNIFIED IN SUCH MANNER AS IS PROVIDED UNDER
28 REGULATIONS PRESCRIBED BY THE SECRETARY.

29 (2) TIME. SUCH CONSENT MAY BE SO SIGNIFIED AT ANY TIME AFTER THE CLOSE
30 OF THE CALENDAR YEAR IN WHICH THE GIFT WAS MADE, SUBJECT TO THE FOLLOW-
31 ING LIMITATIONS-

32 --(A) THE CONSENT MAY NOT BE SIGNIFIED AFTER THE 15TH DAY OF APRIL
33 FOLLOWING THE CLOSE OF SUCH YEAR, UNLESS BEFORE SUCH 15TH DAY NO RETURN
34 HAS BEEN FILED FOR SUCH YEAR BY EITHER SPOUSE, IN WHICH CASE THE CONSENT
35 MAY NOT BE SIGNIFIED AFTER A RETURN FOR SUCH YEAR IS FILED BY EITHER
36 SPOUSE.

37 --(B) THE CONSENT MAY NOT BE SIGNIFIED AFTER A NOTICE OF DEFICIENCY WITH
38 RESPECT TO THE TAX FOR SUCH YEAR HAS BEEN SENT TO EITHER SPOUSE IN
39 ACCORDANCE WITH SECTION 6212(A).

40 (C) REVOCATION OF CONSENT. REVOCATION OF A CONSENT PREVIOUSLY SIGNI-
41 FIED SHALL BE MADE IN SUCH MANNER AS IN PROVIDED UNDER REGULATIONS
42 PRESCRIBED BY THE SECRETARY, BUT THE RIGHT TO REVOKE A CONSENT PREVIOUS-
43 LY SIGNIFIED WITH RESPECT TO A CALENDAR YEAR-

44 (1) SHALL NOT EXIST AFTER THE 15TH DAY OF APRIL FOLLOWING THE CLOSE OF
45 SUCH YEAR IF THE CONSENT WAS SIGNIFIED ON OR BEFORE SUCH 15TH DAY; AND

46 (2) SHALL NOT EXIST IF THE CONSENT WAS NOT SIGNIFIED UNTIL AFTER SUCH
47 15TH DAY.

48 (D) JOINT AND SEVERAL LIABILITY FOR TAX. IF THE CONSENT REQUIRED BY
49 SUBSECTION (A)(2) IS SIGNIFIED WITH RESPECT TO A GIFT MADE IN ANY CALEN-
50 DAR YEAR, THE LIABILITY WITH RESPECT TO THE ENTIRE TAX IMPOSED BY THIS
51 CHAPTER OF EACH SPOUSE FOR SUCH YEAR SHALL BE JOINT AND SEVERAL.

52 S 2514. POWERS OF APPOINTMENT. (A) POWERS CREATED ON OR BEFORE OCTOBER
53 21, 1942. AN EXERCISE OF A GENERAL POWER OF APPOINTMENT CREATED ON OR
54 BEFORE OCTOBER 21, 1942, SHALL BE DEEMED A TRANSFER OF PROPERTY BY THE
55 INDIVIDUAL POSSESSING SUCH POWER; BUT THE FAILURE TO EXERCISE SUCH A
56 POWER OR THE COMPLETE RELEASE OF SUCH A POWER SHALL NOT BE DEEMED AN

1 EXERCISE THEREOF. IF A GENERAL POWER OF APPOINTMENT CREATED ON OR BEFORE
2 OCTOBER 21, 1942, HAS BEEN PARTIALLY RELEASED SO THAT IT IS NO LONGER A
3 GENERAL POWER OF APPOINTMENT, THE SUBSEQUENT EXERCISE OF SUCH POWER
4 SHALL NOT BE DEEMED TO BE THE EXERCISE OF A GENERAL POWER OF APPOINTMENT
5 IF-

6 (1) SUCH PARTIAL RELEASE OCCURRED BEFORE NOVEMBER 1, 1951, OR

7 (2) THE DONEE OF SUCH POWER WAS UNDER A LEGAL DISABILITY TO RELEASE
8 SUCH POWER ON OCTOBER 21, 1942, AND SUCH PARTIAL RELEASE OCCURRED NOT
9 LATER THAN SIX MONTHS AFTER THE TERMINATION OF SUCH LEGAL DISABILITY.

10 (B) POWERS CREATED AFTER OCTOBER 21, 1942. THE EXERCISE OR RELEASE OF
11 A GENERAL POWER OF APPOINTMENT CREATED AFTER OCTOBER 21, 1942, SHALL BE
12 DEEMED A TRANSFER OF PROPERTY BY THE INDIVIDUAL POSSESSING SUCH POWER.

13 (C) DEFINITION OF GENERAL POWER OF APPOINTMENT. FOR PURPOSES OF THIS
14 SECTION, THE TERM "GENERAL POWER OF APPOINTMENT" MEANS A POWER WHICH IS
15 EXERCISABLE IN FAVOR OF THE INDIVIDUAL POSSESSING THE POWER (HEREAFTER
16 IN THIS SUBSECTION REFERRED TO AS THE "POSSESSOR"), HIS ESTATE, HIS
17 CREDITORS, OR THE CREDITORS OF HIS ESTATE; EXCEPT THAT-

18 (1) A POWER TO CONSUME, INVADE, OR APPROPRIATE PROPERTY FOR THE BENE-
19 FIT OF THE POSSESSOR WHICH IS LIMITED BY AN ASCERTAINABLE STANDARD
20 RELATING TO THE HEALTH, EDUCATION, SUPPORT, OR MAINTENANCE OF THE
21 POSSESSOR SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

22 (2) A POWER OF APPOINTMENT CREATED ON OR BEFORE OCTOBER 21, 1942,
23 WHICH IS EXERCISABLE BY THE POSSESSOR ONLY IN CONJUNCTION WITH ANOTHER
24 PERSON SHALL NOT BE DEEMED A GENERAL POWER OF APPOINTMENT.

25 (3) IN THE CASE OF A POWER OF APPOINTMENT CREATED AFTER OCTOBER 21,
26 1942, WHICH IS EXERCISABLE BY THE POSSESSOR ONLY IN CONJUNCTION WITH
27 ANOTHER PERSON-

28 --(A) IF THE POWER IS NOT EXERCISABLE BY THE POSSESSOR EXCEPT IN
29 CONJUNCTION WITH THE CREATOR OF THE POWER--SUCH POWER SHALL NOT BE DEEMED
30 A GENERAL POWER OF APPOINTMENT;

31 --(B) IF THE POWER IS NOT EXERCISABLE BY THE POSSESSOR EXCEPT IN
32 CONJUNCTION WITH A PERSON HAVING A SUBSTANTIAL INTEREST, IN THE PROPERTY
33 SUBJECT TO THE POWER, WHICH IS ADVERSE TO EXERCISE OF THE POWER IN FAVOR
34 OF THE POSSESSOR--SUCH POWER SHALL NOT BE DEEMED A GENERAL POWER OF
35 APPOINTMENT. FOR THE PURPOSES OF THIS SUBPARAGRAPH A PERSON WHO, AFTER
36 THE DEATH OF THE POSSESSOR, MAY BE POSSESSED OF A POWER OF APPOINTMENT
37 (WITH RESPECT TO THE PROPERTY SUBJECT TO THE POSSESSOR'S POWER) WHICH HE
38 MAY EXERCISE IN HIS OWN FAVOR SHALL BE DEEMED AS HAVING AN INTEREST IN
39 THE PROPERTY AND SUCH INTEREST SHALL BE DEEMED ADVERSE TO SUCH EXERCISE
40 OF THE POSSESSOR'S POWER;

41 --(C) IF (AFTER THE APPLICATION OF SUBPARAGRAPHS (A) AND (B)) THE POWER
42 IS A GENERAL POWER OF APPOINTMENT AND IS EXERCISABLE IN FAVOR OF SUCH
43 OTHER PERSON--SUCH POWER SHALL BE DEEMED A GENERAL POWER OF APPOINTMENT
44 ONLY IN RESPECT OF A FRACTIONAL PART OF THE PROPERTY SUBJECT TO SUCH
45 POWER, SUCH PART TO BE DETERMINED BY DIVIDING THE VALUE OF SUCH PROPERTY
46 BY THE NUMBER OF SUCH PERSONS (INCLUDING THE POSSESSOR) IN FAVOR OF WHOM
47 SUCH POWER IS EXERCISABLE.

48 --FOR PURPOSES OF SUBPARAGRAPHS (B) AND (C), A POWER SHALL BE DEEMED TO
49 BE EXERCISABLE IN FAVOR OF A PERSON IF IT IS EXERCISABLE IN FAVOR OF
50 SUCH PERSON, HIS ESTATE, HIS CREDITORS, OR THE CREDITORS OF HIS ESTATE.

51 (D) CREATION OF ANOTHER POWER IN CERTAIN CASES. IF A POWER OF APPOINT-
52 MENT CREATED AFTER OCTOBER 21, 1942, IS EXERCISED BY CREATING ANOTHER
53 POWER OF APPOINTMENT WHICH, UNDER THE APPLICABLE LOCAL LAW, CAN BE
54 VALIDLY EXERCISED SO AS TO POSTPONE THE VESTING OF ANY ESTATE OR INTER-
55 EST IN THE PROPERTY WHICH WAS SUBJECT TO THE FIRST POWER, OR SUSPEND THE
56 ABSOLUTE OWNERSHIP OR POWER OF ALIENATION OF SUCH PROPERTY, FOR A PERIOD

1 ASCERTAINABLE WITHOUT REGARD TO THE DATE OF THE CREATION OF THE FIRST
2 POWER, SUCH EXERCISE OF THE FIRST POWER SHALL, TO THE EXTENT OF THE
3 PROPERTY SUBJECT TO THE SECOND POWER, BE DEEMED A TRANSFER OF PROPERTY
4 BY THE INDIVIDUAL POSSESSING SUCH POWER.

5 (E) LAPSE OF POWER. THE LAPSE OF A POWER OF APPOINTMENT CREATED AFTER
6 OCTOBER 21, 1942, DURING THE LIFE OF THE INDIVIDUAL POSSESSING THE POWER
7 SHALL BE CONSIDERED A RELEASE OF SUCH POWER. THE RULE OF THE PRECEDING
8 SENTENCE SHALL APPLY WITH RESPECT TO THE LAPSE OF POWERS DURING ANY
9 CALENDAR YEAR ONLY TO THE EXTENT THAT THE PROPERTY WHICH COULD HAVE BEEN
10 APPOINTED BY EXERCISE OF SUCH LAPSED POWERS EXCEEDS IN VALUE THE GREATER
11 OF THE FOLLOWING AMOUNTS:

12 (1) \$5,000, OR

13 (2) 5 PERCENT OF THE AGGREGATE VALUE OF THE ASSETS OUT OF WHICH, OR
14 THE PROCEEDS OF WHICH, THE EXERCISE OF THE LAPSED POWERS COULD BE SATIS-
15 FIED.

16 (F) DATE OF CREATION OF POWER. FOR PURPOSES OF THIS SECTION A POWER OF
17 APPOINTMENT CREATED BY A WILL EXECUTED ON OR BEFORE OCTOBER 21, 1942,
18 SHALL BE CONSIDERED A POWER CREATED ON OR BEFORE SUCH DATE IF THE PERSON
19 EXECUTING SUCH WILL DIES BEFORE JULY 1, 1949, WITHOUT HAVING REPUBLISHED
20 SUCH WILL, BY CODICIL OR OTHERWISE, AFTER OCTOBER 21, 1942.

21 S 2516. CERTAIN PROPERTY SETTLEMENTS. WHERE A HUSBAND AND WIFE ENTER
22 INTO A WRITTEN AGREEMENT RELATIVE TO THEIR MARITAL AND PROPERTY RIGHTS
23 AND DIVORCE OCCURS WITHIN THE 3-YEAR PERIOD BEGINNING ON THE DATE 1 YEAR
24 BEFORE SUCH AGREEMENT IS ENTERED INTO (WHETHER OR NOT SUCH AGREEMENT IS
25 APPROVED BY THE DIVORCE DECREE), ANY TRANSFERS OF PROPERTY OR INTERESTS
26 IN PROPERTY MADE PURSUANT TO SUCH AGREEMENT-

27 (1) TO EITHER SPOUSE IN SETTLEMENT OF HIS OR HER MARITAL OR PROPERTY
28 RIGHTS, OR

29 (2) TO PROVIDE A REASONABLE ALLOWANCE FOR THE SUPPORT OF ISSUE OF THE
30 MARRIAGE DURING MINORITY,

31 --SHALL BE DEEMED TO BE TRANSFERS MADE FOR A FULL AND ADEQUATE CONSID-
32 ERATION IN MONEY OR MONEY'S WORTH.

33 S 2518. DISCLAIMERS. (A) GENERAL RULE. - FOR PURPOSES OF THIS SUBTI-
34 TLE, IF A PERSON MAKES A QUALIFIED DISCLAIMER WITH RESPECT TO ANY INTER-
35 EST IN PROPERTY, THIS SUBTITLE SHALL APPLY WITH RESPECT TO SUCH INTEREST
36 AS IF THE INTEREST HAD NEVER BEEN TRANSFERRED TO SUCH PERSON.

37 (B) QUALIFIED DISCLAIMER DEFINED. - FOR PURPOSES OF SUBSECTION (A),
38 THE TERM "QUALIFIED DISCLAIMER" MEANS AN IRREVOCABLE AND UNQUALIFIED
39 REFUSAL BY A PERSON TO ACCEPT AN INTEREST IN PROPERTY BUT ONLY IF -

40 (1) SUCH REFUSAL IS IN WRITING,

41 (2) SUCH WRITING IS RECEIVED BY THE TRANSFEROR OF THE INTEREST, HIS
42 LEGAL REPRESENTATIVE, OR THE HOLDER OF THE LEGAL TITLE TO THE PROPERTY
43 TO WHICH THE INTEREST RELATES NOT LATER THAN THE DATE WHICH IS 9 MONTHS
44 AFTER THE LATER OF -

45 (A) THE DATE ON WHICH THE TRANSFER CREATING THE INTEREST IN SUCH
46 PERSON IS MADE, OR

47 (B) THE DAY ON WHICH SUCH PERSON ATTAINS AGE 21,

48 (3) SUCH PERSON HAS NOT ACCEPTED THE INTEREST OR ANY OF ITS BENEFITS,
49 AND

50 (4) AS A RESULT OF SUCH REFUSAL, THE INTEREST PASSES WITHOUT ANY
51 DIRECTION ON THE PART OF THE PERSON MAKING THE DISCLAIMER AND PASSES
52 EITHER -

53 (A) TO THE SPOUSE OF THE DECEDENT, OR

54 (B) TO A PERSON OTHER THAN THE PERSON MAKING THE DISCLAIMER.

55 (C) OTHER RULES. FOR PURPOSES OF SUBSECTION (A)-

1 (1) DISCLAIMER OF UNDIVIDED PORTION OF INTEREST. A DISCLAIMER WITH
2 RESPECT TO AN UNDIVIDED PORTION OF AN INTEREST WHICH MEETS THE REQUIRE-
3 MENTS OF THE PRECEDING SENTENCE SHALL BE TREATED AS A QUALIFIED
4 DISCLAIMER OF SUCH PORTION OF THE INTEREST.

5 (2) POWERS. A POWER WITH RESPECT TO PROPERTY SHALL BE TREATED AS AN
6 INTEREST IN SUCH PROPERTY.

7 (3) CERTAIN TRANSFERS TREATED AS DISCLAIMERS. A WRITTEN TRANSFER OF
8 THE TRANSFEROR'S ENTIRE INTEREST IN THE PROPERTY-

9 (A) WHICH MEETS REQUIREMENTS SIMILAR TO THE REQUIREMENTS OF PARAGRAPHS
10 (2) AND (3) OF SUBSECTION (B), AND

11 (B) WHICH IS TO A PERSON OR PERSONS WHO WOULD HAVE RECEIVED THE PROP-
12 ERTY HAD THE TRANSFEROR MADE A QUALIFIED DISCLAIMER (WITHIN THE MEANING
13 OF SUBSECTION (B)),

14 --SHALL BE TREATED AS A QUALIFIED DISCLAIMER.

15 S 2519. DISPOSITIONS OF CERTAIN LIFE ESTATES. (A) GENERAL RULE

16 --FOR PURPOSES OF THIS CHAPTER AND CHAPTER 11, ANY DISPOSITION OF ALL
17 OR PART OF A QUALIFYING INCOME INTEREST FOR LIFE IN ANY PROPERTY TO
18 WHICH THIS SECTION APPLIES SHALL BE TREATED AS A TRANSFER OF ALL INTER-
19 ESTS IN SUCH PROPERTY OTHER THAN THE QUALIFYING INCOME INTEREST.

20 (B) PROPERTY TO WHICH THIS SUBSECTION APPLIES. THIS SECTION APPLIES TO
21 ANY PROPERTY IF A DEDUCTION WAS ALLOWED WITH RESPECT TO THE TRANSFER OF
22 SUCH PROPERTY TO THE DONOR-

23 (1) UNDER SECTION 2056 BY REASON OF SUBSECTION (B)(7) THEREOF, OR

24 (2) UNDER SECTION 2523 BY REASON OF SUBSECTION (F) THEREOF.

25 (C) CROSS REFERENCE

26 --FOR RIGHT OF RECOVERY FOR GIFT TAX IN THE CASE OF PROPERTY TREATED AS
27 TRANSFERRED UNDER THIS SECTION, SEE SECTION 2207A(B).

28 S 2522. CHARITABLE AND SIMILAR GIFTS. (A) CITIZENS OR RESIDENTS. IN
29 COMPUTING TAXABLE GIFTS FOR THE CALENDAR YEAR, THERE SHALL BE ALLOWED AS
30 A DEDUCTION IN THE CASE OF A CITIZEN OR RESIDENT THE AMOUNT OF ALL GIFTS
31 MADE DURING SUCH YEAR TO OR FOR THE USE OF-

32 (1) THE UNITED STATES, ANY STATE, OR ANY POLITICAL SUBDIVISION THERE-
33 OF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

34 (2) A CORPORATION, OR TRUST, OR COMMUNITY CHEST, FUND, OR FOUNDATION,
35 ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIF-
36 IC, LITERARY, OR EDUCATIONAL PURPOSES, OR TO FOSTER NATIONAL OR INTERNA-
37 TIONAL AMATEUR SPORTS COMPETITION (BUT ONLY IF NO PART OF ITS ACTIVITIES
38 INVOLVE THE PROVISION OF ATHLETIC FACILITIES OR EQUIPMENT), INCLUDING
39 THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO CHILDREN OR
40 ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF
41 ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALIFIED FOR TAX
42 EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING TO INFLUENCE
43 LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTERVENE IN (INCLUD-
44 ING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY POLITICAL
45 CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR PUBLIC
46 OFFICE;

47 (3) A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, OPERATING UNDER THE
48 LODGE SYSTEM, BUT ONLY IF SUCH GIFTS ARE TO BE USED EXCLUSIVELY FOR
49 RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES,
50 INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO
51 CHILDREN OR ANIMALS;

52 (4) POSTS OR ORGANIZATIONS OF WAR VETERANS, OR AUXILIARY UNITS OR
53 SOCIETIES OF ANY SUCH POSTS OR ORGANIZATIONS, IF SUCH POSTS, ORGANIZA-
54 TIONS, UNITS, OR SOCIETIES ARE ORGANIZED IN THE UNITED STATES OR ANY OF
55 ITS POSSESSIONS, AND IF NO PART OF THEIR NET EARNINGS INSURES TO THE
56 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

1 RULES SIMILAR TO THE RULES OF SECTION 501(J) SHALL APPLY FOR PURPOSES
2 OF PARAGRAPH (2).

3 (B) NONRESIDENTS. IN THE CASE OF A NONRESIDENT NOT A CITIZEN OF THE
4 UNITED STATES, THERE SHALL BE ALLOWED AS A DEDUCTION THE AMOUNT OF ALL
5 GIFTS MADE DURING SUCH YEAR TO OR FOR THE USE OF-

6 (1) THE UNITED STATES, ANY STATE, OR ANY POLITICAL SUBDIVISION THERE-
7 OF, OR THE DISTRICT OF COLUMBIA, FOR EXCLUSIVELY PUBLIC PURPOSES;

8 (2) A DOMESTIC CORPORATION ORGANIZED AND OPERATED EXCLUSIVELY FOR
9 RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL PURPOSES,
10 INCLUDING THE ENCOURAGEMENT OF ART AND THE PREVENTION OF CRUELTY TO
11 CHILDREN OR ANIMALS, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE
12 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, WHICH IS NOT DISQUALI-
13 FIED FOR TAX EXEMPTION UNDER SECTION 501(C)(3) BY REASON OF ATTEMPTING
14 TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTER-
15 VENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY
16 POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR
17 PUBLIC OFFICE;

18 (3) A TRUST, OR COMMUNITY CHEST, FUND, OR FOUNDATION, ORGANIZED AND
19 OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR
20 EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE
21 PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, NO SUBSTANTIAL PART OF THE
22 ACTIVITIES OF WHICH IS CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING,
23 TO INFLUENCE LEGISLATION, AND WHICH DOES NOT PARTICIPATE IN, OR INTER-
24 VENE IN (INCLUDING THE PUBLISHING OR DISTRIBUTING OF STATEMENTS), ANY
25 POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR
26 PUBLIC OFFICE; BUT ONLY IF SUCH GIFTS ARE TO BE USED WITHIN THE UNITED
27 STATES EXCLUSIVELY FOR SUCH PURPOSES;

28 (4) A FRATERNAL SOCIETY, ORDER, OR ASSOCIATION, OPERATING UNDER THE
29 LODGE SYSTEM, BUT ONLY IF SUCH GIFTS ARE TO BE USED WITHIN THE UNITED
30 STATES EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR
31 EDUCATIONAL PURPOSES, INCLUDING THE ENCOURAGEMENT OF ART AND THE
32 PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS;

33 (5) POSTS OR ORGANIZATIONS OF WAR VETERANS, OR AUXILIARY UNITS OR
34 SOCIETIES OF ANY SUCH POSTS OR ORGANIZATIONS, IF SUCH POSTS, ORGANIZA-
35 TIONS, UNITS, OR SOCIETIES ARE ORGANIZED IN THE UNITED STATES OR ANY OF
36 ITS POSSESSIONS, AND IF NO PART OF THEIR NET EARNINGS INURES TO THE
37 BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL.

38 (C) DISALLOWANCE OF DEDUCTIONS IN CERTAIN CASES. (1) NO DEDUCTION
39 SHALL BE ALLOWED UNDER THIS SECTION FOR A GIFT TO OF 1 FOR THE USE OF AN
40 ORGANIZATION OR TRUST DESCRIBED IN SECTION 508(D) OR 4948(C)(4) SUBJECT
41 TO THE CONDITIONS SPECIFIED IN SUCH SECTIONS.

42 (2) WHERE A DONOR TRANSFERS AN INTEREST IN PROPERTY (OTHER THAN AN
43 INTEREST DESCRIBED IN SECTION 170(F)(3)(B)) TO A PERSON, OR FOR A USE,
44 DESCRIBED IN SUBSECTION (A) OR (B) AND AN INTEREST IN THE SAME PROPERTY
45 IS RETAINED BY THE DONOR, OR IS TRANSFERRED OR HAS BEEN TRANSFERRED (FOR
46 LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S WORTH)
47 FROM THE DONOR TO A PERSON, OR FOR A USE, NOT DESCRIBED IN SUBSECTION
48 (A) OR (B), NO DEDUCTION SHALL BE ALLOWED UNDER THIS SECTION FOR THE
49 INTEREST WHICH IS, OR HAS BEEN TRANSFERRED TO THE PERSON, OR FOR THE
50 USE, DESCRIBED IN SUBSECTION (A) OR (B), UNLESS-

51 (A) IN THE CASE OF A REMAINDER INTEREST, SUCH INTEREST IS IN A TRUST
52 WHICH IS A CHARITABLE REMAINDER ANNUITY TRUST OR A CHARITABLE REMAINDER
53 UNITRUST (DESCRIBED IN SECTION 664) OR A POOLED INCOME FUND (DESCRIBED
54 IN SECTION 642(C)(5)), OR

1 (B) IN THE CASE OF ANY OTHER INTEREST, SUCH INTEREST IS IN THE FORM OF
2 A GUARANTEED ANNUITY OR IS A FIXED PERCENTAGE DISTRIBUTED YEARLY OF THE
3 FAIR MARKET VALUE OF THE PROPERTY (TO BE DETERMINED YEARLY).

4 (3) RULES SIMILAR TO THE RULES OF SECTION 2055(E)(4) SHALL APPLY FOR
5 PURPOSES OF PARAGRAPH (2).

6 (4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2). (A) IN GENERAL -- A
7 DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF ANY QUALI-
8 FIED REFORMATION (WITHIN THE MEANING OF SECTION 2055(E)(3)(B)).

9 (B) RULES SIMILAR TO SECTION 2055(E)(3) TO APPLY -- FOR PURPOSES OF
10 THIS PARAGRAPH, RULES SIMILAR TO THE RULES OF SECTION 2055(E)(3) SHALL
11 APPLY.

12 (5) CONTRIBUTIONS TO DONOR ADVISED FUNDS. A DEDUCTION OTHERWISE
13 ALLOWED UNDER SUBSECTION (A) FOR ANY CONTRIBUTION TO A DONOR ADVISED
14 FUND (AS DEFINED IN SECTION 4966(D)(2)) SHALL ONLY BE ALLOWED IF-

15 --(A) THE SPONSORING ORGANIZATION (AS DEFINED IN SECTION 4966(D)(1))
16 WITH RESPECT TO SUCH DONOR ADVISED FUND IS NOT-

17 --(I) DESCRIBED IN PARAGRAPH (3) OR (4) OF SUBSECTION (A), OR

18 --(II) A TYPE III SUPPORTING ORGANIZATION (AS DEFINED IN SECTION
19 4943(F)(5)(A)) WHICH IS NOT A FUNCTIONALLY INTEGRATED TYPE III SUPPORT-
20 ING ORGANIZATION (AS DEFINED IN SECTION 4943(F)(5)(B)), AND

21 --(B) THE TAXPAYER OBTAINS A CONTEMPORANEOUS WRITTEN ACKNOWLEDGMENT
22 (DETERMINED UNDER RULES SIMILAR TO THE RULES OF SECTION 170(F)(8)(C))
23 FROM THE SPONSORING ORGANIZATION (AS SO DEFINED) OF SUCH DONOR ADVISED
24 FUND THAT SUCH ORGANIZATION HAS EXCLUSIVE LEGAL CONTROL OVER THE ASSETS
25 CONTRIBUTED.

26 (D) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROP-
27 erty. A DEDUCTION SHALL BE ALLOWED UNDER SUBSECTION (A) IN RESPECT OF
28 ANY TRANSFER OF A QUALIFIED REAL PROPERTY INTEREST (AS DEFINED IN
29 SECTION 170(H)(2)(C)) WHICH MEETS THE REQUIREMENTS OF SECTION 170(H)
30 (WITHOUT REGARD TO PARAGRAPH (4)(A) THEREOF).

31 (E) SPECIAL RULES FOR FRACTIONAL GIFTS

32 (1) DENIAL OF DEDUCTION IN CERTAIN CASES

33 (A) IN GENERAL

34 --NO DEDUCTION SHALL BE ALLOWED FOR A CONTRIBUTION OF AN UNDIVIDED
35 PORTION OF A TAXPAYER'S ENTIRE INTEREST IN TANGIBLE PERSONAL PROPERTY
36 UNLESS ALL INTERESTS IN THE PROPERTY ARE HELD IMMEDIATELY BEFORE SUCH
37 CONTRIBUTION BY-

38 --(I) THE TAXPAYER, OR

39 --(II) THE TAXPAYER AND THE DONEE.

40 (B) EXCEPTIONS

41 --THE SECRETARY MAY, BY REGULATION, PROVIDE FOR EXCEPTIONS TO SUBPARA-
42 GRAPH (A) IN CASES WHERE ALL PERSONS WHO HOLD AN INTEREST IN THE PROPER-
43 TY MAKE PROPORTIONAL CONTRIBUTIONS OF AN UNDIVIDED PORTION OF THE ENTIRE
44 INTEREST HELD BY SUCH PERSONS.

45 (2) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX

46 (A) IN GENERAL. THE SECRETARY SHALL PROVIDE FOR THE RECAPTURE OF AN
47 AMOUNT EQUAL TO ANY DEDUCTION ALLOWED UNDER THIS SECTION (PLUS INTEREST)
48 WITH RESPECT TO ANY CONTRIBUTION OF AN UNDIVIDED PORTION OF A TAXPAYER'S
49 ENTIRE INTEREST IN TANGIBLE PERSONAL PROPERTY-

50 --(I) IN ANY CASE IN WHICH THE DONOR DOES NOT CONTRIBUTE ALL OF THE
51 REMAINING INTERESTS IN SUCH PROPERTY TO THE DONEE (OR, IF SUCH DONEE IS
52 NO LONGER IN EXISTENCE, TO ANY PERSON DESCRIBED IN SECTION 170(C)) ON OR
53 BEFORE THE EARLIER OF-

54 --(I) THE DATE THAT IS 10 YEARS AFTER THE DATE OF THE INITIAL FRACTIONAL
55 CONTRIBUTION, OR

56 --(II) THE DATE OF THE DEATH OF THE DONOR, AND

1 --(II) IN ANY CASE IN WHICH THE DONEE HAS NOT, DURING THE PERIOD BEGIN-
2 NING ON THE DATE OF THE INITIAL FRACTIONAL CONTRIBUTION AND ENDING ON
3 THE DATE DESCRIBED IN CLAUSE (I)-

4 --(I) HAD SUBSTANTIAL PHYSICAL POSSESSION OF THE PROPERTY, AND

5 --(II) USED THE PROPERTY IN A USE WHICH IS RELATED TO A PURPOSE OR FUNC-
6 TION CONSTITUTING THE BASIS FOR THE ORGANIZATIONS' EXEMPTION UNDER
7 SECTION 501.

8 (B) ADDITION TO TAX. THE TAX IMPOSED UNDER THIS CHAPTER FOR ANY TAXA-
9 BLE YEAR FOR WHICH THERE IS A RECAPTURE UNDER SUBPARAGRAPH (A) SHALL BE
10 INCREASED BY 10 PERCENT OF THE AMOUNT SO RECAPTURED.

11 (C) INITIAL FRACTIONAL CONTRIBUTION. FOR PURPOSES OF THIS PARAGRAPH,
12 THE TERM "INITIAL FRACTIONAL CONTRIBUTION" MEANS, WITH RESPECT TO ANY
13 DONOR, THE FIRST GIFT OF AN UNDIVIDED PORTION OF THE DONOR'S ENTIRE
14 INTEREST IN ANY TANGIBLE PERSONAL PROPERTY FOR WHICH A DEDUCTION IS
15 ALLOWED UNDER SUBSECTION (A) OR (B).

16 (F) CROSS REFERENCES

17 --(1) FOR TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE, SEE
18 SECTION 501(K).

19 --(2) FOR EXEMPTION OF CERTAIN GIFTS TO OR FOR THE BENEFIT OF THE UNITED
20 STATES AND FOR RULES OF CONSTRUCTION WITH RESPECT TO CERTAIN BEQUESTS,
21 SEE SECTION 2055(F).

22 --(3) FOR TREATMENT OF GIFTS TO OR FOR THE USE OF INDIAN TRIBAL GOVERN-
23 MENTS (OR THEIR SUBDIVISIONS), SEE SECTION 7871.

24 S 2523. GIFT TO SPOUSE (A) ALLOWANCE OF DEDUCTION. WHERE A DONOR
25 TRANSFERS DURING THE CALENDAR YEAR BY GIFT AN INTEREST IN PROPERTY TO A
26 DONEE WHO AT THE TIME OF THE GIFT IS THE DONOR'S SPOUSE, THERE SHALL BE
27 ALLOWED AS A DEDUCTION IN COMPUTING TAXABLE GIFTS FOR THE CALENDAR YEAR
28 AN AMOUNT WITH RESPECT TO SUCH INTEREST EQUAL TO ITS VALUE.

29 (B) LIFE ESTATE OR OTHER TERMINABLE INTEREST. WHERE, ON THE LAPSE OF
30 TIME, ON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAILURE OF
31 AN EVENT OR CONTINGENCY TO OCCUR, SUCH INTEREST TRANSFERRED TO THE
32 SPOUSE WILL TERMINATE OR FAIL, NO DEDUCTION SHALL BE ALLOWED WITH
33 RESPECT TO SUCH INTEREST-

34 (1) IF THE DONOR RETAINS IN HIMSELF, OR TRANSFERS OR HAS TRANSFERRED
35 (FOR LESS THAN AN ADEQUATE AND FULL CONSIDERATION IN MONEY OR MONEY'S
36 WORTH) TO ANY PERSON OTHER THAN SUCH DONEE SPOUSE (OR THE ESTATE OF SUCH
37 SPOUSE), AN INTEREST IN SUCH PROPERTY, AND IF BY REASON OF SUCH
38 RETENTION OR TRANSFER THE DONOR (OR HIS HEIRS OR ASSIGNS) OR SUCH PERSON
39 (OR HIS HEIRS OR ASSIGNS) MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY
40 AFTER SUCH TERMINATION OR FAILURE OF THE INTEREST TRANSFERRED TO THE
41 DONEE SPOUSE; OR

42 (2) IF THE DONOR IMMEDIATELY AFTER THE TRANSFER TO THE DONEE SPOUSE
43 HAS A POWER TO APPOINT AN INTEREST IN SUCH PROPERTY WHICH HE CAN EXER-
44 CISE (EITHER ALONE OR IN CONJUNCTION WITH ANY PERSON) IN SUCH MANNER
45 THAT THE APPOINTEE MAY POSSESS OR ENJOY ANY PART OF SUCH PROPERTY AFTER
46 SUCH TERMINATION OR FAILURE OF THE INTEREST TRANSFERRED TO THE DONEE
47 SPOUSE. FOR PURPOSES OF THIS PARAGRAPH, THE DONOR SHALL BE CONSIDERED AS
48 HAVING IMMEDIATELY AFTER THE TRANSFER TO THE DONEE SPOUSE SUCH POWER TO
49 APPOINT EVEN THOUGH SUCH POWER CANNOT BE EXERCISED UNTIL AFTER THE LAPSE
50 OF TIME, UPON THE OCCURRENCE OF AN EVENT OR CONTINGENCY, OR ON THE FAIL-
51 URE OF AN EVENT OR CONTINGENCY TO OCCUR.

52 AN EXERCISE OR RELEASE AT ANY TIME BY THE DONOR, EITHER ALONE OR IN
53 CONJUNCTION WITH ANY PERSON, OF A POWER TO APPOINT AN INTEREST IN PROP-
54 erty, EVEN THOUGH NOT OTHERWISE A TRANSFER, SHALL, FOR PURPOSES OF PARA-
55 GRAPH (1), BE CONSIDERED AS A TRANSFER BY HIM. EXCEPT AS PROVIDED IN
56 SUBSECTION (E), WHERE AT THE TIME OF THE TRANSFER IT IS IMPOSSIBLE TO

1 ASCERTAIN THE PARTICULAR PERSON OR PERSONS WHO MAY RECEIVE FROM THE
2 DONOR AN INTEREST IN PROPERTY SO TRANSFERRED BY HIM, SUCH INTEREST
3 SHALL, FOR PURPOSES OF PARAGRAPH (1), BE CONSIDERED AS TRANSFERRED TO A
4 PERSON OTHER THAN THE DONEE SPOUSE.

5 (C) INTEREST IN UNIDENTIFIED ASSETS. WHERE THE ASSETS OUT OF WHICH, OR
6 THE PROCEEDS OF WHICH, THE INTEREST TRANSFERRED TO THE DONEE SPOUSE MAY
7 BE SATISFIED INCLUDE A PARTICULAR ASSET OR ASSETS WITH RESPECT TO WHICH
8 NO DEDUCTION WOULD BE ALLOWED IF SUCH ASSET OR ASSETS WERE TRANSFERRED
9 FROM THE DONOR TO SUCH SPOUSE, THEN THE VALUE OF THE INTEREST TRANS-
10 FERRED TO SUCH SPOUSE SHALL, FOR PURPOSES OF SUBSECTION (A), BE REDUCED
11 BY THE AGGREGATE VALUE OF SUCH PARTICULAR ASSETS.

12 (D) JOINT INTERESTS. IF THE INTEREST IS TRANSFERRED TO THE DONEE
13 SPOUSE AS SOLE JOINT TENANT WITH THE DONOR OR AS TENANT BY THE ENTIRETY,
14 THE INTEREST OF THE DONOR IN THE PROPERTY WHICH EXISTS SOLELY BY REASON
15 OF THE POSSIBILITY THAT THE DONOR MAY SURVIVE THE DONEE SPOUSE, OR THAT
16 THERE MAY OCCUR A SEVERANCE OF THE TENANCY, SHALL NOT BE CONSIDERED FOR
17 PURPOSES OF SUBSECTION (B) AS AN INTEREST RETAINED BY THE DONOR IN
18 HIMSELF.

19 (E) LIFE ESTATE WITH POWER OF APPOINTMENT IN DONEE SPOUSE. WHERE THE
20 DONOR TRANSFERS AN INTEREST IN PROPERTY, IF BY SUCH TRANSFER HIS SPOUSE
21 IS ENTITLED FOR LIFE TO ALL OF THE INCOME FROM THE ENTIRE INTEREST, OR
22 ALL THE INCOME FROM A SPECIFIC PORTION THEREOF, PAYABLE ANNUALLY OR AT
23 MORE FREQUENT INTERVALS, WITH POWER IN THE DONEE SPOUSE TO APPOINT THE
24 ENTIRE INTEREST, OR SUCH SPECIFIC PORTION (EXERCISABLE IN FAVOR OF SUCH
25 DONEE SPOUSE, OR OF THE ESTATE OF SUCH DONEE SPOUSE, OR IN FAVOR OF
26 EITHER, WHETHER OR NOT IN EACH CASE THE POWER IS EXERCISABLE IN FAVOR OF
27 OTHERS), AND WITH NO POWER IN ANY OTHER PERSON TO APPOINT ANY PART OF
28 SUCH INTEREST, OR SUCH PORTION, TO ANY PERSON OTHER THAN THE DONEE
29 SPOUSE-

30 (1) THE INTEREST, OR SUCH PORTION, SO TRANSFERRED SHALL, FOR PURPOSES
31 OF SUBSECTION (A) BE CONSIDERED AS TRANSFERRED TO THE DONEE SPOUSE, AND

32 (2) NO PART OF THE INTEREST, OR SUCH PORTION, SO TRANSFERRED SHALL,
33 FOR PURPOSES OF SUBSECTION (B)(1), BE CONSIDERED AS RETAINED IN THE
34 DONOR OR TRANSFERRED TO ANY PERSON OTHER THAN THE DONEE SPOUSE.

35 THIS SUBSECTION SHALL APPLY ONLY IF, BY SUCH TRANSFER, SUCH POWER IN
36 THE DONEE SPOUSE TO APPOINT THE INTEREST, OR SUCH PORTION, WHETHER EXER-
37 CISIBLE BY WILL OR DURING LIFE, IS EXERCISABLE BY SUCH SPOUSE ALONE AND
38 IN ALL EVENTS. FOR PURPOSES OF THIS SUBSECTION, THE TERM "SPECIFIC
39 PORTION" ONLY INCLUDES A PORTION DETERMINED ON A FRACTIONAL OR PERCENT-
40 AGE BASIS.

41 (F) ELECTION WITH RESPECT TO LIFE ESTATE FOR DONEE SPOUSE. (1) IN
42 GENERAL

43 IN THE CASE OF QUALIFIED TERMINABLE INTEREST PROPERTY-

44 (A) FOR PURPOSES OF SUBSECTION (A), SUCH PROPERTY SHALL BE TREATED AS
45 TRANSFERRED TO THE DONEE SPOUSE, AND

46 (B) FOR PURPOSES OF SUBSECTION (B)(1), NO PART OF SUCH PROPERTY SHALL
47 BE CONSIDERED AS RETAINED IN THE DONOR OR TRANSFERRED TO ANY PERSON
48 OTHER THAN THE DONEE SPOUSE.

49 (2) QUALIFIED TERMINABLE INTEREST PROPERTY. FOR PURPOSES OF THIS
50 SUBSECTION, THE TERM "QUALIFIED TERMINABLE INTEREST PROPERTY" MEANS ANY
51 PROPERTY-

52 (A) WHICH IS TRANSFERRED BY THE DONOR SPOUSE,

53 (B) IN WHICH THE DONEE SPOUSE HAS A QUALIFYING INCOME INTEREST FOR
54 LIFE, AND

55 (C) TO WHICH AN ELECTION UNDER THIS SUBSECTION APPLIES.

