

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

S. 4610

A. 6721

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

March 31, 2015

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

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

AN ACT to amend chapter 41 of the laws of 1985 relating to providing for the construction of a civic center in Albany and making appropriations relating to the construction of such facility, in relation to the repayment of such appropriation (Part A); to amend the economic development law, in relation to START-UP NY airport facilities (Part B); to amend the alcoholic beverage control law, in relation to licenses to sell at retail for consumption on the premises (Part C); to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part D); establishing a commission on legislative, judicial and executive compensation, and providing for the powers and duties of the commission and for the dissolution of the commission and repealing chapter 567 of the laws of 2010 relating to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers (Part E); to permit authorized state entities to utilize the design-build method for infrastructure projects; and providing for the repeal of such provisions upon expiration thereof (Part F); establishing the New York State water infrastructure improvement act of 2015 (Part G); to amend the state finance law, in relation to the creation of a new dedicated infrastructure investment fund (Part H); and to provide for the administration of certain funds and accounts related to the 2015-16 budget, authorizing certain payments and transfers; to amend the state finance law, in relation to the rainy day reserve fund and the school tax relief fund; to amend the state finance law, in relation to payments, transfers and deposits; to amend the state finance law, in relation to the issuance of bonds and notes; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the

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

LBD12578-01-5

youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the dormitory authority; to amend chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to funding project costs for the Binghamton university school of pharmacy, New York power electronic manufacturing consortium and the nonprofit infrastructure capital investment program; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend the New York state urban development corporation act, in relation to authorizing the urban development corporation to issue bonds to fund project costs for the implementation of a NY-CUNY challenge grant program; to amend chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the public authorities law, in relation to authorization for the issuance of bonds for the capital restructuring bond finance program and the health care facility transformation program; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend the New York state urban development corporation act, in relation to the aggregate amount of and issuance of certain bonds; and to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the New York state urban development corporation act, in relation to the issuance of bonds or notes for the purpose of funding project costs associated with capital projects; to amend the public authorities law, in relation to financing of the metropolitan transportation authority transportation facilities; and providing for the repeal of certain provisions upon expiration thereof (Part I); and to amend the public health law, in relation to establishing the health care facility transformation program in Kings and Oneida counties; in relation to establishing the essential health care provider support program; in relation to the capital restructuring financing program; and in relation to establishing the community health care revolving capital fund (Part J)

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 2015-2016
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through J. 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. Section 20 of chapter 41 of the laws of 1985 relating to
14 providing for the construction of a civic center in Albany and making
15 appropriations relating to the construction of such facility, is amended
16 to read as follows:

17 S 20. The state comptroller is hereby authorized to receive from the
18 county, repayment of money disbursed from this appropriation and any
19 income or increment related thereto due to the investment thereof, and
20 to deposit the same to the credit of the capital projects fund;
21 PROVIDED, HOWEVER THAT ANY AND ALL MONEYS RECEIVED BY THE STATE COMP-
22 TROLLER FROM THE COUNTY OF ALBANY ON OR BEFORE APRIL 30, 2015, SHALL BE
23 DEEMED TO BE FULL REPAYMENT OF THE MONEY DISBURSED FROM THE APPROPRI-
24 ATION MADE IN SECTION ELEVEN OF THIS ACT AND ANY INCOME OR INCREMENT
25 RELATED THERETO DUE TO THE INVESTMENT THEREOF.

26 S 2. This act shall take effect immediately.

27 PART B

28 Section 1. Section 431 of the economic development law is amended by
29 adding a new subdivision 15 to read as follows:

30 15. "START-UP NY AIRPORT FACILITY" MEANS VACANT LAND OR SPACE OWNED BY
31 THE STATE OF NEW YORK ON THE PREMISES OF STEWART AIRPORT OR REPUBLIC
32 AIRPORT.

33 S 2. Subdivision 4 of section 435 of the economic development law, as
34 amended by section 2 of part BB of chapter 55 of the laws of 2014, is
35 amended to read as follows:

36 4. The START-UP NY approval board, by majority vote, shall designate
37 correctional facilities described in subdivision fourteen of section
38 four hundred thirty-one of this article, START-UP NY AIRPORT FACILITIES
39 DESCRIBED IN SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED THIRTY-ONE OF
40 THIS ARTICLE and up to twenty strategic state assets as tax-free NY
41 areas. Each shall be affiliated with a state university campus, city
42 university campus, community college, or private college or university
43 and such designation shall require the support of the affiliated campus,
44 college or university. Each strategic state asset AND START-UP NY
45 AIRPORT FACILITY, other than a correctional facility, may not exceed a
46 maximum of two hundred thousand square feet of vacant land or vacant
47 building space designated as a tax-free NY area. Designation of strate-
48 gic state assets [and], correctional facilities described in subdivision
49 fourteen of section four hundred thirty-one of this article, AND START-

1 UP NY AIRPORT FACILITIES DESCRIBED IN SUBDIVISION FIFTEEN OF SECTION
2 FOUR HUNDRED THIRTY-ONE OF THIS ARTICLE as tax-free NY areas shall not
3 count against any square footage limitations in section four hundred
4 thirty-two of this article.

5 S 3. This act shall take effect immediately.

6 PART C

7 Section 1. Subdivision 7 of section 64 of the alcoholic beverage
8 control law is amended by adding a new paragraph (e-7) to read as
9 follows:

10 (E-7) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
11 SION, THE AUTHORITY MAY ISSUE A RETAIL LICENSE FOR ON-PREMISES CONSUMP-
12 TION FOR A PREMISES WHICH SHALL BE WITHIN TWO HUNDRED FEET OF A BUILDING
13 OCCUPIED EXCLUSIVELY AS A SCHOOL, CHURCH, SYNAGOGUE, OR OTHER PLACE OF
14 WORSHIP, PROVIDED SUCH PREMISES CONSTITUTES A PREMISES FOR THE SALE OF
15 FOOD OR BEVERAGES AT RETAIL FOR CONSUMPTION ON THE PREMISES LOCATED
16 WHOLLY WITHIN THE BOUNDARIES OF THE BOROUGH OF MANHATTAN IN THE CITY AND
17 COUNTY OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

18 BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY
19 SIDE OF 63RD STREET WITH THE EASTERLY SIDE OF PARK (FORMERLY FOURTH)
20 AVENUE, RUNNING THENCE EASTERLY ALONG SAID NORTHERLY SIDE OF 63RD STREET
21 ONE HUNDRED (100) FEET; THENCE NORTHERLY AND PARALLEL WITH PARK AVENUE
22 ONE HUNDRED (100) FEET AND FIVE (5) INCHES; THENCE RUNNING WESTERLY AND
23 PARALLEL WITH 63RD STREET ONE HUNDRED (100) FEET TO THE EASTERLY SIDE OF
24 PARK AVENUE; THENCE SOUTHERLY ALONG THE SAID EASTERLY SIDE OF PARK
25 AVENUE ONE HUNDRED (100) FEET AND FIVE (5) INCHES TO THE POINT OR PLACE
26 OF BEGINNING, THE PREMISES KNOWN AS 583 PARK AVENUE.

27 S 2. This act shall take effect immediately.

28 PART D

29 Section 1. Chapter 6 of title 11 of the administrative code of the
30 city of New York is amended by adding a new subchapter 3-A to read as
31 follows:

32 SUBCHAPTER 3-A

33 CORPORATE TAX OF 2015

34 SECTION 11-651 APPLICABILITY.

35 11-652 DEFINITIONS.

36 11-653 IMPOSITION OF TAX; EXEMPTIONS.

37 11-654 COMPUTATION OF TAX.

38 11-654.1 NET OPERATING LOSS.

39 11-654.2 RECEIPTS ALLOCATION.

40 11-654.3 COMBINED REPORTS.

41 11-655 REPORTS.

42 11-656 PAYMENT AND LIEN OF TAX.

43 11-657 DECLARATION OF ESTIMATED TAX.

44 11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX.

45 11-659 COLLECTION OF TAXES.

46 11-660 LIMITATIONS OF TIME.

47 S 11-651 APPLICABILITY. 1. NOTWITHSTANDING ANYTHING TO THE CONTRARY
48 IN THIS CHAPTER, THIS SUBCHAPTER SHALL APPLY TO CORPORATIONS FOR TAX
49 YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT
50 THAT IT SHALL NOT APPLY TO ANY CORPORATION THAT (A) HAS AN ELECTION IN
51 EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE
52 INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (B) IS A QUALIFIED

1 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF
2 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL
3 REVENUE CODE OF 1986, AS AMENDED, IN ANY TAX YEAR COMMENCING ON OR AFTER
4 SUCH DATE. SUBCHAPTERS TWO AND THREE OF THIS CHAPTER SHALL NOT APPLY TO
5 CORPORATIONS TO WHICH THIS SUBCHAPTER APPLIES FOR TAX YEARS COMMENCING
6 ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT TO THE EXTENT
7 PROVIDED IN THIS SUBCHAPTER AND TO THE EXTENT THAT THE EFFECT OF THE
8 APPLICATION OF SUBCHAPTERS TWO AND THREE TO TAX YEARS COMMENCING PRIOR
9 TO JANUARY FIRST, TWO THOUSAND FIFTEEN CARRIES OVER TO TAX YEARS
10 COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

11 2. EACH REFERENCE IN THIS CODE TO SUBCHAPTERS TWO OR THREE OF THIS
12 CHAPTER, OR ANY OF THE PROVISIONS THEREOF, SHALL BE DEEMED A REFERENCE
13 ALSO TO THIS SUBCHAPTER, AND ANY OF THE APPLICABLE PROVISIONS THEREOF,
14 WHERE APPROPRIATE AND WITH ALL NECESSARY MODIFICATIONS.

15 S 11-652 DEFINITIONS. 1. (A) THE TERM "CORPORATION" INCLUDES (1) AN
16 ASSOCIATION WITHIN THE MEANING OF PARAGRAPH THREE OF SUBSECTION (A) OF
17 SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE (INCLUD-
18 ING, WHEN APPLICABLE, A LIMITED LIABILITY COMPANY), (2) A JOINT-STOCK
19 COMPANY OR ASSOCIATION, (3) A PUBLICLY TRADED PARTNERSHIP TREATED AS A
20 CORPORATION FOR PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO
21 SECTION SEVENTY-SEVEN HUNDRED FOUR THEREOF AND (4) ANY BUSINESS
22 CONDUCTED BY A TRUSTEE OR TRUSTEES WHEREIN INTEREST OR OWNERSHIP IS
23 EVIDENCED BY CERTIFICATE OR OTHER WRITTEN INSTRUMENT;

24 (B) (1) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, AN UNINCOR-
25 PORATED ORGANIZATION THAT (I) IS DESCRIBED IN SUBPARAGRAPH ONE OR THREE
26 OF PARAGRAPH (A) OF THIS SUBDIVISION, (II) WAS SUBJECT TO THE PROVISIONS
27 OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEAR BEGINNING IN NINETEEN
28 HUNDRED NINETY-FIVE, AND (III) MADE A ONE-TIME ELECTION NOT TO BE TREAT-
29 ED AS A CORPORATION AND, INSTEAD, TO CONTINUE TO BE SUBJECT TO THE
30 PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEARS BEGINNING
31 IN NINETEEN HUNDRED NINETY-SIX AND THEREAFTER, SHALL CONTINUE TO BE
32 SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE
33 YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX.

34 (2) AN ELECTION UNDER THIS PARAGRAPH SHALL CONTINUE TO BE IN EFFECT
35 UNTIL REVOKED BY THE UNINCORPORATED ORGANIZATION. AN ELECTION UNDER THIS
36 PARAGRAPH SHALL BE REVOKED BY THE FILING OF A RETURN UNDER THIS SUBCHAP-
37 TER FOR THE FIRST TAXABLE YEAR WITH RESPECT TO WHICH SUCH REVOCATION IS
38 TO BE EFFECTIVE. SUCH RETURN SHALL BE FILED ON OR BEFORE THE DUE DATE
39 (DETERMINED WITH REGARD TO EXTENSIONS) FOR FILING SUCH RETURN. IN NO
40 EVENT SHALL SUCH ELECTION OR REVOCATION BE FOR A PART OF A TAXABLE YEAR.

41 (C) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, A CORPORATION
42 SHALL NOT INCLUDE AN ENTITY CLASSIFIED AS A PARTNERSHIP FOR FEDERAL
43 INCOME TAX PURPOSES.

44 2. THE TERM "SUBSIDIARY" MEANS A CORPORATION OF WHICH OVER FIFTY PER
45 CENTUM OF THE NUMBER OF SHARES OF STOCK ENTITLING THE HOLDERS THEREOF TO
46 VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES IS OWNED BY THE TAXPAYER.

47 2-A. THE TERM "TAXPAYER" MEANS ANY CORPORATION SUBJECT TO TAX UNDER
48 THIS SUBCHAPTER.

49 3. INTENTIONALLY OMITTED.

50 3-A. THE TERM "STOCK" MEANS AN INTEREST IN A CORPORATION THAT IS
51 TREATED AS EQUITY FOR FEDERAL INCOME TAX PURPOSES.

52 4. (A) THE TERM "INVESTMENT CAPITAL" MEANS INVESTMENTS IN STOCKS THAT:
53 (I) SATISFY THE DEFINITION OF A CAPITAL ASSET UNDER SECTION 1221 OF THE
54 INTERNAL REVENUE CODE AT ALL TIMES THE TAXPAYER OWNED SUCH STOCKS DURING
55 THE TAXABLE YEAR; (II) ARE HELD BY THE TAXPAYER FOR INVESTMENT FOR MORE
56 THAN ONE YEAR; (III) THE DISPOSITIONS OF WHICH ARE, OR WOULD BE, TREATED

1 BY THE TAXPAYER AS GENERATING LONG-TERM CAPITAL GAINS OR LOSSES UNDER
2 THE INTERNAL REVENUE CODE; (IV) FOR STOCKS ACQUIRED ON OR AFTER JANUARY
3 FIRST, TWO THOUSAND FIFTEEN, AT ANY TIME AFTER THE CLOSE OF THE DAY IN
4 WHICH THEY ARE ACQUIRED, HAVE NEVER BEEN HELD FOR SALE TO CUSTOMERS IN
5 THE REGULAR COURSE OF BUSINESS; AND (V) BEFORE THE CLOSE OF THE DAY ON
6 WHICH THE STOCK WAS ACQUIRED, ARE CLEARLY IDENTIFIED IN THE TAXPAYER'S
7 RECORDS AS STOCK HELD FOR INVESTMENT IN THE SAME MANNER AS REQUIRED
8 UNDER SECTION 1236(A)(1) OF THE INTERNAL REVENUE CODE FOR THE STOCK OF A
9 DEALER IN SECURITIES TO BE ELIGIBLE FOR CAPITAL GAIN TREATMENT (WHETHER
10 OR NOT THE TAXPAYER IS A DEALER OF SECURITIES SUBJECT TO SECTION 1236),
11 PROVIDED, HOWEVER, THAT FOR STOCK ACQUIRED PRIOR TO OCTOBER FIRST, TWO
12 THOUSAND FIFTEEN THAT WAS NOT SUBJECT TO SECTION 1236(A) OF THE INTERNAL
13 REVENUE CODE, SUCH IDENTIFICATION IN THE TAXPAYER'S RECORDS MUST OCCUR
14 BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN. STOCK IN A CORPORATION THAT
15 IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER, STOCK IN A CORPO-
16 RATION THAT IS INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER PURSUANT
17 TO THE COMMONLY OWNED GROUP ELECTION IN SUBDIVISION THREE OF SECTION
18 11-654.3 OF THIS SUBCHAPTER, AND STOCK USED BY THE TAXPAYER SHALL NOT
19 CONSTITUTE INVESTMENT CAPITAL. FOR PURPOSES OF THIS SUBDIVISION, IF THE
20 TAXPAYER OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, LESS THAN TWENTY
21 PERCENT OF THE VOTING POWER OF THE STOCK OF A CORPORATION, THAT CORPO-
22 RATION WILL BE PRESUMED TO BE CONDUCTING A BUSINESS THAT IS NOT UNITARY
23 WITH THE BUSINESS OF THE TAXPAYER.

24 (B) THERE SHALL BE DEDUCTED FROM INVESTMENT CAPITAL ANY LIABILITIES
25 WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO INVESTMENT CAPITAL. IF
26 THE AMOUNT OF THOSE LIABILITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPI-
27 TAL, THE AMOUNT OF INVESTMENT CAPITAL SHALL BE ZERO.

28 (C) INVESTMENT CAPITAL SHALL NOT INCLUDE ANY SUCH INVESTMENTS THE
29 INCOME FROM WHICH IS EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE
30 PROVISIONS OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF THIS SECTION, AND
31 THAT INVESTMENT CAPITAL SHALL BE COMPUTED WITHOUT REGARD TO LIABILITIES
32 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INVESTMENTS, BUT ONLY IF AIR
33 CARRIERS ORGANIZED IN THE UNITED STATES AND OPERATING IN THE FOREIGN
34 COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS ITS MAJOR BASE OF OPER-
35 ATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR HEADQUARTERED (IF NOT
36 IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO
37 ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY
38 OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF, OR IF TAXED, ARE
39 PROVIDED AN EXEMPTION, EQUIVALENT TO THAT PROVIDED FOR HEREIN, FROM ANY
40 TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR
41 COUNTRIES AND FROM ANY SUCH TAX IMPOSED BY ANY POLITICAL SUBDIVISION
42 THEREOF.

43 (D) IF A TAXPAYER ACQUIRES STOCK THAT IS A CAPITAL ASSET UNDER SECTION
44 1221 OF THE INTERNAL REVENUE CODE DURING THE TAXABLE YEAR AND OWNS THAT
45 STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE PRESUMED, SOLELY
46 FOR THE PURPOSES OF DETERMINING WHETHER THAT STOCK SHOULD BE CLASSIFIED
47 AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, THAT THE TAXPAYER HELD THAT
48 STOCK FOR MORE THAN ONE YEAR. HOWEVER, IF THE TAXPAYER DOES NOT IN FACT
49 OWN THAT STOCK AT THE TIME IT ACTUALLY FILES ITS ORIGINAL REPORT FOR THE
50 TAXABLE YEAR IN WHICH IT ACQUIRED THE STOCK, THEN THE PRESUMPTION IN THE
51 PRECEDING SENTENCE SHALL NOT APPLY AND THE ACTUAL PERIOD OF TIME DURING
52 WHICH THE TAXPAYER OWNED THE STOCK SHALL BE USED TO DETERMINE WHETHER
53 THE STOCK SHOULD BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS
54 ACQUIRED. IF THE TAXPAYER RELIES ON THE PRESUMPTION IN THE FIRST
55 SENTENCE OF THIS PARAGRAPH BUT DOES NOT OWN THE STOCK FOR MORE THAN ONE
56 YEAR, THE TAXPAYER MUST INCREASE ITS TOTAL BUSINESS CAPITAL IN THE IMME-

DIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT INCLUDED IN INVESTMENT CAPITAL FOR THAT STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE TO THAT STOCK COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION AND MUST INCREASE ITS BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT OF INCOME AND NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT STOCK INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

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

5. (A)(I) THE TERM "INVESTMENT INCOME" MEANS INCOME, INCLUDING CAPITAL GAINS IN EXCESS OF CAPITAL LOSSES, FROM INVESTMENT CAPITAL, TO THE EXTENT INCLUDED IN COMPUTING ENTIRE NET INCOME, LESS, IN THE DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS ALLOWABLE IN COMPUTING ENTIRE NET INCOME WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO INVESTMENT CAPITAL OR INVESTMENT INCOME, PROVIDED, HOWEVER, THAT IN NO CASE SHALL INVESTMENT INCOME EXCEED ENTIRE NET INCOME.