1 (3) CERTAIN RULES MADE APPLICABLE. FOR PURPOSES OF THIS SUBSECTION,
2 RULES SIMILAR TO THE RULES OF CLAUSES (II), (III), AND (IV) OF SECTION
3 2056(B)(7)(B) SHALL APPLY AND THE RULES OF SECTION 2056(B)(10) SHALL
4 APPLY.

5 (4) ELECTION. (A) TIME AND MANNER. AN ELECTION UNDER THIS SUBSECTION
6 WITH RESPECT TO ANY PROPERTY SHALL BE MADE ON OR BEFORE THE DATE
7 PRESCRIBED BY SECTION 6075(B) FOR FILING A GIFT TAX RETURN WITH RESPECT
8 TO THE TRANSFER (DETERMINED WITHOUT REGARD TO SECTION 6019(2)) AND SHALL
9 BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.

10 (B) ELECTION IRREVOCABLE. AN ELECTION UNDER THIS SUBSECTION, ONCE
11 MADE, SHALL BE IRREVOCABLE.

12 (5) TREATMENT OF INTEREST RETAINED BY DONOR SPOUSE. (A) IN GENERAL. IN
13 THE CASE OF ANY QUALIFIED TERMINABLE INTEREST PROPERTY--

14 (I) SUCH PROPERTY SHALL NOT BE INCLUDIBLE IN THE GROSS ESTATE OF THE
15 DONOR SPOUSE, AND

16 (II) ANY SUBSEQUENT TRANSFER BY THE DONOR SPOUSE OF AN INTEREST IN
17 SUCH PROPERTY SHALL NOT BE TREATED AS A TRANSFER FOR PURPOSES OF THIS
18 CHAPTER.

19 (B) SUBPARAGRAPH (A) NOT TO APPLY AFTER TRANSFER BY DONEE SPOUSE.
20 SUBPARAGRAPH (A) SHALL NOT APPLY WITH RESPECT TO ANY PROPERTY AFTER THE
21 DONEE SPOUSE IS TREATED AS HAVING TRANSFERRED SUCH PROPERTY UNDER
22 SECTION 2519, OR SUCH PROPERTY IS INCLUDIBLE IN THE DONEE SPOUSE'S GROSS
23 ESTATE UNDER SECTION 2044.

24 (6) TREATMENT OF JOINT AND SURVIVOR ANNUITIES. IN THE CASE OF A JOINT
25 AND SURVIVOR ANNUITY WHERE ONLY THE DONOR SPOUSE AND DONEE SPOUSE HAVE
26 THE RIGHT TO RECEIVE PAYMENTS BEFORE THE DEATH OF THE LAST SPOUSE TO
27 DIE--

28 --(A) THE DONEE SPOUSE'S INTEREST SHALL BE TREATED AS A QUALIFYING
29 INCOME INTEREST FOR LIFE,

30 --(B) THE DONOR SPOUSE SHALL BE TREATED AS HAVING MADE AN ELECTION UNDER
31 THIS SUBSECTION WITH RESPECT TO SUCH ANNUITY UNLESS THE DONOR SPOUSE
32 OTHERWISE ELECTS ON OR BEFORE THE DATE SPECIFIED IN PARAGRAPH (4)(A),

33 --(C) PARAGRAPH (5) AND SECTION 2519 SHALL NOT APPLY TO THE DONOR
34 SPOUSE'S INTEREST IN THE ANNUITY, AND

35 --(D) IF THE DONEE SPOUSE DIES BEFORE THE DONOR SPOUSE, NO AMOUNT SHALL
36 BE INCLUDIBLE IN THE GROSS ESTATE OF THE DONEE SPOUSE UNDER SECTION 2044
37 WITH RESPECT TO SUCH ANNUITY.

38 AN ELECTION UNDER SUBPARAGRAPH (B), ONCE MADE, SHALL BE IRREVOCABLE.

39 (G) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS. (1) IN GENERAL. IF,
40 AFTER THE TRANSFER, THE DONEE SPOUSE IS THE ONLY NONCHARITABLE BENEFICI-
41 ARY (OTHER THAN THE DONOR) OF A QUALIFIED CHARITABLE REMAINDER TRUST,
42 SUBSECTION (B) SHALL NOT APPLY TO THE INTEREST IN SUCH TRUST WHICH IS
43 TRANSFERRED TO THE DONEE SPOUSE.

44 (2) DEFINITIONS. FOR PURPOSES OF PARAGRAPH (1), THE TERM "NONCHARITA-
45 BLE BENEFICIARY" AND "QUALIFIED CHARITABLE REMAINDER TRUST" HAVE THE
46 MEANINGS GIVEN TO SUCH TERMS BY SECTION 2056(B)(8)(B).

47 (H) DENIAL OF DOUBLE DEDUCTION. NOTHING IN THIS SECTION OR ANY OTHER
48 PROVISION OF THIS CHAPTER SHALL ALLOW THE VALUE OF ANY INTEREST IN PROP-
49 erty TO BE DEDUCTED UNDER THIS CHAPTER MORE THAN ONCE WITH RESPECT TO
50 THE SAME DONOR.

51 S 2524. EXTENT OF DEDUCTIONS. THE DEDUCTIONS PROVIDED IN SECTIONS 2522
52 AND 2523 SHALL BE ALLOWED ONLY TO THE EXTENT THAT THE GIFTS THEREIN
53 SPECIFIED ARE INCLUDED IN THE AMOUNT OF GIFTS AGAINST WHICH SUCH
54 DEDUCTIONS ARE APPLIED.

55 S 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTER-
56 ESTS IN CORPORATIONS OR PARTNERSHIPS. (A) VALUATION RULES. (1) IN GENER-

1 AL. SOLELY FOR PURPOSES OF DETERMINING WHETHER A TRANSFER OF AN INTER-
2 EST IN A CORPORATION OR PARTNERSHIP TO (OR FOR THE BENEFIT OF) A MEMBER
3 OF THE TRANSFEROR'S FAMILY IS A GIFT (AND THE VALUE OF SUCH TRANSFER),
4 THE VALUE OF ANY RIGHT-

5 --(A) WHICH IS DESCRIBED IN SUBPARAGRAPH (A) OR (B) OF SUBSECTION
6 (B)(1), AND
7 --(B) WHICH IS WITH RESPECT TO ANY APPLICABLE RETAINED INTEREST THAT IS
8 HELD BY THE TRANSFEROR OR AN APPLICABLE FAMILY MEMBER IMMEDIATELY AFTER
9 THE TRANSFER,

10 --SHALL BE DETERMINED UNDER PARAGRAPH (3). THIS PARAGRAPH SHALL NOT
11 APPLY TO THE TRANSFER OF ANY INTEREST FOR WHICH MARKET QUOTATIONS ARE
12 READILY AVAILABLE (AS OF THE DATE OF TRANSFER) ON AN ESTABLISHED SECURI-
13 TIES MARKET.

14 (2) EXCEPTIONS FOR MARKETABLE RETAINED INTERESTS, ETC. PARAGRAPH (1)
15 SHALL NOT APPLY TO ANY RIGHT WITH RESPECT TO AN APPLICABLE RETAINED
16 INTEREST IF-

17 --(A) MARKET QUOTATIONS ARE READILY AVAILABLE (AS OF THE DATE OF THE
18 TRANSFER) FOR SUCH INTEREST ON AN ESTABLISHED SECURITIES MARKET,
19 --(B) SUCH INTEREST IS OF THE SAME CLASS AS THE TRANSFERRED INTEREST, OR
20 --(C) SUCH INTEREST IS PROPORTIONALLY THE SAME AS THE TRANSFERRED INTER-
21 EST, WITHOUT REGARD TO NONLAPSING DIFFERENCES IN VOTING POWER (OR, FOR A
22 PARTNERSHIP, NONLAPSING DIFFERENCES WITH RESPECT TO MANAGEMENT AND LIMI-
23 TATIONS ON LIABILITY).

24 --SUBPARAGRAPH (C) SHALL NOT APPLY TO ANY INTEREST IN A PARTNERSHIP IF
25 THE TRANSFEROR OR AN APPLICABLE FAMILY MEMBER HAS THE RIGHT TO ALTER THE
26 LIABILITY OF THE TRANSFEREE OF THE TRANSFERRED PROPERTY. EXCEPT AS
27 PROVIDED BY THE SECRETARY, ANY DIFFERENCE DESCRIBED IN SUBPARAGRAPH (C)
28 WHICH LAPSES BY REASON OF ANY FEDERAL OR STATE LAW SHALL BE TREATED AS A
29 NONLAPSING DIFFERENCE FOR PURPOSES OF SUCH SUBPARAGRAPH.

30 (3) VALUATION OF RIGHTS TO WHICH PARAGRAPH (1) APPLIES. (A) IN GENER-
31 AL. THE VALUE OF ANY RIGHT DESCRIBED IN PARAGRAPH (1), OTHER THAN A
32 DISTRIBUTION RIGHT WHICH CONSISTS OF A RIGHT TO RECEIVE A QUALIFIED
33 PAYMENT, SHALL BE TREATED AS BEING ZERO.

34 (B) VALUATION OF CERTAIN QUALIFIED PAYMENTS. IF-

35 --(I) ANY APPLICABLE RETAINED INTEREST CONFERS A DISTRIBUTION RIGHT
36 WHICH CONSISTS OF THE RIGHT TO A QUALIFIED PAYMENT, AND
37 --(II) THERE ARE 1 OR MORE LIQUIDATION, PUT, CALL, OR CONVERSION RIGHTS
38 WITH RESPECT TO SUCH INTEREST, THE VALUE OF ALL SUCH RIGHTS SHALL BE
39 DETERMINED AS IF EACH LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT WERE
40 EXERCISED IN THE MANNER RESULTING IN THE LOWEST VALUE BEING DETERMINED
41 FOR ALL SUCH RIGHTS.

42 (C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC.
43 RIGHTS. IN THE CASE OF AN APPLICABLE RETAINED INTEREST WHICH IS
44 DESCRIBED IN SUBPARAGRAPH (B)(I) BUT NOT SUBPARAGRAPH (B)(II), THE VALUE
45 OF THE DISTRIBUTION RIGHT SHALL BE DETERMINED WITHOUT REGARD TO THIS
46 SECTION.

47 (4) MINIMUM VALUATION OF JUNIOR EQUITY. (A) IN GENERAL. IN THE CASE OF
48 A TRANSFER DESCRIBED IN PARAGRAPH (1) OF A JUNIOR EQUITY INTEREST IN A
49 CORPORATION OR PARTNERSHIP, SUCH INTEREST SHALL IN NO EVENT BE VALUED AT
50 AN AMOUNT LESS THAN THE VALUE WHICH WOULD BE DETERMINED IF THE TOTAL
51 VALUE OF ALL OF THE JUNIOR EQUITY INTERESTS IN THE ENTITY WERE EQUAL TO
52 10 PERCENT OF THE SUM OF-

53 --(I) THE TOTAL VALUE OF ALL OF THE EQUITY INTERESTS IN SUCH ENTITY,
54 PLUS
55 --(II) THE TOTAL AMOUNT OF INDEBTEDNESS OF SUCH ENTITY TO THE TRANSFEROR
56 (OR AN APPLICABLE FAMILY MEMBER).

1 (B) DEFINITIONS. FOR PURPOSES OF THIS PARAGRAPH-

2 (I) JUNIOR EQUITY INTEREST. THE TERM "JUNIOR EQUITY INTEREST" MEANS
3 COMMON STOCK OR, IN THE CASE OF A PARTNERSHIP, ANY PARTNERSHIP INTEREST
4 UNDER WHICH THE RIGHTS AS TO INCOME AND CAPITAL (OR, TO THE EXTENT
5 PROVIDED IN REGULATIONS, THE RIGHTS AS TO EITHER INCOME OR CAPITAL) ARE
6 JUNIOR TO THE RIGHTS OF ALL OTHER CLASSES OF EQUITY INTERESTS.

7 (II) EQUITY INTEREST. THE TERM "EQUITY INTEREST" MEANS STOCK OR ANY
8 INTEREST AS A PARTNER, AS THE CASE MAY BE.

9 (B) APPLICABLE RETAINED INTERESTS. FOR PURPOSES OF THIS SECTION-

10 (1) IN GENERAL. THE TERM "APPLICABLE RETAINED INTEREST" MEANS ANY
11 INTEREST IN AN ENTITY WITH RESPECT TO WHICH THERE IS-

12 --(A) A DISTRIBUTION RIGHT, BUT ONLY IF, IMMEDIATELY BEFORE THE TRANSFER
13 DESCRIBED IN SUBSECTION (A)(1), THE TRANSFEROR AND APPLICABLE FAMILY
14 MEMBERS HOLD (AFTER APPLICATION OF SUBSECTION (E)(3)) CONTROL OF THE
15 ENTITY, OR

16 --(B) A LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT.

17 (2) CONTROL. FOR PURPOSES OF PARAGRAPH (1)-

18 (A) CORPORATIONS. IN THE CASE OF A CORPORATION, THE TERM "CONTROL"
19 MEANS THE HOLDING OF AT LEAST 50 PERCENT (BY VOTE OR VALUE) OF THE STOCK
20 OF THE CORPORATION.

21 (B) PARTNERSHIPS. IN THE CASE OF A PARTNERSHIP, THE TERM "CONTROL"
22 MEANS-

23 --(I) THE HOLDING OF AT LEAST 50 PERCENT OF THE CAPITAL OR PROFITS
24 INTERESTS IN THE PARTNERSHIP, OR

25 --(II) IN THE CASE OF A LIMITED PARTNERSHIP, THE HOLDING OF ANY INTEREST
26 AS A GENERAL PARTNER.

27 (C) APPLICABLE FAMILY MEMBER. FOR PURPOSES OF THIS SUBSECTION, THE
28 TERM "APPLICABLE FAMILY MEMBER" INCLUDES ANY LINEAL DESCENDANT OF ANY
29 PARENT OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE.

30 (C) DISTRIBUTION AND OTHER RIGHTS; QUALIFIED PAYMENTS. FOR PURPOSES OF
31 THIS SECTION-

32 (1) DISTRIBUTION RIGHT. (A) IN GENERAL. THE TERM "DISTRIBUTION RIGHT"
33 MEANS-

34 --(I) A RIGHT TO DISTRIBUTIONS FROM A CORPORATION WITH RESPECT TO ITS
35 STOCK, AND

36 --(II) A RIGHT TO DISTRIBUTIONS FROM A PARTNERSHIP WITH RESPECT TO A
37 PARTNER'S INTEREST IN THE PARTNERSHIP.

38 (B) EXCEPTIONS. THE TERM "DISTRIBUTION RIGHT" DOES NOT INCLUDE-

39 --(I) A RIGHT TO DISTRIBUTIONS WITH RESPECT TO ANY INTEREST WHICH IS
40 JUNIOR TO THE RIGHTS OF THE TRANSFERRED INTEREST,

41 --(II) ANY LIQUIDATION, PUT, CALL, OR CONVERSION RIGHT, OR

42 --(III) ANY RIGHT TO RECEIVE ANY GUARANTEED PAYMENT DESCRIBED IN SECTION
43 707(C) OF A FIXED AMOUNT.

44 (2) LIQUIDATION, ETC. RIGHTS. (A) IN GENERAL. THE TERM "LIQUIDATION,
45 PUT, CALL, OR CONVERSION RIGHT" MEANS ANY LIQUIDATION, PUT, CALL, OR
46 CONVERSION RIGHT, OR ANY SIMILAR RIGHT, THE EXERCISE OR NONEXERCISE OF
47 WHICH AFFECTS THE VALUE OF THE TRANSFERRED INTEREST.

48 (B) EXCEPTION FOR FIXED RIGHTS. (I) IN GENERAL. THE TERM "LIQUIDATION,
49 PUT, CALL, OR CONVERSION RIGHT" DOES NOT INCLUDE ANY RIGHT WHICH MUST BE
50 EXERCISED AT A SPECIFIC TIME AND AT A SPECIFIC AMOUNT.

51 (II) TREATMENT OF CERTAIN RIGHTS. IF A RIGHT IS ASSUMED TO BE EXER-
52 CISED IN A PARTICULAR MANNER UNDER SUBSECTION (A)(3)(B), SUCH RIGHT
53 SHALL BE TREATED AS SO EXERCISED FOR PURPOSES OF CLAUSE (I).

54 (C) EXCEPTION FOR CERTAIN RIGHTS TO CONVERT. THE TERM "LIQUIDATION,
55 PUT, CALL, OR CONVERSION RIGHT" DOES NOT INCLUDE ANY RIGHT WHICH-

1 --(I) IS A RIGHT TO CONVERT INTO A FIXED NUMBER (OR A FIXED PERCENTAGE)
2 OF SHARES OF THE SAME CLASS OF STOCK IN A CORPORATION AS THE TRANSFERRED
3 STOCK IN SUCH CORPORATION UNDER SUBSECTION (A)(1) (OR STOCK WHICH WOULD
4 BE OF THE SAME CLASS BUT FOR NONLAPSING DIFFERENCES IN VOTING POWER),
5 --(II) IS NONLAPSING,
6 --(III) IS SUBJECT TO PROPORTIONATE ADJUSTMENTS FOR SPLITS, COMBINA-
7 TIONS, RECLASSIFICATIONS, AND SIMILAR CHANGES IN THE CAPITAL STOCK, AND
8 --(IV) IS SUBJECT TO ADJUSTMENTS SIMILAR TO THE ADJUSTMENTS UNDER
9 SUBSECTION (D) FOR ACCUMULATED BUT UNPAID DISTRIBUTIONS.
10 --A RULE SIMILAR TO THE RULE OF THE PRECEDING SENTENCE SHALL APPLY FOR
11 PARTNERSHIPS.

12 (3) QUALIFIED PAYMENT. (A) IN GENERAL. EXCEPT AS OTHERWISE PROVIDED IN
13 THIS PARAGRAPH, THE TERM "QUALIFIED PAYMENT" MEANS ANY DIVIDEND PAYABLE
14 ON A PERIODIC BASIS UNDER ANY CUMULATIVE PREFERRED STOCK (OR A COMPARA-
15 BLE PAYMENT UNDER ANY PARTNERSHIP INTEREST) TO THE EXTENT THAT SUCH
16 DIVIDEND (OR COMPARABLE PAYMENT) IS DETERMINED AT A FIXED RATE.

17 (B) TREATMENT OF VARIABLE RATE PAYMENTS. FOR PURPOSES OF SUBPARAGRAPH
18 (A), A PAYMENT SHALL BE TREATED AS FIXED AS TO RATE IF SUCH PAYMENT IS
19 DETERMINED AT A RATE WHICH BEARS A FIXED RELATIONSHIP TO A SPECIFIED
20 MARKET INTEREST RATE.

21 (C) ELECTIONS. (I) IN GENERAL. PAYMENTS UNDER ANY INTEREST HELD BY A
22 TRANSFEROR WHICH (WITHOUT REGARD TO THIS SUBPARAGRAPH) ARE QUALIFIED
23 PAYMENTS SHALL BE TREATED AS QUALIFIED PAYMENTS UNLESS THE TRANSFEROR
24 ELECTS NOT TO TREAT SUCH PAYMENTS AS QUALIFIED PAYMENTS. PAYMENTS
25 DESCRIBED IN THE PRECEDING SENTENCE WHICH ARE HELD BY AN APPLICABLE
26 FAMILY MEMBER SHALL BE TREATED AS QUALIFIED PAYMENTS ONLY IF SUCH MEMBER
27 ELECTS TO TREAT SUCH PAYMENTS AS QUALIFIED PAYMENTS.

28 (II) ELECTION TO HAVE INTEREST TREATED AS QUALIFIED PAYMENT. A
29 TRANSFEROR OR APPLICABLE FAMILY MEMBER HOLDING ANY DISTRIBUTION RIGHT
30 WHICH (WITHOUT REGARD TO THIS SUBPARAGRAPH) IS NOT A QUALIFIED PAYMENT
31 MAY ELECT TO TREAT SUCH RIGHT AS A QUALIFIED PAYMENT, TO BE PAID IN THE
32 AMOUNTS AND AT THE TIMES SPECIFIED IN SUCH ELECTION. THE PRECEDING
33 SENTENCE SHALL APPLY ONLY TO THE EXTENT THAT THE AMOUNTS AND TIMES SO
34 SPECIFIED ARE NOT INCONSISTENT WITH THE UNDERLYING LEGAL INSTRUMENT
35 GIVING RISE TO SUCH RIGHT.

36 (III) ELECTIONS IRREVOCABLE. ANY ELECTION UNDER THIS SUBPARAGRAPH WITH
37 RESPECT TO AN INTEREST SHALL, ONCE MADE, BE IRREVOCABLE.

38 (D) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS. (1)
39 IN GENERAL. IF A TAXABLE EVENT OCCURS WITH RESPECT TO ANY DISTRIBUTION
40 RIGHT TO WHICH SUBSECTION (A)(3)(B) OR (C) APPLIED, THE FOLLOWING SHALL
41 BE INCREASED BY THE AMOUNT DETERMINED UNDER PARAGRAPH (2):

42 --(A) THE TAXABLE ESTATE OF THE TRANSFEROR IN THE CASE OF A TAXABLE
43 EVENT DESCRIBED IN PARAGRAPH (3)(A)(I).

44 --(B) THE TAXABLE GIFTS OF THE TRANSFEROR FOR THE CALENDAR YEAR IN WHICH
45 THE TAXABLE EVENT OCCURS IN THE CASE OF A TAXABLE EVENT DESCRIBED IN
46 PARAGRAPH (3)(A)(II) OR (III).

47 (2) AMOUNT OF INCREASE. (A) IN GENERAL. THE AMOUNT OF THE INCREASE
48 DETERMINED UNDER THIS PARAGRAPH SHALL BE THE EXCESS (IF ANY) OF-

49 --(I) THE VALUE OF THE QUALIFIED PAYMENTS PAYABLE DURING THE PERIOD
50 BEGINNING ON THE DATE OF THE TRANSFER UNDER SUBSECTION (A)(1) AND ENDING
51 ON THE DATE OF THE TAXABLE EVENT DETERMINED AS IF-

52 --(I) ALL SUCH PAYMENTS WERE PAID ON THE DATE PAYMENT WAS DUE, AND

53 --(II) ALL SUCH PAYMENTS WERE REINVESTED BY THE TRANSFEROR AS OF THE
54 DATE OF PAYMENT AT A YIELD EQUAL TO THE DISCOUNT RATE USED IN DETERMIN-
55 ING THE VALUE OF THE APPLICABLE RETAINED INTEREST DESCRIBED IN
56 SUBSECTION (A)(1), OVER

1 (II) THE VALUE OF SUCH PAYMENTS PAID DURING SUCH PERIOD COMPUTED UNDER
2 CLAUSE (I) ON THE BASIS OF THE TIME WHEN SUCH PAYMENTS WERE ACTUALLY
3 PAID.

4 (B) LIMITATION ON AMOUNT OF INCREASE. (I) IN GENERAL. THE AMOUNT OF
5 THE INCREASE UNDER SUBPARAGRAPH (A) SHALL NOT EXCEED THE APPLICABLE
6 PERCENTAGE OF THE EXCESS (IF ANY) OF--
7 --(I) THE VALUE (DETERMINED AS OF THE DATE OF THE TAXABLE EVENT) OF ALL
8 EQUITY INTERESTS IN THE ENTITY WHICH ARE JUNIOR TO THE APPLICABLE
9 RETAINED INTEREST, OVER
10 --(II) THE VALUE OF SUCH INTERESTS (DETERMINED AS OF THE DATE OF THE
11 TRANSFER TO WHICH SUBSECTION (A)(1) APPLIED).

12 (II) APPLICABLE PERCENTAGE. FOR PURPOSES OF CLAUSE (I), THE APPLICABLE
13 PERCENTAGE IS THE PERCENTAGE DETERMINED BY DIVIDING--
14 --(I) THE NUMBER OF SHARES IN THE CORPORATION HELD (AS OF THE DATE OF
15 THE TAXABLE EVENT) BY THE TRANSFEROR WHICH ARE APPLICABLE RETAINED
16 INTERESTS OF THE SAME CLASS, BY
17 --(II) THE TOTAL NUMBER OF SHARES IN SUCH CORPORATION (AS OF SUCH DATE)
18 WHICH ARE OF THE SAME CLASS AS THE CLASS DESCRIBED IN SUBCLAUSE (I).
19 --A SIMILAR PERCENTAGE SHALL BE DETERMINED IN THE CASE OF INTERESTS IN A
20 PARTNERSHIP.

21 (III) DEFINITION. FOR PURPOSES OF THIS SUBPARAGRAPH, THE TERM "EQUITY
22 INTEREST" HAS THE MEANING GIVEN SUCH TERM BY SUBSECTION (A)(4)(B).

23 (C) GRACE PERIOD. FOR PURPOSES OF SUBPARAGRAPH (A), ANY PAYMENT OF ANY
24 DISTRIBUTION DURING THE 4-YEAR PERIOD BEGINNING ON ITS DUE DATE SHALL BE
25 TREATED AS HAVING BEEN MADE ON SUCH DUE DATE.

26 (3) TAXABLE EVENTS. FOR PURPOSES OF THIS SUBSECTION--
27 (A) IN GENERAL. THE TERM "TAXABLE EVENT" MEANS ANY OF THE FOLLOWING:
28 --(I) THE DEATH OF THE TRANSFEROR IF THE APPLICABLE RETAINED INTEREST
29 CONFERRING THE DISTRIBUTION RIGHT IS INCLUDIBLE IN THE ESTATE OF THE
30 TRANSFEROR.
31 --(II) THE TRANSFER OF SUCH APPLICABLE RETAINED INTEREST.
32 --(III) AT THE ELECTION OF THE TAXPAYER, THE PAYMENT OF ANY QUALIFIED
33 PAYMENT AFTER THE PERIOD DESCRIBED IN PARAGRAPH (2)(C), BUT ONLY WITH
34 RESPECT TO SUCH PAYMENT.

35 (B) EXCEPTION WHERE SPOUSE IS TRANSFEREE. (I) DEATHTIME TRANSFERS
36 --SUBPARAGRAPH (A)(I) SHALL NOT APPLY TO ANY INTEREST INCLUDIBLE IN THE
37 GROSS ESTATE OF THE TRANSFEROR IF A DEDUCTION WITH RESPECT TO SUCH
38 INTEREST IS ALLOWABLE UNDER SECTION 2056 OR 2106(A)(3).

39 (II) LIFETIME TRANSFERS. A TRANSFER TO THE SPOUSE OF THE TRANSFEROR
40 SHALL NOT BE TREATED AS A TAXABLE EVENT UNDER SUBPARAGRAPH (A)(II) IF
41 SUCH TRANSFER DOES NOT RESULT IN A TAXABLE GIFT BY REASON OF--
42 --(I) ANY DEDUCTION ALLOWED UNDER SECTION 2523, OR THE EXCLUSION UNDER
43 SECTION 2503(B), OR
44 --(II) CONSIDERATION FOR THE TRANSFER PROVIDED BY THE SPOUSE.

45 (III) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR. IF AN EVENT IS NOT
46 TREATED AS A TAXABLE EVENT BY REASON OF THIS SUBPARAGRAPH, THE TRANSFER-
47 EE SPOUSE OR SURVIVING SPOUSE (AS THE CASE MAY BE) SHALL BE TREATED IN
48 THE SAME MANNER AS THE TRANSFEROR IN APPLYING THIS SUBSECTION WITH
49 RESPECT TO THE INTEREST INVOLVED.

50 (4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS. (A) FAMILY MEMBER
51 TREATED IN SAME MANNER AS TRANSFEROR. FOR PURPOSES OF THIS SUBSECTION,
52 AN APPLICABLE FAMILY MEMBER SHALL BE TREATED IN THE SAME MANNER AS THE
53 TRANSFEROR WITH RESPECT TO ANY DISTRIBUTION RIGHT RETAINED BY SUCH FAMI-
54 LY MEMBER TO WHICH SUBSECTION (A)(3)(B) OR (C) APPLIED.

55 (B) TRANSFER TO APPLICABLE FAMILY MEMBER. IN THE CASE OF A TAXABLE
56 EVENT DESCRIBED IN PARAGRAPH (3)(A)(II) INVOLVING THE TRANSFER OF AN

1 APPLICABLE RETAINED INTEREST TO AN APPLICABLE FAMILY MEMBER (OTHER THAN
2 THE SPOUSE OF THE TRANSFEROR), THE APPLICABLE FAMILY MEMBER SHALL BE
3 TREATED IN THE SAME MANNER AS THE TRANSFEROR IN APPLYING THIS SUBSECTION
4 TO DISTRIBUTIONS ACCUMULATING WITH RESPECT TO SUCH INTEREST AFTER SUCH
5 TAXABLE EVENT.

6 (C) TRANSFER TO TRANSFERORS. IN THE CASE OF A TAXABLE EVENT DESCRIBED
7 IN PARAGRAPH (3)(A)(II) INVOLVING A TRANSFER OF AN APPLICABLE RETAINED
8 INTEREST FROM AN APPLICABLE FAMILY MEMBER TO A TRANSFEROR, THIS
9 SUBSECTION SHALL CONTINUE TO APPLY TO THE TRANSFEROR DURING ANY PERIOD
10 THE TRANSFEROR HOLDS SUCH INTEREST.

11 (5) TRANSFER TO INCLUDE TERMINATION. FOR PURPOSES OF THIS SUBSECTION,
12 ANY TERMINATION OF AN INTEREST SHALL BE TREATED AS A TRANSFER.

13 (E) OTHER DEFINITIONS AND RULES. FOR PURPOSES OF THIS SECTION-

14 (1) MEMBER OF THE FAMILY. THE TERM "MEMBER OF THE FAMILY" MEANS, WITH
15 RESPECT TO ANY TRANSFEROR-

16 --(A) THE TRANSFEROR'S SPOUSE,

17 --(B) A LINEAL DESCENDANT OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE,
18 AND

19 --(C) THE SPOUSE OF ANY SUCH DESCENDANT.

20 (2) APPLICABLE FAMILY MEMBER. THE TERM "APPLICABLE FAMILY MEMBER"
21 MEANS, WITH RESPECT TO ANY TRANSFEROR-

22 --(A) THE TRANSFEROR'S SPOUSE,

23 --(B) AN ANCESTOR OF THE TRANSFEROR OR THE TRANSFEROR'S SPOUSE, AND

24 --(C) THE SPOUSE OF ANY SUCH ANCESTOR.

25 (3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS. AN INDIVIDUAL
26 SHALL BE TREATED AS HOLDING ANY INTEREST TO THE EXTENT SUCH INTEREST IS
27 HELD INDIRECTLY BY SUCH INDIVIDUAL THROUGH A CORPORATION, PARTNERSHIP,
28 TRUST, OR OTHER ENTITY. IF ANY INDIVIDUAL IS TREATED AS HOLDING ANY
29 INTEREST BY REASON OF THE PRECEDING SENTENCE, ANY TRANSFER WHICH RESULTS
30 IN SUCH INTEREST BEING TREATED AS NO LONGER HELD BY SUCH INDIVIDUAL
31 SHALL BE TREATED AS A TRANSFER OF SUCH INTEREST.

32 (4) EFFECT OF ADOPTION. A RELATIONSHIP BY LEGAL ADOPTION SHALL BE
33 TREATED AS A RELATIONSHIP BY BLOOD.

34 (5) CERTAIN CHANGES TREATED AS TRANSFERS. EXCEPT AS PROVIDED IN REGU-
35 LATIONS, A CONTRIBUTION TO CAPITAL OR A REDEMPTION, RECAPITALIZATION, OR
36 OTHER CHANGE IN THE CAPITAL STRUCTURE OF A CORPORATION OR PARTNERSHIP
37 SHALL BE TREATED AS A TRANSFER OF AN INTEREST IN SUCH ENTITY TO WHICH
38 THIS SECTION APPLIES IF THE TAXPAYER OR AN APPLICABLE FAMILY MEMBER-

39 --(A) RECEIVES AN APPLICABLE RETAINED INTEREST IN SUCH ENTITY PURSUANT
40 TO SUCH TRANSACTION, OR

41 --(B) UNDER REGULATIONS, OTHERWISE HOLDS, IMMEDIATELY AFTER SUCH TRANS-
42 ACTION, AN APPLICABLE RETAINED INTEREST IN SUCH ENTITY.

43 --THIS PARAGRAPH SHALL NOT APPLY TO ANY TRANSACTION (OTHER THAN A
44 CONTRIBUTION TO CAPITAL) IF THE INTERESTS IN THE ENTITY HELD BY THE
45 TRANSFEROR, APPLICABLE FAMILY MEMBERS, AND MEMBERS OF THE TRANSFEROR'S
46 FAMILY BEFORE AND AFTER THE TRANSACTION ARE SUBSTANTIALLY IDENTICAL.

47 (6) ADJUSTMENTS. UNDER REGULATIONS PRESCRIBED BY THE SECRETARY, IF
48 THERE IS ANY SUBSEQUENT TRANSFER, OR INCLUSION IN THE GROSS ESTATE, OF
49 ANY APPLICABLE RETAINED INTEREST WHICH WAS VALUED UNDER THE RULES OF
50 SUBSECTION (A), APPROPRIATE ADJUSTMENTS SHALL BE MADE FOR PURPOSES OF
51 CHAPTER 11, 12, OR 13 TO REFLECT THE INCREASE IN THE AMOUNT OF ANY PRIOR
52 TAXABLE GIFT MADE BY THE TRANSFEROR OR DECEDENT BY REASON OF SUCH VALU-
53 ATION OR TO REFLECT THE APPLICATION OF SUBSECTION (D).

54 (7) TREATMENT AS SEPARATE INTERESTS. THE SECRETARY MAY BY REGULATION
55 PROVIDE THAT ANY APPLICABLE RETAINED INTEREST SHALL BE TREATED AS 2 OR
56 MORE SEPARATE INTERESTS FOR PURPOSES OF THIS SECTION.

1 S 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN
2 TRUSTS. (A) VALUATION RULES. (1) IN GENERAL. SOLELY FOR PURPOSES OF
3 DETERMINING WHETHER A TRANSFER OF AN INTEREST IN TRUST TO (OR FOR THE
4 BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY IS A GIFT (AND THE VALUE
5 OF SUCH TRANSFER), THE VALUE OF ANY INTEREST IN SUCH TRUST RETAINED BY
6 THE TRANSFEROR OR ANY APPLICABLE FAMILY MEMBER (AS DEFINED IN SECTION
7 2701(E)(2)) SHALL BE DETERMINED AS PROVIDED IN PARAGRAPH (2).

8 (2) VALUATION OF RETAINED INTERESTS. (A) IN GENERAL. THE VALUE OF ANY
9 RETAINED INTEREST WHICH IS NOT A QUALIFIED INTEREST SHALL BE TREATED AS
10 BEING ZERO.

11 (B) VALUATION OF QUALIFIED INTEREST. THE VALUE OF ANY RETAINED INTER-
12 EST WHICH IS A QUALIFIED INTEREST SHALL BE DETERMINED UNDER SECTION
13 7520.

14 (3) EXCEPTIONS. (A) IN GENERAL. THIS SUBSECTION SHALL NOT APPLY TO ANY
15 TRANSFER-

16 --(I) IF SUCH TRANSFER IS AN INCOMPLETE GIFT,

17 --(II) IF SUCH TRANSFER INVOLVES THE TRANSFER OF AN INTEREST IN TRUST
18 ALL THE PROPERTY IN WHICH CONSISTS OF A RESIDENCE TO BE USED AS A
19 PERSONAL RESIDENCE BY PERSONS HOLDING TERM INTERESTS IN SUCH TRUST, OR

20 --(III) TO THE EXTENT THAT REGULATIONS PROVIDE THAT SUCH TRANSFER IS NOT
21 INCONSISTENT WITH THE PURPOSES OF THIS SECTION.

22 (B) INCOMPLETE GIFT. FOR PURPOSES OF SUBPARAGRAPH (A), THE TERM
23 "INCOMPLETE GIFT" MEANS ANY TRANSFER WHICH WOULD NOT BE TREATED AS A
24 GIFT WHETHER OR NOT CONSIDERATION WAS RECEIVED FOR SUCH TRANSFER.

25 (B) QUALIFIED INTEREST. FOR PURPOSES OF THIS SECTION, THE TERM "QUALI-
26 FIED INTEREST" MEANS-

27 (1) ANY INTEREST WHICH CONSISTS OF THE RIGHT TO RECEIVE FIXED AMOUNTS
28 PAYABLE NOT LESS FREQUENTLY THAN ANNUALLY,

29 (2) ANY INTEREST WHICH CONSISTS OF THE RIGHT TO RECEIVE AMOUNTS WHICH
30 ARE PAYABLE NOT LESS FREQUENTLY THAN ANNUALLY AND ARE A FIXED PERCENTAGE
31 OF THE FAIR MARKET VALUE OF THE PROPERTY IN THE TRUST (DETERMINED ANNU-
32 ALLY), AND

33 (3) ANY NONCONTINGENT REMAINDER INTEREST IF ALL OF THE OTHER INTERESTS
34 IN THE TRUST CONSIST OF INTERESTS DESCRIBED IN PARAGRAPH (1) OR (2).

35 (C) CERTAIN PROPERTY TREATED AS HELD IN TRUST. FOR PURPOSES OF THIS
36 SECTION- (1) IN GENERAL. THE TRANSFER OF AN INTEREST IN PROPERTY WITH
37 RESPECT TO WHICH THERE IS 1 OR MORE TERM INTERESTS SHALL BE TREATED AS A
38 TRANSFER OF AN INTEREST IN A TRUST.

39 (2) JOINT PURCHASES. IF 2 OR MORE MEMBERS OF THE SAME FAMILY ACQUIRE
40 INTERESTS IN ANY PROPERTY DESCRIBED IN PARAGRAPH (1) IN THE SAME TRANS-
41 ACTION (OR A SERIES OF RELATED TRANSACTIONS), THE PERSON (OR PERSONS)
42 ACQUIRING THE TERM INTERESTS IN SUCH PROPERTY SHALL BE TREATED AS HAVING
43 ACQUIRED THE ENTIRE PROPERTY AND THEN TRANSFERRED TO THE OTHER PERSONS
44 THE INTERESTS ACQUIRED BY SUCH OTHER PERSONS IN THE TRANSACTION (OR
45 SERIES OF TRANSACTIONS). SUCH TRANSFER SHALL BE TREATED AS MADE IN
46 EXCHANGE FOR THE CONSIDERATION (IF ANY) PROVIDED BY SUCH OTHER PERSONS
47 FOR THE ACQUISITION OF THEIR INTERESTS IN SUCH PROPERTY.

48 (3) TERM INTEREST. THE TERM "TERM INTEREST" MEANS-

49 (A) A LIFE INTEREST IN PROPERTY, OR

50 (B) AN INTEREST IN PROPERTY FOR A TERM OF YEARS.

51 (4) VALUATION RULE FOR CERTAIN TERM INTERESTS. IF THE NONEXERCISE OF
52 RIGHTS UNDER A TERM INTEREST IN TANGIBLE PROPERTY WOULD NOT HAVE A
53 SUBSTANTIAL EFFECT ON THE VALUATION OF THE REMAINDER INTEREST IN SUCH
54 PROPERTY-

55 (A) SUBPARAGRAPH (A) OF SUBSECTION (A)(2) SHALL NOT APPLY TO SUCH TERM
56 INTEREST, AND

1 (B) THE VALUE OF SUCH TERM INTEREST FOR PURPOSES OF APPLYING
2 SUBSECTION (A)(1) SHALL BE THE AMOUNT WHICH THE HOLDER OF THE TERM
3 INTEREST ESTABLISHES AS THE AMOUNT FOR WHICH SUCH INTEREST COULD BE SOLD
4 TO AN UNRELATED THIRD PARTY.

5 (D) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST. IN THE
6 CASE OF A TRANSFER OF AN INCOME OR REMAINDER INTEREST WITH RESPECT TO A
7 SPECIFIED PORTION OF THE PROPERTY IN A TRUST, ONLY SUCH PORTION SHALL BE
8 TAKEN INTO ACCOUNT IN APPLYING THIS SECTION TO SUCH TRANSFER.

9 (E) MEMBER OF THE FAMILY. FOR PURPOSES OF THIS SECTION, THE TERM
10 "MEMBER OF THE FAMILY" SHALL HAVE THE MEANING GIVEN SUCH TERM BY SECTION
11 2704(C)(2).

12 S 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED

13 (A) GENERAL RULE. FOR PURPOSES OF THIS SUBTITLE, THE VALUE OF ANY
14 PROPERTY SHALL BE DETERMINED WITHOUT REGARD TO-

15 (1) ANY OPTION, AGREEMENT, OR OTHER RIGHT TO ACQUIRE OR USE THE PROP-
16 erty AT A PRICE LESS THAN THE FAIR MARKET VALUE OF THE PROPERTY (WITHOUT
17 REGARD TO SUCH OPTION, AGREEMENT, OR RIGHT), OR

18 (2) ANY RESTRICTION ON THE RIGHT TO SELL OR USE SUCH PROPERTY.