(II) IF THE AMOUNT OF INTEREST DEDUCTIONS SUBTRACTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH EXCEEDS INVESTMENT INCOME, THE EXCESS OF SUCH AMOUNT OVER INVESTMENT INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME.

(III) IF THE TAXPAYER'S INVESTMENT INCOME DETERMINED WITHOUT REGARD TO THE INTEREST DEDUCTIONS SUBTRACTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH COMPRISES MORE THAN EIGHT PERCENT OF THE TAXPAYER'S ENTIRE NET INCOME, INVESTMENT INCOME DETERMINED WITHOUT REGARD TO SUCH INTEREST DEDUCTIONS CANNOT EXCEED EIGHT PERCENT OF THE TAXPAYER'S ENTIRE NET INCOME.

(B) IN LIEU OF SUBTRACTING FROM INVESTMENT INCOME THE AMOUNT OF THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE ITS TOTAL INVESTMENT INCOME, DETERMINED AFTER APPLYING THE LIMITATION IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF THIS SECTION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION, THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF THIS SECTION. A TAXPAYER THAT DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO INVESTMENT CAPITAL WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

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

(B) "EXEMPT CFC INCOME" MEANS THE INCOME REQUIRED TO BE INCLUDED IN THE TAXPAYER'S FEDERAL GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION NINE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, RECEIVED FROM A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT INCOME. IN LIEU OF SUBTRACTING FROM ITS EXEMPT CFC INCOME THE AMOUNT OF THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE ITS TOTAL EXEMPT CFC INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (C) OF

1 THIS SUBDIVISION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION,
2 THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF
3 SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (C) OF THIS SUBDIVISION.
4 A TAXPAYER WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO EXEMPT
5 CFC INCOME WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

6 (C) "EXEMPT UNITARY CORPORATE DIVIDENDS" MEANS THOSE DIVIDENDS FROM A
7 CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT
8 IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE
9 DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS
10 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND
11 INCOME RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER ELEVEN
12 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO
13 TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER ELEVEN
14 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO
15 TAXABLE UNDER THIS SUBCHAPTER) IF SUBJECT TO TAX AND CORPORATIONS THAT
16 WOULD HAVE BEEN TAXABLE AS INSURANCE CORPORATIONS UNDER FORMER PART IV,
17 TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW
18 YORK AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR, IN
19 LIEU OF SUBTRACTING FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS,
20 THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE THE TOTAL AMOUNT OF
21 THIS DIVIDEND INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS
22 ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN
23 PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (B) OF
24 THIS SUBDIVISION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION,
25 THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF
26 SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION.
27 A TAXPAYER THAT DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED
28 ANY EXEMPT UNITARY CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING
29 THIS ELECTION FOR DIVIDENDS RECEIVED FROM CORPORATIONS THAT ARE TAXABLE
30 UNDER CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY
31 SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXA-
32 BLE UNDER CHAPTER ELEVEN OF THIS TITLE IF SUBJECT TO TAX (EXCEPT FOR
33 VENDORS OF UTILITY SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER)
34 SHALL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

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

42 6. (A) THE TERM "BUSINESS CAPITAL" MEANS ALL ASSETS, OTHER THAN
43 INVESTMENT CAPITAL AND STOCK ISSUED BY THE TAXPAYER, LESS LIABILITIES
44 NOT DEDUCTED FROM INVESTMENT CAPITAL; PROVIDED, HOWEVER, BUSINESS CAPI-
45 TAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME, LOSS OR EXPENSE 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 ENTIRE NET INCOME FOR THE TAXABLE YEAR.

49 (B) PROVIDED, FURTHER, "BUSINESS CAPITAL" SHALL NOT INCLUDE ASSETS TO
50 THE EXTENT EMPLOYED FOR THE PURPOSE OF GENERATING INCOME WHICH IS
51 EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE PROVISIONS OF PARAGRAPH
52 (C-1) OF SUBDIVISION EIGHT OF THIS SECTION AND SHALL BE COMPUTED WITHOUT
53 REGARD TO LIABILITIES DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH
54 ASSETS, BUT ONLY IF AIR CARRIERS ORGANIZED IN THE UNITED STATES AND
55 OPERATING IN THE FOREIGN COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS
56 ITS MAJOR BASE OF OPERATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR

HEADQUARTERED (IF NOT IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF, OR IF TAXED, ARE PROVIDED AN EXEMPTION, EQUIVALENT TO THAT PROVIDED FOR HEREIN, FROM ANY TAX BASED ON OR MEASURED BY CAPITAL IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES AND FROM ANY SUCH TAX IMPOSED BY ANY POLITICAL SUBDIVISION THEREOF.

7. THE TERM "BUSINESS INCOME" MEANS ENTIRE NET INCOME MINUS INVESTMENT INCOME AND OTHER EXEMPT INCOME. IN NO EVENT SHALL THE SUM OF INVESTMENT INCOME AND OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME. IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER, THEN ALL INCOME FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL CONSTITUTE BUSINESS INCOME.

8. THE TERM "ENTIRE NET INCOME" MEANS TOTAL NET INCOME FROM ALL SOURCES, WHICH SHALL BE PRESUMABLY THE SAME AS THE ENTIRE TAXABLE INCOME, WHICH, EXCEPT AS HEREAFTER PROVIDED IN THIS SUBDIVISION,

(I) THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPARTMENT, OR

(II) THE TAXPAYER, IN THE CASE OF A CORPORATION THAT IS EXEMPT FROM FEDERAL INCOME TAX (OTHER THAN THE TAX ON UNRELATED BUSINESS TAXABLE INCOME IMPOSED UNDER SECTION FIVE HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE) BUT WHICH IS SUBJECT TO TAX UNDER THIS SUBCHAPTER, WOULD HAVE BEEN REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPARTMENT BUT FOR SUCH EXEMPTION, OR

(III) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, IS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE UNITED STATES AS DETERMINED UNDER SECTION EIGHT HUNDRED EIGHTY-TWO OF THE INTERNAL REVENUE CODE.

(A) ENTIRE NET INCOME SHALL NOT INCLUDE:

(1) INTENTIONALLY OMITTED;

(2) INTENTIONALLY OMITTED;

(2-A) ANY AMOUNTS TREATED AS DIVIDENDS PURSUANT TO SECTION SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE;

(3) BONA FIDE GIFTS;

(4) INCOME AND DEDUCTIONS WITH RESPECT TO AMOUNTS RECEIVED FROM SCHOOL DISTRICTS AND FROM CORPORATIONS AND ASSOCIATIONS, ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL PURPOSES, NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL, FOR THE OPERATION OF SCHOOL BUSES;

(5) ANY REFUND OR CREDIT OF A TAX IMPOSED UNDER THIS CHAPTER, OR IMPOSED BY ARTICLE NINE, NINE-A, TWENTY-THREE, OR FORMER ARTICLE THIRTY-TWO OF THE TAX LAW, FOR WHICH TAX NO EXCLUSION OR DEDUCTION WAS ALLOWED IN DETERMINING THE TAXPAYER'S ENTIRE NET INCOME UNDER THIS SUBCHAPTER, SUBCHAPTER TWO, OR SUBCHAPTER THREE OF THIS CHAPTER FOR ANY PRIOR YEAR;

(6) INTENTIONALLY OMITTED;

(7) THAT PORTION OF WAGES AND SALARIES PAID OR INCURRED FOR THE TAXABLE YEAR FOR WHICH A DEDUCTION IS NOT ALLOWED PURSUANT TO THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY C OF THE INTERNAL REVENUE CODE;

(8) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUTING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,

1 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
2 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
3 EIGHTY-NINE, ANY AMOUNT WHICH IS INCLUDED IN THE TAXPAYER'S FEDERAL
4 TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE
5 PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS
6 ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

7 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
8 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
9 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
10 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
11 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
12 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
13 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
14 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER COULD HAVE EXCLUDED FROM
15 FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PROVIDED FOR IN SUCH
16 PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO
17 JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

18 (10) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (J) OF THIS SUBDIVI-
19 SION;

20 (11) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS
21 SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE
22 AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF PARAGRAPH (B) OF THIS SUBDI-
23 VISION ATTRIBUTABLE TO SUCH PROPERTY EXCEEDS THE AGGREGATE OF THE
24 AMOUNTS DESCRIBED IN PARAGRAPH (J) OF THIS SUBDIVISION ATTRIBUTABLE TO
25 SUCH PROPERTY;

26 (12) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (K) OF THIS SUBDIVI-
27 SION;

28 (13) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (O) OF THIS SUBDIVI-
29 SION;

30 (14) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (Q), (R) OR (S) OF THIS
31 SUBDIVISION, BUT ONLY THE AMOUNT DETERMINED PURSUANT TO ONE OF SUCH
32 PARAGRAPHS; AND

33 (15) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (T) OF THIS SUBDIVI-
34 SION.

35 (A-1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, IN THE
36 CASE OF A TAXPAYER THAT IS A PARTNER IN A PARTNERSHIP SUBJECT TO THE TAX
37 IMPOSED BY CHAPTER ELEVEN OF THIS TITLE AS A UTILITY, AS DEFINED IN
38 SUBDIVISION SIX OF SECTION 11-1101 OF SUCH CHAPTER, ENTIRE NET INCOME
39 SHALL NOT INCLUDE THE TAXPAYER'S DISTRIBUTIVE OR PRO RATA SHARE FOR
40 FEDERAL INCOME TAX PURPOSES OF ANY ITEM OF INCOME, GAIN, LOSS OR
41 DEDUCTION OF SUCH PARTNERSHIP, OR ANY ITEM OF INCOME, GAIN, LOSS OR
42 DEDUCTION OF SUCH PARTNERSHIP THAT THE TAXPAYER IS REQUIRED TO TAKE INTO
43 ACCOUNT SEPARATELY FOR FEDERAL INCOME TAX PURPOSES.

44 (B) ENTIRE NET INCOME SHALL BE DETERMINED WITHOUT THE EXCLUSION,
45 DEDUCTION OR CREDIT OF:

46 (1) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF
47 THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS
48 DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, (I)
49 ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK,
50 SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFEC-
51 TIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED
52 STATES PURSUANT TO SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL
53 REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER
54 ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME
55 WOULD BE TREATED AS EFFECTIVELY CONNECTED IN THE ABSENCE OF SUCH
56 EXEMPTION PROVIDED THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE

1 TAXATION OF SUCH INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE
2 TREATED AS EFFECTIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM
3 GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION ONE HUNDRED THREE OF
4 THE INTERNAL REVENUE CODE;
5 (2) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST OF ANY KIND OF
6 STOCK, SECURITIES, OR INDEBTEDNESS;
7 (3) TAXES ON OR MEASURED BY PROFITS OR INCOME PAID OR ACCRUED TO THE
8 UNITED STATES, ANY OF ITS POSSESSIONS, TERRITORIES OR COMMONWEALTHS,
9 INCLUDING TAXES IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERAL-
10 LY IMPOSED BY ANY POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED
11 STATES, OR TAXES PAID OR ACCRUED TO THE STATE UNDER ARTICLE NINE,
12 NINE-A, THIRTEEN-A OR THIRTY-TWO OF THE TAX LAW AS IN EFFECT ON DECEMBER
13 THIRTY-FIRST, TWO THOUSAND FOURTEEN;
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 CHAPTER;
22 (4-A) INTENTIONALLY OMITTED;
23 (4-B) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE
24 TAX LAW IN DETERMINING THE ENTIRE TAXABLE INCOME FOR A RELOCATION
25 DESCRIBED IN SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER
26 WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY
27 DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS
28 NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVI-
29 SION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;
30 (4-C) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE
31 TAX LAW FOR A RELOCATION DESCRIBED IN SUBDIVISION FOURTEEN OF SECTION
32 11-654 OF THIS SUBCHAPTER IN DETERMINING THE ENTIRE TAXABLE INCOME WHICH
33 THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPART-
34 MENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT
35 IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION
36 FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;
37 (4-D) INTENTIONALLY OMITTED;
38 (4-E) INTENTIONALLY OMITTED;
39 (5) INTENTIONALLY OMITTED;
40 (6) ANY AMOUNT ALLOWED AS A DEDUCTION FOR THE TAXABLE YEAR UNDER
41 SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE, INCLUDING
42 CARRYOVERS OF DEDUCTIONS FROM PRIOR TAXABLE YEARS;
43 (7) ANY AMOUNT BY REASON OF THE GRANTING, ISSUING OR ASSUMING OF A
44 RESTRICTED STOCK OPTION, AS DEFINED IN THE INTERNAL REVENUE CODE OF
45 NINETEEN HUNDRED FIFTY-FOUR, OR BY REASON OF THE TRANSFER OF THE SHARE
46 OF STOCK UPON THE EXERCISE OF THE OPTION, UNLESS SUCH SHARE IS DISPOSED
47 OF BY THE GRANTEE OF THE OPTION WITHIN TWO YEARS FROM THE DATE OF THE
48 GRANTING OF THE OPTION OR WITHIN SIX MONTHS AFTER THE TRANSFER OF SUCH
49 SHARE TO THE GRANTEE;
50 (8) INTENTIONALLY OMITTED;
51 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
52 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
53 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
54 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
55 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
56 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH

1 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
2 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER CLAIMED AS A DEDUCTION IN
3 COMPUTING ITS FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION
4 MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN
5 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
6 HUNDRED EIGHTY-FOUR;

7 (10) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
8 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
9 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
10 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
11 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
12 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
13 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
14 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER WOULD HAVE BEEN REQUIRED TO
15 INCLUDE IN THE COMPUTATION OF ITS FEDERAL TAXABLE INCOME HAD IT NOT MADE
16 THE ELECTION PERMITTED PURSUANT TO SUCH PARAGRAPH EIGHT AS IT WAS IN
17 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
18 HUNDRED EIGHTY-FOUR;

19 (11) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-
20 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING
21 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH
22 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED
23 EIGHTY F OF THE INTERNAL REVENUE CODE, PROPERTY SUBJECT TO THE
24 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
25 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING
26 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR AND PROPERTY
27 OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAM-
28 BOAT, FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES,
29 WHICH IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN
30 HUNDRED EIGHTY-NINE, THE AMOUNT ALLOWABLE AS A DEDUCTION DETERMINED
31 UNDER SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE;

32 (12) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS
33 SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE
34 AMOUNTS DESCRIBED IN SUCH PARAGRAPH (J) ATTRIBUTABLE TO SUCH PROPERTY
35 EXCEEDS THE AGGREGATE OF THE AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF
36 THIS PARAGRAPH ATTRIBUTABLE TO SUCH PROPERTY;

37 (13) INTENTIONALLY OMITTED;

38 (14) INTENTIONALLY OMITTED;

39 (15) INTENTIONALLY OMITTED;

40 (16) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF
41 SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
42 CODE, OTHER THAN QUALIFIED RESURGENCE ZONE PROPERTY DESCRIBED IN
43 PARAGRAPH (M) OF THIS SUBDIVISION, AND OTHER THAN QUALIFIED NEW YORK
44 LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (B) OF
45 SECTION FOURTEEN HUNDRED L OF THE INTERNAL REVENUE CODE (WITHOUT REGARD
46 TO CLAUSE (I) OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH), THE AMOUNT ALLOW-
47 ABLE AS A DEDUCTION UNDER SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTER-
48 NAL REVENUE CODE;

49 (17) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS
50 DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE
51 AMOUNT ALLOWABLE AS A DEDUCTION UNDER SECTIONS ONE HUNDRED SEVENTY-NINE,
52 ONE HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL
53 REVENUE CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A
54 PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF
55 SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE;

1 (18) THE AMOUNT OF ANY DEDUCTION ALLOWED PURSUANT TO SECTION ONE
2 HUNDRED NINETY-NINE OF THE INTERNAL REVENUE CODE;

3 (19) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR TAXES IMPOSED UNDER ARTI-
4 CLE TWENTY-THREE OF THE TAX LAW.

5 (C) INTENTIONALLY OMITTED.

6 (C-1)(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, IN
7 THE CASE OF A TAXPAYER WHICH IS A FOREIGN AIR CARRIER HOLDING A FOREIGN
8 AIR CARRIER PERMIT ISSUED BY THE UNITED STATES DEPARTMENT OF TRANSPORTA-
9 TION PURSUANT TO SECTION FOUR HUNDRED TWO OF THE FEDERAL AVIATION ACT OF
10 NINETEEN HUNDRED FIFTY-EIGHT, AS AMENDED, AND WHICH IS QUALIFIED UNDER
11 SUBPARAGRAPH TWO OF THIS PARAGRAPH, ENTIRE NET INCOME SHALL NOT INCLUDE,
12 AND SHALL BE COMPUTED WITHOUT THE DEDUCTION OF, AMOUNTS DIRECTLY OR
13 INDIRECTLY ATTRIBUTABLE TO, (I) ANY INCOME DERIVED FROM THE INTERNA-
14 TIONAL OPERATION OF AIRCRAFT AS DESCRIBED IN AND SUBJECT TO THE
15 PROVISIONS OF SECTION EIGHT HUNDRED EIGHTY-THREE OF THE INTERNAL REVENUE
16 CODE, (II) INCOME WITHOUT THE UNITED STATES WHICH IS DERIVED FROM THE
17 OPERATION OF AIRCRAFT, AND (III) INCOME WITHOUT THE UNITED STATES WHICH
18 IS OF A TYPE DESCRIBED IN SUBDIVISION (A) OF SECTION EIGHT HUNDRED
19 EIGHTY-ONE OF THE INTERNAL REVENUE CODE EXCEPT THAT IT IS DERIVED FROM
20 SOURCES WITHOUT THE UNITED STATES. ENTIRE NET INCOME SHALL INCLUDE
21 INCOME DESCRIBED IN CLAUSES (I), (II) AND (III) OF THIS SUBPARAGRAPH IN
22 THE CASE OF TAXPAYERS NOT DESCRIBED IN THE PREVIOUS SENTENCE;

23 (2) A TAXPAYER IS QUALIFIED UNDER THIS SUBPARAGRAPH IF AIR CARRIERS
24 ORGANIZED IN THE UNITED STATES AND OPERATING IN THE FOREIGN COUNTRY OR
25 COUNTRIES IN WHICH THE TAXPAYER HAS ITS MAJOR BASE OF OPERATIONS AND IN
26 WHICH IT IS ORGANIZED, RESIDENT OR HEADQUARTERED (IF NOT IN THE SAME
27 COUNTRY AS ITS MAJOR BASE OF OPERATIONS) ARE NOT SUBJECT TO ANY INCOME
28 TAX OR OTHER TAX BASED ON OR MEASURED BY INCOME OR RECEIPTS IMPOSED BY
29 SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVISION THEREOF,
30 OR IF SO SUBJECT TO SUCH TAX, ARE PROVIDED AN EXEMPTION FROM SUCH TAX
31 EQUIVALENT TO THAT PROVIDED FOR HEREIN.