19 (B) EXCEPTIONS. SUBSECTION (A) SHALL NOT APPLY TO ANY OPTION, AGREE-
20 MENT, RIGHT, OR RESTRICTION WHICH MEETS EACH OF THE FOLLOWING REQUIRE-
21 MENTS:

22 (1) IT IS A BONA FIDE BUSINESS ARRANGEMENT.

23 (2) IT IS NOT A DEVICE TO TRANSFER SUCH PROPERTY TO MEMBERS OF THE
24 DECEDENT'S FAMILY FOR LESS THAN FULL AND ADEQUATE CONSIDERATION IN MONEY
25 OR MONEY'S WORTH.

26 (3) ITS TERMS ARE COMPARABLE TO SIMILAR ARRANGEMENTS ENTERED INTO BY
27 PERSONS IN AN ARMS' LENGTH TRANSACTION

28 S 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS. (A)
29 TREATMENT OF LAPSED VOTING OR LIQUIDATION RIGHTS. (1) IN GENERAL. FOR
30 PURPOSES OF THIS SUBTITLE, IF-

31 --(A) THERE IS A LAPSE OF ANY VOTING OR LIQUIDATION RIGHT IN A CORPO-
32 RATION OR PARTNERSHIP, AND

33 --(B) THE INDIVIDUAL HOLDING SUCH RIGHT IMMEDIATELY BEFORE THE LAPSE AND
34 MEMBERS OF SUCH INDIVIDUAL'S FAMILY HOLD, BOTH BEFORE AND AFTER THE
35 LAPSE, CONTROL OF THE ENTITY,

36 SUCH LAPSE SHALL BE TREATED AS A TRANSFER BY SUCH INDIVIDUAL BY GIFT,
37 OR A TRANSFER WHICH IS INCLUDIBLE IN THE GROSS ESTATE OF THE DECEDENT,
38 WHICHEVER IS APPLICABLE, IN THE AMOUNT DETERMINED UNDER PARAGRAPH (2).

39 (2) AMOUNT OF TRANSFER. FOR PURPOSES OF PARAGRAPH (1), THE AMOUNT
40 DETERMINED UNDER THIS PARAGRAPH IS THE EXCESS (IF ANY) OF-

41 --(A) THE VALUE OF ALL INTERESTS IN THE ENTITY HELD BY THE INDIVIDUAL
42 DESCRIBED IN PARAGRAPH (1) IMMEDIATELY BEFORE THE LAPSE (DETERMINED AS
43 IF THE VOTING AND LIQUIDATION RIGHTS WERE NONLAPSING), OVER

44 --(B) THE VALUE OF SUCH INTERESTS IMMEDIATELY AFTER THE LAPSE.

45 (3) SIMILAR RIGHTS. THE SECRETARY MAY BY REGULATIONS APPLY THIS
46 SUBSECTION TO RIGHTS SIMILAR TO VOTING AND LIQUIDATION RIGHTS.

47 (B) CERTAIN RESTRICTIONS ON LIQUIDATION DISREGARDED. (1) IN GENERAL.
48 FOR PURPOSES OF THIS SUBTITLE, IF-

49 --(A) THERE IS A TRANSFER OF AN INTEREST IN A CORPORATION OR PARTNERSHIP
50 TO (OR FOR THE BENEFIT OF) A MEMBER OF THE TRANSFEROR'S FAMILY, AND

51 --(B) THE TRANSFEROR AND MEMBERS OF THE TRANSFEROR'S FAMILY HOLD, IMME-
52 DIATELY BEFORE THE TRANSFER, CONTROL OF THE ENTITY,

53 --ANY APPLICABLE RESTRICTION SHALL BE DISREGARDED IN DETERMINING THE
54 VALUE OF THE TRANSFERRED INTEREST.

55 (2) APPLICABLE RESTRICTION. FOR PURPOSES OF THIS SUBSECTION, THE TERM
56 "APPLICABLE RESTRICTION" MEANS ANY RESTRICTION-

1 (A) WHICH EFFECTIVELY LIMITS THE ABILITY OF THE CORPORATION OR PART-
2 NERSHIP TO LIQUIDATE, AND
3 (B) WITH RESPECT TO WHICH EITHER OF THE FOLLOWING APPLIES:
4 --(I) THE RESTRICTION LAPSES, IN WHOLE OR IN PART, AFTER THE TRANSFER
5 REFERRED TO IN PARAGRAPH (1).
6 --(II) THE TRANSFEROR OR ANY MEMBER OF THE TRANSFEROR'S FAMILY, EITHER
7 ALONE OR COLLECTIVELY, HAS THE RIGHT AFTER SUCH TRANSFER TO REMOVE, IN
8 WHOLE OR IN PART, THE RESTRICTION.
9 (3) EXCEPTIONS. THE TERM "APPLICABLE RESTRICTION" SHALL NOT INCLUDE-
10 --(A) ANY COMMERCIALY REASONABLE RESTRICTION WHICH ARISES AS PART OF
11 ANY FINANCING BY THE CORPORATION OR PARTNERSHIP WITH A PERSON WHO IS NOT
12 RELATED TO THE TRANSFEROR OR TRANSFEREE, OR A MEMBER OF THE FAMILY OF
13 EITHER, OR
14 --(B) ANY RESTRICTION IMPOSED, OR REQUIRED TO BE IMPOSED, BY ANY FEDERAL
15 OR STATE LAW.
16 (4) OTHER RESTRICTIONS. THE SECRETARY MAY BY REGULATIONS PROVIDE THAT
17 OTHER RESTRICTIONS SHALL BE DISREGARDED IN DETERMINING THE VALUE OF THE
18 TRANSFER OF ANY INTEREST IN A CORPORATION OR PARTNERSHIP TO A MEMBER OF
19 THE TRANSFEROR'S FAMILY IF SUCH RESTRICTION HAS THE EFFECT OF REDUCING
20 THE VALUE OF THE TRANSFERRED INTEREST FOR PURPOSES OF THIS SUBTITLE BUT
21 DOES NOT ULTIMATELY REDUCE THE VALUE OF SUCH INTEREST TO THE TRANSFEREE.
22 (C) DEFINITIONS AND SPECIAL RULES. FOR PURPOSES OF THIS SECTION-
23 (1) CONTROL. THE TERM "CONTROL" HAS THE MEANING GIVEN SUCH TERM BY
24 SECTION 2701(B)(2).
25 (2) MEMBER OF THE FAMILY. THE TERM "MEMBER OF THE FAMILY" MEANS, WITH
26 RESPECT TO ANY INDIVIDUAL-
27 (A) SUCH INDIVIDUAL'S SPOUSE,
28 (B) ANY ANCESTOR OR LINEAL DESCENDANT OF SUCH INDIVIDUAL OR SUCH INDI-
29 VIDUAL'S SPOUSE,
30 (C) ANY BROTHER OR SISTER OF THE INDIVIDUAL, AND
31 (D) ANY SPOUSE OF ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (B) OR
32 (C).
33 (3) ATTRIBUTION. THE RULE OF SECTION 2701(E)(3) SHALL APPLY FOR
34 PURPOSES OF DETERMINING THE INTERESTS HELD BY ANY INDIVIDUAL.
35 S 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES
36 (A) TREATMENT OF GIFT LOANS AND DEMAND LOANS. (1) IN GENERAL. FOR
37 PURPOSES OF THIS TITLE, IN THE CASE OF ANY BELOW-MARKET LOAN TO WHICH
38 THIS SECTION APPLIES AND WHICH IS A GIFT LOAN OR A DEMAND LOAN, THE
39 FORGONE INTEREST SHALL BE TREATED AS-
40 --(A) TRANSFERRED FROM THE LENDER TO THE BORROWER, AND
41 --(B) RETRANSFERRED BY THE BORROWER TO THE LENDER AS INTEREST.
42 (2) TIME WHEN TRANSFERS MADE. EXCEPT AS OTHERWISE PROVIDED IN REGU-
43 LATIONS PRESCRIBED BY THE SECRETARY, ANY FORGONE INTEREST ATTRIBUTABLE
44 TO PERIODS DURING ANY CALENDAR YEAR SHALL BE TREATED AS TRANSFERRED (AND
45 RETRANSFERRED) UNDER PARAGRAPH (1) ON THE LAST DAY OF SUCH CALENDAR
46 YEAR.
47 (B) TREATMENT OF OTHER BELOW-MARKET LOANS. (1) IN GENERAL. FOR
48 PURPOSES OF THIS TITLE, IN THE CASE OF ANY BELOW-MARKET LOAN TO WHICH
49 THIS SECTION APPLIES AND TO WHICH SUBSECTION (A)(1) DOES NOT APPLY, THE
50 LENDER SHALL BE TREATED AS HAVING TRANSFERRED ON THE DATE THE LOAN WAS
51 MADE (OR, IF LATER, ON THE FIRST DAY ON WHICH THIS SECTION APPLIES TO
52 SUCH LOAN), AND THE BORROWER SHALL BE TREATED AS HAVING RECEIVED ON SUCH
53 DATE, CASH IN AN AMOUNT EQUAL TO THE EXCESS OF-
54 --(A) THE AMOUNT LOANED, OVER
55 --(B) THE PRESENT VALUE OF ALL PAYMENTS WHICH ARE REQUIRED TO BE MADE
56 UNDER THE TERMS OF THE LOAN.

1 (2) OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT. FOR PURPOSES
2 OF THIS TITLE-

3 (A) IN GENERAL. ANY BELOW-MARKET LOAN TO WHICH PARAGRAPH (1) APPLIES
4 SHALL BE TREATED AS HAVING ORIGINAL ISSUE DISCOUNT IN AN AMOUNT EQUAL TO
5 THE EXCESS DESCRIBED IN PARAGRAPH (1).

6 (B) AMOUNT IN ADDITION TO OTHER ORIGINAL ISSUE DISCOUNT. ANY ORIGINAL
7 ISSUE DISCOUNT WHICH A LOAN IS TREATED AS HAVING BY REASON OF SUBPARA-
8 GRAPH (A) SHALL BE IN ADDITION TO ANY OTHER ORIGINAL ISSUE DISCOUNT ON
9 SUCH LOAN (DETERMINED WITHOUT REGARD TO SUBPARAGRAPH (A)).

10 (C) BELOW-MARKET LOANS TO WHICH SECTION APPLIES. (1) IN GENERAL.
11 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION AND SUBSECTION (G), THIS
12 SECTION SHALL APPLY TO-

13 (A) GIFTS. ANY BELOW-MARKET LOAN WHICH IS A GIFT LOAN.

14 (B) COMPENSATION-RELATED LOANS. ANY BELOW-MARKET LOAN DIRECTLY OR
15 INDIRECTLY BETWEEN-

16 --(I) AN EMPLOYER AND AN EMPLOYEE, OR

17 --(II) AN INDEPENDENT CONTRACTOR AND A PERSON FOR WHOM SUCH INDEPENDENT
18 CONTRACTOR PROVIDES SERVICES.

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

22 (D) TAX AVOIDANCE LOANS. ANY BELOW-MARKET LOAN 1 OF THE PRINCIPAL
23 PURPOSES OF THE INTEREST ARRANGEMENTS OF WHICH IS THE AVOIDANCE OF ANY
24 FEDERAL TAX.

25 (E) OTHER BELOW-MARKET LOANS. TO THE EXTENT PROVIDED IN REGULATIONS,
26 ANY BELOW-MARKET LOAN WHICH IS NOT DESCRIBED IN SUBPARAGRAPH (A), (B),
27 (C), OR (F) IF THE INTEREST ARRANGEMENTS OF SUCH LOAN HAVE A SIGNIFICANT
28 EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.

29 (F) LOANS TO QUALIFIED CONTINUING CARE FACILITIES. ANY LOAN TO ANY
30 QUALIFIED CONTINUING CARE FACILITY PURSUANT TO A CONTINUING CARE
31 CONTRACT.

32 (2) \$10,000 DE MINIMIS EXCEPTION FOR GIFT LOANS BETWEEN INDIVIDUALS.

33 (A) IN GENERAL. IN THE CASE OF ANY GIFT LOAN DIRECTLY BETWEEN INDIVID-
34 UALS, THIS SECTION SHALL NOT APPLY TO ANY DAY ON WHICH THE AGGREGATE
35 OUTSTANDING AMOUNT OF LOANS BETWEEN SUCH INDIVIDUALS DOES NOT EXCEED
36 \$10,000.

37 (B) DE MINIMIS EXCEPTION NOT TO APPLY TO LOANS ATTRIBUTABLE TO ACQUI-
38 SITION OF INCOME-PRODUCING ASSETS.

39 --SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY GIFT LOAN DIRECTLY ATTRIBUT-
40 ABLE TO THE PURCHASE OR CARRYING OF INCOME-PRODUCING ASSETS.

41 (C) CROSS REFERENCE. FOR LIMITATION ON AMOUNT TREATED AS INTEREST
42 WHERE LOANS DO NOT EXCEED \$100,000, SEE SUBSECTION (D)(1).

43 (3) \$10,000 DE MINIMIS EXCEPTION FOR COMPENSATION-RELATED AND CORPO-
44 RATE-SHAREHOLDER LOANS. (A) IN GENERAL. IN THE CASE OF ANY LOAN
45 DESCRIBED IN SUBPARAGRAPH (B) OR (C) OF PARAGRAPH (1), THIS SECTION
46 SHALL NOT APPLY TO ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF
47 LOANS BETWEEN THE BORROWER AND LENDER DOES NOT EXCEED \$10,000.

48 (B) EXCEPTION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOID-
49 ANCE. SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY LOAN THE INTEREST
50 ARRANGEMENTS OF WHICH HAVE AS 1 OF THEIR PRINCIPAL PURPOSES THE AVOID-
51 ANCE OF ANY FEDERAL TAX.

52 (D) SPECIAL RULES FOR GIFT LOANS. (1) LIMITATION ON INTEREST ACCRUAL
53 FOR PURPOSES OF INCOME TAXES WHERE LOANS DO NOT EXCEED \$100,000. (A) IN
54 GENERAL. FOR PURPOSES OF SUBTITLE A, IN THE CASE OF A GIFT LOAN DIRECTLY
55 BETWEEN INDIVIDUALS, THE AMOUNT TREATED AS RETRANSFERRED BY THE BORROWER

1 TO THE LENDER AS OF THE CLOSE OF ANY YEAR SHALL NOT EXCEED THE BORROW-
2 ER'S NET INVESTMENT INCOME FOR SUCH YEAR.

3 (B) LIMITATION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX
4 AVOIDANCE. SUBPARAGRAPH (A) SHALL NOT APPLY TO ANY LOAN THE INTEREST
5 ARRANGEMENTS OF WHICH HAVE AS 1 OF THEIR PRINCIPAL PURPOSES THE AVOID-
6 ANCE OF ANY FEDERAL TAX.

7 (C) SPECIAL RULE WHERE MORE THAN 1 GIFT LOAN OUTSTANDING. FOR PURPOSES
8 OF SUBPARAGRAPH (A), IN ANY CASE IN WHICH A BORROWER HAS OUTSTANDING
9 MORE THAN 1 GIFT LOAN, THE NET INVESTMENT INCOME OF SUCH BORROWER SHALL
10 BE ALLOCATED AMONG SUCH LOANS IN PROPORTION TO THE RESPECTIVE AMOUNTS
11 WHICH WOULD BE TREATED AS RETRANSFERRED BY THE BORROWER WITHOUT REGARD
12 TO THIS PARAGRAPH.

13 (D) LIMITATION NOT TO APPLY WHERE AGGREGATE AMOUNT OF LOANS EXCEED
14 \$100,000. THIS PARAGRAPH SHALL NOT APPLY TO ANY LOAN MADE BY A LENDER
15 TO A BORROWER FOR ANY DAY ON WHICH THE AGGREGATE OUTSTANDING AMOUNT OF
16 LOANS BETWEEN THE BORROWER AND LENDER EXCEEDS \$100,000.

17 (E) NET INVESTMENT INCOME. FOR PURPOSES OF THIS PARAGRAPH-

18 (I) IN GENERAL. THE TERM "NET INVESTMENT INCOME" HAS THE MEANING GIVEN
19 SUCH TERM BY SECTION 163(D)(4).

20 (II) DE MINIMIS RULE. IF THE NET INVESTMENT INCOME OF ANY BORROWER FOR
21 ANY YEAR DOES NOT EXCEED \$1,000, THE NET INVESTMENT INCOME OF SUCH
22 BORROWER FOR SUCH YEAR SHALL BE TREATED AS ZERO.

23 (III) ADDITIONAL AMOUNTS TREATED AS INTEREST. IN DETERMINING THE NET
24 INVESTMENT INCOME OF A PERSON FOR ANY YEAR, ANY AMOUNT WHICH WOULD BE
25 INCLUDED IN THE GROSS INCOME OF SUCH PERSON FOR SUCH YEAR BY REASON OF
26 SECTION 1272 IF SUCH SECTION APPLIED TO ALL DEFERRED PAYMENT OBLIGATIONS
27 SHALL BE TREATED AS INTEREST RECEIVED BY SUCH PERSON FOR SUCH YEAR.

28 (IV) DEFERRED PAYMENT OBLIGATIONS. THE TERM "DEFERRED PAYMENT OBLI-
29 GATION" INCLUDES ANY MARKET DISCOUNT BOND, SHORT-TERM OBLIGATION, UNITED
30 STATES SAVINGS BOND, ANNUITY, OR SIMILAR OBLIGATION.

31 (2) SPECIAL RULE FOR GIFT TAX. IN THE CASE OF ANY GIFT LOAN WHICH IS A
32 TERM LOAN, SUBSECTION (B)(1) (AND NOT SUBSECTION (A)) SHALL APPLY FOR
33 PURPOSES OF CHAPTER 12.

34 (E) DEFINITIONS OF BELOW-MARKET LOAN AND FORGONE INTEREST. FOR
35 PURPOSES OF THIS SECTION-

36 (1) BELOW-MARKET LOAN. THE TERM "BELOW-MARKET LOAN" MEANS ANY LOAN IF-
37 --(A) IN THE CASE OF A DEMAND LOAN, INTEREST IS PAYABLE ON THE LOAN AT A
38 RATE LESS THAN THE APPLICABLE FEDERAL RATE, OR
39 --(B) IN THE CASE OF A TERM LOAN, THE AMOUNT LOANED EXCEEDS THE PRESENT
40 VALUE OF ALL PAYMENTS DUE UNDER THE LOAN.

41 (2) FORGONE INTEREST. THE TERM "FORGONE INTEREST" MEANS, WITH RESPECT
42 TO ANY PERIOD DURING WHICH THE LOAN IS OUTSTANDING, THE EXCESS OF-

43 --(A) THE AMOUNT OF INTEREST WHICH WOULD HAVE BEEN PAYABLE ON THE LOAN
44 FOR THE PERIOD IF INTEREST ACCRUED ON THE LOAN AT THE APPLICABLE FEDERAL
45 RATE AND WERE PAYABLE ANNUALLY ON THE DAY REFERRED TO IN SUBSECTION

46 (A)(2), OVER

47 --(B) ANY INTEREST PAYABLE ON THE LOAN PROPERLY ALLOCABLE TO SUCH PERI-
48 OD.

49 (F) OTHER DEFINITIONS AND SPECIAL RULES. FOR PURPOSES OF THIS SECTION-

50 (1) PRESENT VALUE. THE PRESENT VALUE OF ANY PAYMENT SHALL BE DETER-
51 MINED IN THE MANNER PROVIDED BY REGULATIONS PRESCRIBED BY THE SECRETARY-

52 --(A) AS OF THE DATE OF THE LOAN, AND

53 --(B) BY USING A DISCOUNT RATE EQUAL TO THE APPLICABLE FEDERAL RATE.

54 (2) APPLICABLE FEDERAL RATE. (A) TERM LOANS. IN THE CASE OF ANY TERM
55 LOAN, THE APPLICABLE FEDERAL RATE SHALL BE THE APPLICABLE FEDERAL RATE

1 IN EFFECT UNDER SECTION 1274(D) (AS OF THE DAY ON WHICH THE LOAN WAS
2 MADE), COMPOUNDED SEMIANNUALLY.

3 (B) DEMAND LOANS. IN THE CASE OF A DEMAND LOAN, THE APPLICABLE FEDERAL
4 RATE SHALL BE THE FEDERAL SHORT-TERM RATE IN EFFECT UNDER SECTION
5 1274(D) FOR THE PERIOD FOR WHICH THE AMOUNT OF FORGONE INTEREST IS BEING
6 DETERMINED, COMPOUNDED SEMIANNUALLY.

7 (3) GIFT LOAN. THE TERM "GIFT LOAN" MEANS ANY BELOW-MARKET LOAN WHERE
8 THE FORGOING OF INTEREST IS IN THE NATURE OF A GIFT.

9 (4) AMOUNT LOANED. THE TERM "AMOUNT LOANED" MEANS THE AMOUNT RECEIVED
10 BY THE BORROWER.

11 (5) DEMAND LOAN. THE TERM "DEMAND LOAN" MEANS ANY LOAN WHICH IS PAYA-
12 BLE IN FULL AT ANY TIME ON THE DEMAND OF THE LENDER. SUCH TERM ALSO
13 INCLUDES (FOR PURPOSES OTHER THAN DETERMINING THE APPLICABLE FEDERAL
14 RATE UNDER PARAGRAPH (2)) ANY LOAN IF THE BENEFITS OF THE INTEREST
15 ARRANGEMENTS OF SUCH LOAN ARE NOT TRANSFERABLE AND ARE CONDITIONED ON
16 THE FUTURE PERFORMANCE OF SUBSTANTIAL SERVICES BY AN INDIVIDUAL. TO THE
17 EXTENT PROVIDED IN REGULATIONS, SUCH TERM ALSO INCLUDES ANY LOAN WITH AN
18 INDEFINITE MATURITY.

19 (6) TERM LOAN. THE TERM "TERM LOAN" MEANS ANY LOAN WHICH IS NOT A
20 DEMAND LOAN.

21 (7) HUSBAND AND WIFE TREATED AS 1 PERSON. A HUSBAND AND WIFE SHALL BE
22 TREATED AS 1 PERSON.

23 (8) LOANS TO WHICH SECTION 483, 643(I), OR 1274 APPLIES. THIS SECTION
24 SHALL NOT APPLY TO ANY LOAN TO WHICH SECTION 483, 643(I), OR 1274
25 APPLIES.

26 (9) NO WITHHOLDING. NO AMOUNT SHALL BE WITHHELD UNDER CHAPTER 24 WITH
27 RESPECT TO-

28 --(A) ANY AMOUNT TREATED AS TRANSFERRED OR RETRANSFERRED UNDER
29 SUBSECTION (A), AND

30 --(B) ANY AMOUNT TREATED AS RECEIVED UNDER SUBSECTION (B).

31 (10) SPECIAL RULE FOR TERM LOANS. IF THIS SECTION APPLIES TO ANY TERM
32 LOAN ON ANY DAY, THIS SECTION SHALL CONTINUE TO APPLY TO SUCH LOAN
33 NOTWITHSTANDING PARAGRAPHS (2) AND (3) OF SUBSECTION (C). IN THE CASE OF
34 A GIFT LOAN, THE PRECEDING SENTENCE SHALL ONLY APPLY FOR PURPOSES OF
35 CHAPTER 12.

36 (11) TIME FOR DETERMINING RATE APPLICABLE TO EMPLOYEE RELOCATION
37 LOANS. (A) IN GENERAL. IN THE CASE OF ANY TERM LOAN MADE BY AN EMPLOYER
38 TO AN EMPLOYEE THE PROCEEDS OF WHICH ARE USED BY THE EMPLOYEE TO
39 PURCHASE A PRINCIPAL RESIDENCE (WITHIN THE MEANING OF SECTION 121), THE
40 DETERMINATION OF THE APPLICABLE FEDERAL RATE SHALL BE MADE AS OF THE
41 DATE THE WRITTEN CONTRACT TO PURCHASE SUCH RESIDENCE WAS ENTERED INTO.

42 (B) PARAGRAPH ONLY TO APPLY TO CASES TO WHICH SECTION 217 APPLIES.
43 SUBPARAGRAPH (A) SHALL ONLY APPLY TO THE PURCHASE OF A PRINCIPAL RESI-
44 DENCE IN CONNECTION WITH THE COMMENCEMENT OF WORK BY AN EMPLOYEE OR A
45 CHANGE IN THE PRINCIPAL PLACE OF WORK OF AN EMPLOYEE TO WHICH SECTION
46 217 APPLIES.

47 (G) EXCEPTION FOR CERTAIN LOANS TO QUALIFIED CONTINUING CARE FACILI-
48 TIES. (1) IN GENERAL. THIS SECTION SHALL NOT APPLY FOR ANY CALENDAR
49 YEAR TO ANY BELOW-MARKET LOAN MADE BY A LENDER TO A QUALIFIED CONTINUING
50 CARE FACILITY PURSUANT TO A CONTINUING CARE CONTRACT IF THE LENDER (OR
51 THE LENDER'S SPOUSE) ATTAINS AGE 65 BEFORE THE CLOSE OF SUCH YEAR.

52 (2) \$90,000 LIMIT. PARAGRAPH (1) SHALL APPLY ONLY TO THE EXTENT THAT
53 THE AGGREGATE OUTSTANDING AMOUNT OF ANY LOAN TO WHICH SUCH PARAGRAPH
54 APPLIES (DETERMINED WITHOUT REGARD TO THIS PARAGRAPH), WHEN ADDED TO THE
55 AGGREGATE OUTSTANDING AMOUNT OF ALL OTHER PREVIOUS LOANS BETWEEN THE

1 LENDER (OR THE LENDER'S SPOUSE) AND ANY QUALIFIED CONTINUING CARE FACIL-
2 ITY TO WHICH PARAGRAPH (1) APPLIES, DOES NOT EXCEED \$90,000.

3 (3) CONTINUING CARE CONTRACT. FOR PURPOSES OF THIS SECTION, THE TERM
4 "CONTINUING CARE CONTRACT" MEANS A WRITTEN CONTRACT BETWEEN AN INDIVID-
5 UAL AND A QUALIFIED CONTINUING CARE FACILITY UNDER WHICH-

6 --(A) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE MAY USE A QUALIFIED CONTINU-
7 ING CARE FACILITY FOR THEIR LIFE OR LIVES,

8 --(B) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE-

9 --(I) WILL FIRST-

10 --(I) RESIDE IN A SEPARATE, INDEPENDENT LIVING UNIT WITH ADDITIONAL
11 FACILITIES OUTSIDE SUCH UNIT FOR THE PROVIDING OF MEALS AND OTHER
12 PERSONAL CARE, AND

13 --(II) NOT REQUIRE LONG-TERM NURSING CARE, AND

14 --(II) THEN WILL BE PROVIDED LONG-TERM AND SKILLED NURSING CARE AS THE
15 HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S SPOUSE REQUIRES, AND

16 --(C) NO ADDITIONAL SUBSTANTIAL PAYMENT IS REQUIRED IF SUCH INDIVIDUAL
17 OR INDIVIDUAL'S SPOUSE REQUIRES INCREASED PERSONAL CARE SERVICES OR
18 LONG-TERM AND SKILLED NURSING CARE.

19 (4) QUALIFIED CONTINUING CARE FACILITY. (A) IN GENERAL. FOR PURPOSES
20 OF THIS SECTION, THE TERM "QUALIFIED CONTINUING CARE FACILITY" MEANS 1
21 OR MORE FACILITIES-

22 --(I) WHICH ARE DESIGNED TO PROVIDE SERVICES UNDER CONTINUING CARE
23 CONTRACTS, AND

24 --(II) SUBSTANTIALLY ALL OF THE RESIDENTS OF WHICH ARE COVERED BY
25 CONTINUING CARE CONTRACTS.

26 (B) SUBSTANTIALLY ALL FACILITIES MUST BE OWNED OR OPERATED BY BORROW-
27 ER. A FACILITY SHALL NOT BE TREATED AS A QUALIFIED CONTINUING CARE
28 FACILITY UNLESS SUBSTANTIALLY ALL FACILITIES WHICH ARE USED TO PROVIDE
29 SERVICES WHICH ARE REQUIRED TO BE PROVIDED UNDER A CONTINUING CARE
30 CONTRACT ARE OWNED OR OPERATED BY THE BORROWER.

31 (C) NURSING HOMES EXCLUDED. THE TERM "QUALIFIED CONTINUING CARE FACIL-
32 ITY" SHALL NOT INCLUDE ANY FACILITY WHICH IS OF A TYPE WHICH IS TRADI-
33 TIONALLY CONSIDERED A NURSING HOME.

34 (5) ADJUSTMENT OF LIMIT FOR INFLATION. (A) IN GENERAL. IN THE CASE OF
35 ANY LOAN MADE DURING ANY CALENDAR YEAR AFTER 1986 TO WHICH PARAGRAPH (1)
36 APPLIES, THE DOLLAR AMOUNT IN PARAGRAPH (2) SHALL BE INCREASED BY THE
37 INFLATION ADJUSTMENT FOR SUCH CALENDAR YEAR. ANY INCREASE UNDER THE
38 PRECEDING SENTENCE SHALL BE ROUNDED TO THE NEAREST MULTIPLE OF \$100 (OR,
39 IF SUCH INCREASE IS A MULTIPLE OF \$50, SUCH INCREASE SHALL BE INCREASED
40 TO THE NEAREST MULTIPLE OF \$100).

41 (B) INFLATION ADJUSTMENT. FOR PURPOSES OF SUBPARAGRAPH (A), THE
42 INFLATION ADJUSTMENT FOR ANY CALENDAR YEAR IS THE PERCENTAGE (IF ANY) BY
43 WHICH-

44 --(I) THE CPI FOR THE PRECEDING CALENDAR YEAR EXCEEDS

45 --(II) THE CPI FOR CALENDAR YEAR 1985.

46 1. FOR PURPOSES OF THE PRECEDING SENTENCE, THE CPI FOR ANY CALENDAR
47 YEAR IS THE AVERAGE OF THE CONSUMER PRICE INDEX AS OF THE CLOSE OF THE
48 12-MONTH PERIOD ENDING ON SEPTEMBER 30 OF SUCH CALENDAR YEAR.

49 (6) SUSPENSION OF APPLICATION. PARAGRAPH (1) SHALL NOT APPLY FOR ANY
50 CALENDAR YEAR TO WHICH SUBSECTION (H) APPLIES.

51 (H) EXCEPTION FOR LOANS TO QUALIFIED CONTINUING CARE FACILITIES. (1)
52 IN GENERAL. THIS SECTION SHALL NOT APPLY FOR ANY CALENDAR YEAR TO ANY
53 BELOW-MARKET LOAN OWED BY A FACILITY WHICH ON THE LAST DAY OF SUCH YEAR
54 IS A QUALIFIED CONTINUING CARE FACILITY, IF SUCH LOAN WAS MADE PURSUANT
55 TO A CONTINUING CARE CONTRACT AND IF THE LENDER (OR THE LENDER'S SPOUSE)
56 ATTAINS AGE 62 BEFORE THE CLOSE OF SUCH YEAR.

1 (2) CONTINUING CARE CONTRACT. FOR PURPOSES OF THIS SECTION, THE TERM
2 "CONTINUING CARE CONTRACT" MEANS A WRITTEN CONTRACT BETWEEN AN INDIVID-
3 UAL AND A QUALIFIED CONTINUING CARE FACILITY UNDER WHICH-

4 --(A) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE MAY USE A QUALIFIED CONTINU-
5 ING CARE FACILITY FOR THEIR LIFE OR LIVES,

6 --(B) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE WILL BE PROVIDED WITH HOUS-
7 ING, AS APPROPRIATE FOR THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S
8 SPOUSE-

9 --(I) IN AN INDEPENDENT LIVING UNIT (WHICH HAS ADDITIONAL AVAILABLE
10 FACILITIES OUTSIDE SUCH UNIT FOR THE PROVISION OF MEALS AND OTHER
11 PERSONAL CARE), AND

12 --(II) IN AN ASSISTED LIVING FACILITY OR A NURSING FACILITY, AS IS
13 AVAILABLE IN THE CONTINUING CARE FACILITY, AND

14 --(C) THE INDIVIDUAL OR INDIVIDUAL'S SPOUSE WILL BE PROVIDED ASSISTED
15 LIVING OR NURSING CARE AS THE HEALTH OF SUCH INDIVIDUAL OR INDIVIDUAL'S
16 SPOUSE REQUIRES, AND AS IS AVAILABLE IN THE CONTINUING CARE FACILITY.

17 --THE SECRETARY SHALL ISSUE GUIDANCE WHICH LIMITS SUCH TERM TO CONTRACTS
18 WHICH PROVIDE ONLY FACILITIES, CARE, AND SERVICES DESCRIBED IN THIS
19 PARAGRAPH.

20 (3) QUALIFIED CONTINUING CARE FACILITY. (A) IN GENERAL. FOR PURPOSES
21 OF THIS SECTION, THE TERM "QUALIFIED CONTINUING CARE FACILITY" MEANS 1
22 OR MORE FACILITIES-

23 --(I) WHICH ARE DESIGNED TO PROVIDE SERVICES UNDER CONTINUING CARE
24 CONTRACTS,

25 --(II) WHICH INCLUDE AN INDEPENDENT LIVING UNIT, PLUS AN ASSISTED LIVING
26 OR NURSING FACILITY, OR BOTH, AND

27 --(III) SUBSTANTIALLY ALL OF THE INDEPENDENT LIVING UNIT RESIDENTS OF
28 WHICH ARE COVERED BY CONTINUING CARE CONTRACTS.

29 (B) NURSING HOMES EXCLUDED. THE TERM "QUALIFIED CONTINUING CARE FACIL-
30 ITY" SHALL NOT INCLUDE ANY FACILITY WHICH IS OF A TYPE WHICH IS TRADI-
31 TIONALLY CONSIDERED A NURSING HOME.

32 (I) REGULATIONS. (1) IN GENERAL. THE SECRETARY SHALL PRESCRIBE SUCH
33 REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES
34 OF THIS SECTION, INCLUDING-

35 --(A) REGULATIONS PROVIDING THAT WHERE, BY REASON OF VARYING RATES OF
36 INTEREST, CONDITIONAL INTEREST PAYMENTS, WAIVERS OF INTEREST, DISPOSI-
37 TION OF THE LENDER'S OR BORROWER'S INTEREST IN THE LOAN, OR OTHER
38 CIRCUMSTANCES, THE PROVISIONS OF THIS SECTION DO NOT CARRY OUT THE
39 PURPOSES OF THIS SECTION, ADJUSTMENTS TO THE PROVISIONS OF THIS SECTION
40 WILL BE MADE TO THE EXTENT NECESSARY TO CARRY OUT THE PURPOSES OF THIS
41 SECTION,

42 --(B) REGULATIONS FOR THE PURPOSE OF ASSURING THAT THE POSITIONS OF THE
43 BORROWER AND LENDER ARE CONSISTENT AS TO THE APPLICATION (OR NONAPPLICA-
44 TION) OF THIS SECTION, AND

45 --(C) REGULATIONS EXEMPTING FROM THE APPLICATION OF THIS SECTION ANY
46 CLASS OF TRANSACTIONS THE INTEREST ARRANGEMENTS OF WHICH HAVE NO SIGNIF-
47 ICANT EFFECT ON ANY FEDERAL TAX LIABILITY OF THE LENDER OR THE BORROWER.

48 (2) ESTATE TAX COORDINATION. UNDER REGULATIONS PRESCRIBED BY THE
49 SECRETARY, ANY LOAN WHICH IS MADE WITH DONATIVE INTENT AND WHICH IS A
50 TERM LOAN SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF CHAPTER 11 IN A
51 MANNER CONSISTENT WITH THE PROVISIONS OF SUBSECTION (B).

52 S 6166. EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX WHERE ESTATE
53 CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS. (A) 5-YEAR DEFER-
54 RAL; 10-YEAR INSTALLMENT PAYMENT.--

55 (1) IN GENERAL.--IF THE VALUE OF AN INTEREST IN A CLOSELY HELD BUSI-
56 NESS WHICH IS INCLUDED IN DETERMINING THE GROSS ESTATE OF A DECEDENT WHO

1 WAS (AT THE DATE OF HIS DEATH) A CITIZEN OR RESIDENT OF THE UNITED
2 STATES EXCEEDS 35 PERCENT OF THE ADJUSTED GROSS ESTATE, THE EXECUTOR MAY
3 ELECT TO PAY PART OR ALL OF THE TAX IMPOSED BY SECTION 2001 IN 2 OR MORE
4 (BUT NOT EXCEEDING 10) EQUAL INSTALLMENTS.

5 (2) LIMITATION.--THE MAXIMUM AMOUNT OF TAX WHICH MAY BE PAID IN
6 INSTALLMENTS UNDER THIS SUBSECTION SHALL BE AN AMOUNT WHICH BEARS THE
7 SAME RATIO TO THE TAX IMPOSED BY SECTION 2001 (REDUCED BY THE CREDITS
8 AGAINST SUCH TAX) AS--

9 (A) THE CLOSELY HELD BUSINESS AMOUNT, BEARS TO

10 (B) THE AMOUNT OF THE ADJUSTED GROSS ESTATE.

11 (3) DATE FOR PAYMENT OF INSTALLMENTS.--IF AN ELECTION IS MADE UNDER
12 PARAGRAPH (1), THE FIRST INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE
13 SELECTED BY THE EXECUTOR WHICH IS NOT MORE THAN 5 YEARS AFTER THE DATE
14 PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX, AND EACH SUCCEED-
15 ING INSTALLMENT SHALL BE PAID ON OR BEFORE THE DATE WHICH IS 1 YEAR
16 AFTER THE DATE PRESCRIBED BY THIS PARAGRAPH FOR PAYMENT OF THE PRECEDING
17 INSTALLMENT.

18 (B) DEFINITIONS AND SPECIAL RULES.--

19 (1) INTEREST IN CLOSELY HELD BUSINESS.--FOR PURPOSES OF THIS SECTION,
20 THE TERM "INTEREST IN A CLOSELY HELD BUSINESS" MEANS--

21 (A) AN INTEREST AS A PROPRIETOR IN A TRADE OR BUSINESS CARRIED ON AS A
22 PROPRIETORSHIP;

23 (B) AN INTEREST AS A PARTNER IN A PARTNERSHIP CARRYING ON A TRADE OR
24 BUSINESS, IF--

25 (I) 20 PERCENT OR MORE OF THE TOTAL CAPITAL INTEREST IN SUCH PARTNER-
26 SHIP IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

27 (II) SUCH PARTNERSHIP HAD 45 OR FEWER PARTNERS; OR

28 (C) STOCK IN A CORPORATION CARRYING ON A TRADE OR BUSINESS IF--

29 (I) 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK OF SUCH CORPO-
30 RATION IS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECEDENT, OR

31 (II) SUCH CORPORATION HAD 45 OR FEWER SHAREHOLDERS.

32 (2) RULES FOR APPLYING PARAGRAPH (1).--FOR PURPOSES OF PARAGRAPH (1)--

33 (A) TIME FOR TESTING.--DETERMINATIONS SHALL BE MADE AS OF THE TIME
34 IMMEDIATELY BEFORE THE DECEDENT'S DEATH.

35 (B) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.--STOCK OR A PARTNER-
36 SHIP INTEREST WHICH--

37 (I) IS COMMUNITY PROPERTY OF A HUSBAND AND WIFE (OR THE INCOME FROM
38 WHICH IS COMMUNITY INCOME) UNDER THE APPLICABLE COMMUNITY PROPERTY LAW
39 OF A STATE, OR

40 (II) IS HELD BY A HUSBAND AND WIFE AS JOINT TENANTS, TENANTS BY THE
41 ENTIRETY, OR TENANTS IN COMMON, SHALL BE TREATED AS OWNED BY ONE SHARE-
42 HOLDER OR ONE PARTNER, AS THE CASE MAY BE.

43 (C) INDIRECT OWNERSHIP.--PROPERTY OWNED, DIRECTLY OR INDIRECTLY, BY OR
44 FOR A CORPORATION, PARTNERSHIP, ESTATE, OR TRUST SHALL BE CONSIDERED AS
45 BEING OWNED PROPORTIONATELY BY OR FOR ITS SHAREHOLDERS, PARTNERS, OR
46 BENEFICIARIES. FOR PURPOSES OF THE PRECEDING SENTENCE, A PERSON SHALL BE
47 TREATED AS A BENEFICIARY OF ANY TRUST ONLY IF SUCH PERSON HAS A PRESENT
48 INTEREST IN THE TRUST.

49 (D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.--ALL STOCK
50 AND ALL PARTNERSHIP INTERESTS HELD BY THE DECEDENT OR BY ANY MEMBER OF
51 HIS FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) SHALL BE TREATED AS
52 OWNED BY THE DECEDENT.

53 (3) FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.--FOR
54 PURPOSES OF THE 35-PERCENT REQUIREMENT OF SUBSECTION (A)(1), AN INTEREST
55 IN A CLOSELY HELD BUSINESS WHICH IS THE BUSINESS OF FARMING INCLUDES AN
56 INTEREST IN RESIDENTIAL BUILDINGS AND RELATED IMPROVEMENTS ON THE FARM

1 WHICH ARE OCCUPIED ON A REGULAR BASIS BY THE OWNER OR LESSEE OF THE FARM
2 OR BY PERSONS EMPLOYED BY SUCH OWNER OR LESSEE FOR PURPOSES OF OPERATING
3 OR MAINTAINING THE FARM.

4 (4) VALUE.--FOR PURPOSES OF THIS SECTION, VALUE SHALL BE VALUE DETER-
5 MINED FOR PURPOSES OF CHAPTER 11 (RELATING TO ESTATE TAX).

6 (5) CLOSELY HELD BUSINESS AMOUNT.--FOR PURPOSES OF THIS SECTION, THE
7 TERM "CLOSELY HELD BUSINESS AMOUNT" MEANS THE VALUE OF THE INTEREST IN A
8 CLOSELY HELD BUSINESS WHICH QUALIFIES UNDER SUBSECTION (A)(1).

9 (6) ADJUSTED GROSS ESTATE.--FOR PURPOSES OF THIS SECTION, THE TERM,
10 "ADJUSTED GROSS ESTATE" MEANS THE VALUE OF THE GROSS ESTATE REDUCED BY
11 THE SUM OF THE AMOUNTS ALLOWABLE AS A DEDUCTION UNDER SECTION 2053 OR
12 2054. SUCH SUM SHALL BE DETERMINED ON THE BASIS OF THE FACTS AND CIRCUM-
13 STANCES IN EXISTENCE ON THE DATE (INCLUDING EXTENSIONS) FOR FILING THE
14 RETURN OF TAX IMPOSED BY SECTION 2001 (OR, IF EARLIER, THE DATE ON WHICH
15 SUCH RETURN IS FILED).

16 (7) PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.--

17 (A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARAGRAPH
18 (AT SUCH TIME AND IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS
19 PRESCRIBE), THEN--

20 (I) FOR PURPOSES OF PARAGRAPH (1)(B)(I) OR (1)(C)(I) (WHICHEVER IS
21 APPROPRIATE) AND FOR PURPOSES OF SUBSECTION (C), ANY CAPITAL INTEREST IN
22 A PARTNERSHIP AND ANY NON-READILY-TRADABLE STOCK WHICH (AFTER THE APPLI-
23 CATION OF PARAGRAPH (2)) IS TREATED AS OWNED BY THE DECEDENT SHALL BE
24 TREATED AS INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS
25 ESTATE,

26 (II) THE EXECUTOR SHALL BE TREATED AS HAVING SELECTED UNDER SUBSECTION
27 (A)(3) THE DATE PRESCRIBED BY SECTION 6151(A), AND

28 (III) FOR PURPOSES OF APPLYING SECTION 6601(J), THE 2-PERCENT PORTION
29 (AS DEFINED IN SUCH SECTION) SHALL BE TREATED AS BEING ZERO.

30 (B) NON-READILY-TRADABLE STOCK DEFINED.--FOR PURPOSES OF THIS PARA-
31 GRAPH, THE TERM "NON-READILY-TRADABLE STOCK" MEANS STOCK FOR WHICH, AT
32 THE TIME OF THE DECEDENT'S DEATH, THERE WAS NO MARKET ON A STOCK
33 EXCHANGE OR IN AN OVER-THE-COUNTER MARKET.

34 (8) STOCK IN HOLDING COMPANY TREATED AS BUSINESS COMPANY STOCK IN
35 CERTAIN CASES.--

36 (A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARA-
37 GRAPH, THEN--

38 (I) HOLDING COMPANY STOCK TREATED AS BUSINESS COMPANY STOCK.--FOR
39 PURPOSES OF THIS SECTION, THE PORTION OF THE STOCK OF ANY HOLDING COMPA-
40 NY WHICH REPRESENTS DIRECT OWNERSHIP (OR INDIRECT OWNERSHIP THROUGH 1 OR
41 MORE OTHER HOLDING COMPANIES) BY SUCH COMPANY IN A BUSINESS COMPANY
42 SHALL BE DEEMED TO BE STOCK IN SUCH BUSINESS COMPANY.

43 (II) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.--THE EXECUTOR SHALL
44 BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE
45 PRESCRIBED BY SECTION 6151(A).

46 (III) 2-PERCENT INTEREST RATE NOT TO APPLY.--FOR PURPOSES OF APPLYING
47 SECTION 6601(J), THE 2-PERCENT PORTION (AS DEFINED IN SUCH SECTION)
48 SHALL BE TREATED AS BEING ZERO.

49 (B) ALL STOCK MUST BE NON-READILY-TRADABLE STOCK.--

50 (I) IN GENERAL.--NO STOCK SHALL BE TAKEN INTO ACCOUNT FOR PURPOSES OF
51 APPLYING THIS PARAGRAPH UNLESS IT IS NON-READILY-TRADABLE STOCK

52 (WITHIN THE MEANING OF PARAGRAPH (7)(B)).

53 (II) SPECIAL APPLICATION WHERE ONLY HOLDING COMPANY STOCK IS NON-READ-
54 ILY-TRADABLE STOCK.--IF THE REQUIREMENTS OF CLAUSE (I) ARE NOT MET, BUT
55 ALL OF THE STOCK OF EACH HOLDING COMPANY TAKEN INTO ACCOUNT IS NON-READ-

1 ILY-TRADABLE, THEN THIS PARAGRAPH SHALL APPLY, BUT SUBSECTION (A)(1)
2 SHALL BE APPLIED BY SUBSTITUTING "5" FOR "10".

3 (C) APPLICATION OF VOTING STOCK REQUIREMENT OF PARAGRAPH
4 (1)(C)(I).--FOR PURPOSES OF CLAUSE (I) OF PARAGRAPH (1)(C), THE DEEMED
5 STOCK RESULTING FROM THE APPLICATION OF SUBPARAGRAPH (A) SHALL BE TREAT-
6 ED AS VOTING STOCK TO THE EXTENT THAT VOTING STOCK IN THE HOLDING COMPA-
7 NY OWNS DIRECTLY (OR THROUGH THE VOTING STOCK OF 1 OR MORE OTHER HOLDING
8 COMPANIES) VOTING STOCK IN THE BUSINESS COMPANY.

9 (D) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

10 (I) HOLDING COMPANY.--THE TERM "HOLDING COMPANY" MEANS ANY CORPORATION
11 HOLDING STOCK IN ANOTHER CORPORATION.

12 (II) BUSINESS COMPANY.--THE TERM "BUSINESS COMPANY" MEANS ANY CORPO-
13 RATION CARRYING ON A TRADE OR BUSINESS.

14 (9) DEFERRAL NOT AVAILABLE FOR PASSIVE ASSETS.--

15 (A) IN GENERAL.--FOR PURPOSES OF SUBSECTION (A)(1) AND DETERMINING THE
16 CLOSELY HELD BUSINESS AMOUNT (BUT NOT FOR PURPOSES OF SUBSECTION (G)),
17 THE VALUE OF ANY INTEREST IN A CLOSELY HELD BUSINESS SHALL NOT INCLUDE
18 THE VALUE OF THAT PORTION OF SUCH INTEREST WHICH IS ATTRIBUTABLE TO
19 PASSIVE ASSETS HELD BY THE BUSINESS.

20 (B) PASSIVE ASSET DEFINED.--FOR PURPOSES OF THIS PARAGRAPH--

21 (I) IN GENERAL.--THE TERM "PASSIVE ASSET" MEANS ANY ASSET OTHER THAN
22 AN ASSET USED IN CARRYING ON A TRADE OR BUSINESS.

23 (II) STOCK TREATED AS PASSIVE ASSET.--THE TERM "PASSIVE ASSET"
24 INCLUDES ANY STOCK IN ANOTHER CORPORATION UNLESS--

25 (I) SUCH STOCK IS TREATED AS HELD BY THE DECEDENT BY REASON OF AN
26 ELECTION UNDER PARAGRAPH (8), AND

27 (II) SUCH STOCK QUALIFIED UNDER SUBSECTION (A)(1).

28 (III) EXCEPTION FOR ACTIVE CORPORATIONS.--IF--

29 (I) A CORPORATION OWNS 20 PERCENT OR MORE IN VALUE OF THE VOTING STOCK
30 OF ANOTHER CORPORATION, OR SUCH OTHER CORPORATION HAS 45 OR FEWER SHARE-
31 HOLDERS, AND

32 (II) 80 PERCENT OR MORE OF THE VALUE OF THE ASSETS OF EACH SUCH CORPO-
33 RATION IS ATTRIBUTABLE TO ASSETS USED IN CARRYING ON A TRADE OR BUSI-
34 NESS, THEN SUCH CORPORATIONS SHALL BE TREATED AS 1 CORPORATION FOR
35 PURPOSES OF CLAUSE (II). FOR PURPOSES OF APPLYING SUBCLAUSE (II) TO THE
36 CORPORATION HOLDING THE STOCK OF THE OTHER CORPORATION, SUCH STOCK SHALL
37 NOT BE TAKEN INTO ACCOUNT.

38 (10) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK
39 IN AN ACTIVE TRADE OR BUSINESS COMPANY.--

40 (A) IN GENERAL.--IF THE EXECUTOR ELECTS THE BENEFITS OF THIS PARA-
41 GRAPH, THEN--

42 (I) STOCK IN QUALIFYING LENDING AND FINANCE BUSINESS TREATED AS STOCK
43 IN AN ACTIVE TRADE OR BUSINESS COMPANY.--FOR PURPOSES OF THIS SECTION,
44 ANY ASSET USED IN A QUALIFYING LENDING AND FINANCE BUSINESS SHALL BE
45 TREATED AS AN ASSET WHICH IS USED IN CARRYING ON A TRADE OR BUSINESS.

46 (II) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.--THE EXECUTOR SHALL
47 BE TREATED AS HAVING SELECTED UNDER SUBSECTION (A)(3) THE DATE
48 PRESCRIBED BY SECTION 6151(A).

49 (III) 5 EQUAL INSTALLMENTS ALLOWED.--FOR PURPOSES OF APPLYING
50 SUBSECTION

51 (A)(1), "5" SHALL BE SUBSTITUTED FOR "10".

52 (B) DEFINITIONS.--FOR PURPOSES OF THIS PARAGRAPH--

53 (I) QUALIFYING LENDING AND FINANCE BUSINESS.--THE TERM "QUALIFYING
54 LENDING AND FINANCE BUSINESS" MEANS A LENDING AND FINANCE BUSINESS, IF--

1 (I) BASED ON ALL THE FACTS AND CIRCUMSTANCES IMMEDIATELY BEFORE THE
2 DATE OF THE DECEDENT'S DEATH, THERE WAS SUBSTANTIAL ACTIVITY WITH
3 RESPECT TO THE LENDING AND FINANCE BUSINESS, OR

4 (II) DURING AT LEAST 3 OF THE 5 TAXABLE YEARS ENDING BEFORE THE DATE
5 OF THE DECEDENT'S DEATH, SUCH BUSINESS HAD AT LEAST 1 FULL-TIME EMPLOYEE
6 SUBSTANTIALLY ALL OF WHOSE SERVICES WERE THE ACTIVE MANAGEMENT OF SUCH
7 BUSINESS, 10 FULL-TIME, NONOWNER EMPLOYEES SUBSTANTIALLY ALL OF WHOSE
8 SERVICES WERE DIRECTLY RELATED TO SUCH BUSINESS, AND \$5,000,000 IN GROSS
9 RECEIPTS FROM ACTIVITIES DESCRIBED IN CLAUSE (II).

10 (II) LENDING AND FINANCE BUSINESS.--THE TERM "LENDING AND FINANCE
11 BUSINESS" MEANS A TRADE OR BUSINESS OF--

12 (I) MAKING LOANS,

13 (II) PURCHASING OR DISCOUNTING ACCOUNTS RECEIVABLE, NOTES, OR INSTALL-
14 MENT OBLIGATIONS,

15 (III) ENGAGING IN RENTAL AND LEASING OF REAL AND TANGIBLE PERSONAL
16 PROPERTY, INCLUDING ENTERING INTO LEASES AND PURCHASING, SERVICING, AND
17 DISPOSING OF LEASES AND LEASED ASSETS,

18 (IV) RENDERING SERVICES OR MAKING FACILITIES AVAILABLE IN THE ORDINARY
19 COURSE OF A LENDING OR FINANCE BUSINESS, AND

20 (V) RENDERING SERVICES OR MAKING FACILITIES AVAILABLE IN CONNECTION
21 WITH ACTIVITIES DESCRIBED IN SUBCLAUSES (I) THROUGH (IV) CARRIED ON BY
22 THE CORPORATION RENDERING SERVICES OR MAKING FACILITIES AVAILABLE, OR
23 ANOTHER CORPORATION WHICH IS A MEMBER OF THE SAME AFFILIATED GROUP (AS
24 DEFINED IN SECTION 1504 WITHOUT REGARD TO SECTION 1504(B)(3)).

25 (III) LIMITATION.--THE TERM "QUALIFYING LENDING AND FINANCE BUSINESS"
26 SHALL NOT INCLUDE ANY INTEREST IN AN ENTITY, IF THE STOCK OR DEBT OF
27 SUCH ENTITY OR A CONTROLLED GROUP (AS DEFINED IN SECTION 267(F)(1)) OF
28 WHICH SUCH ENTITY WAS A MEMBER WAS READILY TRADABLE ON AN ESTABLISHED
29 SECURITIES MARKET OR SECONDARY MARKET (AS DEFINED BY THE SECRETARY) AT
30 ANY TIME WITHIN 3 YEARS BEFORE THE DATE OF THE DECEDENT'S DEATH.

31 (C) SPECIAL RULE FOR INTEREST IN 2 OR MORE CLOSELY HELD BUSINESS-
32 ES.--FOR PURPOSES OF THIS SECTION, INTEREST IN 2 OR MORE CLOSELY HELD
33 BUSINESSES, WITH RESPECT TO EACH OF WHICH THERE IS INCLUDED IN DETERMIN-
34 ING THE VALUE OF THE DECEDENT'S GROSS ESTATE 20 PERCENT OR MORE OF THE
35 TOTAL VALUE OF EACH SUCH BUSINESS, SHALL BE TREATED AS AN INTEREST IN A
36 SINGLE CLOSELY HELD BUSINESS. FOR PURPOSES OF THE 20-PERCENT REQUIREMENT
37 OF THE PRECEDING SENTENCE, AN INTEREST IN A CLOSELY HELD BUSINESS WHICH
38 REPRESENTS THE SURVIVING SPOUSE'S INTEREST IN PROPERTY HELD BY THE DECE-
39 DENT AND THE SURVIVING SPOUSE AS COMMUNITY PROPERTY OR AS JOINT TENANTS,
40 TENANTS BY THE ENTIRETY, OR TENANTS IN COMMON SHALL BE TREATED AS HAVING
41 BEEN INCLUDED IN DETERMINING THE VALUE OF THE DECEDENT'S GROSS ESTATE.

42 (D) ELECTION.--ANY ELECTION UNDER SUBSECTION (A) SHALL BE MADE NOT
43 LATER THAN THE TIME PRESCRIBED BY SECTION 6075(A) FOR FILING THE RETURN
44 OF TAX IMPOSED BY SECTION 2001 (INCLUDING EXTENSIONS THEREOF), AND SHALL
45 BE MADE IN SUCH MANNER AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.
46 IF AN ELECTION UNDER SUBSECTION (A) IS MADE, THE PROVISIONS OF THIS
47 SUBTITLE SHALL APPLY AS THOUGH THE SECRETARY WERE EXTENDING THE TIME FOR
48 PAYMENT OF THE TAX.

49 (E) PRORATION OF DEFICIENCY TO INSTALLMENTS.--IF AN ELECTION IS MADE
50 UNDER SUBSECTION (A) TO PAY ANY PART OF THE TAX IMPOSED BY SECTION 2001
51 IN INSTALLMENTS AND A DEFICIENCY HAS BEEN ASSESSED, THE DEFICIENCY SHALL
52 (SUBJECT TO THE LIMITATION PROVIDED BY SUBSECTION (A)(2)) BE PRORATED TO
53 THE INSTALLMENTS PAYABLE UNDER SUBSECTION (A). THE PART OF THE DEFICIEN-
54 CY SO PRORATED TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS NOT
55 ARRIVED SHALL BE COLLECTED AT THE SAME TIME AS, AND AS A PART OF, SUCH
56 INSTALLMENT. THE PART OF THE DEFICIENCY SO PRORATED TO ANY INSTALLMENT

1 THE DATE FOR PAYMENT OF WHICH HAS ARRIVED SHALL BE PAID UPON NOTICE AND
2 DEMAND FROM THE SECRETARY. THIS SUBSECTION SHALL NOT APPLY IF THE DEFICI-
3 CIENCY IS DUE TO NEGLIGENCE, TO INTENTIONAL DISREGARD OF RULES AND REGU-
4 LATIONS, OR TO FRAUD WITH INTENT TO EVADE TAX.

5 (F) TIME FOR PAYMENT OF INTEREST.--IF THE TIME FOR PAYMENT OF ANY
6 AMOUNT OF TAX HAS BEEN EXTENDED UNDER THIS SECTION--

7 (1) INTEREST FOR FIRST 5 YEARS.--INTEREST PAYABLE UNDER SECTION 6601
8 OF ANY UNPAID PORTION OF SUCH AMOUNT ATTRIBUTABLE TO THE FIRST 5 YEARS
9 AFTER THE DATE PRESCRIBED BY SECTION 6151(A) FOR PAYMENT OF THE TAX
10 SHALL BE PAID ANNUALLY.

11 (2) INTEREST FOR PERIODS AFTER FIRST 5 YEARS.--INTEREST PAYABLE UNDER
12 SECTION 6601 ON ANY UNPAID PORTION OF SUCH AMOUNT ATTRIBUTABLE TO ANY
13 PERIOD AFTER THE 5-YEAR PERIOD REFERRED TO IN PARAGRAPH (1) SHALL BE
14 PAID ANNUALLY AT THE SAME TIME AS, AND AS A PART OF, EACH INSTALLMENT
15 PAYMENT OF THE TAX.

16 (3) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.--IN THE CASE OF A
17 DEFICIENCY TO WHICH SUBSECTION (E) APPLIES WHICH IS ASSESSED AFTER THE
18 CLOSE OF THE 5-YEAR PERIOD REFERRED TO IN PARAGRAPH (1), INTEREST
19 ATTRIBUTABLE TO SUCH 5-YEAR PERIOD, AND INTEREST ASSIGNED UNDER PARA-
20 GRAPH (2) TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH HAS ARRIVED
21 ON OR BEFORE THE DATE OF THE ASSESSMENT OF THE DEFICIENCY, SHALL BE PAID
22 UPON NOTICE AND DEMAND FROM THE SECRETARY.

23 (4) SELECTION OF SHORTER PERIOD.--IF THE EXECUTOR HAS SELECTED A PERI-
24 OD SHORTER THAN 5 YEARS UNDER SUBSECTION (A)(3), SUCH SHORTER PERIOD
25 SHALL BE SUBSTITUTED FOR 5 YEARS IN PARAGRAPHS (1), (2), AND (3) OF THIS
26 SUBSECTION.

27 (G) ACCELERATION OF PAYMENT.--

28 (1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.--

29 (A) IF--

30 (I)(I) ANY PORTION OF AN INTEREST IN A CLOSELY HELD BUSINESS WHICH
31 QUALIFIES UNDER SUBSECTION (A)(1) IS DISTRIBUTED, SOLD, EXCHANGED, OR
32 OTHERWISE DISPOSED OF, OR

33 (II) MONEY AND OTHER PROPERTY ATTRIBUTABLE TO SUCH AN INTEREST IS
34 WITHDRAWN FROM SUCH TRADE OR BUSINESS, AND

35 (II) THE AGGREGATE OF SUCH DISTRIBUTIONS, SALES, EXCHANGES, OR OTHER
36 DISPOSITIONS AND WITHDRAWALS EQUALS OR EXCEEDS 50 PERCENT OF THE VALUE
37 OF SUCH INTEREST, THEN THE EXTENSION OF TIME FOR PAYMENT OF TAX PROVIDED
38 IN SUBSECTION (A) SHALL CEASE TO APPLY, AND THE UNPAID PORTION OF THE
39 TAX PAYABLE IN INSTALLMENTS SHALL BE PAID UPON NOTICE AND DEMAND FROM
40 THE SECRETARY.

41 (B) IN THE CASE OF A DISTRIBUTION IN REDEMPTION OF STOCK TO WHICH
42 SECTION 303 (OR SO MUCH OF SECTION 304 AS RELATES TO SECTION 303)
43 APPLIES--

44 (I) THE REDEMPTION OF SUCH STOCK, AND THE WITHDRAWAL OF MONEY AND
45 OTHER PROPERTY DISTRIBUTED IN SUCH REDEMPTION, SHALL NOT BE TREATED AS A
46 DISTRIBUTION OR WITHDRAWAL FOR PURPOSES OF SUBPARAGRAPH (A), AND

47 (II) FOR PURPOSES OF SUBPARAGRAPH (A), THE VALUE OF THE INTEREST IN
48 THE CLOSELY HELD BUSINESS SHALL BE CONSIDERED TO BE SUCH VALUE REDUCED
49 BY THE VALUE OF THE STOCK REDEEMED.

50 THIS SUBPARAGRAPH SHALL APPLY ONLY IF, ON OR BEFORE THE DATE
51 PRESCRIBED BY SUBSECTION (A)(3) FOR THE PAYMENT OF THE FIRST INSTALLMENT
52 WHICH BECOMES DUE AFTER THE DATE OF THE DISTRIBUTION (OR, IF EARLIER, ON
53 OR BEFORE THE DAY WHICH IS 1 YEAR AFTER THE DATE OF THE DISTRIBUTION),
54 THERE IS PAID AN AMOUNT OF THE TAX IMPOSED BY SECTION 2001 NOT LESS THAN
55 THE AMOUNT OF MONEY AND OTHER PROPERTY DISTRIBUTED.

1 (C) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO AN EXCHANGE OF STOCK PURSU-
2 ANT TO A PLAN OF REORGANIZATION DESCRIBED IN SUBPARAGRAPH (D), (E), OR
3 (F) OF SECTION 368(A)(1) NOR TO AN EXCHANGE TO WHICH SECTION 355 (OR SO
4 MUCH OF SECTION 356 AS RELATES TO SECTION 355) APPLIES; BUT ANY STOCK
5 RECEIVED IN SUCH AN EXCHANGE SHALL BE TREATED FOR PURPOSES OF SUBPARA-
6 GRAPH (A)(I) AS AN INTEREST QUALIFYING UNDER SUBSECTION (A)(1).

7 (D) SUBPARAGRAPH (A)(I) DOES NOT APPLY TO A TRANSFER OF PROPERTY OF
8 THE DECEDENT TO A PERSON ENTITLED BY REASON OF THE DECEDENT'S DEATH TO
9 RECEIVE SUCH PROPERTY UNDER THE DECEDENT'S WILL, THE APPLICABLE LAW OF
10 DESCENT AND DISTRIBUTION, OR A TRUST CREATED BY THE DECEDENT. A SIMILAR
11 RULE SHALL APPLY IN THE CASE OF A SERIES OF SUBSEQUENT TRANSFERS OF THE
12 PROPERTY BY REASON OF DEATH SO LONG AS EACH TRANSFER IS TO A MEMBER OF
13 THE FAMILY (WITHIN THE MEANING OF SECTION 267(C)(4)) OF THE TRANSFEROR
14 IN SUCH TRANSFER.

15 (E) CHANGES IN INTEREST IN HOLDING COMPANY.--IF ANY STOCK IN A HOLDING
16 COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF
17 SUBSECTION (B)(8)(A)--

18 (I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN SUCH HOLDING
19 COMPANY WHICH WAS INCLUDED IN DETERMINING THE GROSS ESTATE OF THE DECE-
20 DENT, OR

21 (II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH HOLDING
22 COMPANY ATTRIBUTABLE TO ANY INTEREST INCLUDED IN DETERMINING THE GROSS
23 ESTATE OF THE DECEDENT,

24 SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF
25 (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION
26 (A)(1).

27 (F) CHANGES IN INTEREST IN BUSINESS COMPANY.--IF ANY STOCK IN A HOLD-
28 ING COMPANY IS TREATED AS STOCK IN A BUSINESS COMPANY BY REASON OF
29 SUBSECTION (B)(8)(A)--

30 (I) ANY DISPOSITION OF ANY INTEREST IN SUCH STOCK IN THE BUSINESS
31 COMPANY BY SUCH HOLDING COMPANY, OR

32 (II) ANY WITHDRAWAL OF ANY MONEY OR OTHER PROPERTY FROM SUCH BUSINESS
33 COMPANY ATTRIBUTABLE TO SUCH STOCK BY SUCH HOLDING COMPANY OWNING SUCH
34 STOCK,

35 SHALL BE TREATED FOR PURPOSES OF SUBPARAGRAPH (A) AS A DISPOSITION OF
36 (OR A WITHDRAWAL WITH RESPECT TO) THE STOCK QUALIFYING UNDER SUBSECTION
37 (A)(1).

38 (2) UNDISTRIBUTED INCOME OF ESTATE.--

39 (A) IF AN ELECTION IS MADE UNDER THIS SECTION AND THE ESTATE HAS
40 UNDISTRIBUTED NET INCOME FOR ANY TAXABLE YEAR ENDING ON OR AFTER THE DUE
41 DATE FOR THE FIRST INSTALLMENT, THE EXECUTOR SHALL, ON OR BEFORE THE
42 DATE PRESCRIBED BY LAW FOR FILING THE INCOME TAX RETURN FOR SUCH TAXABLE
43 YEAR (INCLUDING EXTENSIONS THEREOF), PAY AN AMOUNT EQUAL TO SUCH UNDIS-
44 TRIBUTED NET INCOME IN LIQUIDATION OF THE UNPAID PORTION OF THE TAX
45 PAYABLE IN INSTALLMENTS.

46 (B) FOR PURPOSES OF SUBPARAGRAPH (A), THE UNDISTRIBUTED NET INCOME OF
47 THE ESTATE FOR ANY TAXABLE YEAR IS THE AMOUNT BY WHICH THE DISTRIBUTABLE
48 NET INCOME OF THE ESTATE FOR SUCH TAXABLE YEAR (AS DEFINED IN SECTION
49 643) EXCEEDS THE SUM OF--

50 (I) THE AMOUNTS FOR SUCH TAXABLE YEAR SPECIFIED IN PARAGRAPHS (1) AND
51 (2) OF SECTION 661(A) (RELATING TO DEDUCTIONS FOR DISTRIBUTIONS, ETC.);

52 (II) THE AMOUNT OF TAX IMPOSED FOR THE TAXABLE YEAR ON THE ESTATE
53 UNDER CHAPTER 1; AND

54 (III) THE AMOUNT OF THE TAX IMPOSED BY SECTION 2001 (INCLUDING INTER-
55 EST) PAID BY THE EXECUTOR DURING THE TAXABLE YEAR (OTHER THAN ANY AMOUNT
56 PAID PURSUANT TO THIS PARAGRAPH).

1 (C) FOR PURPOSES OF THIS PARAGRAPH, IF ANY STOCK IN A CORPORATION IS
2 TREATED AS STOCK IN ANOTHER CORPORATION BY REASON OF SUBSECTION
3 (B)(8)(A), ANY DIVIDENDS PAID BY SUCH OTHER CORPORATION TO THE CORPO-
4 RATION SHALL BE TREATED AS PAID TO THE ESTATE OF THE DECEDENT TO THE
5 EXTENT ATTRIBUTABLE TO THE STOCK QUALIFYING UNDER SUBSECTION (A)(1).

6 (3) FAILURE TO MAKE PAYMENT OF PRINCIPAL OR INTEREST.--

7 (A) IN GENERAL.--EXCEPT AS PROVIDED IN SUBPARAGRAPH (B), IF ANY
8 PAYMENT OF PRINCIPAL OR INTEREST UNDER THIS SECTION IS NOT PAID ON OR
9 BEFORE THE DATE FIXED FOR ITS PAYMENT BY THIS SECTION (INCLUDING ANY
10 EXTENSION OF TIME), THE UNPAID PORTION OF THE TAX PAYABLE IN INSTALL-
11 MENTS SHALL BE PAID UPON NOTICE AND DEMAND FROM THE SECRETARY.

12 (B) PAYMENT WITHIN 6 MONTHS.--IF ANY PAYMENT OF PRINCIPAL OR INTEREST
13 UNDER THIS SECTION IS NOT PAID ON OR BEFORE THE DATE DETERMINED UNDER
14 SUBPARAGRAPH (A) BUT IS PAID WITHIN 6 MONTHS OF SUCH DATE--

15 (I) THE PROVISIONS OF SUBPARAGRAPH (A) SHALL NOT APPLY WITH RESPECT TO
16 SUCH PAYMENT,

17 (II) THE PROVISIONS OF SECTION 6601(J) SHALL NOT APPLY WITH RESPECT TO
18 THE DETERMINATION OF INTEREST ON SUCH PAYMENT, AND

19 (III) THERE IS IMPOSED A PENALTY IN AN AMOUNT EQUAL TO THE PRODUCT
20 OF--

21 (I) 5 PERCENT OF THE AMOUNT OF SUCH PAYMENT, MULTIPLIED BY

22 (II) THE NUMBER OF MONTHS (OR FRACTIONS THEREOF) AFTER SUCH DATE AND
23 BEFORE PAYMENT IS MADE. THE PENALTY IMPOSED UNDER CLAUSE (III) SHALL BE
24 TREATED IN THE SAME MANNER AS A PENALTY IMPOSED UNDER SUBCHAPTER B OF
25 CHAPTER 68.

26 (H) ELECTION IN CASE OF CERTAIN DEFICIENCIES.--

27 (1) IN GENERAL.--IF--

28 (A) A DEFICIENCY IN THE TAX IMPOSED BY SECTION 2001 IS ASSESSED,

29 (B) THE ESTATE QUALIFIES UNDER SUBSECTION (A)(1), AND

30 (C) THE EXECUTOR HAS NOT MADE AN ELECTION UNDER SUBSECTION (A), THE
31 EXECUTOR MAY ELECT TO PAY THE DEFICIENCY IN INSTALLMENTS. THIS
32 SUBSECTION SHALL NOT APPLY IF THE DEFICIENCY IS DUE TO NEGLIGENCE, TO
33 INTENTIONAL DISREGARD OF RULES AND REGULATIONS, OR TO FRAUD WITH INTENT
34 TO EVADE TAX.

35 (2) TIME OF ELECTION.--AN ELECTION UNDER THIS SUBSECTION SHALL BE MADE
36 NOT LATER THAN 60 DAYS AFTER ISSUANCE OF NOTICE AND DEMAND BY THE SECRE-
37 TARY FOR THE PAYMENT OF THE DEFICIENCY, AND SHALL BE MADE IN SUCH MANNER
38 AS THE SECRETARY SHALL BY REGULATIONS PRESCRIBE.

39 (3) EFFECT OF ELECTION ON PAYMENT.--IF AN ELECTION IS MADE UNDER THIS
40 SUBSECTION, THE DEFICIENCY SHALL (SUBJECT TO THE LIMITATION PROVIDED BY
41 SUBSECTION (A)(2)) BE PRORATED TO THE INSTALLMENTS WHICH WOULD HAVE BEEN
42 DUE IF AN ELECTION HAD BEEN TIMELY MADE UNDER SUBSECTION (A) AT THE TIME
43 THE ESTATE TAX RETURN WAS FILED. THE PART OF THE DEFICIENCY SO PRORATED
44 TO ANY INSTALLMENT THE DATE FOR PAYMENT OF WHICH WOULD HAVE ARRIVED
45 SHALL BE PAID AT THE TIME OF THE MAKING OF THE ELECTION UNDER THIS
46 SUBSECTION. THE PORTION OF THE DEFICIENCY SO PRORATED TO INSTALLMENTS
47 THE DATE FOR PAYMENT OF WHICH WOULD NOT HAVE SO ARRIVED SHALL BE PAID AT
48 THE TIME SUCH INSTALLMENTS WOULD HAVE BEEN DUE IF SUCH AN ELECTION HAD
49 BEEN MADE.

50 (I) SPECIAL RULE FOR CERTAIN DIRECT SKIPS.--TO THE EXTENT THAT AN
51 INTEREST IN A CLOSELY HELD BUSINESS IS THE SUBJECT OF A DIRECT SKIP
52 (WITHIN THE MEANING OF SECTION 2612(C)) OCCURRING AT THE SAME TIME AS
53 AND AS A RESULT OF THE DECEDENT'S DEATH, THEN FOR PURPOSES OF THIS
54 SECTION ANY TAX IMPOSED BY SECTION 2601 ON THE TRANSFER OF SUCH INTEREST
55 SHALL BE TREATED AS IF IT WERE ADDITIONAL TAX IMPOSED BY SECTION 2001.

1 (J) REGULATIONS.--THE SECRETARY SHALL PRESCRIBE SUCH REGULATIONS AS
2 MAY BE NECESSARY TO THE APPLICATION OF THIS SECTION.

3 (K) CROSS REFERENCES.--

4 (1) SECURITY.-- FOR AUTHORITY OF THE SECRETARY TO REQUIRE SECURITY IN
5 THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6165.

6 (2) LIEN.--FOR SPECIAL LIEN (IN LIEU OF BOND) IN THE CASE OF AN EXTEN-
7 SION UNDER THIS SECTION, SEE SECTION 6324A.

8 (3) PERIOD OF LIMITATION.--FOR EXTENSION OF THE PERIOD OF LIMITATION
9 IN THE CASE OF AN EXTENSION UNDER THIS SECTION, SEE SECTION 6503(D).

10 (4) INTEREST.--FOR PROVISIONS RELATING TO INTEREST ON TAX PAYABLE IN
11 INSTALLMENTS UNDER THIS SECTION, SEE SUBSECTION (J) OF SECTION 6601.

12 (5) TRANSFERS WITHIN 3 YEARS OF DEATH.--FOR SPECIAL RULE FOR QUALIFY-
13 ING AN ESTATE UNDER THIS SECTION WHERE PROPERTY HAS BEEN TRANSFERRED
14 WITHIN 3 YEARS OF DECEDENT'S DEATH, SEE SECTION 2035(C)(2).

15 S 11. This act shall take effect April 1, 2014 and shall apply to
16 estates of decedents dying on and after that date; provided, however,
17 that the amendments to subsection (c) of section 951 of the tax law made
18 by section one of this act shall not affect the repeal of such
19 subsection and shall be deemed repealed therewith.

20 PART Y

21 Intentionally Omitted

22 PART Z

23 Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivi-
24 sion b of section 1612 of the tax law, as amended by chapter 174 of the
25 laws of 2013, is amended to read as follows:

26 (F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subpar-
27 agraph, when a vendor track, is located in Sullivan county and within
28 sixty miles from any gaming facility in a contiguous state such vendor
29 fee shall, for a period of [six] SEVEN years commencing April first, two
30 thousand eight, be at a rate of forty-one percent of the total revenue
31 wagered at the vendor track after payout for prizes pursuant to this
32 chapter, after which time such rate shall be as for all tracks in clause
33 (C) of this subparagraph.

34 S 2. This act shall take effect immediately and shall be deemed to
35 have been in full force and effect on and after April 1, 2014.

36 PART AA

37 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
38 racing, pari-mutuel wagering and breeding law, as amended by chapter 174
39 of the laws of 2013, is amended to read as follows:

40 (a) Any racing association or corporation or regional off-track
41 betting corporation, authorized to conduct pari-mutuel wagering under
42 this chapter, desiring to display the simulcast of horse races on which
43 pari-mutuel betting shall be permitted in the manner and subject to the
44 conditions provided for in this article may apply to the commission for
45 a license so to do. Applications for licenses shall be in such form as
46 may be prescribed by the commission and shall contain such information
47 or other material or evidence as the commission may require. No license
48 shall be issued by the commission authorizing the simulcast transmission
49 of thoroughbred races from a track located in Suffolk county. The fee

1 for such licenses shall be five hundred dollars per simulcast facility
2 and for account wagering licensees that do not operate either a simul-
3 cast facility that is open to the public within the state of New York or
4 a licensed racetrack within the state, twenty thousand dollars per year
5 payable by the licensee to the commission for deposit into the general
6 fund. Except as provided in this section, the commission shall not
7 approve any application to conduct simulcasting into individual or group
8 residences, homes or other areas for the purposes of or in connection
9 with pari-mutuel wagering. The [board] COMMISSION may approve simulcast-
10 ing into residences, homes or other areas to be conducted jointly by one
11 or more regional off-track betting corporations and one or more of the
12 following: a franchised corporation, thoroughbred racing corporation or
13 a harness racing corporation or association; provided (i) the simulcast-
14 ing consists only of those races on which pari-mutuel betting is author-
15 ized by this chapter at one or more simulcast facilities for each of the
16 contracting off-track betting corporations which shall include wagers
17 made in accordance with section one thousand fifteen, one thousand
18 sixteen and one thousand seventeen of this article; provided further
19 that the contract provisions or other simulcast arrangements for such
20 simulcast facility shall be no less favorable than those in effect on
21 January first, two thousand five; (ii) that each off-track betting
22 corporation having within its geographic boundaries such residences,
23 homes or other areas technically capable of receiving the simulcast
24 signal shall be a contracting party; (iii) the distribution of revenues
25 shall be subject to contractual agreement of the parties except that
26 statutory payments to non-contracting parties, if any, may not be
27 reduced; provided, however, that nothing herein to the contrary shall
28 prevent a track from televising its races on an irregular basis primari-
29 ly for promotional or marketing purposes as found by the [board] COMMIS-
30 SION. For purposes of this paragraph, the provisions of section one
31 thousand thirteen of this article shall not apply. Any agreement author-
32 izing an in-home simulcasting experiment commencing prior to May
33 fifteenth, nineteen hundred ninety-five, may, and all its terms, be
34 extended until June thirtieth, two thousand [fourteen] FIFTEEN;
35 provided, however, that any party to such agreement may elect to termi-
36 nate such agreement upon conveying written notice to all other parties
37 of such agreement at least forty-five days prior to the effective date
38 of the termination, via registered mail. Any party to an agreement
39 receiving such notice of an intent to terminate, may request the [board]
40 COMMISSION to mediate between the parties new terms and conditions in a
41 replacement agreement between the parties as will permit continuation of
42 an in-home experiment until June thirtieth, two thousand [fourteen]
43 FIFTEEN; and (iv) no in-home simulcasting in the thoroughbred special
44 betting district shall occur without the approval of the regional
45 thoroughbred track.

46 S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
47 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
48 section 2 of part U of chapter 59 of the laws of 2013, is amended to
49 read as follows:

50 (iii) Of the sums retained by a receiving track located in Westchester
51 county on races received from a franchised corporation, for the period
52 commencing January first, two thousand eight and continuing through June
53 thirtieth, two thousand [fourteen] FIFTEEN, the amount used exclusively
54 for purses to be awarded at races conducted by such receiving track
55 shall be computed as follows: of the sums so retained, two and one-half
56 percent of the total pools. Such amount shall be increased or decreased

1 in the amount of fifty percent of the difference in total commissions
2 determined by comparing the total commissions available after July twen-
3 ty-first, nineteen hundred ninety-five to the total commissions that
4 would have been available to such track prior to July twenty-first,
5 nineteen hundred ninety-five.

6 S 3. The opening paragraph of subdivision 1 of section 1014 of the
7 racing, pari-mutuel wagering and breeding law, as amended by section 3
8 of part U of chapter 59 of the laws of 2013, is amended to read as
9 follows:

10 The provisions of this section shall govern the simulcasting of races
11 conducted at thoroughbred tracks located in another state or country on
12 any day during which a franchised corporation is conducting a race meet-
13 ing in Saratoga county at Saratoga thoroughbred racetrack until June
14 thirtieth, two thousand [fourteen] FIFTEEN and on any day regardless of
15 whether or not a franchised corporation is conducting a race meeting in
16 Saratoga county at Saratoga thoroughbred racetrack after June thirtieth,
17 two thousand [fourteen] FIFTEEN. On any day on which a franchised
18 corporation has not scheduled a racing program but a thoroughbred racing
19 corporation located within the state is conducting racing, every off-
20 track betting corporation branch office and every simulcasting facility
21 licensed in accordance with section one thousand seven (that have
22 entered into a written agreement with such facility's representative
23 horsemen's organization, as approved by the [board] COMMISSION), one
24 thousand eight, or one thousand nine of this article shall be authorized
25 to accept wagers and display the live simulcast signal from thoroughbred
26 tracks located in another state or foreign country subject to the
27 following provisions:

28 S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
29 and breeding law, as amended by section 4 of part U of chapter 59 of the
30 laws of 2013, is amended to read as follows:

31 1. The provisions of this section shall govern the simulcasting of
32 races conducted at harness tracks located in another state or country
33 during the period July first, nineteen hundred ninety-four through June
34 thirtieth, two thousand [fourteen] FIFTEEN. This section shall super-
35 sede all inconsistent provisions of this chapter.