32 (D) THE COMMISSIONER OF FINANCE MAY, WHENEVER NECESSARY IN ORDER PROP-
33 ERLY TO REFLECT THE ENTIRE NET INCOME OF ANY TAXPAYER, DETERMINE THE
34 YEAR OR PERIOD IN WHICH ANY ITEM OF INCOME OR DEDUCTION SHALL BE
35 INCLUDED, WITHOUT REGARD TO THE METHOD OF ACCOUNTING EMPLOYED BY THE
36 TAXPAYER.

37 (E) THE ENTIRE NET INCOME OF ANY BRIDGE COMMISSION CREATED BY ACT OF
38 CONGRESS TO CONSTRUCT A BRIDGE ACROSS AN INTERNATIONAL BOUNDARY MEANS
39 ITS GROSS INCOME LESS THE EXPENSE OF MAINTAINING AND OPERATING ITS PROP-
40 erties, THE ANNUAL INTEREST UPON ITS BONDS AND OTHER OBLIGATIONS, AND
41 THE ANNUAL CHARGE FOR THE RETIREMENT OF SUCH BONDS OR OBLIGATIONS AT
42 MATURITY.

43 (F) INTENTIONALLY OMITTED.

44 (G) AT THE ELECTION OF THE TAXPAYER, A DEDUCTION SHALL BE ALLOWED FOR
45 EXPENDITURES PAID OR INCURRED DURING THE TAXABLE YEAR FOR THE
46 CONSTRUCTION, RECONSTRUCTION, ERECTION OR IMPROVEMENT OF INDUSTRIAL
47 WASTE TREATMENT FACILITIES AND AIR POLLUTION CONTROL FACILITIES.

48 (1)(I) THE TERM "INDUSTRIAL WASTE TREATMENT FACILITIES" SHALL MEAN
49 FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF INDUS-
50 TRIAL WASTE (AS THE TERM "INDUSTRIAL WASTE" IS DEFINED IN SECTION
51 17-0105 OF THE ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY
52 PRECEDING THE POINT OF SUCH TREATMENT, NEUTRALIZATION OR STABILIZATION
53 TO THE POINT OF DISPOSAL, INCLUDING THE NECESSARY PUMPING AND TRANSMIT-
54 TING FACILITIES, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY
55 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING
56 PROCESS OR ARE MARKETABLE.

1 (II) THE TERM "AIR POLLUTION CONTROL FACILITIES" SHALL MEAN FACILITIES
2 WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS EMITTED
3 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 AIR POLLUTION
8 CONTROL BOARD, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY
9 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING
10 PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH RELY FOR
11 THEIR EFFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR CONTAM-
12 INANTS IN THE AMBIENT AIR AFTER EMISSION.

13 (2) HOWEVER, SUCH DEDUCTION SHALL BE ALLOWED ONLY (I) WITH RESPECT TO
14 TANGIBLE PROPERTY WHICH IS DEPRECIABLE, PURSUANT TO SECTION ONE HUNDRED
15 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVING A SITUS IN THE CITY AND
16 USED IN THE TAXPAYER'S TRADE OR BUSINESS, THE CONSTRUCTION, RECON-
17 STRUCTION, ERECTION OR IMPROVEMENT OF WHICH, IN THE CASE OF INDUSTRIAL
18 WASTE TREATMENT FACILITIES, IS INITIATED ON OR AFTER JANUARY FIRST,
19 NINETEEN HUNDRED SIXTY-SIX, AND ONLY FOR EXPENDITURES PAID OR INCURRED
20 PRIOR TO JANUARY FIRST, NINETEEN HUNDRED SEVENTY-TWO, OR WHICH, IN THE
21 CASE OF AIR POLLUTION CONTROL FACILITIES, IS INITIATED ON OR AFTER JANU-
22 ARY FIRST, NINETEEN HUNDRED SIXTY-SIX, AND

23 (II) ON CONDITION THAT SUCH FACILITIES HAVE BEEN CERTIFIED BY THE
24 STATE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR THE STATE COMMIS-
25 SIONER'S DESIGNATED REPRESENTATIVE, IN THE SAME MANNER AS PROVIDED FOR
26 IN SECTION 17-0707 OR 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, AS
27 APPLICABLE, AS COMPLYING WITH APPLICABLE PROVISIONS OF THE ENVIRONMENTAL
28 CONSERVATION LAW, THE STATE SANITARY CODE AND REGULATIONS, PERMITS OR
29 ORDERS ISSUED PURSUANT THERETO, AND

30 (III) ON CONDITION THAT ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL
31 SUCCEEDING TAXABLE YEARS BE COMPUTED WITHOUT ANY DEDUCTIONS FOR SUCH
32 EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY OTHER THAN THE
33 DEDUCTIONS ALLOWED BY THIS PARAGRAPH EXCEPT TO THE EXTENT THAT THE BASIS
34 OF THE PROPERTY MAY BE ATTRIBUTABLE TO FACTORS OTHER THAN SUCH EXPENDI-
35 TURES, OR IN CASE A DEDUCTION IS ALLOWABLE PURSUANT TO THIS PARAGRAPH
36 FOR ONLY A PART OF SUCH EXPENDITURES, ON CONDITION THAT ANY DEDUCTION
37 ALLOWED FOR FEDERAL INCOME TAX PURPOSES FOR SUCH EXPENDITURES OR FOR
38 DEPRECIATION OF THE SAME PROPERTY BE PROPORTIONATELY REDUCED IN COMPUT-
39 ING ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE
40 YEARS, AND

41 (IV) WHERE THE ELECTION PROVIDED FOR IN PARAGRAPH (D) OF SUBDIVISION
42 THREE OF SECTION 11-604 OF THIS CHAPTER OR THE ELECTION PROVIDED FOR IN
43 SUBDIVISION (K) OF SECTION 11-641 OF THIS CHAPTER HAS NOT BEEN EXERCISED
44 IN RESPECT TO THE SAME PROPERTY.

45 (3)(I) IF EXPENDITURES IN RESPECT TO AN INDUSTRIAL WASTE TREATMENT
46 FACILITY OR AN AIR POLLUTION CONTROL FACILITY HAVE BEEN DEDUCTED AS
47 PROVIDED HEREIN AND IF WITHIN TEN YEARS FROM THE END OF THE TAXABLE YEAR
48 IN WHICH SUCH DEDUCTION WAS ALLOWED SUCH PROPERTY OR ANY PART THEREOF IS
49 USED FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN
50 THE MANUFACTURING PROCESS OR ARE MARKETABLE, THE TAXPAYER SHALL REPORT
51 SUCH CHANGE OF USE IN ITS REPORT FOR THE FIRST TAXABLE YEAR DURING WHICH
52 IT OCCURS, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE
53 YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR
54 CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH
55 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION
56 THREE OF SECTION 11-674 OF THIS CHAPTER.

1 (II) IF A DEDUCTION IS ALLOWED AS HEREIN PROVIDED FOR EXPENDITURES
2 PAID OR INCURRED DURING ANY TAXABLE YEAR ON THE BASIS OF A TEMPORARY
3 CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVA-
4 TION LAW AND IF THE TAXPAYER FAILS TO OBTAIN A PERMANENT CERTIFICATE OF
5 COMPLIANCE UPON COMPLETION OF THE FACILITIES WITH RESPECT TO WHICH SUCH
6 TEMPORARY CERTIFICATE WAS ISSUED, THE TAXPAYER SHALL REPORT SUCH FAILURE
7 IN ITS REPORT FOR THE TAXABLE YEAR DURING WHICH SUCH FACILITIES ARE
8 COMPLETED, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE
9 YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR
10 CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH
11 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION
12 THREE OF SECTION 11-674 OF THIS CHAPTER.

13 (4) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
14 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO THIS
15 PARAGRAPH, SUCH DEDUCTION SHALL BE DISREGARDED IN COMPUTING GAIN OR
16 LOSS, AND THE GAIN OR LOSS ON THE SALE OR OTHER DISPOSITION OF SUCH
17 PROPERTY SHALL BE THE GAIN OR LOSS ENTERING INTO THE COMPUTATION OF
18 ENTIRE TAXABLE INCOME WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE
19 UNITED STATES TREASURY FOR SUCH TAXABLE YEAR;

20 (H) WITH RESPECT TO GAIN DERIVED FROM THE SALE OR OTHER DISPOSITION OF
21 ANY PROPERTY ACQUIRED PRIOR TO JANUARY FIRST, NINETEEN HUNDRED
22 SIXTY-SIX; WHICH HAD A FEDERAL ADJUSTED BASIS ON SUCH DATE (OR ON THE
23 DATE OF ITS SALE OR OTHER DISPOSITION PRIOR TO JANUARY FIRST, NINETEEN
24 HUNDRED SIXTY-SIX) LOWER THAN ITS FAIR MARKET VALUE ON JANUARY FIRST,
25 NINETEEN HUNDRED SIXTY-SIX OR THE DATE OF ITS SALE OR OTHER DISPOSITION
26 PRIOR THERETO, EXCEPT PROPERTY DESCRIBED IN SUBSECTIONS ONE AND FOUR OF
27 SECTION TWELVE HUNDRED TWENTY-ONE OF THE INTERNAL REVENUE CODE, THERE
28 SHALL BE DEDUCTED FROM ENTIRE NET INCOME, THE DIFFERENCE BETWEEN (1) THE
29 AMOUNT OF THE TAXPAYER'S FEDERAL TAXABLE INCOME, AND (2) THE AMOUNT OF
30 THE TAXPAYER'S FEDERAL TAXABLE INCOME (IF SMALLER THAN THE AMOUNT
31 DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH) COMPUTED AS IF THE
32 FEDERAL ADJUSTED BASIS OF EACH SUCH PROPERTY (ON THE SALE OR OTHER
33 DISPOSITION OF WHICH GAIN WAS DERIVED) ON THE DATE OF THE SALE OR OTHER
34 DISPOSITION HAD BEEN EQUAL TO EITHER (I) ITS FAIR MARKET VALUE ON JANU-
35 ARY FIRST, NINETEEN HUNDRED SIXTY-SIX OR THE DATE OF ITS SALE OR OTHER
36 DISPOSITION PRIOR TO JANUARY FIRST, NINETEEN HUNDRED SIXTY-SIX, PLUS OR
37 MINUS ALL ADJUSTMENTS TO BASIS MADE WITH RESPECT TO SUCH PROPERTY FOR
38 FEDERAL INCOME TAX PURPOSES FOR PERIODS ON AND AFTER JANUARY FIRST,
39 NINETEEN HUNDRED SIXTY-SIX OR (II) THE AMOUNT REALIZED FROM ITS SALE OR
40 DISPOSITION, WHICHEVER IS LOWER; PROVIDED, HOWEVER, THAT THE TOTAL
41 MODIFICATION PROVIDED BY THIS PARAGRAPH SHALL NOT EXCEED THE AMOUNT OF
42 THE TAXPAYER'S NET GAIN FROM THE SALE OR OTHER DISPOSITION OF ALL SUCH
43 PROPERTY.

44 (I) IF THE PERIOD COVERED BY A REPORT UNDER THIS SUBCHAPTER IS OTHER
45 THAN THE PERIOD COVERED BY THE REPORT OF THE UNITED STATES TREASURY
46 DEPARTMENT, ENTIRE NET INCOME SHALL BE DETERMINED BY MULTIPLYING THE
47 FEDERAL TAXABLE INCOME (AS ADJUSTED PURSUANT TO THE PROVISIONS OF THIS
48 SUBCHAPTER) BY THE NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF
49 COVERED BY THE REPORT UNDER THIS SUBCHAPTER AND DIVIDING BY THE NUMBER
50 OF CALENDAR MONTHS OR MAJOR PARTS THEREOF COVERED BY THE REPORT TO SUCH
51 DEPARTMENT. IF IT SHALL APPEAR THAT SUCH METHOD OF DETERMINING ENTIRE
52 NET INCOME DOES NOT PROPERLY REFLECT THE TAXPAYER'S INCOME DURING THE
53 PERIOD COVERED BY THE REPORT UNDER THIS SUBCHAPTER, THE COMMISSIONER OF
54 FINANCE SHALL BE AUTHORIZED IN HIS OR HER DISCRETION TO DETERMINE SUCH
55 ENTIRE NET INCOME SOLELY ON THE BASIS OF THE TAXPAYER'S INCOME DURING
56 THE PERIOD COVERED BY ITS REPORT UNDER THIS SUBCHAPTER.

1 (J) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-
2 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING
3 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH
4 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED
5 EIGHTY F OF THE INTERNAL REVENUE CODE AND PROPERTY SUBJECT TO THE
6 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
7 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING
8 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR, AND PROVIDED
9 A DEDUCTION HAS NOT BEEN EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO
10 SUBPARAGRAPH NINE OF PARAGRAPH (B) OF THIS SUBDIVISION, A TAXPAYER SHALL
11 BE ALLOWED WITH RESPECT TO PROPERTY WHICH IS SUBJECT TO THE PROVISIONS
12 OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE THE
13 DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN
14 OF THE INTERNAL REVENUE CODE AS SUCH SECTION WOULD HAVE APPLIED TO PROP-
15 ERTY PLACED IN SERVICE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED
16 EIGHTY. THIS PARAGRAPH SHALL NOT APPLY TO PROPERTY OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED EIGHTY-NINE.

20 (K) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF
21 SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE, OTHER THAN QUALIFIED RESURGENCE ZONE PROPERTY DESCRIBED IN PARAGRAPH (M) OF THIS SUBDIVISION, AND OTHER THAN QUALIFIED NEW YORK LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (B) OF SECTION FOURTEEN HUNDRED L OF THE INTERNAL REVENUE CODE (WITHOUT REGARD TO CLAUSE (I) OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH), THE DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN AS SUCH SECTION WOULD HAVE APPLIED TO SUCH PROPERTY HAD IT BEEN ACQUIRED BY THE TAXPAYER ON SEPTEMBER TENTH, TWO THOUSAND ONE, PROVIDED, HOWEVER, THAT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOUR, IN THE CASE OF A PASSENGER MOTOR VEHICLE OR A SPORT UTILITY VEHICLE SUBJECT TO THE PROVISIONS OF PARAGRAPH (O) OF THIS SUBDIVISION, THE LIMITATION UNDER CLAUSE (I) OF SUBPARAGRAPH (A) OF PARAGRAPH ONE OF SUBDIVISION (A) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE APPLICABLE TO THE AMOUNT ALLOWED AS A DEDUCTION UNDER THIS PARAGRAPH SHALL BE DETERMINED AS OF THE DATE SUCH VEHICLE WAS PLACED IN SERVICE AND NOT AS OF SEPTEMBER TENTH, TWO THOUSAND ONE.

38 (L) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (K) OF THIS
39 SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE
40 NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS
41 FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH TWELVE OF PARAGRAPH (A)
42 AND SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUTABLE TO SUCH PROPERTY.

44 (M) FOR PURPOSES OF THIS PARAGRAPH AND PARAGRAPH (L) OF THIS SUBDIVISION, QUALIFIED RESURGENCE ZONE PROPERTY SHALL MEAN QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE SUBSTANTIALLY ALL OF THE USE OF WHICH IS IN THE RESURGENCE ZONE, AS DEFINED BELOW, AND IS IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS BY THE TAXPAYER IN SUCH ZONE, AND THE ORIGINAL USE OF WHICH IN THE RESURGENCE ZONE COMMENCES WITH THE TAXPAYER AFTER SEPTEMBER TENTH, TWO THOUSAND ONE. THE RESURGENCE ZONE SHALL MEAN THE AREA OF NEW YORK COUNTY BOUNDED ON THE SOUTH BY A LINE RUNNING FROM THE INTERSECTION OF THE HUDSON RIVER WITH THE HOLLAND TUNNEL, AND RUNNING THENCE EAST TO CANAL STREET, THEN RUNNING ALONG THE CENTERLINE OF CANAL STREET TO THE INTERSECTION OF THE BOWERY AND CANAL STREET, RUNNING THENCE IN A SOUTHEASTERLY DIRECTION DIAGONALLY ACROSS MANHATTAN

1 BRIDGE PLAZA, TO THE MANHATTAN BRIDGE, AND THENCE ALONG THE CENTERLINE
2 OF THE MANHATTAN BRIDGE TO THE POINT WHERE THE CENTERLINE OF THE MANHAT-
3 TAN BRIDGE WOULD INTERSECT WITH THE EASTERLY BANK OF THE EAST RIVER, AND
4 BOUNDED ON THE NORTH BY A LINE RUNNING FROM THE INTERSECTION OF THE
5 HUDSON RIVER WITH THE HOLLAND TUNNEL AND RUNNING THENCE NORTH ALONG WEST
6 AVENUE TO THE INTERSECTION OF CLARKSON STREET THEN RUNNING EAST ALONG
7 THE CENTERLINE OF CLARKSON STREET TO THE INTERSECTION OF WASHINGTON
8 AVENUE, THEN RUNNING SOUTH ALONG THE CENTERLINE OF WASHINGTON AVENUE TO
9 THE INTERSECTION OF WEST HOUSTON STREET, THEN EAST ALONG THE CENTERLINE
10 OF WEST HOUSTON STREET, THEN AT THE INTERSECTION OF THE AVENUE OF THE
11 AMERICAS CONTINUING EAST ALONG THE CENTERLINE OF EAST HOUSTON STREET TO
12 THE EASTERLY BANK OF THE EAST RIVER.

13 (N) RELATED MEMBERS EXPENSE ADD BACK. (1) FOR PURPOSES OF THIS PARA-
14 GRAPH: (I) "RELATED MEMBER" MEANS A RELATED PERSON AS DEFINED IN SUBPAR-
15 AGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED
16 SIXTY-FIVE OF THE INTERNAL REVENUE CODE, EXCEPT THAT "FIFTY PERCENT"
17 SHALL BE SUBSTITUTED FOR "TEN PERCENT".

18 (II) "EFFECTIVE RATE OF TAX" MEANS, AS TO ANY CITY, THE MAXIMUM STATU-
19 TORY RATE OF TAX IMPOSED BY THE CITY ON OR MEASURED BY A RELATED
20 MEMBER'S NET INCOME MULTIPLIED BY THE ALLOCATION PERCENTAGE, IF ANY,
21 APPLICABLE TO THE RELATED MEMBER UNDER THE LAWS OF SAID JURISDICTION.
22 FOR PURPOSES OF THIS DEFINITION, THE EFFECTIVE RATE OF TAX AS TO ANY
23 CITY IS ZERO WHERE THE RELATED MEMBER'S NET INCOME TAX LIABILITY IN SAID
24 CITY IS REPORTED ON A COMBINED OR CONSOLIDATED RETURN INCLUDING BOTH THE
25 TAXPAYER AND THE RELATED MEMBER WHERE THE REPORTED TRANSACTIONS BETWEEN
26 THE TAXPAYER AND THE RELATED MEMBER ARE ELIMINATED OR OFFSET. ALSO, FOR
27 PURPOSES OF THIS DEFINITION, WHEN COMPUTING THE EFFECTIVE RATE OF TAX
28 FOR A CITY IN WHICH A RELATED MEMBER'S NET INCOME IS ELIMINATED OR
29 OFFSET BY A CREDIT OR SIMILAR ADJUSTMENT THAT IS DEPENDENT UPON THE
30 RELATED MEMBER EITHER MAINTAINING OR MANAGING INTANGIBLE PROPERTY OR
31 COLLECTING INTEREST INCOME IN THAT CITY, THE MAXIMUM STATUTORY RATE OF
32 TAX IMPOSED BY SAID CITY SHALL BE DECREASED TO REFLECT THE STATUTORY
33 RATE OF TAX THAT APPLIES TO THE RELATED MEMBER AS EFFECTIVELY REDUCED BY
34 SUCH CREDIT OR SIMILAR ADJUSTMENT.

35 (III) ROYALTY PAYMENTS ARE PAYMENTS DIRECTLY CONNECTED TO THE ACQUISSI-
36 TION, USE, MAINTENANCE OR MANAGEMENT, OWNERSHIP, SALE, EXCHANGE, OR ANY
37 OTHER DISPOSITION OF LICENSES, TRADEMARKS, COPYRIGHTS, TRADE NAMES,
38 TRADE DRESS, SERVICE MARKS, MASK WORKS, TRADE SECRETS, PATENTS AND ANY
39 OTHER SIMILAR TYPES OF INTANGIBLE ASSETS AS DETERMINED BY THE COMMIS-
40 SIONER OF FINANCE, AND INCLUDE AMOUNTS ALLOWABLE AS INTEREST DEDUCTIONS
41 UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE INTERNAL REVENUE CODE TO
42 THE EXTENT SUCH AMOUNTS ARE DIRECTLY OR INDIRECTLY FOR, RELATED TO OR IN
43 CONNECTION WITH THE ACQUISITION, USE, MAINTENANCE OR MANAGEMENT, OWNER-
44 SHIP, SALE, EXCHANGE OR DISPOSITION OF SUCH INTANGIBLE ASSETS.

45 (IV) A VALID BUSINESS PURPOSE IS ONE OR MORE BUSINESS PURPOSES, OTHER
46 THAN THE AVOIDANCE OR REDUCTION OF TAXATION, WHICH ALONE OR IN COMBINA-
47 TION CONSTITUTE THE PRIMARY MOTIVATION FOR SOME BUSINESS ACTIVITY OR
48 TRANSACTION, WHICH ACTIVITY OR TRANSACTION CHANGES IN A MEANINGFUL WAY,
49 APART FROM TAX EFFECTS, THE ECONOMIC POSITION OF THE TAXPAYER. THE
50 ECONOMIC POSITION OF THE TAXPAYER INCLUDES AN INCREASE IN THE MARKET
51 SHARE OF THE TAXPAYER, OR THE ENTRY BY THE TAXPAYER INTO NEW BUSINESS
52 MARKETS.

53 (2) ROYALTY EXPENSE ADD BACKS. (I) EXCEPT WHERE A TAXPAYER IS INCLUDED
54 IN A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER
55 WITH THE APPLICABLE RELATED MEMBER, FOR THE PURPOSE OF COMPUTING ENTIRE
56 NET INCOME OR OTHER APPLICABLE TAXABLE BASIS, A TAXPAYER MUST ADD BACK

1 ROYALTY PAYMENTS DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN
2 CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR
3 MORE RELATED MEMBERS DURING THE TAXABLE YEAR TO THE EXTENT DEDUCTIBLE IN
4 CALCULATING FEDERAL TAXABLE INCOME.

5 (II) EXCEPTIONS. (A) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL
6 NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB-
7 LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM
8 SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING
9 REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR
10 ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBI-
11 NATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID,
12 ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE
13 SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH
14 PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS-
15 ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE
16 RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

17 (B) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE
18 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND
19 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE
20 RELATED MEMBER WAS SUBJECT TO TAX ON OR MEASURED BY ITS NET INCOME IN
21 THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES, OR SOME COMBINATION
22 THEREOF; (II) THE TAX BASE FOR SAID TAX INCLUDED THE ROYALTY PAYMENT
23 PAID, ACCRUED OR INCURRED BY THE TAXPAYER; AND (III) THE AGGREGATE
24 EFFECTIVE RATE OF TAX APPLIED TO THE RELATED MEMBER IN THOSE JURISDIC-
25 TIONS IS NO LESS THAN EIGHTY PERCENT OF THE STATUTORY RATE OF TAX THAT
26 APPLIED TO THE TAXPAYER UNDER SECTION 11-604 OF THIS CHAPTER FOR THE
27 TAXABLE YEAR.

28 (C) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE
29 TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND
30 IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE
31 ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGAN-
32 IZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE
33 RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHEN-
34 SIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III)
35 THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE
36 THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE
37 TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS
38 TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT
39 IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR
40 INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSI-
41 NESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

42 (D) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE
43 TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLI-
44 CATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMIS-
45 SIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICA-
46 TION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE
47 CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE
48 TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

49 (O) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS
50 DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE
51 DEDUCTIONS ALLOWABLE UNDER SECTIONS ONE HUNDRED SEVENTY-NINE, ONE
52 HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
53 CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER
54 AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION TWO
55 HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE, DETERMINED AS IF SUCH
56 SPORT UTILITY VEHICLE WERE A PASSENGER AUTOMOBILE AS DEFINED IN SUCH

1 PARAGRAPH FIVE. FOR PURPOSES OF SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B)
2 AND PARAGRAPH (K) OF THIS SUBDIVISION, THE TERMS QUALIFIED RESURGENCE
3 ZONE PROPERTY AND QUALIFIED NEW YORK LIBERTY ZONE PROPERTY DESCRIBED IN
4 PARAGRAPH TWO OF SUBSECTION B OF SECTION FOURTEEN HUNDRED L OF THE
5 INTERNAL REVENUE CODE SHALL NOT INCLUDE ANY SPORT UTILITY VEHICLE THAT
6 IS NOT A PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION
7 (D) OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE.

8 (P) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (O) OF THIS
9 SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE
10 NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS
11 FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH THIRTEEN OF PARAGRAPH
12 (A) AND SUBPARAGRAPH SEVENTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION
13 ATTRIBUTABLE TO SUCH PROPERTY.

14 (Q) SUBTRACTION MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS.
15 (1) A TAXPAYER THAT IS A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARA-
16 GRAPH TWO OF THIS PARAGRAPH OR A SMALL THRIFT INSTITUTION AS DEFINED IN
17 SUBPARAGRAPH TWO-A OF THIS PARAGRAPH SHALL BE ALLOWED A DEDUCTION IN
18 COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED UNDER SUBPARA-
19 GRAPH THREE OF THIS PARAGRAPH.

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

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

25 (II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE
26 TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE
27 ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
28 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

29 (2-A) TO BE A SMALL THRIFT INSTITUTION, A TAXPAYER MUST SATISFY THE
30 FOLLOWING CONDITIONS:

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

34 (II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE
35 TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE
36 ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
37 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

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

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

44 (B) MULTIPLY THE AMOUNT DETERMINED IN SUBCLAUSE (A) OF THIS CLAUSE BY
45 FIFTY PERCENT. THIS PRODUCT IS THE AMOUNT OF THE DEDUCTION ALLOWED UNDER
46 THIS PARAGRAPH.

47 (II)(A) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST
48 INCOME FROM LOANS LESS GROSS INTEREST EXPENSE FROM LOANS. GROSS INTEREST
49 EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING GROSS INTEREST EXPENSE
50 BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE TOTAL VALUE OF
51 LOANS OWNED BY THE THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXA-
52 BLE YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE
53 THRIFT INSTITUTION OR COMMUNITY BANK DURING THE TAXABLE YEAR.

54 (B) MEASUREMENT OF ASSETS. FOR PURPOSES OF THIS CLAUSE: (I) TOTAL
55 ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A BALANCE SHEET,

1 COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING REGULATOR OF
2 THE TAXPAYERS INCLUDED IN THE COMBINED RETURN.

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

9 (III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND,
10 MACHINERY, AND EQUIPMENT, SHALL BE VALUED AT COST. LEASED ASSETS WILL BE
11 VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE PROP-
12 erty, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE
13 EXCLUSIVE OF RESERVES.

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

17 (III) A QUALIFYING LOAN IS A LOAN THAT MEETS THE CONDITIONS SPECIFIED
18 IN SUBCLAUSE (A) OF THIS CLAUSE AND SUBCLAUSE (B) OF THIS CLAUSE.

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

24 (B) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,
25 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND
26 EITHER THE BORROWER IS LOCATED IN THIS CITY AS DETERMINED UNDER SECTION
27 11-654.2 OF THIS SUBCHAPTER AND THE LOAN IS NOT SECURED BY REAL PROPER-
28 TY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN THE CITY.

29 (C) A LOAN THAT MEETS THE DEFINITION OF A QUALIFYING LOAN IN A PRIOR
30 TAXABLE YEAR (INCLUDING YEARS PRIOR TO THE EFFECTIVE DATE OF THIS PARA-
31 GRAPH) REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH
32 SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED
33 REPORTING GROUP UNDER SECTION 11-654.3 OF THIS SUBCHAPTER.

34 (R) A SMALL THRIFT INSTITUTION OR A QUALIFIED COMMUNITY BANK, AS
35 DEFINED IN PARAGRAPH (Q) OF THIS SUBDIVISION, THAT MAINTAINED A CAPTIVE
36 REIT ON APRIL FIRST, TWO THOUSAND FOURTEEN SHALL UTILIZE A REIT
37 SUBTRACTION EQUAL TO ONE HUNDRED SIXTY PERCENT OF THE DIVIDENDS PAID
38 DEDUCTIONS ALLOWED TO THAT CAPTIVE REIT FOR THE TAXABLE YEAR FOR FEDERAL
39 INCOME TAX PURPOSES AND SHALL NOT BE ALLOWED TO UTILIZE THE SUBTRACTION
40 MODIFICATION FOR COMMUNITY BANKS AND SMALL THRIFTS UNDER PARAGRAPH (Q)
41 OF THIS SUBDIVISION OR THE SUBTRACTION MODIFICATION FOR QUALIFIED RESI-
42 DENTIAL LOAN PORTFOLIOS UNDER PARAGRAPH (S) OF THIS SUBDIVISION IN ANY
43 TAX YEAR IN WHICH SUCH THRIFT INSTITUTION OR COMMUNITY BANK MAINTAINS
44 THAT CAPTIVE REIT.

45 (S) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFO-
46 LIOS. (1)(I) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED
47 IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS
48 DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (Q) OF THIS SUBDIVISION AND
49 MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARA-
50 GRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING
51 ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (A) THIRTY-TWO PERCENT OF
52 ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH
53 EXCEEDS (B) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS
54 ONE HUNDRED SIXTY-SIX AND FIVE HUNDRED EIGHTY-FIVE OF THE INTERNAL
55 REVENUE CODE LESS ANY AMOUNTS INCLUDED IN FEDERAL TAXABLE INCOME AS A
56 RESULT OF A RECOVERY OF A LOAN.

1 (II)(A) IF THE TAXPAYER IS IN A COMBINED REPORT UNDER SECTION 11-654.3
2 OF THIS SUBCHAPTER, THIS DEDUCTION WILL BE COMPUTED ON A COMBINED BASIS.
3 IN THAT INSTANCE, THE ENTIRE NET INCOME OF THE COMBINED REPORTING GROUP
4 FOR PURPOSES OF THIS PARAGRAPH SHALL BE MULTIPLIED BY A FRACTION, THE
5 NUMERATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE THRIFT INSTI-
6 TUTIONS AND QUALIFIED COMMUNITY BANKS INCLUDED IN THE COMBINED REPORT
7 AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF ALL THE
8 CORPORATIONS INCLUDED IN THE COMBINED REPORT.

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

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

19 (III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND,
20 MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. LEASED ASSETS WILL BE
21 VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE PROP-
22 erty, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE
23 EXCLUSIVE OF RESERVES.

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

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

30 (2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (I) A TAXPAYER MAINTAINS A
31 QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE
32 AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE
33 THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS
34 DESCRIBED IN SUBCLAUSES (A) THROUGH (L) OF THIS CLAUSE, WITH THE APPLI-
35 CATION OF THE RULE IN THE LAST UNDESIGNATED SUBCLAUSE OF THIS CLAUSE. IF
36 THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF
37 WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY
38 AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNI-
39 TY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP. ASSETS: (A) CASH,
40 WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH ITEMS IN THE
41 PROCESS OF COLLECTION, DEPOSITS WITH OTHER FINANCIAL INSTITUTIONS,
42 INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL RESERVE BANKS
43 AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH AND CASH
44 EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERVING AS
45 COLLATERAL FOR SECURITIES LENDING TRANSACTIONS; (B) OBLIGATIONS OF THE
46 UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK
47 OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERN-
48 MENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLI-
49 TICAL SUBDIVISION THEREOF; (C) LOANS SECURED BY A DEPOSIT OR SHARE OF A
50 MEMBER; (D) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR,
51 FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR
52 REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE
53 IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY
54 FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS SUBCLAUSE, RESI-
55 DENTIAL REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS,
56 FACILITIES IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROP-

1 ERTY USED ON A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED
2 ON A TRANSIENT BASIS; (E) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF
3 DEFAULTED LOANS DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (F) ANY REGU-
4 LAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS DEFINED IN SECTION
5 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE PROPORTION WHICH THE
6 ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED IN ANY OF THE PRECED-
7 ING SUBCLAUSES OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE PERCENT OR
8 MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN SUBCLAUSES (A)
9 THROUGH (E) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC SHALL QUAL-
10 IFY; (G) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A
11 FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST
12 PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH
13 SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN,
14 WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS
15 CLAUSE AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR
16 WHICH CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE
17 TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (H) CERTIF-
18 ICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION ORGANIZED UNDER A
19 STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPORATION TO INSURE THE
20 DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS; (I) LOANS SECURED BY
21 AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE INSTITUTIONS OR FACILI-
22 TIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMARILY FOR RESIDENTIAL
23 PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDERCARE, EMPLOYEES, OR
24 MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILITIES; (J) LOANS MADE
25 FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY EDUCATION OR VOCA-
26 TIONAL TRAINING; (K) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSI-
27 NESS WHICH CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC
28 AND INVESTING IN LOANS; AND (L) LOANS FOR WHICH THE TAXPAYER IS THE
29 CREDITOR AND WHICH ARE WHOLLY SECURED BY LOANS DESCRIBED IN SUBCLAUSE
30 (D) OF THIS CLAUSE.

31 THE VALUE OF ACCRUED INTEREST RECEIVABLE AND ANY LOSS-SHARING COMMIT-
32 MENT OR OTHER LOAN GUARANTY BY A GOVERNMENTAL AGENCY WILL BE CONSIDERED
33 PART OF THE BASIS IN THE LOANS TO WHICH THE ACCRUED INTEREST OR LOSS
34 PROTECTION APPLIES.

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

42 (III) FOR PURPOSES OF SUBCLAUSE (D) OF CLAUSE (I) OF THIS SUBPARA-
43 GRAPH, IF A MULTIFAMILY STRUCTURE SECURING A LOAN IS USED IN PART FOR
44 NONRESIDENTIAL USE PURPOSES, THE ENTIRE LOAN IS DEEMED A RESIDENTIAL
45 REAL PROPERTY LOAN IF THE PLANNED RESIDENTIAL USE EXCEEDS EIGHTY PERCENT
46 OF THE PROPERTY'S PLANNED USE (MEASURED, AT THE TAXPAYER'S ELECTION, BY
47 USING SQUARE FOOTAGE OR GROSS RENTAL REVENUE, AND DETERMINED AS OF THE
48 TIME THE LOAN IS MADE).

49 (IV) FOR PURPOSES OF SUBCLAUSE (D) OF CLAUSE (I) OF THIS SUBPARAGRAPH,
50 LOANS MADE TO FINANCE THE ACQUISITION OR DEVELOPMENT OF LAND SHALL BE
51 DEEMED TO BE LOANS SECURED BY AN INTEREST IN RESIDENTIAL REAL PROPERTY
52 IF THERE IS A REASONABLE ASSURANCE THAT THE PROPERTY WILL BECOME RESI-
53 DENTIAL REAL PROPERTY WITHIN A PERIOD OF THREE YEARS FROM THE DATE OF
54 ACQUISITION OF SUCH LAND; BUT THIS SENTENCE SHALL NOT APPLY FOR ANY
55 TAXABLE YEAR UNLESS, WITHIN SUCH THREE YEAR PERIOD, SUCH LAND BECOMES
56 RESIDENTIAL REAL PROPERTY. FOR PURPOSES OF DETERMINING WHETHER ANY

1 INTEREST IN A REMIC QUALIFIES UNDER SUBCLAUSE (F) OF CLAUSE (I) OF THIS
2 SUBPARAGRAPH, ANY REGULAR INTEREST IN ANOTHER REMIC HELD BY SUCH REMIC
3 SHALL BE TREATED AS A LOAN DESCRIBED IN A PRECEDING SUBCLAUSE UNDER
4 PRINCIPLES SIMILAR TO THE PRINCIPLE OF SUCH SUBCLAUSE (F), EXCEPT THAT
5 IF SUCH REMICS ARE PART OF A TIERED STRUCTURE, THEY SHALL BE TREATED AS
6 ONE REMIC FOR PURPOSES OF SUCH SUBCLAUSE (F).

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

10 (T) SUBTRACTION MODIFICATION FOR QUALIFIED AFFORDABLE HOUSING AND LOW
11 INCOME COMMUNITY LOANS.

12 (1) A TAXPAYER THAT OWNS A QUALIFYING LOAN WITHIN THE MEANING OF
13 CLAUSE (III) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED A
14 DEDUCTION IN COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED
15 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH.

16 (2)(I) THE DEDUCTION ALLOWED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH
17 SHALL BE EQUAL TO:

18 (A) IF THE TOTAL AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS
19 OF THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT,
20 THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
21 11-654.3 OF THIS SUBCHAPTER, DOES NOT EXCEED ONE HUNDRED BILLION
22 DOLLARS, THE TAXPAYER'S NET INTEREST INCOME FROM QUALIFYING LOANS, OR

23 (B) IF THE TOTAL AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS
24 OF THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT,
25 THE ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
26 11-654.3 OF THIS SUBCHAPTER, EXCEEDS ONE HUNDRED BILLION DOLLARS BUT IS
27 LESS THAN ONE HUNDRED FIFTY BILLION DOLLARS, THE TAXPAYER'S NET INTEREST
28 INCOME FROM QUALIFYING LOANS MULTIPLIED BY A FRACTION, THE NUMERATOR OF
29 WHICH IS ONE HUNDRED FIFTY BILLION DOLLARS MINUS THE TOTAL AVERAGE VALUE
30 DURING THE TAXABLE YEAR OF THE ASSETS OF THE TAXPAYER, OR IF THE TAXPAY-
31 ER IS INCLUDED IN A COMBINED REPORT, THE ASSETS OF THE COMBINED REPORT-
32 ING GROUP OF THE TAXPAYER UNDER SECTION 11-654.3 OF THIS SUBCHAPTER, AND
33 THE DENOMINATOR OF WHICH IS FIFTY BILLION DOLLARS.

34 (II)(A) NET INTEREST INCOME FROM QUALIFYING LOANS SHALL MEAN THE
35 TAXPAYER'S NET INTEREST INCOME FROM LOANS DURING THE TAXABLE YEAR MULTI-
36 PLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INTEREST INCOME
37 DURING THE TAXABLE YEAR FROM QUALIFYING LOANS AND THE DENOMINATOR OF
38 WHICH IS THE GROSS INTEREST INCOME FROM ALL LOANS.