36 S 5. The opening paragraph of subdivision 1 of section 1016 of the
37 racing, pari-mutuel wagering and breeding law, as amended by section 5
38 of part U of chapter 59 of the laws of 2013, is amended to read as
39 follows:

40 The provisions of this section shall govern the simulcasting of races
41 conducted at thoroughbred tracks located in another state or country on
42 any day during which a franchised corporation is not conducting a race
43 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
44 thirtieth, two thousand [fourteen] FIFTEEN. Every off-track betting
45 corporation branch office and every simulcasting facility licensed in
46 accordance with section one thousand seven that have entered into a
47 written agreement with such facility's representative horsemen's organ-
48 ization as approved by the [board] COMMISSION, one thousand eight or one
49 thousand nine of this article shall be authorized to accept wagers and
50 display the live full-card simulcast signal of thoroughbred tracks
51 (which may include quarter horse or mixed meetings provided that all
52 such wagering on such races shall be construed to be thoroughbred races)
53 located in another state or foreign country, subject to the following
54 provisions; provided, however, no such written agreement shall be
55 required of a franchised corporation licensed in accordance with section
56 one thousand seven of this article:

1 S 6. The opening paragraph of section 1018 of the racing, pari-mutuel
2 wagering and breeding law, as amended by section 6 of part U of chapter
3 59 of the laws of 2013, is amended to read as follows:

4 Notwithstanding any other provision of this chapter, for the period
5 July twenty-fifth, two thousand one through September eighth, two thou-
6 sand [thirteen] FOURTEEN, when a franchised corporation is conducting a
7 race meeting within the state at Saratoga Race Course, every off-track
8 betting corporation branch office and every simulcasting facility
9 licensed in accordance with section one thousand seven (that has entered
10 into a written agreement with such facility's representative horsemen's
11 organization as approved by the [board] COMMISSION), one thousand eight
12 or one thousand nine of this article shall be authorized to accept
13 wagers and display the live simulcast signal from thoroughbred tracks
14 located in another state, provided that such facility shall accept
15 wagers on races run at all in-state thoroughbred tracks which are
16 conducting racing programs subject to the following provisions;
17 provided, however, no such written agreement shall be required of a
18 franchised corporation licensed in accordance with section one thousand
19 seven of this article.

20 S 7. Section 32 of chapter 281 of the laws of 1994, amending the
21 racing, pari-mutuel wagering and breeding law and other laws relating
22 to simulcasting, as amended by section 7 of part U of chapter 59 of the
23 laws of 2013, is amended to read as follows:

24 S 32. This act shall take effect immediately and the pari-mutuel tax
25 reductions in section six of this act shall expire and be deemed
26 repealed on July 1, [2014] 2015; provided, however, that nothing
27 contained herein shall be deemed to affect the application, qualifica-
28 tion, expiration, or repeal of any provision of law amended by any
29 section of this act, and such provisions shall be applied or qualified
30 or shall expire or be deemed repealed in the same manner, to the same
31 extent and on the same date as the case may be as otherwise provided by
32 law; provided further, however, that sections twenty-three and twenty-
33 five of this act shall remain in full force and effect only until May 1,
34 1997 and at such time shall be deemed to be repealed.

35 S 8. Section 54 of chapter 346 of the laws of 1990, amending the
36 racing, pari-mutuel wagering and breeding law and other laws relating to
37 simulcasting and the imposition of certain taxes, as amended by section
38 8 of part U of chapter 59 of the laws of 2013, is amended to read as
39 follows:

40 S 54. This act shall take effect immediately; provided, however,
41 sections three through twelve of this act shall take effect on January
42 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
43 ing law, as added by section thirty-eight of this act, shall expire and
44 be deemed repealed on July 1, [2014] 2015; and section eighteen of this
45 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
46 two of this act shall take effect as of the same date as chapter 772 of
47 the laws of 1989 took effect.

48 S 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
49 pari-mutuel wagering and breeding law, as amended by section 9 of part U
50 of chapter 59 of the laws of 2013, is amended to read as follows:

51 (a) The franchised corporation authorized under this chapter to
52 conduct pari-mutuel betting at a race meeting or races run thereat shall
53 distribute all sums deposited in any pari-mutuel pool to the holders of
54 winning tickets therein, provided such tickets be presented for payment
55 before April first of the year following the year of their purchase,
56 less an amount which shall be established and retained by such fran-

1 chised corporation of between twelve to seventeen per centum of the
2 total deposits in pools resulting from on-track regular bets, and four-
3 teen to twenty-one per centum of the total deposits in pools resulting
4 from on-track multiple bets and fifteen to twenty-five per centum of the
5 total deposits in pools resulting from on-track exotic bets and fifteen
6 to thirty-six per centum of the total deposits in pools resulting from
7 on-track super exotic bets, plus the breaks. The retention rate to be
8 established is subject to the prior approval of the [racing and wagering
9 board] GAMING COMMISSION. Such rate may not be changed more than once
10 per calendar quarter to be effective on the first day of the calendar
11 quarter. "Exotic bets" and "multiple bets" shall have the meanings set
12 forth in section five hundred nineteen of this chapter. "Super exotic
13 bets" shall have the meaning set forth in section three hundred one of
14 this chapter. For purposes of this section, a "pick six bet" shall mean
15 a single bet or wager on the outcomes of six races. The breaks are here-
16 by defined as the odd cents over any multiple of five for payoffs great-
17 er than one dollar five cents but less than five dollars, over any
18 multiple of ten for payoffs greater than five dollars but less than
19 twenty-five dollars, over any multiple of twenty-five for payoffs great-
20 er than twenty-five dollars but less than two hundred fifty dollars, or
21 over any multiple of fifty for payoffs over two hundred fifty dollars.
22 Out of the amount so retained there shall be paid by such franchised
23 corporation to the commissioner of taxation and finance, as a reasonable
24 tax by the state for the privilege of conducting pari-mutuel betting on
25 the races run at the race meetings held by such franchised corporation,
26 the following percentages of the total pool for regular and multiple
27 bets five per centum of regular bets and four per centum of multiple
28 bets plus twenty per centum of the breaks; for exotic wagers seven and
29 one-half per centum plus twenty per centum of the breaks, and for super
30 exotic bets seven and one-half per centum plus fifty per centum of the
31 breaks. For the period June first, nineteen hundred ninety-five through
32 September ninth, nineteen hundred ninety-nine, such tax on regular
33 wagers shall be three per centum and such tax on multiple wagers shall
34 be two and one-half per centum, plus twenty per centum of the breaks.
35 For the period September tenth, nineteen hundred ninety-nine through
36 March thirty-first, two thousand one, such tax on all wagers shall be
37 two and six-tenths per centum and for the period April first, two thou-
38 sand one through December thirty-first, two thousand [fourteen] FIFTEEN,
39 such tax on all wagers shall be one and six-tenths per centum, plus, in
40 each such period, twenty per centum of the breaks. Payment to the New
41 York state thoroughbred breeding and development fund by such franchised
42 corporation shall be one-half of one per centum of total daily on-track
43 pari-mutuel pools resulting from regular, multiple and exotic bets and
44 three per centum of super exotic bets provided, however, that for the
45 period September tenth, nineteen hundred ninety-nine through March thir-
46 ty-first, two thousand one, such payment shall be six-tenths of one per
47 centum of regular, multiple and exotic pools and for the period April
48 first, two thousand one through December thirty-first, two thousand
49 [fourteen] FIFTEEN, such payment shall be seven-tenths of one per centum
50 of such pools.

51 S 10. This act shall take effect immediately.

1 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-
2 sion b of section 1612 of the tax law, as separately amended by chapters
3 174 and 175 of the laws of 2013, is amended to read as follows:
4 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
5 this subparagraph, the track operator of a vendor track shall be eligi-
6 ble for a vendor's capital award of up to four percent of the total
7 revenue wagered at the vendor track after payout for prizes pursuant to
8 this chapter, which shall be used exclusively for capital project
9 investments to improve the facilities of the vendor track which promote
10 or encourage increased attendance at the video lottery gaming facility
11 including, but not limited to hotels, other lodging facilities, enter-
12 tainment facilities, retail facilities, dining facilities, events
13 arenas, parking garages and other improvements that enhance facility
14 amenities; provided that such capital investments shall be approved by
15 the division, in consultation with the state racing and wagering board,
16 and that such vendor track demonstrates that such capital expenditures
17 will increase patronage at such vendor track's facilities and increase
18 the amount of revenue generated to support state education programs. The
19 annual amount of such vendor's capital awards that a vendor track shall
20 be eligible to receive shall be limited to two million five hundred
21 thousand dollars, except for Aqueduct racetrack, for which there shall
22 be no vendor's capital awards. Except for tracks having less than one
23 thousand one hundred video gaming machines, and except for a vendor
24 track located west of State Route 14 from Sodus Point to the Pennsylv-
25 ania border within New York, each track operator shall be required to
26 co-invest an amount of capital expenditure equal to its cumulative
27 vendor's capital award. For all tracks, except for Aqueduct racetrack,
28 the amount of any vendor's capital award that is not used during any one
29 year period may be carried over into subsequent years ending before
30 April first, two thousand [fourteen] FIFTEEN. Any amount attributable
31 to a capital expenditure approved prior to April first, two thousand
32 [fourteen] FIFTEEN and completed before April first, two thousand
33 [sixteen] SEVENTEEN; or approved prior to April first, two thousand
34 [eighteen] NINETEEN and completed before April first, two thousand
35 [twenty] TWENTY-ONE for a vendor track located west of State Route 14
36 from Sodus Point to the Pennsylvania border within New York, shall be
37 eligible to receive the vendor's capital award. In the event that a
38 vendor track's capital expenditures, approved by the division prior to
39 April first, two thousand [fourteen] FIFTEEN and completed prior to
40 April first, two thousand [sixteen] SEVENTEEN, exceed the vendor track's
41 cumulative capital award during the five year period ending April first,
42 two thousand [fourteen] FIFTEEN, the vendor shall continue to receive
43 the capital award after April first, two thousand [fourteen] FIFTEEN
44 until such approved capital expenditures are paid to the vendor track
45 subject to any required co-investment. In no event shall any vendor
46 track that receives a vendor fee pursuant to clause (F) or (G) of this
47 subparagraph be eligible for a vendor's capital award under this
48 section. Any operator of a vendor track which has received a vendor's
49 capital award, choosing to divest the capital improvement toward which
50 the award was applied, prior to the full depreciation of the capital
51 improvement in accordance with generally accepted accounting principles,
52 shall reimburse the state in amounts equal to the total of any such
53 awards. Any capital award not approved for a capital expenditure at a
54 video lottery gaming facility by April first, two thousand [fourteen]
55 FIFTEEN shall be deposited into the state lottery fund for education
56 aid; and

1 S 2. This act shall take effect immediately.

2 PART CC

3 Intentionally Omitted

4 PART DD

5 Section 1. Subsection (b) of section 804 of the tax law, as added by
6 section 1 of part C of chapter 25 of the laws of 2009, is amended to
7 read as follows:

8 (b) Individuals with net earnings from self-employment. Individuals
9 with earnings from self-employment must make estimated tax payments of
10 the tax imposed by this article for the taxable year on the same dates
11 specified in [subsection (a) of this section for the quarterly payments
12 of the tax imposed on the payroll expense of employers] PARAGRAPH ONE OF
13 SUBSECTION (C) OF SECTION SIX HUNDRED EIGHTY-FIVE OF THIS CHAPTER. In
14 addition, these self-employed individuals must file a return for the
15 taxable year by the [thirtieth] FIFTEENTH day of the fourth month
16 following the close of the taxable year. Paragraph one of subsection (d)
17 of section six hundred eighty-five of this chapter shall not apply to
18 the estimated tax payments required by this subsection.

19 S 2. Section 806 of the tax law, as added by section 1 of part C of
20 chapter 25 of the laws of 2009, is amended to read as follows:

21 S 806. Procedural provisions. (A) GENERAL. All provisions of article
22 twenty-two of this chapter will apply to the provisions of this article
23 in the same manner and with the same force and effect as if the language
24 of article twenty-two of this chapter had been incorporated in full into
25 this article and had been specifically adjusted for and expressly
26 referred to the tax imposed by this article, except to the extent that
27 any provision is either inconsistent with a provision of this article or
28 is not relevant to this article. Notwithstanding the preceding sentence,
29 no credit against tax in article twenty-two of this chapter can be used
30 to offset the tax due under this article.

31 (B) COMBINED FILINGS. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
32 ARTICLE:

33 (1) THE COMMISSIONER MAY REQUIRE THE FILING OF A COMBINED RETURN
34 WHICH, IN ADDITION TO THE RETURN PROVIDED FOR IN SUBSECTION (B) OF
35 SECTION EIGHT HUNDRED FOUR OF THIS ARTICLE, MAY ALSO INCLUDE ANY OF THE
36 RETURNS REQUIRED TO BE FILED BY A RESIDENT INDIVIDUAL OF NEW YORK STATE
37 PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED FIFTY-ONE OF THIS
38 CHAPTER AND WHICH MAY BE REQUIRED TO BE FILED BY SUCH INDIVIDUAL PURSU-
39 ANT TO ANY LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIR-
40 TY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

41 (2) WHERE A COMBINED RETURN IS REQUIRED, AND WITH RESPECT TO THE
42 PAYMENT OF ESTIMATED TAX, THE COMMISSIONER MAY ALSO REQUIRE THE PAYMENT
43 TO IT OF A SINGLE AMOUNT WHICH SHALL EQUAL THE TOTAL OF THE AMOUNTS
44 (TOTAL TAXES LESS ANY CREDITS OR REFUNDS) WHICH WOULD HAVE BEEN REQUIRED
45 TO BE PAID WITH THE RETURNS OR IN PAYMENT OF ESTIMATED TAX PURSUANT TO
46 THE PROVISIONS OF THIS ARTICLE, THE PROVISIONS OF ARTICLE TWENTY-TWO OF
47 THIS CHAPTER, AND THE PROVISIONS OF LOCAL LAWS ENACTED UNDER THE AUTHOR-
48 ITY OF ARTICLE THIRTY, THIRTY-A OR THIRTY-B OF THIS CHAPTER.

49 (3) Notwithstanding any other law to the contrary, the commissioner
50 may require that all filings of forms or returns under this article must

1 be filed electronically and all payments of tax must be paid electron-
2 ically.

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

5 S 807. ENFORCEMENT WITH OTHER TAXES. (A) JOINT ASSESSMENT. IF THERE IS
6 ASSESSED A TAX UNDER THIS ARTICLE AND THERE IS ALSO ASSESSED A TAX
7 AGAINST THE SAME TAXPAYER PURSUANT TO ARTICLE TWENTY-TWO OF THIS CHAPTER
8 OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIR-
9 TY, ARTICLE THIRTY-A, OR ARTICLE THIRTY-B OF THIS CHAPTER, AND PAYMENT
10 OF A SINGLE AMOUNT IS REQUIRED UNDER THE PROVISIONS OF THIS ARTICLE,
11 SUCH PAYMENT SHALL BE DEEMED TO HAVE BEEN MADE WITH RESPECT TO THE TAXES
12 SO ASSESSED IN PROPORTION TO THE AMOUNTS OF SUCH TAXES DUE, INCLUDING
13 TAX, PENALTIES, INTERESTED AND ADDITIONS TO TAX.

14 (B) JOINT ACTION. IF THE COMMISSIONER TAKES ACTION UNDER SUCH ARTICLE
15 TWENTY-TWO OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF
16 ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER WITH RESPECT TO
17 THE ENFORCEMENT AND COLLECTION OF THE TAX OR TAXES ASSESSED UNDER SUCH
18 ARTICLES, THE COMMISSIONER SHALL, WHENEVER POSSIBLE AND NECESSARY,
19 ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION UNDER SIMILAR ENFORCEMENT
20 AND COLLECTION PROVISIONS OF THE TAX IMPOSED BY THIS ARTICLE.

21 (C) APPORTIONMENT OF MONEYS COLLECTED BY JOINT ACTION. ANY MONEYS
22 COLLECTED AS A RESULT OF SUCH JOINT ACTION SHALL BE DEEMED TO HAVE BEEN
23 COLLECTED IN PROPORTION TO THE AMOUNTS DUE, INCLUDING TAX, PENALTIES,
24 INTEREST AND ADDITIONS TO TAX, UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER
25 OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHORITY OF ARTICLE THIR-
26 TY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER AND THE TAX IMPOSED BY THIS
27 ARTICLE.

28 (D) JOINT DEFICIENCY ACTION. WHENEVER THE COMMISSIONER TAKES ANY
29 ACTION WITH RESPECT TO A DEFICIENCY OF INCOME TAX UNDER ARTICLE TWENTY-
30 TWO OF THIS CHAPTER OR UNDER A LOCAL LAW ENACTED PURSUANT TO THE AUTHOR-
31 ITY OF ARTICLE THIRTY, THIRTY-A, OR THIRTY-B OF THIS CHAPTER, OTHER THAN
32 THE ACTION SET FORTH IN SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER
33 MAY IN HIS OR HER DISCRETION ACCOMPANY SUCH ACTION WITH A SIMILAR ACTION
34 UNDER THIS ARTICLE.

35 S 4. This act shall take effect immediately and apply to taxable years
36 beginning on or after January 1, 2015.

37

PART EE

38 Section 1. Subdivision 4 of section 97-nnnn of the state finance law,
39 as added by chapter 174 of the laws of 2013, is amended to read as
40 follows:

41 4. a. As used in this section, the term "base year gaming revenue"
42 shall mean the sum of all revenue generated to support education from
43 video lottery gaming as defined by section sixteen hundred seventeen-a
44 of the tax law in the twelve months preceding the operation of any
45 gaming facility pursuant to either article thirteen of the racing, pari-
46 mutuel wagering and breeding law or pursuant to paragraph four of SUBDI-
47 VISION A OF section [one thousand six] SIXTEEN hundred seventeen-a of
48 the tax law.

49 b. Amounts APPROPRIATED OR transferred in any year to support elemen-
50 tary and secondary education shall be calculated as follows:

51 (i) an amount equal to the positive difference, if any, between the
52 base year gaming revenue amount and the sum of all revenue generated to
53 support education from video lottery gaming as defined by section
54 sixteen hundred seventeen-a of the tax law in the current fiscal year

1 provided that such positive amount, if any, shall be transferred to the
2 state lottery fund[;]. FOR THE PURPOSES OF THIS PARAGRAPH, THE CALCU-
3 LATION OF THIS POSITIVE DIFFERENCE SHALL BE ESTIMATED AND TRANSFERRED
4 MONTHLY BASED ON THE CUMULATIVE POSITIVE DIFFERENCE, IF ANY, IN THE SAME
5 CUMULATIVE MONTHS OF THE BASE YEAR AND THE CUMULATIVE MONTHS OF THE
6 CURRENT FISCAL YEAR TO DATE, LESS AMOUNTS PREVIOUSLY TRANSFERRED IN THE
7 CURRENT FISCAL YEAR. PROVIDED, HOWEVER, IF THE AMOUNT PREVIOUSLY TRANS-
8 FERRED IN THE CURRENT FISCAL YEAR EXCEEDS THE CUMULATIVE POSITIVE
9 DIFFERENCE, AN AMOUNT EQUAL TO THE EXCESS TRANSFERRED MAY BE TRANSFERRED
10 BACK FROM THE STATE LOTTERY FUND; and

11 (ii) the amount of revenue collected [in the prior state fiscal year,]
12 to be distributed pursuant to paragraph a of subdivision three of this
13 section, and in excess of any amounts transferred pursuant to subpara-
14 graph (i) of this paragraph [in such prior fiscal year], if any.

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

25 S 2. Subdivision 5 of section 97-nnnn of the state finance law, as
26 added by chapter 174 of the laws of 2013, is amended to read as follows:

27 5. Notwithstanding the foregoing, monies received pursuant to:

28 a. sections one thousand three hundred forty-five and one thousand
29 three hundred forty-eight of [this article] THE RACING, PARI-MUTUEL
30 WAGERING AND BREEDING LAW shall be exclusively appropriated to the
31 office of alcoholism and substance abuse services to be used for problem
32 gambling education and treatment purposes.

33 b. section one thousand three hundred forty-nine of [this article] THE
34 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively
35 appropriated to the commission for regulatory investigations.

36 c. section one thousand three hundred fifty of [this article] THE
37 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW shall be exclusively
38 appropriated to the commission for costs regulation.

39 S 3. Subdivisions (b) and (c) of section 52 of chapter 174 of the laws
40 of 2013 enacting the upstate New York gaming economic development act of
41 2013, are amended to read as follows:

42 (b) sections six, seven, fourteen and sixteen of this act shall take
43 effect on the same date as the agreement between the Oneida Nation of
44 New York and the state of New York entered into on the sixteenth day of
45 May, 2013 takes effect; provided, further, that the amendments to subdi-
46 vision 2 of section 99-h of the state finance law made by section six of
47 this act shall take effect on the same date as the reversion of such
48 section as provided in section 2 of chapter 747 of the laws of 2006, as
49 amended; provided, further, that the amendments to subdivision 3 of
50 section 99-h of the state finance law made by section seven of this act
51 shall be subject to the expiration and reversion of such subdivision as
52 provided in section 3 of part W of chapter 60 of the laws of 2011, as
53 amended when upon such date the provisions of section seven-a of this
54 act shall take effect; provided, further, that the amendments to subdi-
55 vision 3 of section 99-h of the state finance law made by section
56 seven-a of this act shall be subject to the the expiration and reversion

1 of such section as provided in section 2 of chapter 747 of the laws of
2 2006, as amended when upon such date the provisions of section eight of
3 this act shall take effect; [provided, further, however, that the amend-
4 ment to section 99-h of the state finance law made by section nine of
5 this act shall not affect the expiration of such section and shall be
6 deemed repealed therewith;] provided, further, that the state gaming
7 commission shall notify the legislative bill drafting commission upon
8 the occurrence of such agreement between the Oneida Nation and the state
9 of New York becoming effective in order that the commission may maintain
10 an accurate and timely effective data base of the official text of the
11 laws of the state of New York in furtherance of effecting the provisions
12 of section 44 of the legislative law and section 70-b of the public
13 officers law;

14 (c) section [1368] 1367 of the racing, pari-mutuel wagering and breed-
15 ing law, as added by section two of this act, shall take effect upon a
16 change in federal law authorizing the activity permitted by such section
17 or upon a ruling by a court of competent jurisdiction that such activity
18 is lawful. The state gaming commission shall notify the legislative bill
19 drafting commission upon the occurrence of the change in federal law or
20 upon the ruling of a court of competent jurisdiction in order that the
21 commission may maintain an accurate and timely effective data base of
22 the official text of the laws of the state of New York in furtherance of
23 effecting the provisions of section 44 of the legislative law and
24 section 70-b of the public officers law;

25 S 4. Subdivision 3-a of section 99-h of the state finance law, as
26 added by chapter 174 of the laws of 2013, is amended to read as follows:

27 3-a. Ten percent of any of the funds actually received by the state
28 pursuant to the tribal-state compacts and agreements described in subdi-
29 vision two of this section [that are retained in the fund after the
30 distributions required by subdivision three of this section, but] prior
31 to the transfer of unsegregated moneys to the general fund required by
32 such subdivision, shall be distributed to counties in each respective
33 exclusivity zone provided they do not otherwise receive a share of said
34 revenues pursuant to this section. Such distribution shall be made among
35 such counties on a per capita basis, excluding the population of any
36 municipality that receives a distribution pursuant to subdivision three
37 of this section.

38 S 5. Subdivision g of section 1617-a of the tax law, as added by chap-
39 ter 174 of the laws of 2013, is amended to read as follows:

40 g. Every video lottery gaming license, and every renewal license,
41 shall be valid for a period of five years, except that video gaming
42 licenses issued before the effective date of this subdivision shall be
43 for a term expiring on THE APPLICANT'S NEXT BIRTHDAY FOLLOWING June
44 thirtieth, two thousand fourteen.

45 The gaming commission may decline to renew any license after notice
46 and an opportunity for hearing if it determines that:

47 (1) the licensee has violated section one thousand six hundred seven
48 of this article;

49 (2) the licensee has violated any rule, regulation or order of the
50 gaming commission;

51 (3) the applicant or its officers, directors or significant stockhold-
52 ers, as determined by the gaming commission, have been convicted of a
53 crime involving moral turpitude; or

54 (4) that the character or fitness of the licensee and its officers,
55 directors, and significant stockholders, as determined by the gaming
56 commission is such that the participation of the applicant in video

1 lottery gaming or related activities would be inconsistent with the
2 public interest, convenience or necessity or with the best interests of
3 video gaming generally.

4 S 6. This act shall take effect immediately; provided, that section
5 one of this act shall take effect April 1, 2015; provided, further, that
6 the amendments made to section three of this act shall be deemed to have
7 taken effect on the same date and in the same manner as chapter 174 of
8 the laws of 2013.

9

PART FF

10 Section 1. Subsections (yy) and (zz) of section 606 of the tax law, as
11 relettered by section 5 of part H of chapter 1 of the laws of 2003, are
12 relettered (yyy) and (zzz) and a new subsection (bbb) is added to read
13 as follows:

14 (BBB) REAL PROPERTY TAX FREEZE CREDIT. (1) AS USED IN THIS SUBSECTION:

15 (A) THE TERM "FREEZE-COMPLIANT BUDGET" MEANS A BUDGET OF A TAXING
16 JURISDICTION THAT HAS MET THE REQUIREMENTS OF SECTION TWO THOUSAND TWEN-
17 TY-THREE-B OF THE EDUCATION LAW OR SECTION THREE-D OF THE GENERAL MUNIC-
18 IPAL LAW, WHICHEVER IS APPLICABLE.

19 (B) THE TERMS "INDEPENDENT SPECIAL DISTRICT" AND "DEPENDENT SCHOOL
20 DISTRICT" HAVE THE SAME MEANING AS SET FORTH IN SECTION THREE-D OF THE
21 GENERAL MUNICIPAL LAW.

22 (C) THE TERM "STAR EXEMPTION" MEANS THE SCHOOL TAX RELIEF EXEMPTION
23 AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX
24 LAW.

25 (D) THE TERM "TAXING JURISDICTION" MEANS A COUNTY, CITY, TOWN,
26 VILLAGE, SCHOOL DISTRICT OR AN INDEPENDENT SPECIAL DISTRICT, EXCEPT THAT
27 SUCH TERM SHALL NOT INCLUDE A CITY WITH A POPULATION OF ONE MILLION OR
28 MORE, NOR SHALL IT INCLUDE A COUNTY WHOLLY LOCATED WITHIN SUCH A CITY.

29 (E) THE TERM "LEVY CREDIT FACTOR" MEANS THE ALLOWABLE LEVY GROWTH
30 FACTOR FOR A TAXING JURISDICTION, AS DETERMINED PURSUANT TO SECTION
31 THREE-C OF THE GENERAL MUNICIPAL LAW OR SECTION TWO THOUSAND
32 TWENTY-THREE-A OF THE EDUCATION LAW, MINUS ONE.

33 (2) AN INDIVIDUAL TAXPAYER WHO MEETS THE ELIGIBILITY STANDARDS SET
34 FORTH IN PARAGRAPH THREE OF THIS SUBSECTION AND WHOSE PRIMARY RESIDENCE
35 IS LOCATED IN A TAXING JURISDICTION THAT HAS A FREEZE-COMPLIANT BUDGET
36 FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, TWO THOUSAND
37 FIFTEEN OR TWO THOUSAND SIXTEEN, WHICHEVER IS APPLICABLE, SHALL BE
38 ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS ARTICLE. SUBJECT TO
39 THE PROVISIONS OF PARAGRAPH SIX OF THIS SUBSECTION, SUCH CREDIT SHALL BE
40 DETERMINED AS FOLLOWS:

41 (A) IF A SCHOOL DISTRICT OTHER THAN A DEPENDENT SCHOOL DISTRICT HAS A
42 FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND
43 FOURTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO
44 THOUSAND FOURTEEN TAXABLE YEAR IN THE AMOUNT THAT IS THE GREATER OF (I)
45 THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE
46 BY OR ON BEHALF OF THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN
47 TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE
48 FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN, OR (II) THE PRODUCT OF
49 THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF
50 THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIR-
51 TEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR THAT SCHOOL DISTRICT FOR
52 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

53 (B) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY
54 WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS

1 FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, A CREDIT SHALL BE ALLOWED
2 FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN THE
3 AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY
4 TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURIS-
5 DICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE
6 REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOU-
7 SAND FOURTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED
8 UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE
9 FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY
10 CREDIT FACTOR FOR THAT TAXING JURISDICTION FOR THE FISCAL YEAR STARTING
11 IN TWO THOUSAND FIFTEEN.

12 (C) IF A SCHOOL DISTRICT OTHER THAN A DEPENDENT SCHOOL DISTRICT HAS A
13 FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND
14 FIFTEEN, A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOU-
15 SAND FIFTEEN TAXABLE YEAR IN THE AMOUNT BY WHICH THE REAL PROPERTY TAXES
16 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR
17 THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROP-
18 ERTY TAXES SO IMPOSED FOR THE FISCAL YEAR IDENTIFIED AS FOLLOWS:

19 (I) IF THE SCHOOL DISTRICT'S BUDGET FOR THE FISCAL YEAR STARTING IN
20 TWO THOUSAND FOURTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE
21 ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN
22 THE AMOUNT OF THE CREDIT FOR SCHOOL DISTRICT TAXES ALLOWED FOR THE
23 ELIGIBLE TAXPAYER'S TWO THOUSAND FOURTEEN TAXABLE YEAR; TOGETHER WITH
24 THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROP-
25 ERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT SCHOOL
26 DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS
27 THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO
28 THOUSAND FOURTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES
29 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR
30 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY
31 CREDIT FACTOR FOR THAT SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN
32 TWO THOUSAND FIFTEEN.

33 (II) IF THE SCHOOL DISTRICT'S BUDGET FOR THE FISCAL YEAR STARTING IN
34 TWO THOUSAND FOURTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL
35 BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR
36 IN THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL
37 PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY ON OR BEHALF OF THAT
38 SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN
39 EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING
40 IN TWO THOUSAND FOURTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES
41 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH SCHOOL DISTRICT FOR
42 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY
43 CREDIT FACTOR FOR SUCH SCHOOL DISTRICT FOR THE FISCAL YEAR STARTING IN
44 TWO THOUSAND FIFTEEN.

45 (D) IF A TAXING JURISDICTION, OTHER THAN A SCHOOL DISTRICT OR A CITY
46 WITH A DEPENDENT SCHOOL DISTRICT, HAS A FREEZE-COMPLIANT BUDGET FOR ITS
47 FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN:

48 (I) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING
49 IN TWO THOUSAND FIFTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE
50 ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXABLE YEAR IN
51 THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON BEHALF OF SUCH
52 TAXING JURISDICTION ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND
53 FIFTEEN TAXABLE YEAR; TOGETHER WITH THE AMOUNT THAT IS THE GREATER OF
54 (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-
55 DENCE BY OR ON BEHALF OF SUCH TAXING JURISDICTION FOR THE FISCAL YEAR
56 STARTING IN TWO THOUSAND SIXTEEN EXCEEDS THE REAL PROPERTY TAXES IMPOSED

1 UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT TAXING JURISDICTION FOR THE
2 FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN, OR (II) THE PRODUCT OF THE
3 REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH
4 TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN
5 MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH TAXING JURISDICTION FOR
6 THE FISCAL YEAR STARTING IN TWO THOUSAND SIXTEEN.

7 (II) IF THE TAXING JURISDICTION'S BUDGET FOR THE FISCAL YEAR STARTING
8 IN TWO THOUSAND FIFTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT
9 SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXA-
10 BLE YEAR IN THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH
11 THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF
12 SUCH TAXING JURISDICTION FOR THE FISCAL YEAR STARTING IN TWO THOUSAND
13 SIXTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR
14 STARTING IN TWO THOUSAND FIFTEEN, OR (II) THE PRODUCT OF THE REAL PROP-
15 erty taxes imposed upon such residence by or on behalf of such taxing
16 jurisdiction for the fiscal year starting in two thousand fifteen multi-
17 plied by the levy credit factor for such taxing jurisdiction for the
18 fiscal year starting in two thousand sixteen.

19 (E) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT
20 BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, A TAX
21 CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FOUR-
22 TEEN TAXABLE YEAR IN THE AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE
23 AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY
24 TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF THAT CITY FOR THE
25 FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE REAL PROPERTY
26 TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND THIRTEEN,
27 OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-
28 DENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO
29 THOUSAND THIRTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR
30 THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

31 (F) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT
32 BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN:

33 (I) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND
34 FOURTEEN WAS A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED FOR
35 THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN AN AMOUNT
36 EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF
37 (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-
38 DENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN
39 EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING
40 IN TWO THOUSAND THIRTEEN, OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES
41 IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL
42 YEAR STARTING IN TWO THOUSAND THIRTEEN MULTIPLIED BY THE LEVY CREDIT
43 FACTOR FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOUR-
44 TEEN; TOGETHER WITH THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR
45 ON BEHALF OF SUCH CITY ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND
46 FOURTEEN TAXABLE YEAR; AND TOGETHER WITH AN AMOUNT EQUIVALENT TO SIXTY-
47 SEVEN PERCENT OF THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY
48 WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY
49 FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL
50 PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND
51 FOURTEEN; OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON
52 SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING
53 IN TWO THOUSAND FOURTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH
54 CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN; AND A CREDIT
55 SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND SIXTEEN TAXA-
56 BLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE PERCENT OF THE AMOUNT

1 THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES
2 IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN
3 TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE
4 FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN, OR (II) THE PRODUCT OF
5 THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY OR ON BEHALF OF
6 SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN MULTI-
7 PLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR THE FISCAL YEAR START-
8 ING IN TWO THOUSAND FIFTEEN; TOGETHER WITH AN AMOUNT EQUIVALENT TO 49.25
9 PERCENT OF THE AMOUNT OF THE CREDIT FOR THE TAXES IMPOSED BY OR ON
10 BEHALF OF SUCH CITY ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND
11 FOURTEEN TAXABLE YEAR.

12 (II) IF THE CITY'S BUDGET FOR THE FISCAL YEAR STARTING IN TWO THOUSAND
13 FOURTEEN WAS NOT A FREEZE-COMPLIANT BUDGET, A CREDIT SHALL BE ALLOWED
14 FOR THE ELIGIBLE TAXPAYER'S TWO THOUSAND FIFTEEN TAXABLE YEAR IN AN
15 AMOUNT EQUIVALENT TO SIXTY-SEVEN PERCENT OF THE AMOUNT THAT IS THE
16 GREATER OF (I) THE AMOUNT BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON
17 SUCH RESIDENCE BY THAT CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND
18 FIFTEEN EXCEEDS THE REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR
19 STARTING IN TWO THOUSAND FOURTEEN OR (II) THE PRODUCT OF THE REAL PROP-
20 erty taxes imposed upon such residence by or on behalf of such city for
21 the fiscal year starting in two thousand fourteen multiplied by the levy
22 credit factor for such city for the fiscal year starting in two thousand
23 fifteen; AND A CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAYER'S TWO
24 THOUSAND SIXTEEN TAXABLE YEAR IN AN AMOUNT EQUIVALENT TO THIRTY-THREE
25 PERCENT OF THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT BY WHICH THE
26 REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT CITY FOR THE
27 FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN EXCEEDS THE REAL PROPERTY
28 TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN
29 OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESI-
30 DENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO
31 THOUSAND FOURTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR FOR SUCH CITY FOR
32 THE FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN.

33 (G) IF A CITY WITH A DEPENDENT SCHOOL DISTRICT HAS A FREEZE-COMPLIANT
34 BUDGET FOR ITS FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN BUT DOES
35 NOT HAVE A FREEZE-COMPLIANT BUDGET FOR ITS FISCAL YEAR STARTING IN TWO
36 THOUSAND FIFTEEN, A TAX CREDIT SHALL BE ALLOWED FOR THE ELIGIBLE TAXPAY-
37 ER'S TWO THOUSAND FIFTEEN TAXABLE YEAR AN AMOUNT REPRESENTING
38 THIRTY-THREE PERCENT OF THE AMOUNT THAT IS THE GREATER OF (I) THE AMOUNT
39 BY WHICH THE REAL PROPERTY TAXES IMPOSED UPON SUCH RESIDENCE BY THAT
40 CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN EXCEEDS THE
41 REAL PROPERTY TAXES SO IMPOSED FOR THE FISCAL YEAR STARTING IN TWO THOU-
42 SAND THIRTEEN OR (II) THE PRODUCT OF THE REAL PROPERTY TAXES IMPOSED
43 UPON SUCH RESIDENCE BY OR ON BEHALF OF SUCH CITY FOR THE FISCAL YEAR
44 STARTING IN TWO THOUSAND THIRTEEN MULTIPLIED BY THE LEVY CREDIT FACTOR
45 FOR SUCH CITY FOR THE FISCAL YEAR STARTING IN TWO THOUSAND FOURTEEN.

46 (3) TO BE ELIGIBLE FOR SUCH CREDIT, THE TAXPAYER (OR TAXPAYERS FILING
47 JOINT RETURNS) MUST MEET THE FOLLOWING CRITERIA:

48 (A) FOR THE TWO THOUSAND FOURTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY
49 RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOU-
50 SAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALI-
51 FIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY
52 MANNER.

53 (B) FOR THE TWO THOUSAND FIFTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY
54 RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOU-
55 SAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR, OR WOULD HAVE SO QUALI-

1 FIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIMELY
2 MANNER.

3 (C) FOR THE TWO THOUSAND SIXTEEN TAXABLE YEAR, THE TAXPAYER'S PRIMARY
4 RESIDENCE MUST HAVE QUALIFIED FOR THE STAR EXEMPTION FOR THE TWO THOU-
5 SAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR, OR WOULD HAVE SO QUAL-
6 IFIED IF AN APPLICATION FOR SUCH EXEMPTION HAD BEEN SUBMITTED IN A TIME-
7 LY MANNER.

8 (4) FOR EACH YEAR THIS CREDIT IS ALLOWED, THE COMMISSIONER SHALL
9 DETERMINE THE TAXPAYER'S ELIGIBILITY FOR THIS CREDIT UTILIZING THE
10 INFORMATION AVAILABLE TO THE COMMISSIONER. WHEN THE COMMISSIONER HAS
11 DETERMINED A TAXPAYER TO BE ELIGIBLE FOR THIS CREDIT, THE COMMISSIONER
12 SHALL ADVANCE A PAYMENT OF THE AMOUNT DETERMINED IN ACCORDANCE WITH THIS
13 SUBSECTION. THE TAXPAYER SHALL NOT APPLY FOR SUCH CREDIT IN CONJUNCTION
14 WITH THE FILING OF HIS OR HER RETURN. A TAXPAYER WHO HAS FAILED TO
15 RECEIVE AN ADVANCE PAYMENT THAT HE OR SHE BELIEVES WAS DUE TO HIM OR
16 HER, OR WHO HAS RECEIVED AN ADVANCE PAYMENT THAT HE OR SHE BELIEVES IS
17 LESS THAN THE AMOUNT THAT WAS DUE TO HIM OR HER, MAY REQUEST PAYMENT OF
18 THE CLAIMED DEFICIENCY IN A MANNER PRESCRIBED BY THE COMMISSIONER.

19 (5) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION, IF ANY,
20 SHALL EXCEED THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, THE EXCESS SHALL
21 BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
22 ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS
23 ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

24 (6) THE FOLLOWING PROVISIONS SHALL APPLY TO THE CALCULATION OF THE
25 CREDIT PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION:

26 (A) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY
27 RESIDENCE INCLUDES TAXES LEVIED BY OR ON BEHALF OF MULTIPLE TAXING
28 JURISDICTIONS, THE CREDIT SHALL BE BASED UPON THE CHANGE IN THE AGGRE-
29 GATE TAX LIABILITY OF SUCH RESIDENCE, PROVIDED THAT ANY TAX APPEARING ON
30 THE TAX BILL THAT IS NOT ATTRIBUTABLE TO A FREEZE-COMPLIANT BUDGET SHALL
31 BE DISREGARDED WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH
32 RESIDENCE.

33 (B) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY
34 RESIDENCE INCLUDES RELEVIED TAXES OR OTHER TAXES THAT WERE PREVIOUSLY
35 BILLED BUT NOT PAID, THOSE TAXES SHALL BE DISREGARDED WHEN DETERMINING
36 THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

37 (C) IF THE TAX BILL PERTAINING TO THE ELIGIBLE TAXPAYER'S PRIMARY
38 RESIDENCE INCLUDES USAGE CHARGES, UNIT CHARGES OR OTHER CHARGES THAT ARE
39 BASED UPON THE CONSUMPTION OF A SERVICE, THOSE CHARGES SHALL BE DISRE-
40 GARDERD WHEN DETERMINING THE AGGREGATE TAX LIABILITY OF SUCH RESIDENCE.