39 (B) NET INTEREST INCOME FROM LOANS SHALL MEAN GROSS INTEREST INCOME
40 DURING THE TAXABLE YEAR FROM LOANS LESS GROSS INTEREST EXPENSE FROM
41 LOANS. GROSS INTEREST EXPENSE FROM LOANS IS DETERMINED BY MULTIPLYING
42 GROSS INTEREST EXPENSE BY A FRACTION, THE NUMERATOR OF WHICH IS THE
43 AVERAGE TOTAL VALUE OF LOANS OWNED BY THE TAXPAYER DURING THE TAXABLE
44 YEAR AND THE DENOMINATOR OF WHICH IS THE AVERAGE TOTAL ASSETS OF THE
45 TAXPAYER FOR THE YEAR.

46 (C) MEASUREMENT OF ASSETS. FOR PURPOSES OF THIS PARAGRAPH:

47 (I) TOTAL ASSETS ARE THOSE ASSETS THAT ARE PROPERLY REFLECTED ON A
48 BALANCE SHEET, COMPUTED IN THE SAME MANNER AS IS REQUIRED BY THE BANKING
49 REGULATOR, IF APPLICABLE, OF THE TAXPAYERS INCLUDED IN THE COMBINED
50 RETURN.

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

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

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

(III) A QUALIFYING LOAN IS A LOAN THAT MEETS THE CONDITIONS SPECIFIED IN SUBCLAUSE (A) THROUGH SUBCLAUSE (E) OF THIS CLAUSE.

(A) THE LOAN IS ORIGINATED BY THE TAXPAYER LENDER OR PURCHASED BY THE TAXPAYER IMMEDIATELY AFTER ITS ORIGINATION IN CONNECTION WITH A COMMITMENT TO PURCHASE MADE BY THE TAXPAYER PRIOR TO THE LOAN'S ORIGINATION.

(B) SATISFIES CONDITIONS OF ITEM (I) OR (II) OR THIS SUBCLAUSE.

(I) THE LOAN IS SECURED BY A HOUSING ACCOMMODATION LOCATED WITHIN THE CITY, WHERE THERE ARE RENTAL UNITS IN SUCH HOUSING ACCOMMODATION THAT ARE QUALIFYING UNITS, WHICH FOR PURPOSES OF THIS SUBCLAUSE, MEANS UNITS SUBJECT TO RENT CONTROL, RENT STABILIZATION OR TO A REGULATORY AGREEMENT, PROVIDED THAT, EACH SUCH LOAN WILL BE CONSIDERED A QUALIFYING LOAN FOR PURPOSES OF THIS PARAGRAPH ONLY IN PROPORTION TO A PERCENTAGE EQUAL TO THE NUMBER OF QUALIFYING UNITS DIVIDED BY THE TOTAL NUMBER OF ALL RESIDENTIAL AND COMMERCIAL UNITS LOCATED ON THE SITE OF THE REAL PROPERTY SECURING THE LOAN, AS DETERMINED AS OF THE DATE THE LOAN IS MADE.

(II) TO THE EXTENT NOT INCLUDED IN ITEM (I) OF THIS SUBCLAUSE, LOANS SECURED BY RESIDENTIAL REAL PROPERTY LOCATED IN A LOW-INCOME COMMUNITY. FOR PURPOSES OF THIS PARAGRAPH, LOW-INCOME COMMUNITY AREAS ARE CENSUS TRACTS WITHIN THE CITY IN WHICH THE POVERTY RATE FOR SUCH TRACT IS AT LEAST TWENTY PERCENT AND THE MEDIAN FAMILY INCOME FOR SUCH TRACT DOES NOT EXCEED EIGHTY PERCENT OF METROPOLITAN AREA MEDIAN FAMILY INCOME. THIS DETERMINATION WILL BE MADE BY REFERENCE TO THE POVERTY AND MEDIAN FAMILY INCOME CENSUS DATA FOR APPLICATION OF SECTION 45D OF THE INTERNAL REVENUE CODE OF 1986, AS IN EFFECT ON THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT ADDED THIS SUBCHAPTER.

(C) THE LOAN IS NOT TREATED AS A QUALIFYING LOAN IN THE COMPUTATION OF A SUBTRACTION FROM ENTIRE NET INCOME PURSUANT TO PARAGRAPH (Q) OF THIS SUBDIVISION.

(D) IF THE TAXPAYER APPLIES A SUBTRACTION PURSUANT TO PARAGRAPH (R) OF THIS SUBDIVISION, THE INTEREST OR NET GAINS FROM THE LOAN ARE NOT RECOGNIZED BY A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS CHAPTER.

(E) A LOAN THAT MEETS THE DEFINITION OF A QUALIFYING LOAN IN A PRIOR TAXABLE YEAR (INCLUDING YEARS PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH) REMAINS A QUALIFYING LOAN IN TAXABLE YEARS DURING AND AFTER WHICH SUCH LOAN IS ACQUIRED BY ANOTHER CORPORATION IN THE TAXPAYER'S COMBINED REPORTING GROUP UNDER SECTION 11-654.3 OF THIS SUBCHAPTER.

(IV) FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING TERMS SHALL MEAN:

(A) "HOUSING ACCOMMODATIONS" SHALL MEAN A MULTIPLE DWELLING THAT CONTAINS AT LEAST FIVE DWELLING UNITS TOGETHER WITH THE LAND ON WHICH SUCH STRUCTURE IS SITUATED.

(B) "REGULATORY AGREEMENT" SHALL MEAN A WRITTEN AGREEMENT WITH OR APPROVED BY ANY LOCAL, MUNICIPAL, STATE, FEDERAL OR OTHER GOVERNMENT AGENCY THAT REQUIRES THE PROVISION OF HOUSING ACCOMMODATIONS FOR FAMILIES AND PERSONS OF LOW OR MODERATE INCOME, AND BINDS THE OWNER OF SUCH REAL PROPERTY AND ITS SUCCESSORS AND ASSIGNS. A REGULATORY AGREEMENT MAY INCLUDE SUCH OTHER TERMS AND CONDITIONS AS THE LOCALITY, MUNICIPALITY, STATE, OR FEDERAL GOVERNMENT SHALL DETERMINE.

(C) "RENT STABILIZATION" SHALL MEAN, COLLECTIVELY, THE RENT STABILIZATION LAW OF NINETEEN HUNDRED SIXTY-NINE, THE RENT STABILIZATION CODE, AND THE EMERGENCY TENANT PROTECTION ACT OF NINETEEN SEVENTY-FOUR, ALL AS IN EFFECT AS OF THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FIFTEEN THAT ADDED THIS SUBCHAPTER OR AS AMENDED THEREAFTER, TOGETHER WITH ANY SUCCESSOR STATUTES OR REGULATIONS ADDRESSING SUBSTANTIALLY THE SAME SUBJECT MATTER.

9. (A) THE TERM "CALENDAR YEAR" MEANS A PERIOD OF TWELVE CALENDAR MONTHS (OR ANY SHORTER PERIOD BEGINNING ON THE DATE THE TAXPAYER BECOMES SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER) ENDING ON THE THIRTY-FIRST DAY OF DECEMBER, PROVIDED THE TAXPAYER KEEPS ITS BOOKS ON THE BASIS OF SUCH PERIOD OR ON THE BASIS OF ANY PERIOD ENDING ON ANY DAY OTHER THAN THE LAST DAY OF A CALENDAR MONTH, OR PROVIDED THE TAXPAYER DOES NOT KEEP BOOKS, AND INCLUDES, IN CASE THE TAXPAYER CHANGES THE PERIOD ON THE BASIS OF WHICH IT KEEPS ITS BOOKS FROM A FISCAL YEAR TO A CALENDAR YEAR, THE PERIOD FROM THE CLOSE OF ITS LAST OLD FISCAL YEAR UP TO AND INCLUDING THE FOLLOWING DECEMBER THIRTY-FIRST.

(B) THE TERM "FISCAL YEAR" MEANS A PERIOD OF TWELVE CALENDAR MONTHS (OR ANY SHORTER PERIOD BEGINNING ON THE DATE THE TAXPAYER BECOMES SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER) ENDING ON THE LAST DAY OF ANY MONTH OTHER THAN DECEMBER, PROVIDED THE TAXPAYER KEEPS ITS BOOKS ON THE BASIS OF SUCH PERIOD, AND INCLUDES, IN CASE THE TAXPAYER CHANGES THE PERIOD ON THE BASIS OF WHICH IT KEEPS ITS BOOKS FROM A CALENDAR YEAR TO A FISCAL YEAR OR FROM ONE FISCAL YEAR TO ANOTHER FISCAL YEAR, THE PERIOD FROM THE CLOSE OF ITS LAST OLD CALENDAR OR FISCAL YEAR UP TO THE DATE DESIGNATED AS THE CLOSE OF ITS NEW FISCAL YEAR.

10. THE TERM "TANGIBLE PERSONAL PROPERTY" MEANS CORPOREAL PERSONAL PROPERTY, SUCH AS MACHINERY, TOOLS, IMPLEMENTS, GOODS, WARES AND MERCHANDISE, AND DOES NOT MEAN MONEY, DEPOSITS IN BANKS, SHARES OF STOCK, BONDS, NOTES, CREDITS OR EVIDENCES OF AN INTEREST PROPERTY AND EVIDENCES OF DEBT.

11. THE TERM "INTERNAL REVENUE CODE" MEANS, UNLESS OTHERWISE SPECIFICALLY STATED IN THIS SUBCHAPTER, THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

12. THE TERM "COMBINABLE CAPTIVE INSURANCE COMPANY" MEANS AN ENTITY THAT IS TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE: (A) MORE THAN FIFTY PERCENT OF THE VOTING STOCK OF WHICH IS OWNED OR CONTROLLED, DIRECTLY OR INDIRECTLY, BY A SINGLE ENTITY THAT IS TREATED AS AN ASSOCIATION TAXABLE AS A CORPORATION UNDER THE INTERNAL REVENUE CODE AND NOT EXEMPT FROM FEDERAL INCOME TAX;

(B) THAT IS LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF THIS STATE OR ANOTHER JURISDICTION;

(C) WHOSE BUSINESS INCLUDES PROVIDING, DIRECTLY AND INDIRECTLY, INSURANCE OR REINSURANCE COVERING THE RISKS OF ITS PARENT AND/OR MEMBERS OF ITS AFFILIATED GROUP; AND

(D) FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE TAXABLE YEAR CONSIST OF PREMIUMS FROM ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL INCOME TAX PURPOSES.

FOR PURPOSES OF THIS SUBDIVISION, "AFFILIATED GROUP" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE, EXCEPT THAT THE TERM "COMMON PARENT CORPORATION" IN THAT SECTION IS DEEMED TO MEAN ANY PERSON, AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE AND REFERENCES TO "AT LEAST EIGHTY PERCENT" IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE ARE TO BE READ AS "FIFTY PERCENT OR MORE;" SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE IS TO BE READ

1 WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF THAT
2 SECTION; "PREMIUMS" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN PARA-
3 GRAPH ONE OF SUBDIVISION (C) OF SECTION FIFTEEN HUNDRED TEN OF THE TAX
4 LAW, EXCEPT THAT IT INCLUDES CONSIDERATION FOR ANNUITY CONTRACTS AND
5 EXCLUDES ANY PART OF THE CONSIDERATION FOR INSURANCE, REINSURANCE OR
6 ANNUITY CONTRACTS THAT DO NOT PROVIDE BONA FIDE INSURANCE, REINSURANCE
7 OR ANNUITY BENEFITS; AND "GROSS RECEIPTS" INCLUDES THE AMOUNTS INCLUDED
8 IN GROSS RECEIPTS FOR PURPOSES OF PARAGRAPH FIFTEEN OF SUBSECTION (C) OF
9 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT THOSE
10 AMOUNTS ALSO INCLUDE ALL PREMIUMS AS DEFINED IN THIS SUBDIVISION.

11 13. THE TERM "PARTNERSHIP" INCLUDES A SYNDICATE, GROUP, POOL, JOINT
12 VENTURE, OR OTHER UNINCORPORATED ORGANIZATION, THROUGH OR BY MEANS OF
13 WHICH ANY BUSINESS, FINANCIAL OPERATION, OR VENTURE IS CARRIED ON, AND
14 WHICH IS NOT A CORPORATION AS DEFINED IN SUBDIVISION ONE OF THIS
15 SECTION, OR A TRUST OR ESTATE THAT IS SEPARATE FROM ITS OWNER UNDER PART
16 ONE OF SUBCHAPTER J OF CHAPTER ONE OF SUBTITLE A OF THE INTERNAL REVENUE
17 CODE; AND THE TERM "PARTNER" INCLUDES A MEMBER IN SUCH SYNDICATE, GROUP,
18 POOL, JOINT VENTURE, OR ORGANIZATION.

19 S 11-653 IMPOSITION OF TAX; EXEMPTIONS. 1. (A) FOR THE PRIVILEGE OF
20 DOING BUSINESS, OR OF EMPLOYING CAPITAL, OR OF OWNING OR LEASING PROPER-
21 TY IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY, OR OF MAINTAINING
22 AN OFFICE IN THE CITY, FOR ALL OR ANY PART OF EACH OF ITS FISCAL OR
23 CALENDAR YEARS, EVERY DOMESTIC OR FOREIGN CORPORATION, EXCEPT CORPO-
24 RATIONS SPECIFIED IN SUBDIVISION FOUR OF THIS SECTION, SHALL ANNUALLY
25 PAY A TAX, UPON THE BASIS OF ITS BUSINESS INCOME, OR UPON SUCH OTHER
26 BASIS AS MAY BE APPLICABLE AS HEREINAFTER PROVIDED, FOR SUCH FISCAL OR
27 CALENDAR YEAR OR PART THEREOF, ON A REPORT WHICH SHALL BE FILED, EXCEPT
28 AS HEREINAFTER PROVIDED, ON OR BEFORE THE FIFTEENTH DAY OF MARCH NEXT
29 SUCCEEDING THE CLOSE OF EACH SUCH YEAR, OR, IN THE CASE OF A TAXPAYER
30 WHICH REPORTS ON THE BASIS OF A FISCAL YEAR, WITHIN TWO AND ONE-HALF
31 MONTHS AFTER THE CLOSE OF SUCH FISCAL YEAR, AND SHALL BE PAID AS HEREIN-
32 AFTER PROVIDED.

33 (B) INTENTIONALLY OMITTED.

34 (C) A CORPORATION IS DOING BUSINESS IN THE CITY IF (1) IT HAS ISSUED
35 CREDIT CARDS TO ONE THOUSAND OR MORE CUSTOMERS WHO HAVE A MAILING
36 ADDRESS WITHIN THE CITY AS OF THE LAST DAY OF ITS TAXABLE YEAR, (2) IT
37 HAS MERCHANT CUSTOMER CONTRACTS WITH MERCHANTS AND THE TOTAL NUMBER OF
38 LOCATIONS COVERED BY THOSE CONTRACTS EQUALS ONE THOUSAND OR MORE
39 LOCATIONS IN THE CITY TO WHOM THE CORPORATION REMITTED PAYMENTS FOR
40 CREDIT CARD TRANSACTIONS DURING THE TAXABLE YEAR, OR (3) THE SUM OF THE
41 NUMBER OF CUSTOMERS DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH PLUS
42 THE NUMBER OF LOCATIONS COVERED BY ITS CONTRACTS DESCRIBED IN SUBPARA-
43 GRAPH TWO OF THIS PARAGRAPH EQUALS ONE THOUSAND OR MORE. AS USED IN THIS
44 SUBDIVISION, THE TERM "CREDIT CARD" INCLUDES BANK, CREDIT, TRAVEL AND
45 ENTERTAINMENT CARDS.

46 (D) INTENTIONALLY OMITTED.

47 (E) INTENTIONALLY OMITTED.

48 (F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR
49 LEASING PROPERTY IN THE CITY, OR MAINTAINING AN OFFICE IN THE CITY, ANY
50 CORPORATION THAT IS A PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO
51 TAX UNDER THIS SUBCHAPTER AS DESCRIBED IN THE REGULATIONS OF THE COMMIS-
52 SIONER OF FINANCE.

53 2. A FOREIGN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS,
54 EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE
55 IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, BY REASON OF:

1 (A) THE MAINTENANCE OF CASH BALANCES WITH BANKS OR TRUST COMPANIES IN
2 THE CITY, OR
3 (B) THE OWNERSHIP OF SHARES OF STOCK OR SECURITIES KEPT IN THE CITY,
4 IF KEPT IN A SAFE DEPOSIT BOX, SAFE, VAULT OR OTHER RECEPTACLE RENTED
5 FOR THE PURPOSE, OR IF PLEDGED AS COLLATERAL SECURITY, OR IF DEPOSITED
6 WITH ONE OR MORE BANKS OR TRUST COMPANIES, OR BROKERS WHO ARE MEMBERS OF
7 A RECOGNIZED SECURITY EXCHANGE, IN SAFEKEEPING OR CUSTODY ACCOUNTS, OR
8 (C) THE TAKING OF ANY ACTION BY ANY SUCH BANK OR TRUST COMPANY OR
9 BROKER, WHICH IS INCIDENTAL TO THE RENDERING OF SAFEKEEPING OR CUSTODIAN
10 SERVICE TO SUCH CORPORATION, OR
11 (D) THE MAINTENANCE OF AN OFFICE IN THE CITY BY ONE OR MORE OFFICERS
12 OR DIRECTORS OF THE CORPORATION WHO ARE NOT EMPLOYEES OF THE CORPORATION
13 IF THE CORPORATION OTHERWISE IS NOT DOING BUSINESS IN THE CITY, AND DOES
14 NOT EMPLOY CAPITAL OR OWN OR LEASE PROPERTY IN THE CITY, OR
15 (E) THE KEEPING OF BOOKS OR RECORDS OF A CORPORATION IN THE CITY IF
16 SUCH BOOKS OR RECORDS ARE NOT KEPT BY EMPLOYEES OF SUCH CORPORATION AND
17 SUCH CORPORATION DOES NOT OTHERWISE DO BUSINESS, EMPLOY CAPITAL, OWN OR
18 LEASE PROPERTY OR MAINTAIN AN OFFICE IN THE CITY, OR
19 (F) ANY COMBINATION OF THE FOREGOING ACTIVITIES.
20 2-A. AN ALIEN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS,
21 EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE
22 IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, IF ITS ACTIVITIES IN
23 THE CITY ARE LIMITED SOLELY TO:
24 (A) INVESTING OR TRADING IN STOCKS AND SECURITIES FOR ITS OWN ACCOUNT
25 WITHIN THE MEANING OF CLAUSE (II) OF SUBPARAGRAPH (A) OF PARAGRAPH (2)
26 OF SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL
27 REVENUE CODE, OR:
28 (B) INVESTING OR TRADING IN COMMODITIES FOR ITS OWN ACCOUNT WITHIN THE
29 MEANING OF CLAUSE (II) OF SUBPARAGRAPH (B) OF PARAGRAPH (2) OF
30 SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL
31 REVENUE CODE, OR
32 (C) ANY COMBINATION OF ACTIVITIES DESCRIBED IN PARAGRAPHS (A) AND (B)
33 OF THIS SUBDIVISION.
34 AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE
35 CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION
36 SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO EFFECTIVELY
37 CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE THREE OF THE
38 OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS
39 SUBCHAPTER SHALL NOT BE SUBJECT TO TAX UNDER THIS SUBCHAPTER FOR THAT
40 TAXABLE YEAR. FOR PURPOSES OF THIS SUBCHAPTER, AN ALIEN CORPORATION IS A
41 CORPORATION ORGANIZED UNDER THE LAWS OF A COUNTRY, OR ANY POLITICAL
42 SUBDIVISION THEREOF, OTHER THAN THE UNITED STATES, OR ORGANIZED UNDER
43 THE LAWS OF A POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED
44 STATES.
45 3. ANY RECEIVER, REFEREE, TRUSTEE, ASSIGNEE OR OTHER FIDUCIARY, OR ANY
46 OFFICER OR AGENT APPOINTED BY ANY COURT, WHO CONDUCTS THE BUSINESS OF
47 ANY CORPORATION, SHALL BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER
48 IN THE SAME MANNER AND TO THE SAME EXTENT AS IF THE BUSINESS WERE
49 CONDUCTED BY THE AGENTS OR OFFICERS OF SUCH CORPORATION. A DISSOLVED
50 CORPORATION WHICH CONTINUES TO CONDUCT BUSINESS SHALL ALSO BE SUBJECT TO
51 THE TAX IMPOSED BY THIS SUBCHAPTER.
52 4. (A) CORPORATIONS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE,
53 ANY TRUST COMPANY ORGANIZED UNDER A LAW OF THIS STATE ALL OF THE STOCK
54 OF WHICH IS OWNED BY NOT LESS THAN TWENTY SAVINGS BANKS ORGANIZED UNDER
55 A LAW OF THIS STATE, HOUSING COMPANIES ORGANIZED AND OPERATING PURSUANT
56 TO THE PROVISIONS OF ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW,

1 HOUSING DEVELOPMENT FUND COMPANIES ORGANIZED PURSUANT TO THE PROVISIONS
2 OF ARTICLE ELEVEN OF THE PRIVATE HOUSING FINANCE LAW, CORPORATIONS
3 DESCRIBED IN SECTION THREE OF THE TAX LAW, A CORPORATION PRINCIPALLY
4 ENGAGED IN THE OPERATION OF MARINE VESSELS WHOSE ACTIVITIES IN THE CITY
5 ARE LIMITED EXCLUSIVELY TO THE USE OF PROPERTY IN INTERSTATE OR FOREIGN
6 COMMERCE, PROVIDED, HOWEVER, SUCH A CORPORATION WILL NOT BE SUBJECT TO
7 TAX UNDER THIS SUBCHAPTER SOLELY BECAUSE IT MAINTAINS AN OFFICE IN THE
8 CITY, OR EMPLOYS CAPITAL IN THE CITY, IN CONNECTION WITH SUCH USE OF
9 PROPERTY, A CORPORATION PRINCIPALLY ENGAGED IN THE CONDUCT OF A FERRY
10 BUSINESS AND OPERATING BETWEEN ANY OF THE BOROUGHES OF THE CITY UNDER A
11 LEASE GRANTED BY THE CITY AND A CORPORATION PRINCIPALLY ENGAGED IN THE
12 CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO
13 OR MORE OF SUCH BUSINESSES, ALL OF THE CAPITAL STOCK OF WHICH IS OWNED
14 BY A MUNICIPAL CORPORATION OF THIS STATE, SHALL NOT BE SUBJECT TO TAX
15 UNDER THIS SUBCHAPTER; PROVIDED, HOWEVER, THAT ANY CORPORATION, OTHER
16 THAN (1) A UTILITY CORPORATION SUBJECT TO THE SUPERVISION OF THE STATE
17 DEPARTMENT OF PUBLIC SERVICE, AND (2) FOR TAXABLE YEARS BEGINNING ON OR
18 AFTER AUGUST FIRST, TWO THOUSAND TWO, A UTILITY AS DEFINED IN SUBDIVI-
19 SION SIX OF SECTION 11-1101 OF THIS TITLE, WHICH IS SUBJECT TO TAX UNDER
20 CHAPTER ELEVEN OF THIS TITLE AS A VENDOR OF UTILITY SERVICES, SHALL BE
21 SUBJECT TO TAX UNDER THIS SUBCHAPTER, BUT IN COMPUTING THE TAX IMPOSED
22 BY THIS SECTION PURSUANT TO THE PROVISIONS OF CLAUSE (I) OF SUBPARAGRAPH
23 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS
24 SUBCHAPTER, BUSINESS INCOME ALLOCATED TO THE CITY PURSUANT TO PARAGRAPH
25 (A) OF SUBDIVISION THREE OF SUCH SECTION SHALL BE REDUCED BY THE
26 PERCENTAGE WHICH SUCH CORPORATION'S GROSS OPERATING INCOME SUBJECT TO
27 TAX UNDER CHAPTER ELEVEN OF THIS TITLE IS OF ITS GROSS OPERATING INCOME.
28 (B) THE TERM "GROSS OPERATING INCOME", WHEN USED IN PARAGRAPH (A) OF
29 THIS SUBDIVISION, MEANS RECEIPTS RECEIVED IN OR BY REASON OF ANY TRANS-
30 ACTION HAD AND CONSUMMATED IN THE CITY, INCLUDING CASH, CREDITS AND
31 PROPERTY OF ANY KIND OR NATURE (WHETHER OR NOT SUCH TRANSACTION IS MADE
32 FOR PROFIT), WITHOUT ANY DEDUCTION THEREFROM ON ACCOUNT OF THE COST OF
33 THE PROPERTY SOLD, THE COST OF MATERIALS USED, LABOR OR OTHER SERVICES,
34 DELIVERY COSTS OR ANY OTHER COSTS WHATSOEVER, INTEREST OR DISCOUNT PAID
35 OR ANY OTHER EXPENSES WHATSOEVER.
36 (C) IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT THE APPLI-
37 CATION OF THE PROVISIO OF PARAGRAPH (A) OF THIS SUBDIVISION, DOES NOT
38 FAIRLY AND EQUITABLY REFLECT THE PORTION OF THE TAXPAYER'S BUSINESS
39 INCOME ALLOCABLE TO THE CITY WHICH IS ATTRIBUTABLE TO ITS CITY ACTIV-
40 ITIES WHICH ARE NOT TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE, THE
41 COMMISSIONER OF FINANCE MAY PRESCRIBE OTHER MEANS OR METHODS OF DETER-
42 MINING SUCH PORTION, INCLUDING THE USE OF THE BOOKS AND RECORDS OF THE
43 TAXPAYER, IF THE COMMISSIONER OF FINANCE FINDS THAT SUCH MEANS OR METH-
44 ODS USED IN KEEPING THEM FAIRLY AND EQUITABLY REFLECT SUCH PORTION.
45 5. INTENTIONALLY OMITTED.
46 6. INTENTIONALLY OMITTED.
47 7. FOR ANY TAXABLE YEAR OF A REAL ESTATE INVESTMENT TRUST, AS DEFINED
48 IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, IN
49 WHICH SUCH TRUST IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION
50 EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUCH TRUST SHALL BE SUBJECT TO A
51 TAX COMPUTED UNDER EITHER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH
52 (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, OR CLAUSE
53 (IV), WHICHEVER IS GREATER. IN THE CASE OF SUCH A REAL ESTATE INVESTMENT
54 TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS
55 CHAPTER, THE TERM "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT
56 TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF

SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER INCLUDING THE MODIFICATIONS REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.

8. FOR ANY TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, IN WHICH SUCH COMPANY IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION EIGHT HUNDRED FIFTY-TWO OF SUCH CODE, SUCH COMPANY SHALL BE SUBJECT TO A TAX COMPUTED UNDER EITHER CLAUSE ONE OR FOUR OF SUBPARAGRAPH (A) OF PARAGRAPH E OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, WHICHEVER IS GREATER. IN THE CASE OF SUCH A REGULATED INVESTMENT COMPANY, INCLUDING A CAPTIVE RIC AS DEFINED IN SECTION 11-601 OF THIS CHAPTER, THE TERM "ENTIRE NET INCOME" USED IN SUBDIVISION ONE OF THIS SECTION MEANS "INVESTMENT COMPANY TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO, AS MODIFIED BY SECTION EIGHT HUNDRED FIFTY-FIVE, OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO OF SUCH CODE SUBJECT TO THE MODIFICATIONS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, INCLUDING THE MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.

9. AN ORGANIZATION DESCRIBED IN PARAGRAPH TWO OR TWENTY-FIVE OF SUBSECTION (C) OF SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE SHALL BE EXEMPT FROM ALL TAXES IMPOSED BY THIS SUBCHAPTER.

S 11-654 COMPUTATION OF TAX. 1. (A) INTENTIONALLY OMITTED.

(B) INTENTIONALLY OMITTED.

(C) INTENTIONALLY OMITTED.

(D) INTENTIONALLY OMITTED.

(E) THE TAX IMPOSED BY SUBDIVISION ONE OF SECTION 11-653 OF THIS SUBCHAPTER SHALL BE, IN THE CASE OF EACH TAXPAYER:

(1) WHICHEVER OF THE FOLLOWING AMOUNTS IS THE GREATEST:

(I) AN AMOUNT COMPUTED ON ITS BUSINESS INCOME OR THE PORTION OF SUCH BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO THE APPLICATION OF PARAGRAPHS (J) AND (K) OF THIS SUBDIVISION AND ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS SECTION, AT THE RATE OF (1) NINE PER CENTUM FOR FINANCIAL CORPORATIONS, AS DEFINED IN THIS CLAUSE, OR (2) EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PER CENTUM FOR ALL OTHER CORPORATIONS. FOR PURPOSES OF THIS CLAUSE, "FINANCIAL CORPORATION" MEANS A CORPORATION OR, IF THE CORPORATION IS INCLUDED IN A COMBINED GROUP, A COMBINED GROUP, THAT (A) HAS TOTAL ASSETS REFLECTED ON ITS BALANCE SHEET AT THE END OF ITS TAXABLE YEAR IN EXCESS OF ONE HUNDRED BILLION DOLLARS, COMPUTED UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND (B)(I) ALLOCATES MORE THAN FIFTY PERCENT OF THE RECEIPTS INCLUDED IN THE DENOMINATOR OF ITS RECEIPTS FRACTION, DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER, PURSUANT TO SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER FOR ITS TAXABLE YEAR, OR (II) IS ITSELF OR IS INCLUDED IN A COMBINED GROUP IN WHICH MORE THAN FIFTY PERCENT OF THE TOTAL ASSETS REFLECTED ON ITS BALANCE SHEET AT THE END OF ITS TAXABLE YEAR ARE HELD BY ONE OR MORE CORPORATIONS THAT ARE CLASSIFIED AS (A) REGISTERED UNDER STATE LAW AS A BANK HOLDING COMPANY OR REGISTERED UNDER THE FEDERAL BANK HOLDING COMPANY ACT OF 1956 (12 U.S.C. S 1841, ET SEQ., AS AMENDED), OR REGISTERED AS A SAVINGS AND LOAN HOLDING COMPANY UNDER THE FEDERAL NATIONAL HOUSING ACT

1 (12 U.S.C. 1701, AS AMENDED), (B) A NATIONAL BANK ORGANIZED AND EXISTING
2 AS A NATIONAL BANK ASSOCIATION PURSUANT TO THE PROVISIONS OF THE
3 NATIONAL BANK ACT, 12 U.S.C. 21 ET. SEQ., (C) A SAVINGS ASSOCIATION OR
4 FEDERAL SAVINGS BANK AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT, 12
5 U.S.C. S 1813(B)(1), (D) A BANK, SAVINGS ASSOCIATION, OR THRIFT INSTITU-
6 TION INCORPORATED OR ORGANIZED UNDER THE LAWS OF ANY STATE, (E) A CORPO-
7 RATION ORGANIZED UNDER THE PROVISIONS OF 12 U.S.C. SS 611 TO 631, (F) AN
8 AGENCY OR BRANCH OR A FOREIGN DEPOSITORY AS DEFINED IN 12 U.S.C. S 3101,
9 (G) A REGISTERED SECURITIES OR COMMODITIES BROKER OR DEALER REGISTERED
10 AS SUCH BY THE SECURITIES AND EXCHANGE COMMISSION OR THE COMMODITIES
11 FUTURES TRADING COMMISSION, WHICH SHALL INCLUDE AN OTC DERIVATIVES DEAL-
12 ER AS DEFINED UNDER REGULATIONS OF THE SECURITIES AND EXCHANGE COMMIS-
13 SION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE OF FEDERAL REGU-
14 LATIONS (17 CFR 240.3B-12), OR (H) ANY CORPORATION WHOSE VOTING STOCK IS
15 MORE THAN FIFTY PERCENT OWNED, DIRECTLY OR INDIRECTLY, BY ANY PERSON OR
16 BUSINESS ENTITY DESCRIBED IN SUBITEMS (A) THROUGH (G) OF THIS ITEM,
17 OTHER THAN AN INSURANCE COMPANY TAXABLE UNDER ARTICLE THIRTY-THREE OF
18 THE TAX LAW; OR

19 (II) AN AMOUNT COMPUTED BY MULTIPLYING ITS TOTAL BUSINESS CAPITAL, OR
20 THE PORTION THEREOF ALLOCATED WITHIN THE CITY, AS HEREINAFTER PROVIDED,

21 (A) EXCEPT AS PROVIDED IN SUBCLAUSES (B) AND (C) OF THIS CLAUSE, BY
22 FIFTEEN ONE-HUNDREDTHS PER CENTUM;

23 (B) IN THE CASE OF A COOPERATIVE HOUSING CORPORATION AS DEFINED IN THE
24 INTERNAL REVENUE CODE, BY FOUR ONE-HUNDREDTHS PER CENTUM;

25 (C) IN THE CASE OF THE PORTION OF TOTAL BUSINESS CAPITAL DIRECTLY
26 ATTRIBUTABLE TO A CORPORATION THAT IS OR WOULD BE TAXABLE UNDER CHAPTER
27 ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS
28 TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER) OR
29 A CORPORATION THAT WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION
30 UNDER FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE
31 CODE OF THE CITY OF NEW YORK AS IN EFFECT ON JUNE THIRTIETH, NINETEEN
32 HUNDRED SEVENTY-FOUR, BY SEVEN AND ONE-HALF ONE-HUNDREDTHS PER CENTUM;
33 AND

34 (D) SUBTRACTING TEN THOUSAND DOLLARS FROM THE SUM OF THE AMOUNT OF TAX
35 COMPUTED PURSUANT TO SUBCLAUSES (A), (B) AND (C) OF THIS CLAUSE,
36 PROVIDED THAT IF SUCH AMOUNT OF TAX IS LESS THAN ZERO IT SHALL BE DEEMED
37 TO BE ZERO; AND

38 (E) PROVIDED THAT IN NO EVENT SHALL THE AMOUNT OF TAX COMPUTED PURSU-
39 ANT TO SUBCLAUSE (D) OF THIS CLAUSE ON THE TAXPAYER'S TOTAL BUSINESS
40 CAPITAL, OR THE PORTION THEREOF ALLOCATED WITHIN THE CITY, EXCEED TEN
41 MILLION DOLLARS, OR

42 (III) INTENTIONALLY OMITTED.

43 (IV) IF NEW YORK CITY RECEIPTS ARE:

FIXED DOLLAR MINIMUM
TAX IS:

44		
45	NOT MORE THAN \$100,000	\$25
46	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$75
47	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$175
48	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$500
49	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,500
50	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,500
51	MORE THAN \$25,000,000 BUT NOT OVER \$50,000,000	\$5,000
52	MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
53	MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
54	MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
55	MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
56	OVER \$1,000,000,000	\$200,000

1 FOR PURPOSES OF THIS CLAUSE, NEW YORK CITY RECEIPTS ARE THE RECEIPTS
2 COMPUTED IN ACCORDANCE WITH SECTION 11-654.2 OF THIS SUBCHAPTER FOR THE
3 TAXABLE YEAR. IF THE TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT
4 PRESCRIBED BY THIS CLAUSE SHALL BE REDUCED BY TWENTY-FIVE PERCENT IF THE
5 PERIOD FOR WHICH THE TAXPAYER IS SUBJECT TO TAX IS MORE THAN SIX MONTHS
6 BUT NOT MORE THAN NINE MONTHS AND BY FIFTY PERCENT IF THE PERIOD FOR
7 WHICH THE TAXPAYER IS SUBJECT TO TAX IS NOT MORE THAN SIX MONTHS. IF THE
8 TAXABLE YEAR IS LESS THAN TWELVE MONTHS, THE AMOUNT OF NEW YORK CITY
9 RECEIPTS FOR PURPOSES OF THIS CLAUSE IS DETERMINED BY DIVIDING THE
10 AMOUNT OF THE RECEIPTS FOR THE TAXABLE YEAR BY THE NUMBER OF MONTHS IN
11 THE TAXABLE YEAR AND MULTIPLYING THE RESULT BY TWELVE.

12 (F) INTENTIONALLY OMITTED.

13 (G) INTENTIONALLY OMITTED.

14 (H) INTENTIONALLY OMITTED.

15 (I) INTENTIONALLY OMITTED.

16 (J) (1) IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS
17 HEREINAFTER PROVIDED IS LESS THAN ONE MILLION DOLLARS, THE AMOUNT
18 COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS
19 SUBDIVISION SHALL BE AT THE RATE OF SIX AND FIVE-TENTHS PER CENTUM OF
20 THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER
21 PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E)
22 OF SUBDIVISION THREE OF THIS SECTION;

23 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE AMOUNT OF
24 BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS ONE
25 MILLION DOLLARS OR GREATER BUT LESS THAN ONE MILLION FIVE HUNDRED THOU-
26 SAND DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF
27 PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF (I) SIX AND
28 FIVE-TENTHS PER CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER
29 CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED
30 BUSINESS INCOME LESS ONE MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS
31 FIVE HUNDRED THOUSAND DOLLARS, OF THE AMOUNT OF BUSINESS INCOME ALLO-
32 CATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICA-
33 TION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS
34 SECTION;

35 (3) PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF
36 THE AMOUNT OF BUSINESS INCOME BEFORE ALLOCATION IS TWO MILLION DOLLARS
37 OR GREATER BUT LESS THAN THREE MILLION DOLLARS, THE RATE OF TAX PROVIDED
38 FOR IN THIS PARAGRAPH SHALL NOT BE LESS THAN (I) SIX AND FIVE-TENTHS PER
39 CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER CENTUM MULTI-
40 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS BUSINESS INCOME BEFORE
41 ALLOCATION LESS TWO MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS ONE
42 MILLION DOLLARS, AND PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE
43 CONTRARY, IF THE AMOUNT OF BUSINESS INCOME BEFORE ALLOCATION IS THREE
44 MILLION DOLLARS OR GREATER, THE RATE OF TAX SHALL BE EIGHT AND
45 EIGHTY-FIVE ONE-HUNDREDTHS PERCENTUM OR, IN THE CASE OF A FINANCIAL
46 CORPORATION, AS DEFINED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH
47 (E) OF SUBDIVISION ONE OF SECTION 11-654, IF THE AMOUNT OF BUSINESS
48 INCOME BEFORE ALLOCATION IS THREE MILLION DOLLARS OR GREATER THE RATE OF
49 TAX SHALL BE NINE PER CENTUM.