41 (D) NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SUBSECTION, NO
42 CREDIT SHALL BE ALLOWED TO THE EXTENT THAT THE TAX LIABILITY OF THE
43 ELIGIBLE TAXPAYER'S PRIMARY RESIDENCE INCREASED DUE TO ONE OR MORE OF
44 THE FOLLOWING EVENTS:

45 (I) A PHYSICAL IMPROVEMENT TO THE ELIGIBLE TAXPAYER'S PRIMARY RESI-
46 DENCE.

47 (II) A REMOVAL OR REDUCTION OF AN EXEMPTION ON THE ELIGIBLE TAXPAYER'S
48 PRIMARY RESIDENCE, INCLUDING A REDUCTION OF THE STAR EXEMPT AMOUNT
49 CALCULATED PURSUANT TO SUBDIVISION TWO OF SECTION FOUR HUNDRED
50 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW.

51 (III) A REVALUATION THAT CAUSED THE ASSESSMENT OF THE ELIGIBLE TAXPAY-
52 ER'S PRIMARY RESIDENCE TO INCREASE BY A PERCENTAGE THAT IS GREATER THAN
53 THE APPLICABLE CHANGE IN LEVEL OF ASSESSMENT. AS USED HEREIN, THE TERMS
54 "REVALUATION" AND "CHANGE IN LEVEL OF ASSESSMENT" SHALL HAVE THE SAME
55 MEANINGS AS SET FORTH IN SECTIONS ONE HUNDRED TWO AND TWELVE HUNDRED
56 TWENTY OF THE REAL PROPERTY TAX LAW, RESPECTIVELY.

1 (E) IN THE CASE OF PROPERTY CONSISTING OF A COOPERATIVE APARTMENT
2 CORPORATION THAT IS DESCRIBED BY PARAGRAPH (K) OF SUBDIVISION TWO OF
3 SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AN ELIGI-
4 BLE OWNER SHALL BE ALLOWED A CREDIT IN THE AMOUNT EQUAL TO SIXTY PERCENT
5 OF THE AVERAGE TAX CREDIT IN THAT TAXING JURISDICTION FOR THAT FISCAL
6 YEAR, AS DETERMINED BY THE COMMISSIONER, OR IN THE CASE OF A COOPERATIVE
7 APARTMENT CORPORATION THAT IS DESCRIBED BY SUBPARAGRAPH (IV) OF PARA-
8 GRAPH (K) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE
9 REAL PROPERTY TAX LAW, A CREDIT OF TWENTY PERCENT OF SUCH AVERAGE TAX
10 CREDIT.

11 (F) IN THE CASE OF PROPERTY CONSISTING OF A MOBILE HOME THAT IS
12 DESCRIBED BY PARAGRAPH (L) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED
13 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AN ELIGIBLE OWNER SHALL BE
14 ALLOWED A CREDIT IN THE AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE AVER-
15 AGE TAX CREDIT IN THAT TAXING JURISDICTION FOR THAT FISCAL YEAR, AS
16 DETERMINED BY THE COMMISSIONER.

17 (G) IN THE CASE OF A CITY WITH A DEPENDENT SCHOOL DISTRICT, IT SHALL
18 BE PRESUMED THAT SIXTY-SEVEN PERCENT OF THE CITY TAX BILL IS FOR SCHOOL
19 DISTRICT PURPOSES AND THAT THIRTY-THREE PERCENT IS FOR GENERAL CITY
20 PURPOSES.

21 (H) THE AMOUNT OF THE CREDIT SHALL BE ROUNDED TO THE NEAREST DOLLAR,
22 EXCEPT WHERE SUCH AMOUNT IS GREATER THAN ZERO AND LESS THAN ONE DOLLAR
23 AND FIFTY CENTS, IN WHICH CASE THE AMOUNT OF THE CREDIT SHALL BE ROUNDED
24 UP TO TWO DOLLARS.

25 (7) NO CREDIT SHALL BE ALLOWED UNDER THIS SUBSECTION IN RELATION TO
26 PROPERTY LOCATED WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE.

27 S 2. The education law is amended by adding a new section 2023-b to
28 read as follows:

29 S 2023-B. CERTIFICATION OF COMPLIANCE WITH PROPERTY TAX FREEZE
30 REQUIREMENTS. A SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF
31 SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART MUST COMPLY WITH THE
32 REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER TO RENDER ITS
33 TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY
34 SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL
35 YEAR STARTING IN TWO THOUSAND FOURTEEN. THE PROPERTY TAX CUTS WILL BE
36 EXTENDED FOR A SECOND YEAR IN JURISDICTIONS WHICH COMPLY WITH THE TAX
37 CAP AND HAVE A STATE APPROVED GOVERNMENT EFFICIENCY PLAN WHICH DEMON-
38 STRATE THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE PERCENT PER
39 YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR MERGERS OR
40 EFFICIENCIES. THE DIRECTOR OF THE BUDGET SHALL CONSIDER PAST EFFICIEN-
41 CIES, SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS. WHILE
42 LOCALITIES MAY OFFER A VARIETY OF APPROACHES IT IS ANTICIPATED THAT THE
43 COUNTY GOVERNMENT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES WILL
44 CONVENE AND FACILITATE A PROCESS AND SUBMIT A COUNTY WIDE OR BOARD OF
45 COOPERATIVE EDUCATIONAL SERVICES REGION WIDE PLAN FOR APPROVAL. A
46 SCHOOL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOU-
47 SAND TWENTY-THREE-A OF THIS PART MUST COMPLY WITH THE REQUIREMENTS OF
48 SUBDIVISION TWO AND EITHER SUBDIVISION THREE OR SUBDIVISION FOUR OF THIS
49 SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY
50 TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED
51 SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN.

52 1. DEFINITIONS. AS USED IN THIS SECTION:

53 A. "MERGERS" MEANS: REORGANIZATIONS OF ELIGIBLE SCHOOL DISTRICTS
54 PURSUANT TO SECTIONS FIFTEEN HUNDRED FIVE, FIFTEEN HUNDRED ELEVEN
55 THROUGH FIFTEEN HUNDRED THIRTEEN, FIFTEEN HUNDRED TWENTY-FOUR, FIFTEEN
56 HUNDRED TWENTY-SIX, SEVENTEEN HUNDRED FIVE, EIGHTEEN HUNDRED ONE THROUGH

1 EIGHTEEN HUNDRED THREE, OR TWENTY-TWO HUNDRED EIGHTEEN OF THE EDUCATION
2 LAW; OR REORGANIZATIONS, CONSOLIDATIONS, OR DISSOLUTIONS OF ELIGIBLE
3 SCHOOL DISTRICTS IN WHICH ONE OR MORE ELIGIBLE SCHOOL DISTRICTS ARE
4 TERMINATED AND ANOTHER ELIGIBLE SCHOOL DISTRICT ASSUMES JURISDICTION
5 OVER THE TERMINATED SCHOOL DISTRICT OR DISTRICTS PURSUANT TO ANY OTHER
6 PROVISION OF LAW.

7 B. "COOPERATION AGREEMENTS" MEANS AGREEMENTS ENTERED INTO BETWEEN
8 ELIGIBLE SCHOOL DISTRICTS TO IMPLEMENT THE SHARING OR CONSOLIDATION OF
9 FUNCTIONS OR SERVICES, INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL
10 ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL
11 SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND
12 ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN
13 RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTA-
14 TION SERVICES, FACILITIES AND FUNCTION, HUMAN SERVICES FACILITIES AND
15 FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION
16 TECHNOLOGY INFRASTRUCTURE, PROCESS, SERVICES AND FUNCTIONS.

17 C. "ELIGIBLE SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT IS SUBJECT
18 TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART, BUT SHALL NOT MEAN
19 A SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THIS CHAPTER.

20 D. "GOVERNMENT EFFICIENCY PLAN" MEANS A PLAN THAT IDENTIFIES COOPER-
21 ATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES TO BE
22 FULLY IMPLEMENTED BY ONE OR MORE ELIGIBLE SCHOOL DISTRICTS THAT ARE
23 SIGNATORIES TO THE PLAN.

24 E. "LEAD DISTRICT" MEANS THE ELIGIBLE SCHOOL DISTRICT THAT IS PARTIC-
25 IPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE SIGNATORY
26 THAT HAS ELECTED TO SUBMIT THE GOVERNMENT EFFICIENCY PLAN TO THE DIREC-
27 TOR OF THE BUDGET ON BEHALF OF ALL SIGNATORIES TO THE PLAN.

28 F. "SHARED SERVICES" MEANS FUNCTIONAL CONSOLIDATIONS BY WHICH ONE
29 ELIGIBLE SCHOOL DISTRICT COMPLETELY PROVIDES A SERVICE OR FUNCTION FOR
30 ANOTHER ELIGIBLE SCHOOL DISTRICT, WHICH NO LONGER ENGAGES IN THAT FUNC-
31 TION OR SERVICE; SHARED OR COOPERATIVE SERVICES BETWEEN AND AMONG ELIGI-
32 BLE SCHOOL DISTRICTS; AND REGIONALIZED DELIVERY OF SERVICES BETWEEN AND
33 AMONG ELIGIBLE SCHOOL DISTRICTS. THESE SHARED SERVICES MAY BE FOR
34 SERVICES OR FUNCTIONS INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL
35 ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL
36 SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND
37 ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN
38 RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTA-
39 TION SERVICES, FACILITIES AND FUNCTIONS, HUMAN SERVICES FACILITIES AND
40 FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION
41 TECHNOLOGY INFRASTRUCTURE, PROCESSES, SERVICES AND FUNCTIONS.

42 2. CERTIFICATION OF COMPLIANCE WITH TAX LEVY LIMIT. A. UPON THE
43 ADOPTION OF THE BUDGET OF AN ELIGIBLE SCHOOL DISTRICT, THE CHIEF EXECU-
44 TIVE OFFICER OF SUCH SCHOOL DISTRICT SHALL CERTIFY TO THE STATE COMP-
45 TROLLER, THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER
46 THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED
47 BY SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART. SUCH CERTIFICATION
48 SHALL BE MADE IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER
49 IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE AND THE
50 COMMISSIONER.

51 B. IN ORDER FOR SUCH CERTIFICATION TO GIVE RISE TO A REAL PROPERTY TAX
52 FREEZE CREDIT UNDER SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE
53 TAX LAW, SUCH CERTIFICATION SHALL BE MADE NO LATER THAN THE TWENTY-FIRST
54 DAY OF THE FISCAL YEAR TO WHICH IT APPLIES.

55 C. IF SUCH A CERTIFICATION HAS BEEN MADE AND THE ACTUAL TAX LEVY OF
56 THE SCHOOL DISTRICT EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS

1 AMOUNT SHALL BE PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY
2 SUBDIVISION FIVE OF SECTION TWO THOUSAND TWENTY-THREE-A OF THIS PART,
3 EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN DULY AUTHOR-
4 IZED FOR THE APPLICABLE FISCAL YEAR BY THE SCHOOL DISTRICT VOTERS.

5 D. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EVERY SCHOOL
6 DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION TWO THOUSAND TWEN-
7 TY-THREE-A OF THIS PART SHALL REPORT BOTH ITS PROPOSED BUDGET AND ITS
8 ADOPTED BUDGET TO THE OFFICE OF THE STATE COMPTROLLER AND THE COMMIS-
9 SIONER AT THE TIME AND IN THE MANNER AS THEY MAY PRESCRIBE, WHETHER OR
10 NOT SUCH BUDGET HAS BEEN OR WILL BE CERTIFIED AS PROVIDED BY THIS SUBDI-
11 VISION.

12 3. SCHOOL DISTRICT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY LEAD
13 DISTRICT. A. THE SUPERINTENDENT OF EACH LEAD DISTRICT SHALL SUBMIT TO
14 THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A
15 GOVERNMENT EFFICIENCY PLAN THAT DEMONSTRATES THREE YEAR SAVINGS AND
16 EFFICIENCIES OF AT LEAST ONE PERCENT PER YEAR FROM SHARED SERVICES,
17 COOPERATION AGREEMENTS AND/OR MERGERS OR EFFICIENCIES OVER THE AGGREGATE
18 TWO THOUSAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVIES FOR
19 ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN.

20 (I) THE SUPERINTENDENT OF EACH ELIGIBLE SCHOOL DISTRICT THAT IS A
21 SIGNATORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE SUPER-
22 INTENDENT OF THE LEAD DISTRICT BY MAY FIFTEENTH, TWO THOUSAND FIFTEEN, A
23 WRITTEN CERTIFICATION THAT THE ELIGIBLE SCHOOL DISTRICT AGREES TO UNDER-
24 TAKE ITS BEST EFFORTS TO FULLY IMPLEMENT BY THE END OF THE TWO THOUSAND
25 SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR THE COOPERATION AGREEMENTS,
26 MERGERS, EFFICIENCIES AND/OR SHARED SERVICES SPECIFIED FOR THE ELIGIBLE
27 SCHOOL DISTRICT IN SUCH PLAN.

28 (II) THE CHIEF FINANCIAL OFFICER OF A SCHOOL DISTRICT THAT IS A SIGNA-
29 TORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE SUPERINTENDENT
30 OF THE LEAD DISTRICT BY MAY FIFTEENTH, TWO THOUSAND FIFTEEN, A WRITTEN
31 CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTA-
32 TION BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN
33 SCHOOL YEAR OF THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR
34 SHARED SERVICES THAT ARE TO BE TAKEN BY SUCH SCHOOL DISTRICT ITSELF AS
35 SPECIFIED IN SUCH PLAN WILL RESULT IN THE SAVINGS SET FORTH IN SUCH PLAN
36 ATTRIBUTABLE TO SUCH SCHOOL DISTRICT.

37 (III) THE CHIEF FINANCIAL OFFICER OF EACH ELIGIBLE SCHOOL DISTRICT
38 THAT IS A SIGNATORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE
39 LEAD DISTRICT BY MAY FIFTEENTH, TWO THOUSAND FIFTEEN, A WRITTEN CERTIF-
40 ICATION THAT IN HIS OR HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF
41 THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES
42 AS SPECIFIED FOR ALL OF THE ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATO-
43 RIES TO SUCH PLAN WILL RESULT IN SAVINGS OVER THE AGGREGATE TWO THOUSAND
44 FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVIES FOR ALL ELIGIBLE
45 SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN OF AT LEAST ONE
46 PERCENT IN EACH OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN, THE
47 TWO THOUSAND SEVENTEEN--TWO THOUSAND EIGHTEEN AND THE TWO THOUSAND EIGH-
48 TEEN--TWO THOUSAND NINETEEN SCHOOL YEARS.

49 B. THE CHIEF FINANCIAL OFFICER OF EACH LEAD DISTRICT SHALL SUBMIT THE
50 FOLLOWING DOCUMENTS TO THE DIRECTOR OF THE BUDGET ON OR BEFORE JUNE
51 FIRST, TWO THOUSAND FIFTEEN: (I) THE GOVERNMENT EFFICIENCY PLAN; (II) A
52 LIST OF ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN;
53 (III) ALL OF THE CERTIFICATIONS REQUIRED BY PARAGRAPH A OF THIS SUBDIVI-
54 SION; AND (IV) AN ANALYSIS OF THE AGGREGATE AMOUNT OF SAVINGS SET FORTH
55 IN SUCH PLAN ATTRIBUTABLE TO ALL ELIGIBLE SCHOOL DISTRICTS THAT ARE
56 SIGNATORIES TO SUCH PLAN THAT WILL BE ACHIEVED IF THE COOPERATION AGREE-

1 MENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES IDENTIFIED IN SUCH
2 PLAN ARE FULLY IMPLEMENTED BY THE END OF THE TWO THOUSAND SIXTEEN--TWO
3 THOUSAND SEVENTEEN SCHOOL YEAR. THE DIRECTOR OF THE BUDGET SHALL REVIEW
4 SUCH DOCUMENTS AND SHALL CONSIDER PAST EFFICIENCIES, SHARED SERVICES AND
5 REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE WHETHER THE REQUIREMENTS
6 OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT TO EACH ELIGIBLE SCHOOL
7 DISTRICT THAT IS A SIGNATORY TO THE GOVERNMENT EFFICIENCY PLAN AND SHALL
8 NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH DETERMINATIONS
9 NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

10 4. SCHOOL DISTRICT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY A SINGLE
11 ELIGIBLE SCHOOL DISTRICT. A. WHILE LOCALITIES MAY OFFER A VARIETY OF
12 APPROACHES IT IS ANTICIPATED THAT THE COUNTY GOVERNMENT OR BOARD OF
13 COOPERATIVE EDUCATIONAL SERVICES WILL CONVENE AND FACILITATE A PROCESS
14 AND SUBMIT A COUNTY WIDE OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES
15 REGION WIDE PLAN FOR APPROVAL. AS SUCH, ELIGIBLE SCHOOL DISTRICTS ARE
16 STRONGLY ENCOURAGED TO DEVELOP A SINGLE GOVERNMENT EFFICIENCY PLAN FOR
17 ALL OF THE ELIGIBLE SCHOOL DISTRICTS IN THEIR BOARD OF COOPERATION
18 EDUCATIONAL SERVICES DISTRICT. HOWEVER, THE SUPERINTENDENT OF EACH
19 ELIGIBLE SCHOOL DISTRICT THAT IS NOT PARTICIPATING IN A GOVERNMENT EFFI-
20 CIENCY PLAN WITH MORE THAN ONE SIGNATORY MAY SUBMIT TO THE DIRECTOR OF
21 THE BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A GOVERNMENT EFFICIENCY
22 PLAN THAT DEMONSTRATES THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST
23 ONE PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR
24 MERGERS OR EFFICIENCIES OVER SUCH ELIGIBLE SCHOOL DISTRICT'S TWO THOU-
25 SAND FOURTEEN--TWO THOUSAND FIFTEEN SCHOOL YEAR TAX LEVY.

26 (I) IN THE EVENT AN ELIGIBLE SCHOOL DISTRICT CHOOSES TO SUBMIT SUCH A
27 GOVERNMENT EFFICIENCY PLAN, THE SUPERINTENDENT OF SUCH ELIGIBLE SCHOOL
28 DISTRICT SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO
29 THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT SUCH ELIGIBLE SCHOOL
30 DISTRICT AGREES TO UNDERTAKE ITS BEST EFFORTS TO FULLY IMPLEMENT BY THE
31 END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR THE
32 COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES
33 SPECIFIED IN SUCH PLAN.

34 (II) IN THE EVENT A SCHOOL DISTRICT CHOOSES TO SUBMIT SUCH A GOVERN-
35 MENT EFFICIENCY PLAN, THE CHIEF FINANCIAL OFFICER OF SUCH ELIGIBLE
36 SCHOOL DISTRICT SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE
37 FIRST, TWO THOUSAND FIFTEEN, AN ANALYSIS OF THE SAVINGS SET FORTH IN
38 SUCH PLAN THAT WILL BE ACHIEVED IF THE COOPERATION AGREEMENTS, SHARED
39 SERVICES AND/OR MERGERS OR EFFICIENCIES IDENTIFIED IN SUCH PLAN ARE
40 FULLY IMPLEMENTED BY THE END OF THE TWO THOUSAND SIXTEEN--TWO THOUSAND
41 SEVENTEEN SCHOOL YEAR, AS WELL AS A WRITTEN CERTIFICATION THAT IN HIS OR
42 HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF THE COOPERATION AGREE-
43 MENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES AS SPECIFIED IN SUCH
44 PLAN WILL RESULT IN SAVINGS OVER ITS TWO THOUSAND FOURTEEN--TWO THOUSAND
45 FIFTEEN SCHOOL YEAR TAX LEVY OF AT LEAST ONE PERCENT IN EACH OF THE TWO
46 THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN, THE TWO THOUSAND
47 SEVENTEEN--TWO THOUSAND EIGHTEEN AND THE TWO THOUSAND EIGHTEEN--TWO
48 THOUSAND NINETEEN SCHOOL YEARS.

49 B. THE DIRECTOR OF THE BUDGET SHALL REVIEW THE DOCUMENTS REFERRED TO
50 IN PARAGRAPH A OF THIS SUBDIVISION AND SHALL CONSIDER PAST EFFICIENCIES,
51 SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE
52 WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT
53 TO AN ELIGIBLE SCHOOL DISTRICT THAT HAS SUBMITTED A GOVERNMENT EFFICIEN-
54 CY PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF
55 SUCH DETERMINATION NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND
56 FIFTEEN.

1 S 3. The general municipal law is amended by adding a new section 3-d
2 to read as follows:

3 S 3-D. CERTIFICATION OF COMPLIANCE WITH PROPERTY TAX FREEZE REQUIRE-
4 MENTS. A MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT
5 IS SUBJECT TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE MUST
6 COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION IN ORDER
7 TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE REAL PROPERTY TAX FREEZE CREDIT
8 AUTHORIZED BY SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW
9 FOR A FISCAL YEAR STARTING IN TWO THOUSAND FIFTEEN. THE PROPERTY TAX
10 CUTS WILL BE EXTENDED FOR A SECOND YEAR IN JURISDICTIONS WHICH COMPLY
11 WITH THE TAX CAP AND HAVE A STATE APPROVED GOVERNMENT EFFICIENCY PLAN
12 WHICH DEMONSTRATE THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE
13 PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR
14 MERGERS OR EFFICIENCIES. THE DIRECTOR OF THE BUDGET SHALL CONSIDER PAST
15 EFFICIENCIES, SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS.
16 WHILE LOCALITIES MAY OFFER A VARIETY OF APPROACHES IT IS ANTICIPATED
17 THAT THE COUNTY GOVERNMENT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES
18 WILL CONVENE AND FACILITATE A PROCESS AND SUBMIT A COUNTY WIDE OR BOARD
19 OF COOPERATIVE EDUCATIONAL SERVICES REGION WIDE PLAN FOR APPROVAL. A
20 MUNICIPAL CORPORATION OR AN INDEPENDENT SPECIAL DISTRICT THAT IS SUBJECT
21 TO THE PROVISIONS OF SECTION THREE-C OF THIS ARTICLE MUST COMPLY WITH
22 THE REQUIREMENTS OF SUBDIVISION TWO AND EITHER SUBDIVISION THREE OR
23 SUBDIVISION FOUR OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGI-
24 BLE FOR THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION
25 (BBB) OF SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR START-
26 ING IN TWO THOUSAND SIXTEEN. PROVIDED HOWEVER, THAT A CITY WITH A
27 DEPENDENT SCHOOL DISTRICT MUST COMPLY WITH THE REQUIREMENTS OF SUBDIVI-
28 SION TWO OF THIS SECTION IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR
29 THE REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF
30 SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO
31 THOUSAND FOURTEEN AND COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF
32 THIS SECTION, AND BOTH THE CITY AND ITS DEPENDENT SCHOOL DISTRICT MUST
33 JOINTLY COMPLY WITH THE REQUIREMENTS OF SUBDIVISION THREE OR SUBDIVISION
34 FOUR OF THIS SECTION, IN ORDER TO RENDER ITS TAXPAYERS ELIGIBLE FOR THE
35 REAL PROPERTY TAX FREEZE CREDIT AUTHORIZED BY SUBSECTION (BBB) OF
36 SECTION SIX HUNDRED SIX OF THE TAX LAW FOR A FISCAL YEAR STARTING IN TWO
37 THOUSAND FIFTEEN OR TWO THOUSAND SIXTEEN.

38 1. DEFINITIONS. AS USED IN THIS SECTION:

39 (A) "MERGERS" MEANS: CONSOLIDATIONS OR DISSOLUTIONS OF LOCAL GOVERN-
40 MENT UNITS IN ACCORDANCE WITH ARTICLE SEVENTEEN-A OF THIS CHAPTER OR
41 REORGANIZATIONS, CONSOLIDATIONS, OR DISSOLUTIONS OF LOCAL GOVERNMENT
42 UNITS IN WHICH ONE OR MORE LOCAL GOVERNMENT UNITS ARE TERMINATED AND
43 ANOTHER LOCAL GOVERNMENT UNIT ASSUMES JURISDICTION OVER THE TERMINATED
44 LOCAL GOVERNMENT UNIT OR UNITS PURSUANT TO ANY OTHER PROVISION OF LAW.

45 (B) "COOPERATION AGREEMENTS" MEANS AGREEMENTS ENTERED INTO BETWEEN
46 LOCAL GOVERNMENT UNITS TO IMPLEMENT THE SHARING OR CONSOLIDATION OF
47 FUNCTIONS OR SERVICES, INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL
48 ESTATE AND FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL
49 SERVICES, ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND
50 ATTENDANCE, BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN
51 RESOURCES FUNCTIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTA-
52 TION SERVICES, FACILITIES AND FUNCTION, HUMAN SERVICES FACILITIES AND
53 FUNCTIONS, CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION
54 TECHNOLOGY INFRASTRUCTURE, PROCESS, SERVICES AND FUNCTIONS.

1 (C) "DEPENDENT SCHOOL DISTRICT" MEANS A SCHOOL DISTRICT THAT IS
2 SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW AND THAT HAS A POPU-
3 LATION OF LESS THAN ONE MILLION.

4 (D) "GOVERNMENT EFFICIENCY PLAN" MEANS A PLAN THAT IDENTIFIES COOPER-
5 ATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES TO BE
6 FULLY IMPLEMENTED BY ONE OR MORE LOCAL GOVERNMENT UNITS THAT ARE SIGNA-
7 TORIES TO THE PLAN.

8 (E) "INDEPENDENT SPECIAL DISTRICT" MEANS A SPECIAL DISTRICT AS DEFINED
9 BY SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX LAW THAT EITHER (I)
10 HAS A SEPARATE INDEPENDENT ELECTED BOARD, AND EITHER HAS THE AUTHORITY
11 TO LEVY A TAX, OR CAN REQUIRE A MUNICIPAL CORPORATION TO LEVY A TAX ON
12 ITS BEHALF, OR (II) HAS A SEPARATE INDEPENDENT BOARD APPOINTED BY THE
13 GOVERNING BODY OF ANOTHER MUNICIPAL CORPORATION AND EITHER HAS THE
14 AUTHORITY TO LEVY A TAX OR CAN REQUIRE A MUNICIPAL CORPORATION TO LEVY A
15 TAX ON ITS BEHALF.

16 (F) "LEAD LOCAL GOVERNMENT UNIT" MEANS THE LOCAL GOVERNMENT UNIT THAT
17 IS PARTICIPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE
18 SIGNATORY THAT HAS ELECTED TO SUBMIT THE GOVERNMENT EFFICIENCY PLAN TO
19 THE DIRECTOR OF THE BUDGET ON BEHALF OF ALL SIGNATORIES TO THE PLAN.

20 (G) "LOCAL GOVERNMENT UNIT" MEANS A MUNICIPAL CORPORATION OR AN INDE-
21 PENDENT SPECIAL DISTRICT THAT IS SUBJECT TO THE PROVISIONS OF SECTION
22 THREE-C OF THIS ARTICLE.

23 (H) "SHARED SERVICES" MEANS FUNCTIONAL CONSOLIDATIONS BY WHICH ONE
24 LOCAL GOVERNMENT UNIT COMPLETELY PROVIDES A SERVICE OR FUNCTION FOR
25 ANOTHER LOCAL GOVERNMENT UNIT, WHICH NO LONGER ENGAGES IN THAT FUNCTION
26 OR SERVICE; SHARED OR COOPERATIVE SERVICES BETWEEN AND AMONG LOCAL
27 GOVERNMENT UNITS; AND REGIONALIZED DELIVERY OF SERVICES BETWEEN AND
28 AMONG LOCAL GOVERNMENT UNITS. THESE SHARED SERVICES MAY BE FOR SERVICES
29 OR FUNCTIONS INCLUDING BUT NOT LIMITED TO: PROCUREMENT, REAL ESTATE AND
30 FACILITY MANAGEMENT, FLEET MANAGEMENT, BUSINESS AND FINANCIAL SERVICES,
31 ADMINISTRATIVE SERVICES, PAYROLL ADMINISTRATION, TIME AND ATTENDANCE,
32 BENEFITS ADMINISTRATION AND OTHER TRANSACTIONAL HUMAN RESOURCES FUNC-
33 TIONS, CONTRACT MANAGEMENT, GRANTS MANAGEMENT, TRANSPORTATION SERVICES,
34 FACILITIES AND FUNCTIONS, HUMAN SERVICES FACILITIES AND FUNCTIONS,
35 CUSTOMER SERVICE FACILITIES AND FUNCTIONS AND INFORMATION TECHNOLOGY
36 INFRASTRUCTURE, PROCESSES, SERVICES AND FUNCTIONS.

37 2. CERTIFICATION OF COMPLIANCE WITH TAX LEVY LIMIT. (A) UPON THE
38 ADOPTION OF THE BUDGET OF A LOCAL GOVERNMENT UNIT, THE CHIEF EXECUTIVE
39 OFFICER OR BUDGET OFFICER OF SUCH LOCAL GOVERNMENT UNIT SHALL CERTIFY TO
40 THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE THAT
41 THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT PRESCRIBED IN
42 SECTION THREE-C OF THIS ARTICLE AND, IF THE GOVERNING BODY OF THE LOCAL
43 GOVERNMENT UNIT DID ENACT A LOCAL LAW OR APPROVE A RESOLUTION TO OVER-
44 RIDE THE TAX LEVY LIMIT, THAT SUCH LOCAL LAW OR RESOLUTION WAS SUBSE-
45 QUENTLY REPEALED. SUCH CERTIFICATION SHALL BE MADE IN A FORM AND MANNER
46 PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSION-
47 ER OF TAXATION AND FINANCE.

48 (B) IN ORDER FOR SUCH CERTIFICATION TO GIVE RISE TO A REAL PROPERTY
49 TAX FREEZE CREDIT UNDER SUBSECTION (BBB) OF SECTION SIX HUNDRED SIX OF
50 THE TAX LAW, SUCH CERTIFICATION SHALL BE MADE NO LATER THAN THE TWENTY-
51 FIRST DAY OF THE FISCAL YEAR TO WHICH IT APPLIES.

52 (C) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, IF SUCH A CERTIF-
53 ICATION HAS BEEN MADE AND THE ACTUAL TAX LEVY OF THE LOCAL GOVERNMENT
54 UNIT EXCEEDS THE APPLICABLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE
55 PLACED IN RESERVE AND USED IN THE MANNER PRESCRIBED BY SUBDIVISION SIX
56 OF SECTION THREE-C OF THIS ARTICLE, EVEN IF A TAX LEVY IN EXCESS OF THE

1 TAX LEVY LIMIT HAD BEEN AUTHORIZED FOR THE APPLICABLE FISCAL YEAR BY A
2 DULY ADOPTED LOCAL LAW OR RESOLUTION.

3 (D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, EVERY LOCAL
4 GOVERNMENT UNIT SHALL REPORT BOTH ITS PROPOSED BUDGET AND ITS ADOPTED
5 BUDGET TO THE OFFICE OF THE STATE COMPTROLLER AT THE TIME AND IN THE
6 MANNER AS HE OR SHE MAY PRESCRIBE, WHETHER OR NOT SUCH BUDGET HAS BEEN
7 OR WILL BE CERTIFIED AS PROVIDED BY THIS SUBDIVISION.

8 3. LOCAL GOVERNMENT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY LEAD
9 LOCAL GOVERNMENT UNIT. (A) THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER
10 OF EACH LEAD LOCAL GOVERNMENT UNIT SHALL SUBMIT TO THE DIRECTOR OF THE
11 BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A GOVERNMENT EFFICIENCY PLAN
12 THAT DEMONSTRATES THREE YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE
13 PERCENT PER YEAR FROM SHARED SERVICES, COOPERATION AGREEMENTS AND/OR
14 MERGERS OR EFFICIENCIES OVER THE AGGREGATE TAX LEVIES FOR FISCAL YEARS
15 BEGINNING IN TWO THOUSAND FOURTEEN FOR ALL LOCAL GOVERNMENT UNITS AND
16 DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN.

17 (I) THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF EACH LOCAL
18 GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO A
19 GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE CHIEF EXECUTIVE OFFICER
20 OR BUDGET OFFICER OF THE LEAD LOCAL GOVERNMENT UNIT BY MAY FIFTEENTH,
21 TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT THE LOCAL GOVERNMENT
22 UNIT OR DEPENDENT SCHOOL DISTRICT AGREES TO UNDERTAKE ITS BEST EFFORTS
23 TO FULLY IMPLEMENT BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO
24 THOUSAND SEVENTEEN THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES
25 AND/OR SHARED SERVICES SPECIFIED FOR THE LOCAL GOVERNMENT UNIT OR
26 DEPENDENT SCHOOL DISTRICT IN SUCH PLAN.

27 (II) THE CHIEF FINANCIAL OFFICER OF A LOCAL GOVERNMENT UNIT AND THE
28 CHIEF FISCAL OFFICER OF THE DEPENDENT SCHOOL DISTRICT, THAT IS A SIGNA-
29 TORY TO A GOVERNMENT EFFICIENCY PLAN SHALL SUBMIT TO THE CHIEF EXECUTIVE
30 OFFICER OF THE LEAD LOCAL GOVERNMENT UNIT BY MAY FIFTEENTH, TWO THOUSAND
31 FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFESSIONAL OPIN-
32 ION, FULL IMPLEMENTATION BY THE END OF THE LOCAL FISCAL YEAR BEGINNING
33 IN TWO THOUSAND SEVENTEEN, OF THE COOPERATION AGREEMENTS, MERGERS, EFFI-
34 CIENCIES AND/OR SHARED SERVICES THAT ARE TO BE TAKEN BY SUCH LOCAL
35 GOVERNMENT UNIT ITSELF AS SPECIFIED IN SUCH PLAN WILL RESULT IN THE
36 SAVINGS SET FORTH IN THE GOVERNMENT EFFICIENCY PLAN ATTRIBUTABLE TO SUCH
37 LOCAL GOVERNMENT UNIT OR DEPENDENT SCHOOL DISTRICT.

38 (III) THE CHIEF FINANCIAL OFFICER OF EACH LOCAL GOVERNMENT UNIT AND
39 DEPENDENT SCHOOL DISTRICT THAT IS A SIGNATORY TO A GOVERNMENT EFFICIENCY
40 PLAN SHALL SUBMIT TO THE LEAD LOCAL GOVERNMENT UNIT BY MAY FIFTEENTH,
41 TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT IN HIS OR HER PROFES-
42 SIONAL OPINION, FULL IMPLEMENTATION OF THE COOPERATION AGREEMENTS, MERG-
43 ERS, EFFICIENCIES AND/OR SHARED SERVICES AS SPECIFIED FOR ALL OF THE
44 LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL DISTRICTS THAT ARE SIGNATO-
45 RIES TO SUCH PLAN WILL RESULT IN SAVINGS OVER THE AGGREGATE TAX LEVIES
46 FOR FISCAL YEARS BEGINNING IN TWO THOUSAND FOURTEEN FOR ALL LOCAL
47 GOVERNMENT UNITS THAT ARE SIGNATORIES TO SUCH PLAN OF AT LEAST ONE
48 PERCENT IN EACH OF THE FISCAL YEARS BEGINNING IN TWO THOUSAND SEVENTEEN,
49 BEGINNING IN TWO THOUSAND EIGHTEEN AND BEGINNING IN TWO THOUSAND NINE-
50 TEEN.

51 (B) THE CHIEF FINANCIAL OFFICER OF EACH LEAD LOCAL GOVERNMENT UNIT
52 SHALL SUBMIT THE FOLLOWING DOCUMENTS TO THE DIRECTOR OF THE BUDGET ON OR
53 BEFORE JUNE FIRST, TWO THOUSAND FIFTEEN: (I) THE GOVERNMENT EFFICIENCY
54 PLAN; (II) A LIST OF ALL LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL
55 DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN; (III) ALL OF THE CERTIF-
56 ICATIONS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION; AND (IV) AN

1 ANALYSIS OF THE AGGREGATE AMOUNT OF SAVINGS SET FORTH IN SUCH PLAN
2 ATTRIBUTABLE TO ALL LOCAL GOVERNMENT UNITS AND DEPENDENT SCHOOL
3 DISTRICTS THAT ARE SIGNATORIES TO SUCH PLAN THAT WILL BE ACHIEVED IF THE
4 COOPERATION AGREEMENTS, SHARED SERVICES AND/OR MERGERS OR EFFICIENCIES
5 IDENTIFIED IN SUCH PLAN ARE FULLY IMPLEMENTED BY THE END OF THE LOCAL
6 FISCAL YEAR BEGINNING IN TWO THOUSAND SEVENTEEN. THE DIRECTOR OF THE
7 BUDGET SHALL REVIEW SUCH DOCUMENTS AND SHALL CONSIDER PAST EFFICIENCIES,
8 SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE
9 WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT
10 TO EACH LOCAL GOVERNMENT UNIT AND DEPENDENT SCHOOL DISTRICT THAT IS A
11 SIGNATORY TO THE GOVERNMENT EFFICIENCY PLAN AND SHALL NOTIFY THE COMMIS-
12 SIONER OF TAXATION AND FINANCE OF SUCH DETERMINATIONS NO LATER THAN JULY
13 THIRTY-FIRST, TWO THOUSAND FIFTEEN.

14 4. LOCAL GOVERNMENT GOVERNMENT EFFICIENCY PLANS SUBMITTED BY A SINGLE
15 LOCAL GOVERNMENT UNIT. (A) WHILE LOCALITIES MAY OFFER A VARIETY OF
16 APPROACHES IT IS ANTICIPATED THAT THE COUNTY GOVERNMENT OR BOARD OF
17 COOPERATIVE EDUCATIONAL SERVICES WILL CONVENE AND FACILITATE A PROCESS
18 AND SUBMIT A COUNTY WIDE OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES
19 REGION WIDE PLAN FOR APPROVAL. AS SUCH, LOCAL GOVERNMENT UNITS ARE
20 STRONGLY ENCOURAGED TO DEVELOP A SINGLE GOVERNMENT EFFICIENCY PLAN FOR
21 ALL OF THE LOCAL GOVERNMENT UNITS IN THEIR COUNTY. HOWEVER, THE CHIEF
22 EXECUTIVE OFFICER OR BUDGET OFFICER OF EACH LOCAL GOVERNMENT UNIT THAT
23 IS NOT PARTICIPATING IN A GOVERNMENT EFFICIENCY PLAN WITH MORE THAN ONE
24 SIGNATORY MAY SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE FIRST, TWO
25 THOUSAND FIFTEEN, A GOVERNMENT EFFICIENCY PLAN THAT DEMONSTRATES THREE
26 YEAR SAVINGS AND EFFICIENCIES OF AT LEAST ONE PERCENT PER YEAR FROM
27 SHARED SERVICES, COOPERATION AGREEMENTS AND/OR MERGERS OR EFFICIENCIES
28 OVER SUCH LOCAL GOVERNMENT UNIT'S TAX LEVY FOR THE FISCAL YEAR BEGINNING
29 IN TWO THOUSAND FOURTEEN.

30 (I) IN THE EVENT A LOCAL GOVERNMENT UNIT CHOOSES TO SUBMIT SUCH A
31 GOVERNMENT EFFICIENCY PLAN, THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFI-
32 CER OF SUCH LOCAL GOVERNMENT UNIT SHALL SUBMIT TO THE DIRECTOR OF THE
33 BUDGET BY JUNE FIRST, TWO THOUSAND FIFTEEN, A WRITTEN CERTIFICATION THAT
34 SUCH LOCAL GOVERNMENT UNIT AGREES TO UNDERTAKE ITS BEST EFFORTS TO FULLY
35 IMPLEMENT BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO THOUSAND
36 SEVENTEEN THE COOPERATION AGREEMENTS, MERGERS, EFFICIENCIES AND/OR
37 SHARED SERVICES SPECIFIED IN SUCH PLAN.

38 (II) IN THE EVENT A LOCAL GOVERNMENT UNIT CHOOSES TO SUBMIT SUCH A
39 GOVERNMENT EFFICIENCY PLAN, THE CHIEF FINANCIAL OFFICER OF SUCH LOCAL
40 GOVERNMENT UNIT SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET BY JUNE
41 FIRST, TWO THOUSAND FIFTEEN, AN ANALYSIS OF THE SAVINGS SET FORTH IN
42 SUCH PLAN THAT WILL BE ACHIEVED IF THE COOPERATION AGREEMENTS, SHARED
43 SERVICES AND/OR MERGERS OR EFFICIENCIES IDENTIFIED IN SUCH PLAN ARE
44 FULLY IMPLEMENTED BY THE END OF THE LOCAL FISCAL YEAR BEGINNING IN TWO
45 THOUSAND SEVENTEEN, AS WELL AS A WRITTEN CERTIFICATION THAT IN HIS OR
46 HER PROFESSIONAL OPINION, FULL IMPLEMENTATION OF THE COOPERATION AGREE-
47 MENTS, MERGERS, EFFICIENCIES AND/OR SHARED SERVICES AS SPECIFIED IN SUCH
48 PLAN WILL RESULT IN SAVINGS OVER ITS TAX LEVY FOR THE FISCAL YEAR BEGIN-
49 NING IN TWO THOUSAND FOURTEEN OF AT LEAST ONE PERCENT IN EACH OF THE
50 FISCAL YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, BEGINNING IN TWO THOU-
51 SAND EIGHTEEN AND BEGINNING IN TWO THOUSAND NINETEEN.