50 (K)(1) FOR QUALIFIED NEW YORK MANUFACTURING CORPORATIONS AS DEFINED IN
51 SUBPARAGRAPH FOUR OF THIS PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME
52 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS LESS THAN TEN
53 MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE
54 OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF FOUR AND
55 FOUR HUNDRED TWENTY-FIVE ONE THOUSANDTHS PER CENTUM, OF ITS BUSINESS
56 INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY

1 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF
2 THIS SECTION;

3 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH FOR QUALIFIED NEW
4 YORK MANUFACTURING CORPORATIONS AS DEFINED IN SUBPARAGRAPH FOUR OF THIS
5 PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS
6 HEREINAFTER PROVIDED IS TEN MILLION DOLLARS OR GREATER BUT LESS THAN
7 TWENTY MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARA-
8 GRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF
9 (I) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUSANDTHS PER CENTUM, PLUS
10 (II) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUSANDTHS PER CENTUM MULTI-
11 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED BUSINESS INCOME
12 LESS TEN MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS TEN MILLION
13 DOLLARS, OF ITS BUSINESS INCOME OR THE PORTION OF SUCH BUSINESS INCOME
14 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY
15 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF
16 THIS SECTION;

17 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF BUSI-
18 NESS INCOME BEFORE ALLOCATION IS TWENTY MILLION DOLLARS OR GREATER BUT
19 LESS THAN FORTY MILLION DOLLARS, THE RATE OF TAX PROVIDED FOR IN THIS
20 PARAGRAPH SHALL NOT BE LESS THAN (I) FOUR AND FOUR HUNDRED TWENTY-FIVE
21 ONE THOUSANDTHS PERCENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-FIVE
22 ONE THOUSANDTHS PERCENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF
23 WHICH IS BUSINESS INCOME BEFORE ALLOCATION LESS TWENTY MILLION DOLLARS
24 AND THE DENOMINATOR OF WHICH IS TWENTY MILLION DOLLARS, AND PROVIDED,
25 HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF
26 BUSINESS INCOME BEFORE ALLOCATION IS FORTY MILLION DOLLARS OR GREATER,
27 THE RATE OF TAX SHALL BE EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS PER
28 CENTUM.

29 (4)(I) AS USED IN THIS SUBPARAGRAPH, THE TERM "MANUFACTURING CORPO-
30 RATION" MEANS A CORPORATION PRINCIPALLY ENGAGED IN THE MANUFACTURING AND
31 SALE THEREOF OF TANGIBLE PERSONAL PROPERTY; AND THE TERM "MANUFACTURING"
32 INCLUDES THE PROCESS (INCLUDING THE ASSEMBLY PROCESS) (A) OF WORKING RAW
33 MATERIALS INTO WARES SUITABLE FOR USE OR (B) WHICH GIVES NEW SHAPES, NEW
34 QUALITIES OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH
35 SOME ARTIFICIAL PROCESS, BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND
36 OTHER SIMILAR EQUIPMENT. MOREOVER, IN THE CASE OF A COMBINED REPORT, A
37 COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURING CORPORATION" FOR
38 PURPOSES OF THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE
39 TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS
40 PARAGRAPH, OR ANY COMBINATION THEREOF. A TAXPAYER OR, IN THE CASE OF A
41 COMBINED REPORT, A COMBINED GROUP, SHALL BE "PRINCIPALLY ENGAGED" IN
42 ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY
43 PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPEC-
44 TIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY
45 SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTER-
46 CORPORATE RECEIPTS SHALL BE ELIMINATED.

47 (II) A "QUALIFIED NEW YORK MANUFACTURING CORPORATION" IS A MANUFACTUR-
48 ING CORPORATION THAT HAS PROPERTY IN THE STATE WHICH IS DESCRIBED IN
49 SUBPARAGRAPH FIVE OF THIS PARAGRAPH AND EITHER (A) THE ADJUSTED BASIS OF
50 SUCH PROPERTY FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXA-
51 BLE YEAR IS AT LEAST ONE MILLION DOLLARS OR (B) MORE THAN FIFTY PERCENT-
52 TUM OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN THE STATE.

53 (5) FOR PURPOSES OF SUBCLAUSE (A) OF CLAUSE (II) OF SUBPARAGRAPH FOUR
54 OF THIS PARAGRAPH, PROPERTY INCLUDES TANGIBLE PERSONAL PROPERTY AND
55 OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS
56 OF BUILDINGS, WHICH ARE: DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED

1 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVE A USEFUL LIFE OF FOUR
2 YEARS OR MORE, ARE ACQUIRED BY PURCHASE AS DEFINED IN SUBSECTION (D) OF
3 SECTION ONE HUNDRED SEVENTY-NINE OF THE INTERNAL REVENUE CODE, HAVE A
4 SITUS IN THE STATE AND ARE PRINCIPALLY USED BY THE TAXPAYER IN THE
5 PRODUCTION OF GOODS BY MANUFACTURING. PROPERTY USED IN THE PRODUCTION OF
6 GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY
7 WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY,
8 EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION
9 OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERA-
10 TION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE
11 PRODUCTS THAT ARE PRODUCED.

12 2. THE AMOUNT OF INVESTMENT CAPITAL AND BUSINESS CAPITAL SHALL BE
13 DETERMINED BY TAKING THE AVERAGE VALUE OF THE GROSS ASSETS INCLUDED
14 THEREIN (LESS LIABILITIES DEDUCTIBLE THEREFROM PURSUANT TO THE
15 PROVISIONS OF SUBDIVISIONS FOUR AND SIX OF SECTION 11-652 OF THIS
16 SUBCHAPTER), AND, IF THE PERIOD COVERED BY THE REPORT IS OTHER THAN A
17 PERIOD OF TWELVE CALENDAR MONTHS, BY MULTIPLYING SUCH VALUE BY THE
18 NUMBER OF CALENDAR MONTHS OR MAJOR PARTS THEREOF INCLUDED IN SUCH PERI-
19 OD, AND DIVIDING THE PRODUCT THUS OBTAINED BY TWELVE. FOR PURPOSES OF
20 THIS SUBDIVISION, REAL PROPERTY AND MARKETABLE SECURITIES SHALL BE
21 VALUED AT FAIR MARKET VALUE AND THE VALUE OF PERSONAL PROPERTY OTHER
22 THAN MARKETABLE SECURITIES SHALL BE THE VALUE THEREOF SHOWN ON THE BOOKS
23 AND RECORDS OF THE TAXPAYER IN ACCORDANCE WITH GENERALLY ACCEPTED
24 ACCOUNTING PRINCIPLES.

25 3. THE PORTION OF THE BUSINESS INCOME OF A TAXPAYER TO BE ALLOCATED TO
26 THE CITY SHALL BE DETERMINED AS FOLLOWS:

27 (A) MULTIPLY ITS BUSINESS INCOME BY A BUSINESS ALLOCATION PERCENTAGE
28 TO BE DETERMINED BY:

29 (1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE TAXPAY-
30 ER'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT,
31 WITHIN THE CITY DURING THE PERIOD COVERED BY ITS REPORT BEARS TO THE
32 AVERAGE VALUE OF ALL THE TAXPAYER'S REAL AND TANGIBLE PERSONAL PROPERTY,
33 WHETHER OWNED OR RENTED TO IT, WHEREVER SITUATED DURING SUCH PERIOD. FOR
34 THE PURPOSE OF THIS SUBPARAGRAPH, THE TERM "VALUE OF THE TAXPAYER'S REAL
35 AND TANGIBLE PERSONAL PROPERTY" SHALL MEAN THE ADJUSTED BASES OF SUCH
36 PROPERTIES FOR FEDERAL INCOME TAX PURPOSES (EXCEPT THAT IN THE CASE OF
37 RENTED PROPERTY SUCH VALUE SHALL MEAN THE PRODUCT OF (I) EIGHT AND (II)
38 THE GROSS RENTS PAYABLE FOR THE RENTAL OF SUCH PROPERTY DURING THE TAXA-
39 BLE YEAR); PROVIDED, HOWEVER, THAT THE TAXPAYER MAY MAKE A ONE-TIME,
40 REVOCABLE ELECTION, PURSUANT TO REGULATIONS PROMULGATED BY THE COMMIS-
41 SIONER OF FINANCE TO USE FAIR MARKET VALUE AS THE VALUE OF ALL OF ITS
42 REAL AND TANGIBLE PERSONAL PROPERTY, PROVIDED THAT SUCH ELECTION IS MADE
43 ON OR BEFORE THE DUE DATE FOR FILING A REPORT UNDER SECTION 11-655 OF
44 THIS SUBCHAPTER FOR THE TAXPAYER'S FIRST TAXABLE YEAR COMMENCING ON OR
45 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND PROVIDED THAT SUCH
46 ELECTION SHALL NOT APPLY TO ANY TAXABLE YEAR WITH RESPECT TO WHICH THE
47 TAXPAYER IS INCLUDED ON A COMBINED REPORT UNLESS EACH OF THE TAXPAYERS
48 INCLUDED ON SUCH REPORT HAS MADE SUCH AN ELECTION WHICH REMAINS IN
49 EFFECT FOR SUCH YEAR OR TO ANY TAXPAYER THAT WAS SUBJECT TO TAX UNDER
50 SUBCHAPTER TWO OF THIS CHAPTER AND DID NOT HAVE AN ELECTION IN EFFECT
51 UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
52 11-604 OF THIS CHAPTER ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;

53 (2) ASCERTAINING THE PERCENTAGE DETERMINED UNDER SECTION 11-654.2 OF
54 THIS SUBCHAPTER;

55 (3) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER
56 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF

1 EMPLOYEES WITHIN THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS, TO THE
2 TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY
3 COMPUTED, DURING SUCH PERIOD OF ALL THE TAXPAYER'S EMPLOYEES WITHIN AND
4 WITHOUT THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS; AND
5 (4) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE
6 RESULT BY THE NUMBER OF PERCENTAGES.
7 (5) INTENTIONALLY OMITTED.
8 (6) INTENTIONALLY OMITTED.
9 (7) INTENTIONALLY OMITTED.
10 (8) INTENTIONALLY OMITTED.
11 (9) INTENTIONALLY OMITTED.
12 (10) NOTWITHSTANDING SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH,
13 THE BUSINESS ALLOCATION PERCENTAGE, TO THE EXTENT THAT IT IS COMPUTED BY
14 REFERENCE TO THE PERCENTAGES DETERMINED UNDER SUBPARAGRAPHS ONE, TWO AND
15 THREE OF THIS PARAGRAPH, SHALL BE COMPUTED IN THE MANNER SET FORTH IN
16 THIS SUBPARAGRAPH.
17 (I) INTENTIONALLY OMITTED.
18 (II) INTENTIONALLY OMITTED.
19 (III) INTENTIONALLY OMITTED.
20 (IV) INTENTIONALLY OMITTED.
21 (V) INTENTIONALLY OMITTED.
22 (VI) INTENTIONALLY OMITTED.
23 (VII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSI-
24 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
25 FOLLOWING PERCENTAGES:
26 (A) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER
27 SUBPARAGRAPH ONE OF THIS PARAGRAPH;
28 (B) THE PRODUCT OF EIGHTY PERCENT AND THE PERCENTAGE DETERMINED UNDER
29 SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND
30 (C) THE PRODUCT OF TEN PERCENT AND THE PERCENTAGE DETERMINED UNDER
31 SUBPARAGRAPH THREE OF THIS PARAGRAPH.
32 (VIII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSI-
33 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
34 FOLLOWING PERCENTAGES:
35 (A) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-
36 MINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;
37 (B) THE PRODUCT OF EIGHTY-SEVEN PERCENT AND THE PERCENTAGE DETERMINED
38 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND
39 (C) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-
40 MINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.
41 (IX) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSI-
42 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
43 FOLLOWING PERCENTAGES:
44 (A) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE
45 DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;
46 (B) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED
47 UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND
48 (C) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE
49 DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.
50 (X) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND SEVENTEEN, THE
51 BUSINESS ALLOCATION PERCENTAGE SHALL BE THE PERCENTAGE DETERMINED UNDER
52 SUBPARAGRAPH TWO OF THIS PARAGRAPH.
53 (XI) THE COMMISSIONER OF FINANCE SHALL PROMULGATE RULES NECESSARY TO
54 IMPLEMENT THE PROVISIONS OF THIS SUBPARAGRAPH UNDER SUCH CIRCUMSTANCES
55 WHERE ANY OF THE PERCENTAGES TO BE DETERMINED UNDER SUBPARAGRAPH ONE,

TWO OR THREE OF THIS PARAGRAPH CANNOT BE DETERMINED BECAUSE THE TAXPAYER HAS NO PROPERTY, RECEIPTS OR WAGES WITHIN OR WITHOUT THE CITY.

(XII) NOTWITHSTANDING THE PROVISIONS OF CLAUSES (VIII), (IX), AND (X) OF THIS SUBPARAGRAPH, FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN, A TAXPAYER THAT HAS FIFTY MILLION DOLLARS OR LESS OF RECEIPTS ALLOCATED TO THE CITY AS DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP, A COMBINED GROUP THAT HAS FIFTY MILLION DOLLARS OR LESS OF RECEIPTS ALLOCATED TO THE CITY AS DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER, MAY MAKE A ONE-TIME ELECTION TO DETERMINE ITS BUSINESS ALLOCATION PERCENTAGE BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

(A) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;

(B) THE PRODUCT OF NINETY-THREE PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH; AND

(C) THE PRODUCT OF THREE AND ONE-HALF PERCENT AND THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

THE ELECTION PROVIDED FOR IN THIS CLAUSE MUST BE MADE ON AN ORIGINAL OR AMENDED REPORT FILED PURSUANT TO SECTION 11-655 OF THIS SUBCHAPTER FOR THE TAXPAYER'S OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP, THE COMBINED GROUP'S, FIRST TAXABLE YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN AND SHALL REMAIN IN EFFECT UNTIL REVOKED BY THE TAXPAYER, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP, THE COMBINED GROUP. AN ELECTION SHALL BE REVOKED UNDER THIS CLAUSE ON AN ORIGINAL OR AMENDED REPORT FILED PURSUANT TO SECTION 11-655 OF THIS SUBCHAPTER FOR THE TAXPAYER'S, OR IF THE TAXPAYER IS INCLUDED IN A COMBINED GROUP, THE COMBINED GROUP'S, FIRST TAXABLE YEAR WITH RESPECT TO WHICH SUCH REVOCATION IS TO BE EFFECTIVE. IF THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, AN ELECTION OR REVOCATION BY THE TAXPAYER UNDER THIS CLAUSE SHALL APPLY TO ALL MEMBERS OF THE COMBINED GROUP.

(11) A FOREIGN AIR CARRIER DESCRIBED IN THE FIRST SENTENCE OF SUBPARAGRAPH ONE OF PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER SHALL DETERMINE ITS BUSINESS ALLOCATION PERCENTAGE PURSUANT TO SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH, AS MODIFIED BY SUBPARAGRAPH TEN OF THIS PARAGRAPH, EXCEPT THAT THE NUMERATORS AND DENOMINATORS INVOLVED IN SUCH COMPUTATION SHALL EXCLUDE PROPERTY TO THE EXTENT EMPLOYED IN GENERATING INCOME EXCLUDED FROM ENTIRE NET INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, EXCLUDE SUCH RECEIPTS AS ARE EXCLUDED FROM ENTIRE NET INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, AND EXCLUDE WAGES, SALARIES OR OTHER PERSONAL SERVICE COMPENSATION WHICH ARE DIRECTLY ATTRIBUTABLE TO THE GENERATION OF INCOME EXCLUDED FROM ENTIRE NET INCOME FOR THE TAXABLE YEAR PURSUANT TO PARAGRAPH (C-1) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER.

(B) INTENTIONALLY OMITTED.

(C) INTENTIONALLY OMITTED.

(D) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION 11-604 OF THIS CHAPTER OR SUBDIVISION (K) OF SECTION 11-641 OF THIS CHAPTER IN ANY PERIOD IN WHICH THE TAXPAYER WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING INTO THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN

1 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR
2 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO
3 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO
4 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION
5 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-
6 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR
7 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS
8 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
9 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

10 (E) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
11 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO
12 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION
13 11-604 OF THIS CHAPTER IN ANY PERIOD THE TAXPAYER WAS SUBJECT TO TAX
14 UNDER SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING
15 INTO THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN
16 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED
17 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN
18 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR
19 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO
20 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO
21 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION
22 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-
23 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR
24 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS
25 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
26 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

27 4. THE PORTION OF THE BUSINESS CAPITAL OF A TAXPAYER TO BE ALLOCATED
28 WITHIN THE CITY SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT THEREOF BY
29 THE BUSINESS ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED.

30 4-A. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE
31 TAX UNDER THIS SUBCHAPTER USING ANY METHOD REQUIRED OR PERMITTED IN
32 REGULATIONS OF THE COMMISSIONER OF FINANCE.

33 5. INTENTIONALLY OMITTED.

34 6. INTENTIONALLY OMITTED.

35 7. INTENTIONALLY OMITTED.

36 8. INTENTIONALLY OMITTED.

37 9. IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY BUSINESS
38 ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED DOES NOT PROP-
39 ERLY REFLECT THE ACTIVITY, BUSINESS, INCOME OR CAPITAL OF A TAXPAYER
40 WITHIN THE CITY, THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED IN HIS
41 OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY REQUEST THAT THE
42 COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE OR MORE OF THE
43 FACTORS THEREIN, (B) INCLUDING ONE OR MORE OTHER FACTORS, SUCH AS
44 EXPENSES, PURCHASES, CONTRACT VALUES (MINUS SUBCONTRACT VALUES), (C)
45 EXCLUDING ONE OR MORE ASSETS IN COMPUTING SUCH ALLOCATION PERCENTAGE,
46 PROVIDED THE INCOME THEREFROM, IS ALSO EXCLUDED IN DETERMINING ENTIRE
47 NET INCOME, OR (D) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO
48 EFFECT A FAIR AND PROPER ALLOCATION OF THE INCOME AND CAPITAL REASONABLY
49 ATTRIBUTABLE TO THE CITY. THE PARTY SEEKING THE ADJUSTMENT SHALL BEAR
50 THE BURDEN OF PROOF TO DEMONSTRATE THAT THE BUSINESS ALLOCATION PERCENT-
51 AGE DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN A PROPER
52 REFLECTION OF THE TAXPAYER'S INCOME OR CAPITAL WITHIN THE CITY AND THAT
53 THE PROPOSED ADJUSTMENT IS APPROPRIATE. THE COMMISSIONER OF FINANCE
54 FROM TIME TO TIME SHALL PUBLISH ALL RULINGS OF GENERAL PUBLIC INTEREST
55 WITH RESPECT TO ANY APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION.

56 10. INTENTIONALLY OMITTED.

11. INTENTIONALLY OMITTED.

12. INTENTIONALLY OMITTED.

13. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED WITHOUT INTEREST, IN THE MANNER HEREINAFTER PROVIDED IN THIS SECTION.

(1)(I) WHERE A TAXPAYER SHALL HAVE RELOCATED TO THE CITY FROM A LOCATION OUTSIDE THE STATE, AND BY SUCH RELOCATION SHALL HAVE CREATED A MINIMUM OF ONE HUNDRED INDUSTRIAL OR COMMERCIAL EMPLOYMENT OPPORTUNITIES; AND WHERE SUCH TAXPAYER SHALL HAVE ENTERED INTO A WRITTEN LEASE FOR THE RELOCATION PREMISES, THE TERMS OF WHICH LEASE PROVIDE FOR INCREASED ADDITIONAL PAYMENTS TO THE LANDLORD WHICH ARE BASED SOLELY AND DIRECTLY UPON ANY INCREASE OR ADDITION IN REAL ESTATE TAXES IMPOSED ON THE LEASED PREMISES, THE TAXPAYER UPON APPROVAL AND CERTIFICATION BY THE INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD AS HEREINAFTER PROVIDED SHALL BE ENTITLED TO A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF SUCH CREDIT SHALL BE AN AMOUNT EQUAL TO THE ANNUAL INCREASED PAYMENTS ACTUALLY MADE BY THE TAXPAYER TO THE LANDLORD WHICH ARE SOLELY AND DIRECTLY ATTRIBUTABLE TO AN INCREASE OR ADDITION TO THE REAL ESTATE TAX IMPOSED UPON THE LEASED PREMISES. SUCH CREDIT SHALL BE ALLOWED ONLY TO THE EXTENT THAT THE TAXPAYER HAS NOT OTHERWISE CLAIMED SAID AMOUNT AS A DEDUCTION AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER.