52 (B) THE DIRECTOR OF THE BUDGET SHALL REVIEW THE DOCUMENTS REFERRED TO
53 IN PARAGRAPH A OF THIS SUBDIVISION AND SHALL CONSIDER PAST EFFICIENCIES,
54 SHARED SERVICES AND REFORMS IN THEIR APPROVAL PROCESS TO DETERMINE
55 WHETHER THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET WITH RESPECT
56 TO A LOCAL GOVERNMENT UNIT THAT HAS SUBMITTED A GOVERNMENT EFFICIENCY

1 PLAN AND SHALL NOTIFY THE COMMISSIONER OF TAXATION AND FINANCE OF SUCH
2 DETERMINATION NO LATER THAN JULY THIRTY-FIRST, TWO THOUSAND FIFTEEN.

3 S 4. Section 1590 of the real property tax law is amended by adding a
4 new subdivision 3 to read as follows:

5 3. EACH MUNICIPAL CORPORATION SHALL SUBMIT TO THE COMMISSIONER THE
6 DATA FILES USED TO PREPARE ITS TAX ROLLS AND TAX BILLS NO LATER THAN TEN
7 DAYS AFTER THE ANNEXATION OF THE WARRANT FOR THE COLLECTION OF TAXES FOR
8 THE APPLICABLE FISCAL YEAR, OR WHERE NO SUCH WARRANT IS ANNEXED, NO
9 LATER THAN TEN DAYS AFTER THE LAST DATE PRESCRIBED BY LAW FOR THE LEVY
10 OF TAXES OF THE APPLICABLE FISCAL YEAR, PROVIDED THAT IF ITS TAX ROLLS
11 OR TAX BILLS, OR BOTH, ARE PREPARED BY A DIFFERENT GOVERNMENTAL ENTITY,
12 THAT ENTITY SHALL BE JOINTLY RESPONSIBLE FOR SUBMITTING THE APPLICABLE
13 DATA FILES TO THE COMMISSIONER.

14 S 5. This act shall take effect immediately, provided that the
15 provisions of subdivision 3 of section 1590 of the real property tax law
16 as added by section four of this act shall apply to tax rolls and tax
17 bills of school districts and cities with a population of 125,000 or
18 more for fiscal years starting on or after July 1, 2013, and to tax
19 rolls and tax bills for other municipal corporations for fiscal years
20 starting on or after January 1, 2014, except that in the case of tax
21 rolls and tax bills for fiscal years that started prior to the effective
22 date of this act, the data files used to prepare tax rolls and tax bills
23 shall be submitted to the commissioner of taxation and finance no later
24 than 60 days after the effective date of this act.

25 PART GG

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

37 SUBPART A

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

41 (A) "Tenant" means a person who, as lessee, enters into a space lease
42 with a landlord for a term of ten years or more commencing on or after
43 September first, two thousand five, but not later than, in the case of a
44 space lease with respect to leased premises located in eligible areas as
45 defined in clause (i) of subparagraph (D) of this paragraph, September
46 first, two thousand [thirteen] FIFTEEN and, in the case of a space lease
47 with respect to leased premises located in eligible areas as defined in
48 clause (ii) of subparagraph (D) of this paragraph not later than Septem-
49 ber first, two thousand [fifteen] SEVENTEEN, of premises for use as
50 commercial office space in buildings located or to be located in the
51 eligible areas. A person who currently occupies premises for use as
52 commercial office space under an existing lease in a building in the

1 eligible areas shall not be eligible for exemption under this subdivi-
2 sion unless such existing lease, in the case of a space lease with
3 respect to leased premises located in eligible areas as defined in
4 clause (i) of subparagraph (D) of this paragraph expires according to
5 its terms before September first, two thousand [thirteen] FIFTEEN or
6 such existing lease, in the case of a space lease with respect to leased
7 premises located in eligible areas as defined in clause (ii) of subpara-
8 graph (D) of this paragraph and such person enters into a space lease,
9 for a term of ten years or more commencing on or after September first,
10 two thousand five, of premises for use as commercial office space in a
11 building located or to be located in the eligible areas, provided that
12 such space lease with respect to leased premises located in eligible
13 areas as defined in clause (i) of subparagraph (D) of this paragraph
14 commences no later than September first, two thousand [thirteen]
15 FIFTEEN, and provided that such space lease with respect to leased prem-
16 ises located in eligible areas as defined in clause (ii) of subparagraph
17 (D) of this paragraph commences no later than September first, two thou-
18 sand [fifteen] SEVENTEEN and provided, further, that such space lease
19 shall expire no earlier than ten years after the expiration of the
20 original lease.

21 S 2. Section 2 of part C of chapter 2 of the laws of 2005 amending
22 the tax law relating to exemptions from sales and use taxes, as amended
23 by chapter 203 of the laws of 2009, is amended to read as follows:

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

32 S 3. The commissioner of taxation and finance shall prescribe the
33 methods to allow the tenants, landlord and contractors, who have made
34 purchases which, but for the expiration of the provisions of subpara-
35 graph (A) of paragraph 7 of subdivision (ee) of section 1115 of the tax
36 law would have been qualified purchases, after August 31, 2013 and
37 before the date this act became law to receive a credit or refund of the
38 tax paid even if a person did not receive an exemption for a qualifying
39 purchase made between September 1, 2013 and the date this act became
40 law.

41 S 4. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect after August 31, 2013; provided,
43 however, that the amendments to subparagraph (A) of paragraph 7 of
44 subdivision (ee) of section 1115 of the tax law made by section one of
45 this act shall not affect the repeal of such subdivision and shall be
46 deemed repealed therewith.

47

SUBPART B

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

51 5. "Benefit period." The period commencing with the first day of the
52 month immediately following the rent commencement date and terminating
53 no later than sixty months thereafter, provided, however, that with
54 respect to a lease commencing on or after April first, nineteen hundred

1 ninety-seven with an initial lease term of less than five years, but not
2 less than three years, the period commencing with the first day of the
3 month immediately following the rent commencement date and terminating
4 no later than thirty-six months thereafter. Notwithstanding the forego-
5 ing sentence, a benefit period shall expire no later than March thirty-
6 first, two thousand [twenty] TWENTY-TWO.

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

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

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

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

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

40 S 4. Subparagraph (a) of paragraph 2 of subdivision i of section
41 11-704 of the administrative code of the city of New York, as amended by
42 chapter 22 of the laws of 2010, is amended to read as follows:

43 (a) An eligible tenant of eligible taxable premises shall be allowed a
44 special reduction in determining the taxable base rent for such eligible
45 taxable premises. Such special reduction shall be allowed with respect
46 to the rent for such eligible taxable premises for a period not exceed-
47 ing sixty months or, with respect to a lease commencing on or after
48 April first, nineteen hundred ninety-seven with an initial lease term of
49 less than five years, but not less than three years, for a period not
50 exceeding thirty-six months, commencing on the rent commencement date
51 applicable to such eligible taxable premises, provided, however, that in
52 no event shall any special reduction be allowed for any period beginning
53 after March thirty-first, two thousand [twenty] TWENTY-TWO. For
54 purposes of applying such special reduction, the base rent for the base
55 year shall, where necessary to determine the amount of the special
56 reduction allowable with respect to any number of months falling within

1 a tax period, be prorated by dividing the base rent for the base year by
2 twelve and multiplying the result by such number of months.
3 S 5. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect after March 31, 2014.

5 SUBPART C

6 Section 1. Paragraph (a) of subdivision 1 of section 489-ddddddd of the
7 real property tax law, as amended by chapter 28 of the laws of 2011, is
8 amended to read as follows:

9 (a) Application for benefits pursuant to this title may be made imme-
10 diately following the effective date of a local law enacted pursuant to
11 this title and continuing until March first, two thousand [fifteen]
12 SEVENTEEN.

13 S 2. Subdivision 3 of section 489-ddddddd of the real property tax
14 law, as added by chapter 28 of the laws of 2011, is amended to read as
15 follows:

16 3. (a) No benefits pursuant to this title shall be granted for
17 construction work performed pursuant to a building permit issued after
18 April first, two thousand [fifteen] SEVENTEEN.

19 (b) If no building permit was required, then no benefits pursuant to
20 this title shall be granted for construction work that is commenced
21 after April first, two thousand [fifteen] SEVENTEEN.

22 S 3. Paragraph 1 of subdivision a of section 11-271 of the adminis-
23 trative code of the city of New York, as amended by chapter 28 of the
24 laws of 2011, is amended to read as follows:

25 (1) Application for benefits pursuant to this part may be made imme-
26 diately following the effective date of the local law that added this
27 section and continuing until March first, two thousand [fifteen] SEVEN-
28 TEEN.

29 S 4. Subdivision c of section 11-271 of the administrative code of
30 the city of New York, as added by chapter 28 of the laws of 2011, is
31 amended to read as follows:

32 c. (1) No benefits pursuant to this part shall be granted for
33 construction work performed pursuant to a building permit issued after
34 April first, two thousand [fifteen] SEVENTEEN.

35 (2) If no building permit was required, then no benefits pursuant to
36 this part shall be granted for construction work that is commenced after
37 April first, two thousand [fifteen] SEVENTEEN.

38 S 5. This act shall take effect immediately.

39 SUBPART D

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

43 (b) No eligible business shall be authorized to receive a credit under
44 any local law enacted pursuant to this article until the premises with
45 respect to which it is claiming the credit meet the requirements in the
46 definition of eligible premises and until it has obtained a certifi-
47 cation of eligibility from the mayor of such city or an agency desig-
48 nated by such mayor, and an annual certification from such mayor or an
49 agency designated by such mayor as to the number of eligible aggregate
50 employment shares maintained by such eligible business that may qualify
51 for obtaining a tax credit for the eligible business' taxable year. Any
52 written documentation submitted to such mayor or such agency or agencies

1 in order to obtain any such certification shall be deemed a written
2 instrument for purposes of section 175.00 of the penal law. Such local
3 law may provide for application fees to be determined by such mayor or
4 such agency or agencies. No such certification of eligibility shall be
5 issued under any local law enacted pursuant to this article to an eligi-
6 ble business on or after July first, two thousand [thirteen] FIFTEEN
7 unless:

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

12 (2) prior to such date improvements have been commenced on such prem-
13 ises or parcel, which improvements will meet the requirements of subdi-
14 vision (e) of section twenty-five-y of this article relating to expendi-
15 tures for improvements;

16 (3) prior to such date such business submits a preliminary application
17 for a certification of eligibility to such mayor or such agency or agen-
18 cies with respect to a proposed relocation to such particular premises;
19 and

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

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

28 (b) No eligible business or special eligible business shall be author-
29 ized to receive a credit against tax under any local law enacted pursu-
30 ant to this article until the premises with respect to which it is
31 claiming the credit meet the requirements in the definition of eligible
32 premises and until it has obtained a certification of eligibility from
33 the mayor of such city or any agency designated by such mayor, and an
34 annual certification from such mayor or an agency designated by such
35 mayor as to the number of eligible aggregate employment shares main-
36 tained by such eligible business or such special eligible business that
37 may qualify for obtaining a tax credit for the eligible business' taxa-
38 ble year. No special eligible business shall be authorized to receive a
39 credit against tax under the provisions of this article unless the
40 number of relocated employee base shares calculated pursuant to subdivi-
41 sion (o) of section twenty-five-dd of this article is equal to or great-
42 er than the lesser of twenty-five percent of the number of New York city
43 base shares calculated pursuant to subdivision (p) of such section and
44 two hundred fifty employment shares. Any written documentation submitted
45 to such mayor or such agency or agencies in order to obtain any such
46 certification shall be deemed a written instrument for purposes of
47 section 175.00 of the penal law. Such local law may provide for applica-
48 tion fees to be determined by such mayor or such agency or agencies. No
49 certification of eligibility shall be issued under any local law enacted
50 pursuant to this article to an eligible business on or after July first,
51 two thousand [thirteen] FIFTEEN unless:

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

55 (2) prior to such date improvements have been commenced on such prem-
56 ises or parcel, which improvements will meet the requirements of subdi-

1 vision (e) of section twenty-five-dd of this article relating to expend-
2 itures for improvements;

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

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

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

15 (b) No eligible business shall be authorized to receive a credit
16 against tax or a reduction in base rent subject to tax under the
17 provisions of this chapter, and of title eleven of the code as described
18 in subdivision (a) of this section, until the premises with respect to
19 which it is claiming the credit meet the requirements in the definition
20 of eligible premises and until it has obtained a certification of eligi-
21 bility from the mayor or an agency designated by the mayor, and an annu-
22 al certification from the mayor or an agency designated by the mayor as
23 to the number of eligible aggregate employment shares maintained by such
24 eligible business that may qualify for obtaining a tax credit for the
25 eligible business' taxable year. Any written documentation submitted to
26 the mayor or such agency or agencies in order to obtain any such certif-
27 ication shall be deemed a written instrument for purposes of section
28 175.00 of the penal law. Application fees for such certifications shall
29 be determined by the mayor or such agency or agencies. No certification
30 of eligibility shall be issued to an eligible business on or after July
31 first, two thousand [thirteen] FIFTEEN unless:

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

36 (2) prior to such date improvements have been commenced on such prem-
37 ises or parcel which improvements will meet the requirements of subdivi-
38 sion (e) of section 22-621 of this chapter relating to expenditures for
39 improvements;

40 (3) prior to such date such business submits a preliminary application
41 for a certification of eligibility to such mayor or such agency or agen-
42 cies with respect to a proposed relocation to such particular premises;
43 and

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

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

52 (b) No eligible business or special eligible business shall be author-
53 ized to receive a credit against tax under the provisions of this chap-
54 ter, and of title eleven of the code as described in subdivision (a) of
55 this section, until the premises with respect to which it is claiming
56 the credit meet the requirements in the definition of eligible premises

1 and until it has obtained a certification of eligibility from the mayor
2 or an agency designated by the mayor, and an annual certification from
3 the mayor or an agency designated by the mayor as to the number of
4 eligible aggregate employment shares maintained by such eligible busi-
5 ness or special eligible business that may qualify for obtaining a tax
6 credit for the eligible business' taxable year. No special eligible
7 business shall be authorized to receive a credit against tax under the
8 provisions of this chapter and of title eleven of the code unless the
9 number of relocated employee base shares calculated pursuant to subdivi-
10 sion (o) of section 22-623 of this chapter is equal to or greater than
11 the lesser of twenty-five percent of the number of New York city base
12 shares calculated pursuant to subdivision (p) of such section 22-623,
13 and two hundred fifty employment shares. Any written documentation
14 submitted to the mayor or such agency or agencies in order to obtain any
15 such certification shall be deemed a written instrument for purposes of
16 section 175.00 of the penal law. Application fees for such certifi-
17 cations shall be determined by the mayor or such agency or agencies. No
18 certification of eligibility shall be issued to an eligible business on
19 or after July first, two thousand [thirteen] FIFTEEN unless:

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

23 (2) prior to such date improvements have been commenced on such prem-
24 ises or parcel, which improvements will meet the requirements of subdivi-
25 sion (e) of section 22-623 of this chapter relating to expenditures
26 for improvements;

27 (3) prior to such date such business submits a preliminary application
28 for a certification of eligibility to such mayor or such agency or agen-
29 cies with respect to a proposed relocation to such premises; and

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

35 S 5. This act shall take effect immediately and shall be deemed to
36 have been in full force and effect after June 30, 2013.

37

SUBPART E

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

41 (1) non-residential premises that are wholly contained in property
42 that is eligible to obtain benefits under title two-D or two-F of arti-
43 cle four of the real property tax law, or would be eligible to receive
44 benefits under such article except that such property is exempt from
45 real property taxation and the requirements of paragraph (b) of subdivi-
46 sion seven of section four hundred eighty-nine-dddd of such title two-D,
47 or the requirements of subparagraph (ii) of paragraph (b) of subdivision
48 five of section four hundred eighty-nine-ccccc of such title two-F,
49 whichever is applicable, have not been satisfied, provided that applica-
50 tion for such benefits was made after May third, nineteen hundred eight-
51 y-five and prior to July first, two thousand [thirteen] FIFTEEN, that
52 construction or renovation of such premises was described in such appli-
53 cation, that such premises have been substantially improved by such
54 construction or renovation so described, that the minimum required

1 expenditure as defined in such title two-D or two-F, whichever is appli-
2 cable, has been made, and that such real property is located in an
3 eligible area; or

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

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

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

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

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

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

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

54 (1) is eligible to obtain benefits under title two-D or two-F of arti-
55 cle four of the real property tax law, or would be eligible to receive
56 benefits under such title except that such property is exempt from real

1 property taxation and the requirements of paragraph (b) of subdivision
2 seven of section four hundred eighty-nine-dddd of such title two-D, or
3 the requirements of subparagraph (ii) of paragraph (b) of subdivision
4 five of section four hundred eighty-nine-ccccc of such title two-F,
5 whichever is applicable, of the real property tax law have not been
6 satisfied, provided that application for such benefits was made after
7 the thirtieth day of June, nineteen hundred ninety-five and before the
8 first day of July, two thousand [thirteen] FIFTEEN, that construction or
9 renovation of such building or structure was described in such applica-
10 tion, that such building or structure has been substantially improved by
11 such construction or renovation, and (i) that the minimum required
12 expenditure as defined in such title has been made, or (ii) where there
13 is no applicable minimum required expenditure, the building was
14 constructed within such period or periods of time established by title
15 two-D or two-F, whichever is applicable, of article four of the real
16 property tax law for construction of a new building or structure; or

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

20 (2) has obtained approval after the thirtieth day of June, nineteen
21 hundred ninety-five and before the first day of July, two thousand
22 [thirteen] FIFTEEN, for financing by an industrial development agency
23 established pursuant to article eighteen-A of the general municipal law,
24 provided that such financing has been used in whole or in part to
25 substantially improve such building or structure by construction or
26 renovation, that expenditures have been made for improvements to such
27 real property in excess of twenty per centum of the value at which such
28 real property was assessed for tax purposes for the tax year in which
29 such improvements commenced, and that such expenditures have been made
30 within thirty-six months after the earlier of (i) the issuance by such
31 agency of bonds for such financing, or (ii) the conveyance of title to
32 such building or structure to such agency; or

33 (3) is owned by the city of New York or the New York state urban
34 development corporation, or a subsidiary corporation thereof, a lease
35 for which was approved in accordance with the applicable provisions of
36 the charter of such city or by the board of directors of such corpo-
37 ration, as the case may be, and such approval was obtained after the
38 thirtieth day of June, nineteen hundred ninety-five and before the first
39 day of July, two thousand [thirteen] FIFTEEN, provided that expenditures
40 have been made for improvements to such real property in excess of twen-
41 ty per centum of the value at which such real property was assessed for
42 tax purposes for the tax year in which such improvements commenced, and
43 that such expenditures have been made within thirty-six months after the
44 effective date of such lease; or

45 S 7. Subdivision (f) of section 25-bb of the general city law, as
46 amended by chapter 406 of the laws of 2010, is amended to read as
47 follows:

48 (f) Application and certification. An owner or lessee of a building or
49 structure located in an eligible revitalization area, or an agent of
50 such owner or lessee, may apply to such department of small business
51 services for certification that such building or structure is an eligi-
52 ble building or targeted eligible building meeting the criteria of
53 subdivision (a) or (q) of section twenty-five-aa of this article.
54 Application for such certification must be filed after the thirtieth day
55 of June, nineteen hundred ninety-five and before a building permit is
56 issued for the construction or renovation required by such subdivisions

1 and before the first day of July, two thousand [thirteen] FIFTEEN,
2 provided that no certification for a targeted eligible building shall be
3 issued after October thirty-first, two thousand. Such application shall
4 identify expenditures to be made that will affect eligibility under such
5 subdivision (a) or (q). Upon completion of such expenditures, an appli-
6 cant shall supplement such application to provide information (i) estab-
7 lishing that the criteria of such subdivision (a) or (q) have been met;
8 (ii) establishing a basis for determining the amount of special rebates,
9 including a basis for an allocation of the special rebate among eligible
10 revitalization area energy users purchasing or otherwise receiving ener-
11 gy services from an eligible redistributor of energy or a qualified
12 eligible redistributor of energy; and (iii) supporting an allocation of
13 charges for energy services between eligible charges and other charges.
14 Such department shall certify a building or structure as an eligible
15 building or targeted eligible building after receipt and review of such
16 information and upon a determination that such information establishes
17 that the building or structure qualifies as an eligible building or
18 targeted eligible building. Such department shall mail such certif-
19 ication or notice thereof to the applicant upon issuance. Such certif-
20 ication shall remain in effect provided the eligible redistributor of
21 energy or qualified eligible redistributor of energy reports any changes
22 that materially affect the amount of the special rebates to which it is
23 entitled or the amount of reduction required by subdivision (c) of this
24 section in an energy services bill of an eligible revitalization area
25 energy user and otherwise complies with the requirements of this arti-
26 cle. Such department shall notify the private utility or public utility
27 service required to make a special rebate to such redistributor of the
28 amount of such special rebate established at the time of certification
29 and any changes in such amount and any suspension or termination by such
30 department of certification under this subdivision. Such department may
31 require some or all of the information required as part of an applica-
32 tion or other report be provided by a licensed engineer.

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

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

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

55 (3) non-residential premises that are wholly contained in real proper-
56 ty that has obtained approval after October thirty-first, two thousand

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

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

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

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

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

51 S 12. This act shall take effect immediately and shall be deemed to
52 have been in full force and effect after June 30, 2013.

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

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

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

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

16 S 2. Subparagraph (a) of paragraph 5 of subdivision i of section
17 11-704 of the administrative code of the city of New York is amended by
18 adding a new clause (iii) to read as follows:

19 (III) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, AN
20 APPLICATION FOR THE SPECIAL REDUCTION ALLOWED BY SUBPARAGRAPH (B-2) OF
21 PARAGRAPH TWO OF THIS SUBDIVISION SHALL BE CONSIDERED TIMELY FILED IF
22 FILED BY SUCH TENANT WITH THE DEPARTMENT OF FINANCE ON OR AFTER THE DATE
23 ON WHICH THE LEASE FOR THE ELIGIBLE PREMISES IS EXECUTED BY THE LANDLORD
24 AND TENANT BUT IN NO EVENT MORE THAN ONE HUNDRED EIGHTY DAYS FOLLOWING
25 THE RENT COMMENCEMENT DATE OR SIXTY DAYS FOLLOWING THE DATE THAT THE
26 CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN THAT ADDED THIS CLAUSE
27 BECAME A LAW, WHICHEVER IS LATER, AND NO SUCH SPECIAL REDUCTION SHALL BE
28 PERMITTED UNLESS SUCH APPLICATION IS FILED WITHIN SUCH TIME.

29 S 3. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect after June 30, 2013.

31

SUBPART G

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

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

45 S 2. Subparagraph (iii) of paragraph (a) of subdivision 3 of section
46 499-cc of the real property tax law, as amended by chapter 306 of the
47 laws of 2010, is amended to read as follows:

48 (iii) With respect to the eligible premises defined in subparagraph
49 (ii) of paragraph (b) or paragraph (c) of subdivision ten of section
50 four hundred ninety-nine-aa of this title and for purposes of determin-
51 ing whether the amount of expenditures required by subdivision one of
52 this section have been satisfied, expenditures on improvements to the
53 common areas of an eligible building shall be included only if work on
54 such improvements commenced and the expenditures are made on or after

1 July first, two thousand five and on or before December thirty-first,
2 two thousand [fourteen] SIXTEEN; provided, however, that expenditures on
3 improvements to the common areas of an eligible building made prior to
4 three years before the lease commencement date shall not be included.

5 S 3. This act shall take effect immediately.

6 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
7 sion, section or part of this act shall be adjudged by any court of
8 competent jurisdiction to be invalid, such judgment shall not affect,
9 impair, or invalidate the remainder thereof, but shall be confined in
10 its operation to the clause, sentence, paragraph, subdivision, section
11 or part thereof directly involved in the controversy in which such judg-
12 ment shall have been rendered. It is hereby declared to be the intent of
13 the legislature that this act would have been enacted even if such
14 invalid provisions had not been included herein.

15 S 3. This act shall take effect immediately provided, however, that
16 the applicable effective date of Subparts A through G of this act shall
17 be as specifically set forth in the last section of such Subparts.

18 PART HH

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

21 S 24-A. MUSICAL AND THEATRICAL PRODUCTION CREDIT. (A)(1) ALLOWANCE OF
22 CREDIT. A TAXPAYER WHICH IS A QUALIFIED MUSICAL AND THEATRICAL
23 PRODUCTION COMPANY, OR WHICH IS A SOLE PROPRIETOR OF OR A MEMBER OF A
24 PARTNERSHIP WHICH IS A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION
25 COMPANY, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO
26 OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO
27 THE PROVISIONS REFERRED TO IN SUBDIVISION (C) OF THIS SECTION, AND TO BE
28 COMPUTED AS PROVIDED IN THIS SECTION.

29 (2) THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT (OR PRO RATA SHARE
30 OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP) OF TWENTY-FIVE
31 PERCENT AND THE SUM OF THE QUALIFIED PRODUCTION EXPENDITURES AND THE
32 TRANSPORTATION EXPENDITURES.

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

38 (B) DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL
39 HAVE THE FOLLOWING MEANINGS:

40 (1) "QUALIFIED MUSICAL AND THEATRICAL PRODUCTION" MEANS A FOR-PROFIT
41 LIVE, DRAMATIC STAGE PRESENTATION IN A QUALIFIED PRODUCTION FACILITY,
42 CERTIFIED PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE DEPART-
43 MENT OF ECONOMIC DEVELOPMENT, AS A QUALIFIED TOURING PRODUCTION.

44 (2) "QUALIFIED TOURING PRODUCTION" MEANS A LIVE, DRAMATIC STAGE
45 PRODUCTION THAT, IN ITS ORIGINAL OR ADAPTIVE VERSION, IS PERFORMED IN A
46 QUALIFIED PRODUCTION FACILITY, AND HAS BEGUN OR WILL BEGIN A TOUR,
47 CONSISTING OF EIGHT OR MORE SHOWS IN THREE OR MORE LOCALITIES.

48 (3) "QUALIFIED PRODUCTION EXPENDITURE" MEANS ANY COSTS FOR TANGIBLE
49 PROPERTY USED AND SERVICES PERFORMED DIRECTLY AND PREDOMINANTLY IN THE
50 PRODUCTION OF A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION WITHIN THE
51 STATE INCLUDING: (I) EXPENDITURES FOR DESIGN, CONSTRUCTION AND OPERA-
52 TION, INCLUDING SETS, SPECIAL AND VISUAL EFFECTS, COSTUMES, WARDROBES,
53 MAKE-UP, ACCESSORIES AND COSTS ASSOCIATED WITH SOUND, LIGHTING, AND
54 STAGING, (II) ALL SALARIES, WAGES, FEES, AND OTHER COMPENSATION INCLUD-

1 ING RELATED BENEFITS FOR SERVICES PERFORMED OF WHICH THE TOTAL ALLOWABLE
2 EXPENSE SHALL NOT EXCEED TWO HUNDRED THOUSAND DOLLARS PER WEEK, AND
3 (III) TECHNICAL AND CREW PRODUCTION COSTS, SUCH AS EXPENDITURES FOR
4 QUALIFIED PRODUCTION FACILITIES, OR ANY PART THEREOF, PROPS, MAKE-UP,
5 WARDROBE, COSTUMES, EQUIPMENT USED FOR SPECIAL AND VISUAL EFFECTS, SOUND
6 RECORDING, SET CONSTRUCTION, AND LIGHTING.

7 (4) "QUALIFIED PRODUCTION FACILITY" MEANS A FACILITY LOCATED IN THE
8 STATE BUT OUTSIDE THE CITY OF NEW YORK (I) IN WHICH LIVE THEATRICAL
9 PRODUCTIONS ARE OR ARE INTENDED TO BE PRIMARILY PRESENTED, (II) THAT
10 CONTAINS AT LEAST ONE STAGE, A SEATING CAPACITY OF ONE THOUSAND OR MORE
11 SEATS, AND DRESSING ROOMS, STORAGE AREAS, AND OTHER ANCILLARY AMENITIES
12 NECESSARY FOR THE QUALIFIED MUSICAL AND THEATRICAL PRODUCTION, (III) FOR
13 WHICH RECEIPTS ATTRIBUTABLE TO TICKET SALES CONSTITUTE SEVENTY-FIVE
14 PERCENT OR MORE OF GROSS RECEIPTS OF THE FACILITY, AND (IV) WHICH IS NOT
15 A LICENSEE, OR AFFILIATED WITH A LICENSEE, OF THE NEW YORK STATE GAMING
16 COMMISSION UNDER THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW.

17 (5) "QUALIFIED MUSICAL AND THEATRICAL PRODUCTION COMPANY" IS A CORPO-
18 RATION, PARTNERSHIP, LIMITED PARTNERSHIP, OR OTHER ENTITY OR INDIVIDUAL
19 WHICH OR WHO IS PRINCIPALLY ENGAGED IN THE PRODUCTION OF A QUALIFIED
20 MUSICAL OR THEATRICAL PRODUCTION AND PERFORMS IN A QUALIFIED PRODUCTION
21 FACILITY.

22 (6) (I) "TRANSPORTATION EXPENDITURES" MEANS TRANSPORTATION EXPENDI-
23 TURES INCURRED AND PAID DIRECTLY AND PREDOMINANTLY IN THE PRODUCTION OF
24 A QUALIFIED MUSICAL AND THEATRICAL PRODUCTION. SUCH EXPENDITURES SHALL
25 INCLUDE THE PACKAGING, CRATING, AND TRANSPORTATION WITHIN THE STATE FOR
26 USE IN A QUALIFIED THEATER PRODUCTION OF SETS, COSTUMES, OR OTHER TANGI-
27 BLE PROPERTY CONSTRUCTED OR MANUFACTURED IN AND OUT OF STATE, AND THE
28 TRANSPORTATION OF THE CAST AND CREW WITHIN THE STATE. SUCH TERM SHALL
29 INCLUDE THE PACKAGING, CRATING, AND TRANSPORTING WITHIN THE STATE OF
30 PROPERTY AND EQUIPMENT USED FOR SPECIAL AND VISUAL EFFECTS, SOUND,
31 LIGHTING AND STAGING, COSTUMES, WARDROBES, MAKE-UP AND RELATED ACCESSO-
32 RIES AND MATERIALS, AS WELL AS ANY OTHER PERFORMANCE OR PRODUCTION-RE-
33 LATED PROPERTY AND EQUIPMENT.

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

40 (C) CROSS-REFERENCES. FOR APPLICATION OF THE CREDIT PROVIDED FOR IN
41 THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

42 (1) ARTICLE 9-A: SECTION 210-B: SUBDIVISION 47.

43 (2) ARTICLE 22: SECTION 606: SUBSECTION (U).

44 (D) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER, (I) EMPLOYEES AND
45 OFFICERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT
46 SHALL BE ALLOWED AND ARE DIRECTED TO SHARE AND EXCHANGE INFORMATION
47 REGARDING THE CREDITS APPLIED FOR, ALLOWED, OR CLAIMED PURSUANT TO THIS
48 SECTION AND TAXPAYERS WHO ARE APPLYING FOR CREDITS OR WHO ARE CLAIMING
49 CREDITS, INCLUDING INFORMATION CONTAINED IN OR DERIVED FROM CREDIT CLAIM
50 FORMS SUBMITTED TO THE DEPARTMENT AND APPLICATIONS FOR CERTIFICATION
51 SUBMITTED TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AND (II) THE
52 COMMISSIONER AND THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOP-
53 MENT MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS
54 CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER. PROVIDED,
55 HOWEVER, IF A TAXPAYER CLAIMS THIS CREDIT BECAUSE IT IS A MEMBER OF A
56 LIMITED LIABILITY COMPANY OR A PARTNER IN A PARTNERSHIP, ONLY THE AMOUNT

1 OF CREDIT EARNED BY THE ENTITY AND NOT THE AMOUNT OF CREDIT CLAIMED BY
2 THE TAXPAYER MAY BE RELEASED.

3 (E) MAXIMUM AMOUNT OF CREDITS. (1) THE AGGREGATE AMOUNT OF TAX CREDITS
4 ALLOWED UNDER THIS SECTION, SUBDIVISION FORTY-SEVEN OF SECTION TWO
5 HUNDRED TEN-B AND SUBSECTION (U) OF SECTION SIX HUNDRED SIX OF THIS
6 CHAPTER IN ANY CALENDAR YEAR SHALL BE FOUR MILLION DOLLARS. SUCH AGGRE-
7 GATE AMOUNT OF CREDITS SHALL BE ALLOCATED BY THE DEPARTMENT OF ECONOMIC
8 DEVELOPMENT AMONG TAXPAYERS IN ORDER OF PRIORITY BASED UPON THE DATE OF
9 FILING AN APPLICATION FOR ALLOCATION OF MUSICAL AND THEATRICAL
10 PRODUCTION CREDIT WITH SUCH DEPARTMENT. IF THE TOTAL AMOUNT OF ALLOCATED
11 CREDITS APPLIED FOR IN ANY PARTICULAR YEAR EXCEEDS THE AGGREGATE AMOUNT
12 OF TAX CREDITS ALLOWED FOR SUCH YEAR UNDER THIS SECTION, SUCH EXCESS
13 SHALL BE TREATED AS HAVING BEEN APPLIED FOR ON THE FIRST DAY OF THE
14 SUBSEQUENT YEAR.

15 (2) THE COMMISSIONER OF ECONOMIC DEVELOPMENT, AFTER CONSULTING WITH
16 THE COMMISSIONER, SHALL PROMULGATE REGULATIONS BY OCTOBER THIRTY-FIRST,
17 TWO THOUSAND FOURTEEN TO ESTABLISH PROCEDURES FOR THE ALLOCATION OF TAX
18 CREDITS AS REQUIRED BY SUBDIVISION (A) OF THIS SECTION. SUCH RULES AND
19 REGULATIONS SHALL INCLUDE PROVISIONS DESCRIBING THE APPLICATION PROCESS,
20 THE DUE DATES FOR SUCH APPLICATIONS, THE STANDARDS WHICH SHALL BE USED
21 TO EVALUATE THE APPLICATIONS, THE DOCUMENTATION THAT WILL BE PROVIDED TO
22 TAXPAYERS TO SUBSTANTIATE TO THE DEPARTMENT THE AMOUNT OF TAX CREDITS
23 ALLOCATED TO SUCH TAXPAYERS, AND SUCH OTHER PROVISIONS AS DEEMED NECES-
24 SARY AND APPROPRIATE. NOTWITHSTANDING ANY OTHER PROVISIONS TO THE
25 CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE ACT, SUCH RULES AND REGU-
26 LATIONS MAY BE ADOPTED ON AN EMERGENCY BASIS IF NECESSARY TO MEET SUCH
27 OCTOBER THIRTY-FIRST, TWO THOUSAND FOURTEEN DEADLINE.

28 (F) THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL SUBMIT TO THE GOVER-
29 NOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE
30 ASSEMBLY, AN ANNUAL REPORT TO BE SUBMITTED ON FEBRUARY FIRST OF EACH
31 YEAR EVALUATING THE EFFECTIVENESS OF THE MUSICAL AND THEATRICAL
32 PRODUCTION TAX CREDIT PROVIDED BY THIS SECTION IN STIMULATING THE GROWTH
33 OF THE MUSICAL AND THEATRICAL INDUSTRY IN THE STATE. SUCH REPORT SHALL
34 INCLUDE, BUT NEED NOT BE LIMITED TO, IN TOTAL AND BY QUALIFIED MUSICAL
35 AND THEATRICAL PRODUCTION, THE NUMBER OF QUALIFIED MUSICAL AND THEATRI-
36 CAL PRODUCTIONS WHICH RECEIVED A MUSICAL AND THEATRICAL PRODUCTION CRED-
37 IT, THE QUALIFIED PRODUCTION EXPENDITURES, THE TRANSPORTATION EXPENDI-
38 TURES, THE QUALIFIED PRODUCTION FACILITIES, AND THE CREDIT AMOUNTS
39 CLAIMED BY EACH QUALIFIED MUSICAL AND THEATRICAL PRODUCTION, AS WELL AS
40 THE IMPACT ON EMPLOYMENT AND THE ECONOMY OF THE STATE. SUCH REPORT SHALL
41 INCLUDE (1) THE CREDIT-ELIGIBLE MAN HOURS FOR EACH PROJECT AND THE TOTAL
42 WAGES FOR SUCH CREDIT-ELIGIBLE MAN HOURS FOR EACH PROJECT AS WELL AS THE
43 NAME OF EACH TAXPAYER ALLOCATED A TAX CREDIT FOR EACH PROJECT AND THE
44 COUNTY OF RESIDENCE OR INCORPORATION OF SUCH TAXPAYER OR, IF THE TAXPAY-
45 ER DOES NOT RESIDE OR IS NOT INCORPORATED IN NEW YORK, THEN THE STATE OF
46 RESIDENCE OR INCORPORATION; PROVIDED HOWEVER, IF THE TAXPAYER CLAIMS A
47 TAX CREDIT BECAUSE THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY
48 COMPANY, A PARTNER IN A PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S
49 CORPORATION, THE NAME OF EACH LIMITED LIABILITY COMPANY, PARTNERSHIP OR
50 SUBCHAPTER S CORPORATION EARNING ANY OF THOSE TAX CREDITS MUST BE
51 INCLUDED IN THE REPORT INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIM-
52 ING THE TAX CREDIT; AND (2) THE AMOUNT OF TAX CREDIT ALLOCATED TO EACH
53 TAXPAYER; PROVIDED, HOWEVER, IF THE TAXPAYER CLAIMS A TAX CREDIT BECAUSE
54 THE TAXPAYER IS A MEMBER OF A LIMITED LIABILITY COMPANY, A PARTNER IN A
55 PARTNERSHIP OR A SHAREHOLDER IN A SUBCHAPTER S CORPORATION, THE AMOUNT
56 OF TAX CREDIT EARNED BY EACH ENTITY MUST BE INCLUDED IN THE REPORT

1 INSTEAD OF INFORMATION ABOUT THE TAXPAYER CLAIMING THE TAX CREDIT, AND
 2 INFORMATION IDENTIFYING THE PROJECT ASSOCIATED WITH EACH TAXPAYER FOR
 3 WHICH A TAX CREDIT WAS CLAIMED UNDER THIS SECTION, INCLUDING THE NAME OF
 4 THE MUSICAL AND THEATRICAL PRODUCTION AND COUNTY IN WHICH THE PRODUCTION
 5 IS PERFORMED MUST BE INCLUDED IN SUCH REPORT. SUCH REPORT SHALL BE BASED
 6 ON DATA AVAILABLE FROM THE APPLICATION FILED WITH THE DEPARTMENT OF
 7 ECONOMIC DEVELOPMENT FOR ALLOCATION OF MUSICAL AND THEATRICAL PRODUCTION
 8 CREDITS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE
 9 INFORMATION CONTAINED IN THE REPORT SHALL BE PUBLIC INFORMATION. THE
 10 REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS OF CHANGES IN THE CALCU-
 11 LATION OR ADMINISTRATION OF THE CREDIT, AND ANY OTHER RECOMMENDATION OF
 12 THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT REGARDING
 13 CONTINUING MODIFICATION, REPEAL OF SUCH ACT, AND SUCH OTHER INFORMATION
 14 REGARDING THE ACT AS THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC
 15 DEVELOPMENT MAY FEEL USEFUL AND APPROPRIATE.

16 S 2. Section 210-B of the tax law, as added by section 17 of part A of
 17 this act, is amended by adding a new subdivision 47 to read as follows:

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

22 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
 23 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
 24 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS
 25 SECTION. PROVIDED, HOWEVER, THAT IF THE AMOUNT OF THE CREDIT ALLOWABLE
 26 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
 27 AMOUNT, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CRED-
 28 ITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOU-
 29 SAND EIGHTY-SIX OF THIS CHAPTER. PROVIDED, FURTHER, THE PROVISIONS OF
 30 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
 31 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

32 S 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 33 of the tax law is amended by adding a new clause (xxxix) to read as
 34 follows:

35 (XXXIX) MUSICAL AND THEATRICAL	AMOUNT OF CREDIT FOR
36 PRODUCTION CREDIT UNDER	THE SUM OF THE QUALIFIED
37 SUBSECTION (U)	PRODUCTION EXPENDITURES AND
38	THE TRANSPORTATION EXPENDITURES
39	IN A QUALIFIED MUSICAL AND
40	THEATRICAL PRODUCTION UNDER
41	SUBDIVISION FORTY-SEVEN OF
42	SECTION TWO HUNDRED TEN-B

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

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

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

54 S 5. This act shall take effect immediately, provided that section two
 55 of this act shall take effect on January 1, 2015, and shall apply to
 56 taxable years beginning on or after January 1, 2015, with respect to

1 "qualified production expenditures" and "transportation expenditures"
2 paid or incurred on or after such effective date, regardless of whether
3 the production of the qualified musical or theatrical production
4 commenced before such date, provided further that this act shall expire
5 and be deemed repealed 4 years after such date.

6 PART II

7 Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax
8 law, as amended by section 1 of part O of chapter 63 of the laws of
9 2000, is amended to read as follows:

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

28 S 2. This act shall take effect June 1, 2014.

29 PART JJ

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

33 (5) For the period two thousand fifteen through two thousand nineteen,
34 in addition to the amount of credit established in paragraph two of this
35 subdivision, a taxpayer shall be allowed a credit equal to the product
36 (or pro rata share of the product, in the case of a member of a partner-
37 ship) of ten percent and the amount of wages or salaries paid to indi-
38 viduals directly employed (excluding those employed as writers, direc-
39 tors, music directors, producers and performers, including background
40 actors with no scripted lines) by a qualified film production company or
41 a qualified independent film production company for services performed
42 by those individuals in one of the counties specified in this paragraph
43 in connection with a qualified film with a minimum budget of five
44 hundred thousand dollars. For purposes of this additional credit, the
45 services must be performed in one or more of the following counties:
46 ALBANY, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung,
47 Chenango, Clinton, Cortland, Delaware, Erie, Essex, Franklin, Fulton,
48 Genesee, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison,
49 Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego,
50 Otsego, SCHENECTADY, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben,
51 Tioga, Tompkins, Wayne, Wyoming, or Yates. The aggregate amount of tax
52 credits allowed pursuant to the authority of this paragraph shall be

1 five million dollars each year during the period two thousand fifteen
2 through two thousand nineteen of the annual allocation made available to
3 the program pursuant to paragraph four of subdivision (e) of this
4 section. Such aggregate amount of credits shall be allocated by the
5 governor's office for motion picture and television development among
6 taxpayers in order of priority based upon the date of filing an applica-
7 tion for allocation of film production credit with such office. If the
8 total amount of allocated credits applied for under this paragraph in
9 any year exceeds the aggregate amount of tax credits allowed for such
10 year under this paragraph, such excess shall be treated as having been
11 applied for on the first day of the next year. If the total amount of
12 allocated tax credits applied for under this paragraph at the conclusion
13 of any year is less than five million dollars, the remainder shall be
14 treated as part of the annual allocation made available to the program
15 pursuant to paragraph four of subdivision (e) of this section. However,
16 in no event may the total of the credits allocated under this paragraph
17 and the credits allocated under paragraph five of subdivision (a) of
18 section thirty-one of this article exceed five million dollars in any
19 year during the period two thousand fifteen through two thousand nine-
20 teen.

21 S 2. Paragraph 5 of subdivision (a) of section 31 of the tax law, as
22 added by section 8 of part B of chapter 59 of the laws of 2013, is
23 amended to read as follows:

24 [(5)] (6) For the period two thousand fifteen through two thousand
25 nineteen, in addition to the amount of credit established in paragraph
26 two of subdivision (a) of this section, a taxpayer shall be allowed a
27 credit equal to the product (or pro rata share of the product, in the
28 case of a member of a partnership) of ten percent and the amount of
29 wages or salaries paid to individuals directly employed (excluding those
30 employed as writers, directors, music directors, producers and perform-
31 ers, including background actors with no scripted lines) for services
32 performed by those individuals in one of the counties specified in this
33 paragraph in connection with the post production work on a qualified
34 film with a minimum budget of five hundred thousand dollars at a quali-
35 fied post production facility in one of the counties listed in this
36 paragraph. For purposes of this additional credit, the services must be
37 performed in one or more of the following counties: ALBANY, Allegany,
38 Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton,
39 Cortland, Delaware, Erie, Essex, Franklin, Fulton, Genesee, Hamilton,
40 Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery,
41 Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, SCHENECTA-
42 DY, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins,
43 Wayne, Wyoming, or Yates. The aggregate amount of tax credits allowed
44 pursuant to the authority of this paragraph shall be five million
45 dollars each year during the period two thousand fifteen through two
46 thousand nineteen of the annual allocation made available to the empire
47 state film post production credit pursuant to paragraph four of subdivi-
48 sion (e) of section twenty-four of this article. Such aggregate amount
49 of credits shall be allocated by the governor's office for motion
50 picture and television development among taxpayers in order of priority
51 based upon the date of filing an application for allocation of post
52 production credit with such office. If the total amount of allocated
53 credits applied for under this paragraph in any year exceeds the aggre-
54 gate amount of tax credits allowed for such year under this paragraph,
55 such excess shall be treated as having been applied for on the first day
56 of the next year. If the total amount of allocated tax credits applied

1 for under this paragraph at the conclusion of any year is less than five
2 million dollars, the remainder shall be treated as part of the annual
3 allocation for two thousand seventeen made available to the empire state
4 film post production credit pursuant to paragraph four of subdivision
5 (e) of section twenty-four of this article. However, in no event may the
6 total of the credits allocated under this paragraph and the credits
7 allocated under paragraph five of subdivision (a) of section twenty-four
8 of this article exceed five million dollars in any year during the peri-
9 od two thousand fifteen through two thousand nineteen.
10 S 3. This act shall take effect January 1, 2015.

PART KK

12 Section 1. Subsection (c) of section 612 of the tax law is amended by
13 adding a new paragraph 41 to read as follows:

14 (41) THE AMOUNT OF ANY AWARD PAID TO A VOLUNTEER FIREFIGHTER OR VOLUN-
15 TEER AMBULANCE WORKER FROM A LENGTH OF SERVICE DEFINED CONTRIBUTION PLAN
16 OR DEFINED BENEFIT PLAN AS PROVIDED FOR IN ARTICLES ELEVEN-A, ELEVEN-AA,
17 ELEVEN-AAA AND ELEVEN-AAAA OF THE GENERAL MUNICIPAL LAW, TO THE EXTENT
18 THAT SUCH AWARD IS INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX
19 PURPOSES; PROVIDED, HOWEVER, THAT SUCH AWARD IS NOT DISTRIBUTED IN THE
20 FORM OF A LUMP SUM DISTRIBUTION, AS DEFINED IN SUBPARAGRAPH (A) OF PARA-
21 GRAPH FOUR OF SUBSECTION (E) OF SECTION FOUR HUNDRED TWO OF THE INTERNAL
22 REVENUE CODE AND TAXED UNDER SECTION SIX HUNDRED THREE OF THIS ARTICLE;
23 AND PROVIDED, FURTHER, THAT SUCH AWARD IS NOT DISTRIBUTED TO A TAXPAYER
24 WHO HAS NOT ATTAINED THE AGE OF FIFTY-NINE AND ONE-HALF YEARS.

25 S 2. Subdivision (c) of section 11-1712 of the administrative code of
26 the city of New York is amended by adding a new paragraph 37 to read as
27 follows:

28 (37) THE AMOUNT OF ANY AWARD PAID TO A VOLUNTEER FIREFIGHTER OR VOLUN-
29 TEER AMBULANCE WORKER FROM A LENGTH OF SERVICE DEFINED CONTRIBUTION PLAN
30 OR DEFINED BENEFIT PLAN AS PROVIDED FOR IN ARTICLES ELEVEN-A, ELEVEN-AA,
31 ELEVEN-AAA AND ELEVEN-AAAA OF THE GENERAL MUNICIPAL LAW, TO THE EXTENT
32 THAT SUCH AWARD IS INCLUDABLE IN GROSS INCOME FOR FEDERAL INCOME TAX
33 PURPOSES; PROVIDED, HOWEVER, THAT SUCH AWARD IS NOT DISTRIBUTED IN THE
34 FORM OF A LUMP SUM DISTRIBUTION, AS DEFINED IN SUBPARAGRAPH (A) OF PARA-
35 GRAPH FOUR OF SUBSECTION (E) OF SECTION FOUR HUNDRED TWO OF THE INTERNAL
36 REVENUE CODE AND TAXED UNDER SECTION SIX HUNDRED THREE OF THE TAX LAW;
37 AND PROVIDED, FURTHER, THAT SUCH AWARD IS NOT DISTRIBUTED TO A TAXPAYER
38 WHO HAS NOT ATTAINED THE AGE OF FIFTY-NINE AND ONE-HALF YEARS.

39 S 3. This act shall take effect immediately and shall apply to taxable
40 years beginning on and after January 1, 2014.

PART LL

42 Section 1. Subdivision (e) of section 1111 of the tax law, as amended
43 by chapter 261 of the laws of 1988, paragraph 2 as amended by section 6
44 of part M1 of chapter 109 of the laws of 2006, is amended to read as
45 follows:

46 (e) (1) There are hereby created and established within the state
47 [two] THREE regions for purposes of the payment of the tax imposed by
48 section eleven hundred two of this article. (i) [One] THE FIRST region
49 shall consist of the localities included in the metropolitan commuter
50 transportation district created and established pursuant to section
51 twelve hundred sixty-two of the public authorities law, EXCLUDING ALL
52 LOCALITIES INCLUDED IN THE COUNTIES OF NASSAU AND SUFFOLK. (ii) THE

1 SECOND REGION SHALL CONSIST OF THE LOCALITIES INCLUDED IN THE COUNTIES
2 OF NASSAU AND SUFFOLK. (III) The [other] THIRD region shall consist of
3 the area of the state outside the [region] REGIONS referred to in
4 [subparagraph] SUBPARAGRAPHS (i) AND (II) of this paragraph.

5 (2) (i) Where the motor fuel is imported, manufactured or sold in, or
6 diesel motor fuel is sold or used in the region referred to in subpara-
7 graph (i) of paragraph one of this subdivision, the tax required to be
8 prepaid pursuant to section eleven hundred two of this article on each
9 gallon of such fuel shall be [fourteen and three-quarters] SEVENTEEN AND
10 ONE-HALF cents.

11 (ii) Where motor fuel is imported, manufactured or sold in, or diesel
12 motor fuel is sold or used in the region referred to in subparagraph
13 (ii) of paragraph one of this subdivision, the tax required to be
14 prepaid pursuant to section eleven hundred two of this article on each
15 gallon of such fuel shall be [fourteen] TWENTY-ONE cents.

16 (III) WHERE MOTOR FUEL IS IMPORTED, MANUFACTURED OR SOLD IN, OR DIESEL
17 MOTOR FUEL IS SOLD OR USED IN THE REGION REFERRED TO IN SUBPARAGRAPH
18 (III) OF PARAGRAPH ONE OF THIS SUBDIVISION, THE TAX REQUIRED TO BE
19 PREPAID PURSUANT TO SECTION ELEVEN HUNDRED TWO OF THIS ARTICLE ON EACH
20 GALLON OF SUCH FUEL SHALL BE SIXTEEN CENTS.

21 S 2. This act shall take effect June 1, 2014.

22

PART MM

23 Section 1. The labor law is amended by adding a new section 25-b to
24 read as follows:

25 S 25-B. POWER TO ADMINISTER THE WORKERS WITH DISABILITIES TAX CREDIT
26 PROGRAM. (A) THE COMMISSIONER IS AUTHORIZED TO ESTABLISH AND ADMINISTER
27 THE WORKERS WITH DISABILITIES TAX CREDIT PROGRAM TO PROVIDE TAX INCEN-
28 TIVES TO EMPLOYERS FOR EMPLOYING INDIVIDUALS WITH DEVELOPMENTAL DISABIL-
29 ITIES. THE COMMISSIONER IS AUTHORIZED TO ALLOCATE UP TO SIX MILLION
30 DOLLARS OF TAX CREDITS ANNUALLY.

31 (B) DEFINITIONS. (1) THE TERM "QUALIFIED EMPLOYER" MEANS AN EMPLOYER
32 THAT HAS BEEN CERTIFIED BY THE COMMISSIONER TO PARTICIPATE IN THE WORK-
33 ERS WITH DISABILITIES TAX CREDIT PROGRAM AND THAT EMPLOYS ONE OR MORE
34 QUALIFIED EMPLOYEES.

35 (2) THE TERM "QUALIFIED EMPLOYEE" MEANS AN INDIVIDUAL:

36 (I) WHO IS DEEMED TO HAVE A DEVELOPMENTAL DISABILITY, AS THAT TERM IS
37 DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE
38 LAW AND WHO IS CERTIFIED BY THE EDUCATION DEPARTMENT OR THE OFFICE FOR
39 PEOPLE WITH DEVELOPMENTAL DISABILITIES:

40 (A) AS A PERSON WITH A DISABILITY WHICH CONSTITUTES OR RESULTS IN A
41 SUBSTANTIAL HANDICAP TO EMPLOYMENT; AND

42 (B) AS A PERSON HAVING COMPLETED OR AS RECEIVING SERVICES UNDER AN
43 INDIVIDUALIZED WRITTEN REHABILITATION PLAN APPROVED BY THE EDUCATION
44 DEPARTMENT OR OTHER STATE AGENCY RESPONSIBLE FOR PROVIDING VOCATIONAL
45 REHABILITATION SERVICES TO SUCH INDIVIDUAL; AND

46 (II) WHO IS A CURRENT EMPLOYEE OF A SHELTERED WORKSHOP, WHICH FOR
47 PURPOSES OF THIS SUBDIVISION IS DEFINED AS AN ORGANIZATION OR ENVIRON-
48 MENT THAT EMPLOYS PEOPLE WITH DISABILITIES SEGREGATED FROM OTHERS; OR
49 WHO WAS UNEMPLOYED FOR AT LEAST THREE MONTHS PRIOR TO JANUARY FIRST, TWO
50 THOUSAND FIFTEEN; AND

51 (III) WHO HAS WORKED FOR THE QUALIFIED EMPLOYER IN A FULL-TIME OR
52 PART-TIME POSITION THAT PAYS WAGES THAT ARE EQUIVALENT TO THE WAGES PAID
53 FOR SIMILAR JOBS, WITH APPROPRIATE ADJUSTMENTS FOR EXPERIENCE AND TRAIN-
54 ING, AND FOR WHICH NO OTHER EMPLOYEE HAS BEEN TERMINATED, OR WHERE THE

1 EMPLOYER HAS NOT OTHERWISE REDUCED ITS WORKFORCE BY INVOLUNTARY TERMI-
2 NATIONS WITH THE INTENTION OF FILLING THE VACANCY BY CREATING A NEW
3 HIRE; AND

4 (IV) WHO HAS NOT WORKED FOR AN ENTITY RELATED TO THE QUALIFIED EMPLOY-
5 ER IN THE PAST TWENTY-FOUR MONTHS; AND

6 (V) IS EMPLOYED IN NEW YORK AT A LOCATION IN NEW YORK STATE.

7 (C) A QUALIFIED EMPLOYER SHALL BE ENTITLED TO A TAX CREDIT. THE TAX
8 CREDITS SHALL BE CLAIMED BY THE QUALIFIED EMPLOYER AS SPECIFIED IN
9 SUBDIVISION FORTY-EIGHT OF SECTION TWO HUNDRED TEN-B AND SUBSECTION (ZZ)
10 OF SECTION SIX HUNDRED SIX OF THE TAX LAW.

11 (D) TO PARTICIPATE IN THE DEVELOPMENTALLY DISABLED WORKS TAX CREDIT
12 PROGRAM, AN EMPLOYER MUST SUBMIT AN APPLICATION (IN A FORM PRESCRIBED BY
13 THE COMMISSIONER) TO THE COMMISSIONER NO LATER THAN NOVEMBER THIRTIETH
14 OF THE PRIOR YEAR. THE COMMISSIONER SHALL ESTABLISH GUIDELINES THAT
15 SPECIFY REQUIREMENTS FOR EMPLOYERS TO PARTICIPATE IN THE PROGRAM INCLUD-
16 ING CRITERIA FOR CERTIFYING QUALIFIED EMPLOYEES. ANY REGULATIONS THAT
17 THE COMMISSIONER DETERMINES ARE NECESSARY MAY BE ADOPTED ON AN EMERGENCY
18 BASIS NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION TWO HUNDRED
19 TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT. SUCH REQUIREMENTS MAY
20 INCLUDE THE TYPES OF INDUSTRIES THAT THE EMPLOYERS ARE ENGAGED IN.

21 (E) IF, AFTER REVIEWING THE APPLICATION SUBMITTED BY AN EMPLOYER, THE
22 COMMISSIONER DETERMINES THAT SUCH EMPLOYER IS ELIGIBLE TO PARTICIPATE IN
23 THE WORKERS WITH DISABILITIES TAX CREDIT PROGRAM, THE COMMISSIONER SHALL
24 ISSUE THE EMPLOYER A PRELIMINARY CERTIFICATE OF ELIGIBILITY THAT ESTAB-
25 LISHES THE EMPLOYER AS A QUALIFIED EMPLOYER. THE CERTIFICATE OF ELIGI-
26 BILITY SHALL SPECIFY THE MAXIMUM AMOUNT OF WORKERS WITH DISABILITIES TAX
27 CREDIT THAT THE EMPLOYER WILL BE ALLOWED TO CLAIM. AT THE END OF THE
28 TAXABLE YEAR, A QUALIFIED EMPLOYER MUST OBTAIN A FINAL CERTIFICATE OF
29 ELIGIBILITY FROM THE COMMISSIONER TO FILE WITH A RETURN CLAIMING THE
30 CREDIT. THE FINAL CERTIFICATE MUST CONTAIN THE CERTIFICATE'S TAXABLE
31 YEAR TO WHICH THE CREDIT APPLIES, THE MAXIMUM AMOUNT OF THE CREDIT
32 ALLOWED, THE QUALIFIED EMPLOYER'S NAME AND EMPLOYER IDENTIFICATION
33 NUMBER, THE EMPLOYER'S BUSINESS ADDRESS WHERE THE CLAIMED EMPLOYEES WERE
34 EMPLOYED, THE SOCIAL SECURITY NUMBERS OF CLAIMED EMPLOYEES AND THEIR
35 HIRE AND TERMINATION DATES, VERIFICATION THAT THE CLAIMED EMPLOYEES HAVE
36 MET THE STATUTORY DEFINITION OF "QUALIFIED EMPLOYEE", AND EACH EMPLOY-
37 EE'S TOTAL HOURS WORKED EACH QUARTER, HOURLY WAGE, AND FULL-TIME OR
38 PART-TIME STATUS.

39 S 2. Section 210-B of the tax law, as added by section 17 of part A of
40 this act, is amended by adding a new subdivision 48 to read as follows:

41 48. WORKERS WITH DISABILITIES TAX CREDIT. (A) A QUALIFIED EMPLOYER,
42 AS DEFINED IN PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION TWENTY-FIVE-B
43 OF THE LABOR LAW, SHALL BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED
44 BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE: FIFTEEN PERCENT OF
45 THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN TO A
46 QUALIFIED FULL-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS THAN SIX
47 MONTHS AND WHO WORKS AT LEAST THIRTY HOURS PER WEEK; AND SHALL BE TEN
48 PERCENT OF THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND
49 FIFTEEN TO A QUALIFIED PART-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS
50 THAN SIX MONTHS AND WORKS AT LEAST EIGHT HOURS PER WEEK. THE CREDIT
51 ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED, DURING ANY TAXA-
52 BLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND
53 TWO THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE.
54 "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED EMPLOYER
55 DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE,

1 WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED
2 EMPLOYEE.

3 (B) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
4 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
5 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION.
6 HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR
7 ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT
8 NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING
9 THREE YEARS, AND MAY BE DEDUCTED FROM THE QUALIFIED EMPLOYER'S TAX FOR
10 SUCH YEARS.

11 (C) THE TAXPAYER SHALL ATTACH TO ITS TAX RETURN ITS FINAL CERTIFICATE
12 OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION
13 TWENTY-FIVE-B OF THE LABOR LAW FOR EACH TAXABLE YEAR THAT THE CREDIT IS
14 CLAIMED. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER
15 THAN THE AMOUNT OF THE CREDIT LISTED ON THE FINAL CERTIFICATE OF ELIGI-
16 BILITY. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY,
17 THE COMMISSIONER AND THE COMMISSIONER'S DESIGNEES MAY RELEASE THE NAMES
18 AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS CREDIT AND THE AMOUNT OF THE
19 CREDIT EARNED BY THE TAXPAYER.

20 (D) A QUALIFIED EMPLOYER MAY NOT CLAIM THE WORKERS WITH DISABILITIES
21 TAX CREDIT IF IT CLAIMS ANY OF THE OTHER CREDITS FOR EMPLOYMENT OF
22 PERSONS WITH DISABILITIES UNDER EITHER SUBSECTION (O) OF SECTION SIX
23 HUNDRED SIX, SUBDIVISION TWELVE OF THIS SECTION, OR SUBDIVISION (J) OF
24 SECTION FIFTEEN HUNDRED ELEVEN OF THIS CHAPTER.

25 S 3. Subsections (yy) and (zz) of section 606 of the tax law, as
26 relettered by section 5 of part H of chapter 1 of the laws of 2003, are
27 relettered subsections (yyy) and (zzz) and a new subsection (zz) is
28 added to read as follows:

29 (ZZ) WORKERS WITH DISABILITIES TAX CREDIT. (1) A QUALIFIED EMPLOYER,
30 AS DEFINED IN PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION TWENTY-FIVE-B
31 OF THE LABOR LAW, SHALL BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED
32 BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE: FIFTEEN PERCENT OF
33 THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN TO A
34 QUALIFIED FULL-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS THAN SIX
35 MONTHS AND WHO WORKS AT LEAST THIRTY HOURS PER WEEK; AND SHALL BE TEN
36 PERCENT OF THE QUALIFIED WAGES PAID AFTER JANUARY FIRST, TWO THOUSAND
37 FIFTEEN TO A QUALIFIED PART-TIME EMPLOYEE WHO IS EMPLOYED FOR NOT LESS
38 THAN SIX MONTHS AND WORKS AT LEAST EIGHT HOURS PER WEEK. THE CREDIT
39 ALLOWED PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED, DURING ANY TAXABLE
40 YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND TWO
41 THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE.
42 "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED EMPLOYER
43 DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE,
44 WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED
45 EMPLOYEE.

46 (2) IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY
47 TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, ANY AMOUNT
48 OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE
49 FOLLOWING THREE YEARS, AND MAY BE DEDUCTED FOR THE QUALIFIED EMPLOYER'S
50 TAX FOR SUCH YEARS.

51 (3) THE TAXPAYER SHALL ATTACH TO ITS TAX RETURN ITS FINAL CERTIFICATE
52 OF ELIGIBILITY ISSUED BY THE COMMISSIONER OF LABOR PURSUANT TO SECTION
53 TWENTY-FIVE-B OF THE LABOR LAW. IN NO EVENT SHALL THE TAXPAYER BE
54 ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED ON THE
55 FINAL CERTIFICATE OF ELIGIBILITY. NOTWITHSTANDING ANY PROVISION OF THIS
56 CHAPTER TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER'S DESIG-

1 NEES MAY RELEASE THE NAMES AND ADDRESSES OF ANY TAXPAYER CLAIMING THIS
2 CREDIT AND THE AMOUNT OF THE CREDIT EARNED BY THE TAXPAYER.

3 (4) A QUALIFIED EMPLOYER MAY NOT CLAIM THE WORKERS WITH DISABILITIES
4 TAX CREDIT IF IT CLAIMS ANY OF THE OTHER CREDITS FOR EMPLOYMENT OF
5 PERSONS WITH DISABILITIES UNDER EITHER SUBSECTION (O) OF SECTION SIX
6 HUNDRED SIX, SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN-B, OR SUBDI-
7 VISION (J) OF SECTION FIFTEEN HUNDRED ELEVEN OF THIS CHAPTER.

8 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
9 of the tax law is amended by adding a new clause (xl) to read as
10 follows:

11 (XL) WORKERS WITH DISABILITIES	AMOUNT OF
12 TAX CREDIT UNDER SUBSECTION (ZZ)	CREDIT UNDER SUBDIVISION
13	FORTY-EIGHT OF SECTION TWO
14	HUNDRED TEN-B

15 S 5. This act shall take effect January 1, 2015, and shall apply to
16 taxable years beginning on and after that date; provided, however, that
17 this act shall expire and be deemed repealed January 1, 2020.

18 PART NN

19 Section 1. Subparagraph (i) of paragraph (b) of subdivision 4 of
20 section 425 of the real property tax law is amended by adding a new
21 clause (C-1) to read as follows:

22 (C-1) NOTWITHSTANDING THE PROVISIONS OF CLAUSE (C) OF THIS SUBPARA-
23 GRAPH, IN THE EVENT THAT A SENIOR CITIZEN, AS A RESULT OF THE DEATH OF
24 HIS OR HER SPOUSE, EXPERIENCES A DECREASE IN INCOME SUCH THAT HE OR SHE
25 WOULD QUALIFY FOR THE ENHANCED EXEMPTION IF HIS OR HER ELIGIBILITY WERE
26 BASED UPON HIS OR HER INCOME FOR THE INCOME TAX YEAR IMMEDIATELY SUBSE-
27 QUENT TO THE INCOME TAX YEAR THAT WOULD OTHERWISE BE APPLICABLE PURSUANT
28 TO CLAUSE (C) OF THIS SUBPARAGRAPH, THEN THE ELIGIBILITY OF SUCH SENIOR
29 CITIZEN FOR THE ENHANCED EXEMPTION ON THE APPLICABLE TAXABLE STATUS DATE
30 SHALL BE DETERMINED BASED UPON HIS OR HER INCOME FOR SUCH LATER INCOME
31 TAX YEAR; PROVIDED THAT THE INCOME TAX RETURN FOR SUCH YEAR HAS BEEN
32 FILED WITH THE APPROPRIATE STATE OR FEDERAL AGENCY AND A COPY THEREOF
33 HAS BEEN FILED WITH THE ASSESSOR ON OR BEFORE THE APPLICABLE TAXABLE
34 STATUS DATE, OR OTHER DOCUMENTATION OF INCOME ELIGIBILITY HAS BEEN FILED
35 WITH THE ASSESSOR ON OR BEFORE THE APPLICABLE TAXABLE STATUS DATE.

36 S 2. This act shall take effect immediately.

37 PART OO

38 Section 1. Paragraphs 2 and 3 of subdivision b of section 1612 of the
39 tax law, as amended by chapter 174 of the laws of 2013, the opening
40 paragraph of paragraph 2 as amended by chapter 175 of the laws of 2013,
41 are amended to read as follows:

42 2. As consideration for the operation of a video lottery gaming facil-
43 ity, the division, shall cause the investment in the racing industry of
44 a portion of the vendor fee received pursuant to paragraph one of this
45 subdivision in the manner set forth in this subdivision. With the excep-
46 tion of Aqueduct racetrack or a facility in the county of Nassau or
47 Suffolk operated by a corporation established pursuant to section five
48 hundred two of the racing, pari-mutuel wagering and breeding law, each
49 such track shall dedicate a portion of its vendor fees, received pursu-
50 ant to clause (A), (B), (C), (D), (E), (F), or (G) of subparagraph (ii)
51 of paragraph one of this subdivision, [solely] for the purpose of
52 enhancing purses at such track, in an amount equal to eight and three-

1 quarters percent of the total revenue wagered at the vendor track after
2 pay out for prizes. One percent of [such] THE GROSS purse enhancement
3 amount, AS REQUIRED BY THIS SUBDIVISION, shall be paid to the gaming
4 commission to be used exclusively to promote and ensure equine health
5 and safety in New York. Any portion of such funding to the gaming
6 commission unused during a fiscal year shall be returned to the video
7 lottery gaming operators on a pro rata basis in accordance with the
8 amounts originally contributed by each operator and shall be used for
9 the purpose of enhancing purses at such track. ONE AND ONE-HALF PERCENT
10 OF THE GROSS PURSE ENHANCEMENT AMOUNT AT A THOROUGHBRED TRACK, AS
11 REQUIRED BY THIS SUBDIVISION, SHALL BE PAID TO AN ACCOUNT ESTABLISHED
12 PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE RACING, PARI-MUTUEL
13 WAGERING AND BREEDING LAW TO BE USED EXCLUSIVELY TO PROVIDE HEALTH
14 INSURANCE FOR JOCKEYS. In addition, with the exception of Aqueduct race-
15 track or a facility in the county of Nassau or Suffolk operated by a
16 corporation established pursuant to section five hundred two of the
17 racing, pari-mutuel wagering and breeding law, one and one-quarter
18 percent of total revenue wagered at the vendor track after pay out for
19 prizes, received pursuant to clause (A), (B), (C), (D), (E), (F), or (G)
20 of subparagraph (ii) of paragraph one of this subdivision, shall be
21 distributed to the appropriate breeding fund for the manner of racing
22 conducted by such track.

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

29 3. Nothing in paragraph two of this subdivision shall affect any
30 agreement in effect on or before the effective date of this paragraph,
31 except that the obligation to pay funds to the gaming commission to
32 promote and ensure equine health and safety AND THE OBLIGATION TO PAY
33 FUNDS TO AN ACCOUNT ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-
34 ONE-A OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW TO BE USED
35 EXCLUSIVELY TO PROVIDE HEALTH INSURANCE FOR JOCKEYS shall supersede any
36 provision to the contrary in any such agreement.

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

40 1. Six and one-half percent of the total wagered after payout of
41 prizes for the first year of operation of video lottery gaming at Aque-
42 duct racetrack, seven percent of the total wagered after payout of
43 prizes for the second year of operation, and seven and one-half percent
44 of the total wagered after payout of prizes for the third year of opera-
45 tion and thereafter, for the purpose of enhancing purses at Aqueduct
46 racetrack, Belmont Park racetrack and Saratoga race course. One percent
47 of [such] THE GROSS purse enhancement amount, AS REQUIRED BY THIS SUBDI-
48 VISION, shall be paid to the gaming commission to be used exclusively to
49 promote and ensure equine health and safety in New York. Any portion of
50 such funding to the gaming commission unused during a fiscal year shall
51 be returned on a pro rata basis in accordance with the amounts
52 originally contributed and shall be used for the purpose of enhancing
53 purses at such tracks. ONE AND ONE-HALF PERCENT OF THE GROSS PURSE
54 ENHANCEMENT AMOUNT, AS REQUIRED BY THIS SUBDIVISION, SHALL BE PAID TO AN
55 ACCOUNT ESTABLISHED PURSUANT TO SECTION TWO HUNDRED TWENTY-ONE-A OF THE

1 RACING, PARI-MUTUEL WAGERING AND BREEDING LAW TO BE USED EXCLUSIVELY TO
2 PROVIDE HEALTH INSURANCE FOR JOCKEYS.

3 S 3. The racing, pari-mutuel wagering and breeding law is amended by
4 adding a new section 221-a to read as follows:

5 S 221-A. HEALTH INSURANCE FOR JOCKEYS. 1. A FRANCHISED CORPORATION
6 SHALL, AS A CONDITION OF RACING, ESTABLISH A PROGRAM TO ADMINISTER THE
7 PURCHASE OF HEALTH INSURANCE FOR ELIGIBLE JOCKEYS.

8 SUCH PROGRAM SHALL BE FUNDED THROUGH THE DEPOSIT OF ONE AND ONE-HALF
9 PERCENT OF THE GROSS PURSE ENHANCEMENT AMOUNT FROM VIDEO LOTTERY GAMING
10 AT A THOROUGHBRED TRACK PURSUANT TO PARAGRAPH TWO OF SUBDIVISION B AND
11 PARAGRAPH ONE OF SUBDIVISION F OF SECTION SIXTEEN HUNDRED TWELVE OF THE
12 TAX LAW. THE FRANCHISED CORPORATION SHALL ESTABLISH A SEGREGATED ACCOUNT
13 FOR THE RECEIPT OF THESE MONIES AND THESE MONIES SHALL REMAIN SEPARATE
14 FROM ANY OTHER FUNDS. ANY CORPORATION OR ASSOCIATION LICENSED PURSUANT
15 TO THIS ARTICLE SHALL PAY INTO SUCH ACCOUNT ANY AMOUNT DUE WITHIN TEN
16 DAYS OF THE RECEIPT OF REVENUE PURSUANT TO SECTION SIXTEEN HUNDRED
17 TWELVE OF THE TAX LAW. ANY PORTION OF SUCH FUNDING TO THE ACCOUNT UNUSED
18 DURING A CALENDAR YEAR, LESS AN AMOUNT SUFFICIENT TO COVER ANTICIPATED
19 PREMIUM LIABILITIES OVER THE NEXT SIXTY DAYS, SHALL BE RETURNED ON A PRO
20 RATA BASIS IN ACCORDANCE WITH THE AMOUNTS ORIGINALLY CONTRIBUTED AND
21 SHALL BE USED FOR THE PURPOSE OF ENHANCING PURSES AT SUCH TRACKS.
22 PROVIDED, HOWEVER, IF A CORPORATION OR ASSOCIATION LICENSED PURSUANT TO
23 THIS ARTICLE PROVIDES AN ALTERNATIVE SOURCE OF FUNDING FOR THIS PROGRAM,
24 AN AMOUNT EQUAL TO THIS ALTERNATIVE FUNDING, BUT NOT IN EXCESS OF THE
25 AMOUNT ORIGINALLY CONTRIBUTED DURING THE YEAR FROM THE GROSS PURSE
26 ENHANCEMENT AMOUNT FROM VIDEO LOTTERY GAMING ATTRIBUTABLE TO SUCH CORPO-
27 RATION OR ASSOCIATION, SHALL BE RETURNED TO THE CORPORATION OR ASSOCI-
28 ATION AND USED FOR THE PURPOSE OF ENHANCING PURSES AT SUCH TRACK.
29 PROVIDED, FURTHER, ANY SUCH ALTERNATIVE SOURCE OF FUNDING MUST BE
30 APPROVED BY THE GAMING COMMISSION.

31 2. THE FRANCHISED CORPORATION SHALL ENTER INTO A MEMORANDUM OF UNDER-
32 STANDING WITH THE JOCKEY'S ORGANIZATION THAT REPRESENTS AT LEAST FIFTY-
33 ONE PERCENT OF ELIGIBLE ACTIVE JOCKEYS ESTABLISHING A PLAN OF OPERATION
34 FOR THE PROGRAM, PROVIDED THAT SUCH MEMORANDUM OF UNDERSTANDING SHALL BE
35 APPROVED BY THE GAMING COMMISSION AND INCLUDE, BUT NOT BE LIMITED TO,
36 THE FOLLOWING CONDITIONS:

37 A. HEALTH INSURANCE POLICIES MUST BE PURCHASED ON AN AMERICAN HEALTH
38 BENEFIT EXCHANGE ESTABLISHED PURSUANT TO 42 U.S.C. S 18031(B) BY THE
39 INSURED;

40 B. HEALTH INSURANCE POLICIES ELIGIBLE TO BE PURCHASED UNDER THE
41 PROGRAM SHALL BE ANY POLICY THAT IS SILVER LEVEL OF COVERAGE OR LOWER AS
42 DEFINED BY 42 U.S.C.S18022(D). PROVIDED, HOWEVER, THE INSURED MAY ELECT
43 TO PURCHASE A GOLD LEVEL OR PLATINUM LEVEL OF COVERAGE AS DEFINED BY 42
44 U.S.C. S 18022(D) IF THE INSURED PAYS THE DIFFERENCE IN PREMIUMS BETWEEN
45 SUCH POLICY AND THE PREMIUM FOR THE SILVER LEVEL POLICY OFFERED BY THE
46 SAME INSURER. SUCH PAYMENTS SHALL BE PAID INTO THE ACCOUNT ESTABLISHED
47 IN SUBDIVISION ONE OF THIS SECTION AND SHALL BE GOVERNED BY THE TERMS OF
48 THE MEMORANDUM OF UNDERSTANDING REQUIRED BY THIS SECTION;

49 C. THE PAYMENT OF PREMIUMS SHALL BE MADE ON BEHALF OF ELIGIBLE JOCKEYS
50 PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION BY THE FRANCHISED CORPO-
51 RATION FROM MONIES IN THE ACCOUNT ESTABLISHED IN SUBDIVISION ONE OF THIS
52 SECTION DIRECTLY TO THE HEALTH PLAN SELECTED PURSUANT TO PARAGRAPH B OF
53 THIS SUBDIVISION;

54 D. TO BE ELIGIBLE TO RECEIVE HEALTH INSURANCE THROUGH THIS PROGRAM, AN
55 INDIVIDUAL MUST MEET ONE OF THE FOLLOWING REQUIREMENTS:

1 (I) HAVE RIDDEN IN AT LEAST TWO HUNDRED FIFTY RACES CONDUCTED BY THE
2 FRANCHISED CORPORATION DURING THE PRIOR CALENDAR YEAR OR IN AT LEAST
3 ONE HUNDRED FIFTY RACES CONDUCTED BY ANY OTHER CORPORATION OR ASSOCI-
4 ATION LICENSED PURSUANT TO THIS ARTICLE DURING THE PRIOR CALENDAR YEAR;
5 PROVIDED, HOWEVER, IF AN INDIVIDUAL QUALIFIED FOR COVERAGE IN ANY PRIOR
6 YEAR AND FAILS TO MEET THE QUALIFICATION DUE TO AN INJURY NOT RESULTING
7 IN A PERMANENT DISABILITY, THAT INDIVIDUAL SHALL BE DEEMED TO HAVE MET
8 THE QUALIFICATION; OR

9 (II) HAVE RETIRED FROM RACING ON OR AFTER JANUARY FIRST, TWO THOUSAND
10 TEN AFTER HAVING RIDDEN IN AT LEAST SEVENTY-FIVE HUNDRED RACES CONDUCTED
11 BY ANY CORPORATION OR ASSOCIATION LICENSED PURSUANT TO THIS ARTICLE. FOR
12 THE PURPOSES OF THIS SECTION, AN INDIVIDUAL SHALL BE CONSIDERED RETIRED
13 FROM RACING IF THEY HAVE RIDDEN IN FEWER THAN FIFTY RACES AT ANY TRACK
14 IN THE NATION LICENSED TO CONDUCT THOROUGHBRED RACING DURING THE CALEN-
15 DAR YEAR; OR

16 (III) HAVE BECOME PERMANENTLY DISABLED DUE TO A RACING ACCIDENT WHILE
17 ELIGIBLE TO RECEIVE BENEFITS OR WOULD BECOME ELIGIBLE TO RECEIVE BENE-
18 FITS IN THE FOLLOWING YEAR PURSUANT TO SUBPARAGRAPH (I) OF THIS PARA-
19 GRAPH; PROVIDED, HOWEVER, IF AN INDIVIDUAL FAILS TO MEET THE QUALIFICA-
20 TION OF SUCH SUBPARAGRAPH (I) DUE TO AN INJURY RESULTING IN A PERMANENT
21 DISABILITY, THAT INDIVIDUAL SHALL BE DEEMED TO HAVE MET THE QUALIFICA-
22 TION; AND

23 E. THE GAMING COMMISSION SHALL HAVE THE FOLLOWING POWERS:

24 (I) TO RULE ON ELIGIBILITY IN THE EVENT OF A DENIAL OF COVERAGE PURSU-
25 ANT TO PARAGRAPH D OF THIS SUBDIVISION. IN THE EVENT OF A DENIAL OF
26 COVERAGE, SUCH INDIVIDUAL DENIED ELIGIBILITY MAY APPEAL TO THE GAMING
27 COMMISSION;

28 (II) TO MAKE A DETERMINATION IF AN INDIVIDUAL WOULD HAVE QUALIFIED
29 PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH D OF THIS SUBDIVISION IN THE
30 EVENT THAT THE INDIVIDUAL SUFFERS AN INJURY AND CONTENTS THAT HE OR SHE
31 WOULD HAVE QUALIFIED HAD THEY NOT SUFFERED SUCH INJURY; AND

32 (III) TO AUDIT THE BOOKS AND RECORDS OF THE PROGRAM.

33 S 4. This act shall take effect immediately; provided, however,
34 payment of premiums shall begin no later than 60 days following the
35 approval by the gaming commission of a memorandum of understanding
36 establishing a plan of operation as required by section 221-a of the
37 racing, pari-mutuel wagering and breeding law, as added by section three
38 of this act.

39 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
40 sion, section or part of this act shall be adjudged by any court of
41 competent jurisdiction to be invalid, such judgment shall not affect,
42 impair, or invalidate the remainder thereof, but shall be confined in
43 its operation to the clause, sentence, paragraph, subdivision, section
44 or part thereof directly involved in the controversy in which such judg-
45 ment shall have been rendered. It is hereby declared to be the intent of
46 the legislature that this act would have been enacted even if such
47 invalid provisions had not been included herein.

48 S 3. This act shall take effect immediately provided, however, that
49 the applicable effective date of Parts A through OO of this act shall be
50 as specifically set forth in the last section of such Parts.