(II) THE INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD IN APPROVING AND CERTIFYING TO THE QUALIFICATIONS OF THE TAXPAYER TO RECEIVE THE TAX CREDIT PROVIDED FOR HEREIN SHALL FIRST DETERMINE THAT THE APPLICANT HAS MET THE REQUIREMENTS OF THIS SECTION, AND FURTHER, THAT THE GRANTING OF THE TAX CREDIT TO THE APPLICANT IS IN THE "PUBLIC INTEREST". IN DETERMINING THAT THE GRANTING OF THE TAX CREDIT IS IN THE PUBLIC INTEREST, THE BOARD SHALL MAKE AFFIRMATIVE FINDINGS THAT: THE GRANTING OF THE TAX CREDIT TO THE APPLICANT WILL NOT EFFECT AN UNDUE HARDSHIP ON SIMILAR TAXPAYERS ALREADY LOCATED WITHIN THE CITY; THE EXISTENCE OF THIS TAX INCENTIVE HAS BEEN INSTRUMENTAL IN BRINGING ABOUT THE RELOCATION OF THE APPLICANT TO THE CITY; AND THE GRANTING OF THE TAX CREDIT WILL FOSTER THE ECONOMIC RECOVERY AND ECONOMIC DEVELOPMENT OF THE CITY.

(III) THE TAX CREDIT, IF APPROVED AND CERTIFIED BY THE INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD, MUST BE UTILIZED ANNUALLY BY THE TAXPAYER FOR THE LENGTH OF THE TERM OF THE LEASE OR FOR A PERIOD NOT TO EXCEED TEN YEARS FROM THE DATE OF RELOCATION WHICHEVER PERIOD IS SHORTER.

(2) WHEN USED IN THIS SUBDIVISION:

(I) "EMPLOYMENT OPPORTUNITY" MEANS THE CREATION OF A FULL TIME POSITION OF GAINFUL EMPLOYMENT FOR AN INDUSTRIAL OR COMMERCIAL EMPLOYEE AND THE ACTUAL HIRING OF SUCH EMPLOYEE FOR THE SAID POSITION.

(II) "INDUSTRIAL EMPLOYEE" MEANS ONE ENGAGED IN THE MANUFACTURE OR ASSEMBLING OF TANGIBLE GOODS OR THE PROCESSING OF RAW MATERIALS.

(III) "COMMERCIAL EMPLOYEE" MEANS ONE ENGAGED IN THE BUYING, SELLING OR OTHERWISE PROVIDING OF GOODS OR SERVICES OTHER THAN ON A RETAIL BASIS.

(IV) "RETAIL" MEANS THE SELLING OR OTHERWISE DISPOSING OR FURNISHING OF TANGIBLE GOODS OR SERVICES DIRECTLY TO THE ULTIMATE USER OR CONSUMER.

(V) "FULL TIME POSITION" MEANS THE HIRING OF AN INDUSTRIAL OR COMMERCIAL EMPLOYEE IN A POSITION OF GAINFUL EMPLOYMENT WHERE THE NUMBER OF HOURS WORKED BY SUCH EMPLOYEES IS NOT LESS THAN THIRTY HOURS DURING ANY GIVEN WORK WEEK.

(VI) "INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD" MEANS THE BOARD CREATED PURSUANT TO PART THREE OF SUBCHAPTER TWO OF CHAPTER TWO OF THIS TITLE.

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER.

14. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED WITHOUT INTEREST, IN THE MANNER HEREINAFTER PROVIDED IN THIS SECTION. THE AMOUNT OF SUCH CREDIT SHALL BE:

(1) A MAXIMUM OF THREE HUNDRED DOLLARS FOR EACH COMMERCIAL EMPLOYMENT OPPORTUNITY AND A MAXIMUM OF FIVE HUNDRED DOLLARS FOR EACH INDUSTRIAL EMPLOYMENT OPPORTUNITY RELOCATED TO THE CITY FROM AN AREA OUTSIDE THE STATE. SUCH CREDIT SHALL BE ALLOWED TO A TAXPAYER WHO RELOCATES A MINIMUM OF TEN EMPLOYMENT OPPORTUNITIES. THE CREDIT SHALL BE ALLOWED AGAINST EMPLOYMENT OPPORTUNITY RELOCATION COSTS INCURRED BY THE TAXPAYER. SUCH CREDIT SHALL BE ALLOWED ONLY TO THE EXTENT THAT THE TAXPAYER HAS NOT CLAIMED A DEDUCTION FOR ALLOWABLE EMPLOYMENT OPPORTUNITY RELOCATION COSTS. THE CREDIT ALLOWED HEREUNDER MAY BE TAKEN BY THE TAXPAYER IN WHOLE OR IN PART IN THE YEAR IN WHICH THE EMPLOYMENT OPPORTUNITY IS RELOCATED BY SUCH TAXPAYER OR EITHER OF THE TWO YEARS SUCCEEDING SUCH EVENT, PROVIDED, HOWEVER, NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO A TAXPAYER FOR INDUSTRIAL EMPLOYMENT OPPORTUNITIES RELOCATED TO PREMISES (I) THAT ARE WITHIN AN INDUSTRIAL BUSINESS ZONE ESTABLISHED PURSUANT TO SECTION 22-626 OF THIS CODE AND (II) FOR WHICH A BINDING CONTRACT TO PURCHASE OR LEASE WAS FIRST ENTERED INTO BY THE TAXPAYER ON OR AFTER JULY FIRST, TWO THOUSAND FIVE.

THE COMMISSIONER OF FINANCE IS EMPOWERED TO PROMULGATE RULES AND REGULATIONS AND TO PRESCRIBE THE FORM OF APPLICATION TO BE USED BY A TAXPAYER SEEKING THE CREDIT PROVIDED HEREUNDER.

(2) WHEN USED IN THIS SUBDIVISION:

(I) "EMPLOYMENT OPPORTUNITY" MEANS THE CREATION OF A FULL TIME POSITION OF GAINFUL EMPLOYMENT FOR AN INDUSTRIAL OR COMMERCIAL EMPLOYEE AND THE ACTUAL HIRING OF SUCH EMPLOYEE FOR THE SAID POSITION.

(II) "INDUSTRIAL EMPLOYEE" MEANS ONE ENGAGED IN THE MANUFACTURE OR ASSEMBLING OF TANGIBLE GOODS OR THE PROCESSING OF RAW MATERIALS.

(III) "COMMERCIAL EMPLOYEE" MEANS ONE ENGAGED IN THE BUYING, SELLING OR OTHERWISE PROVIDING OF GOODS OR SERVICES OTHER THAN ON A RETAIL BASIS.

(IV) "RETAIL" MEANS THE SELLING OR OTHERWISE DISPOSING OF TANGIBLE GOODS DIRECTLY TO THE ULTIMATE USER OR CONSUMER.

(V) "FULL TIME POSITION" MEANS THE HIRING OF AN INDUSTRIAL OR COMMERCIAL EMPLOYEE IN A POSITION OF GAINFUL EMPLOYMENT WHERE THE NUMBER OF HOURS WORKED BY SUCH EMPLOYEE IS NOT LESS THAN THIRTY HOURS DURING ANY GIVEN WORK WEEK.

(VI) "EMPLOYMENT OPPORTUNITY RELOCATION COSTS" MEANS THE COSTS INCURRED BY THE TAXPAYER IN MOVING FURNITURE, FILES, PAPERS AND OFFICE EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS INCURRED BY THE TAXPAYER IN THE MOVING AND INSTALLATION OF MACHINERY AND EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS OF INSTALLATION OF TELEPHONES AND OTHER COMMUNICATIONS EQUIPMENT REQUIRED AS A RESULT OF THE RELOCATION TO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COST INCURRED IN THE PURCHASE OF OFFICE FURNITURE AND FIXTURES REQUIRED AS A RESULT OF THE RELOCATION TO THE CITY FROM A LOCATION OUTSIDE THE STATE; AND THE COST OF RENOVATION OF THE PREMISES TO BE OCCUPIED AS A RESULT OF THE RELOCATION; PROVIDED, HOWEVER, THAT SUCH RENOVATION COSTS SHALL BE ALLOWABLE ONLY TO THE EXTENT THAT THEY DO

1 NOT EXCEED SEVENTY-FIVE CENTS PER SQUARE FOOT OF THE TOTAL AREA UTILIZED
2 BY THE TAXPAYER IN THE OCCUPIED PREMISES.

3 (B) THE CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL
4 BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CREDITED OR
5 REFUNDED WITHOUT INTEREST IN ACCORDANCE WITH THE PROVISIONS OF SECTION
6 11-677 OF THIS CHAPTER.

7 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
8 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
9 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
10 FORTH IN SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER FOR AN
11 ELIGIBLE EMPLOYMENT RELOCATION, A CREDIT SHALL BE ALLOWED TO THE TAXPAY-
12 ER UNDER THIS SUBDIVISION FOR ANY TAX YEAR BEGINNING ON OR AFTER JANUARY
13 FIRST, TWO THOUSAND FIFTEEN, IN THE SAME AMOUNT AND TO THE SAME EXTENT
14 THAT A CREDIT, OR THE UNUSED PORTION THEREOF, WOULD HAVE BEEN ALLOWED
15 UNDER SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER, AS IN
16 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVI-
17 SION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

18 15. INTENTIONALLY OMITTED.

19 16. INTENTIONALLY OMITTED.

20 17. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A
21 TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-B
22 OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE
23 TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE
24 AMOUNT DETERMINED BY MULTIPLYING FIVE HUNDRED DOLLARS OR, IN THE CASE OF
25 A TAXPAYER THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE
26 TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST,
27 NINETEEN HUNDRED NINETY-FIVE, ONE THOUSAND DOLLARS OR, IN THE CASE OF AN
28 ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH
29 TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY
30 FIRST, TWO THOUSAND, FOR A RELOCATION TO ELIGIBLE PREMISES LOCATED WITH-
31 IN A REVITALIZATION AREA DEFINED IN SUBDIVISION (N) OF SECTION 22-621 OF
32 THIS CODE, THREE THOUSAND DOLLARS, BY THE NUMBER OF ELIGIBLE AGGREGATE
33 EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR
34 WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED;
35 PROVIDED, HOWEVER, WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION
36 FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO
37 THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE NOT WITHIN A REVITALIZA-
38 TION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO
39 SUBDIVISION (J) OF SECTION 22-621 OF THIS CODE IS BEFORE JULY FIRST,
40 NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER
41 OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS,
42 AND WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIF-
43 ICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND
44 THREE, TO ELIGIBLE PREMISES THAT ARE WITHIN A REVITALIZATION AREA, IF
45 THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF
46 SUCH SECTION IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE
47 AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT
48 SHARES SHALL BE FIVE HUNDRED DOLLARS, AND IF THE DATE OF SUCH RELOCATION
49 AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS ON OR AFTER
50 JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, AND BEFORE JULY FIRST, TWO
51 THOUSAND, ONE THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NO CREDIT SHALL
52 BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES;
53 PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-
54 SION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF
55 SECTION 22-622 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS
56 TAX IMPOSED BY CHAPTER ELEVEN OF THIS TITLE; AND PROVIDED THAT IN THE

1 CASE OF AN ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B
2 OF SUCH TITLE TWENTY-TWO CERTIFICATIONS OF ELIGIBILITY FOR MORE THAN ONE
3 RELOCATION, THE PORTION OF THE TOTAL AMOUNT OF ELIGIBLE AGGREGATE
4 EMPLOYMENT SHARES TO BE MULTIPLIED BY THE DOLLAR AMOUNT SPECIFIED IN
5 THIS SUBDIVISION FOR EACH SUCH CERTIFICATION OF A RELOCATION SHALL BE
6 THE NUMBER OF TOTAL ATTRIBUTED ELIGIBLE AGGREGATE EMPLOYMENT SHARES
7 DETERMINED WITH RESPECT TO SUCH RELOCATION PURSUANT TO SUBDIVISION (O)
8 OF SECTION 22-621 OF THIS CODE. FOR PURPOSES OF THIS SUBDIVISION, THE
9 TERMS "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "RELOCATE," "RETAIL ACTIV-
10 ITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED BY SECTION
11 22-621 OF THIS CODE.

12 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE
13 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO PARTICULAR PREM-
14 ISSES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE FIRST
15 TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE
16 MAINTAINED WITH RESPECT TO SUCH PREMISES AND FOR ANY OF THE TWELVE
17 SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT
18 SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES; PROVIDED THAT THE
19 CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCU-
20 LATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES
21 MAINTAINED WITH RESPECT TO SUCH PREMISES IN THE TWELFTH SUCCEEDING TAXA-
22 BLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS
23 SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF
24 DAYS THE ELIGIBLE BUSINESS MAINTAINED EMPLOYMENT SHARES IN THE ELIGIBLE
25 PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH
26 IS THE NUMBER OF DAYS IN SUCH TWELFTH SUCCEEDING TAXABLE YEAR DURING
27 WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH
28 RESPECT TO SUCH PREMISES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS
29 SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-
30 SION FOR ANY TAXABLE YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE
31 EXCESS MAY BE CARRIED OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING
32 TAXABLE YEARS AND, TO THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE
33 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEARS.

34 (C) THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE DEDUCTED
35 AFTER THE CREDIT ALLOWED BY SUBDIVISION EIGHTEEN OF THIS SECTION, BUT
36 PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS SECTION.

37 (D) IN THE CASE OF A TAXPAYER THAT HAS OBTAINED A CERTIFICATION OF
38 ELIGIBILITY PURSUANT TO CHAPTER SIX-B OF TITLE TWENTY-TWO OF THIS CODE
39 DATED ON OR AFTER JULY FIRST, TWO THOUSAND FOR A RELOCATION TO ELIGIBLE
40 PREMISES LOCATED WITHIN THE REVITALIZATION AREA DEFINED IN SUBDIVISION
41 (N) OF SECTION 22-621 OF THIS CODE, THE CREDITS ALLOWED UNDER THIS
42 SUBDIVISION, OR IN THE CASE OF A TAXPAYER THAT HAS RELOCATED MORE THAN
43 ONCE, THE PORTION OF SUCH CREDITS ATTRIBUTED TO SUCH CERTIFICATION OF
44 ELIGIBILITY PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, AGAINST THE
45 TAX IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF SUCH RELOCATION AND
46 FOR THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF
47 SUCH RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE
48 TAXPAYER TO BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE
49 WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE
50 YEARS, SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY
51 SUCCEEDING TAXABLE YEAR; PROVIDED, HOWEVER, THAT THIS PARAGRAPH SHALL
52 NOT APPLY TO ANY RELOCATION FOR WHICH AN APPLICATION FOR A CERTIFICATION
53 OF ELIGIBILITY WAS NOT SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND
54 THREE, UNLESS THE DATE OF SUCH RELOCATION IS ON OR AFTER JULY FIRST, TWO
55 THOUSAND.

1 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
2 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-
3 TER SIX-B OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-
4 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,
5 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION SEVENTEEN OF
6 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS CHAPTER FOR
7 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER
8 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR
9 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE
10 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION
11 SEVENTEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS
12 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,
13 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE
14 YEAR.

15 17-A. INTENTIONALLY OMITTED.

16 17-B. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, AN
17 ELIGIBLE BUSINESS THAT FIRST ENTERS INTO A BINDING CONTRACT ON OR AFTER
18 JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR LEASE ELIGIBLE PREMISES TO
19 WHICH IT RELOCATES SHALL BE ALLOWED A ONE-TIME CREDIT AGAINST THE TAX
20 IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED IN THE MANNER
21 HEREINAFTER PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF SUCH CREDIT
22 SHALL BE ONE THOUSAND DOLLARS PER FULL-TIME EMPLOYEE; PROVIDED, HOWEVER,
23 THAT THE AMOUNT OF SUCH CREDIT SHALL NOT EXCEED THE LESSER OF ACTUAL
24 RELOCATION COSTS OR ONE HUNDRED THOUSAND DOLLARS.

25 (B) WHEN USED IN THIS SUBDIVISION, THE FOLLOWING TERMS SHALL HAVE THE
26 FOLLOWING MEANINGS:

27 (1) "ELIGIBLE BUSINESS" MEANS ANY BUSINESS SUBJECT TO TAX UNDER THIS
28 SUBCHAPTER THAT (I) HAS BEEN CONDUCTING SUBSTANTIAL BUSINESS OPERATIONS
29 AND ENGAGING PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT ONE
30 OR MORE LOCATIONS WITHIN THE CITY OF NEW YORK OR OUTSIDE THE STATE OF
31 NEW YORK CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL MONTHS
32 IMMEDIATELY PRECEDING RELOCATION, (II) HAS LEASED THE PREMISES FROM
33 WHICH IT RELOCATES CONTINUOUSLY DURING THE TWENTY-FOUR CONSECUTIVE FULL
34 MONTHS IMMEDIATELY PRECEDING RELOCATION, (III) FIRST ENTERS INTO A BIND-
35 ING CONTRACT ON OR AFTER JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR
36 LEASE ELIGIBLE PREMISES TO WHICH SUCH BUSINESS WILL RELOCATE, AND (IV)
37 WILL BE ENGAGED PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES AT
38 SUCH ELIGIBLE PREMISES.

39 (2) "ELIGIBLE PREMISES" MEANS PREMISES LOCATED ENTIRELY WITHIN AN
40 INDUSTRIAL BUSINESS ZONE. FOR ANY ELIGIBLE BUSINESS, AN INDUSTRIAL BUSI-
41 NESS ZONE TAX CREDIT SHALL NOT BE GRANTED WITH RESPECT TO MORE THAN ONE
42 ELIGIBLE PREMISES.

43 (3) "FULL-TIME EMPLOYEE" MEANS (I) ONE PERSON GAINFULLY EMPLOYED IN AN
44 ELIGIBLE PREMISES BY AN ELIGIBLE BUSINESS WHERE THE NUMBER OF HOURS
45 REQUIRED TO BE WORKED BY SUCH PERSON IS NOT LESS THAN THIRTY-FIVE HOURS
46 PER WEEK; OR (II) TWO PERSONS GAINFULLY EMPLOYED IN AN ELIGIBLE PREMISES
47 BY AN ELIGIBLE BUSINESS WHERE THE NUMBER OF HOURS REQUIRED TO BE WORKED
48 BY EACH SUCH PERSON IS MORE THAN FIFTEEN HOURS PER WEEK BUT LESS THAN
49 THIRTY-FIVE HOURS PER WEEK.

50 (4) "INDUSTRIAL BUSINESS ZONE" MEANS AN AREA WITHIN THE CITY OF NEW
51 YORK ESTABLISHED PURSUANT TO SECTION 22-626 OF THIS CODE.

52 (5) "INDUSTRIAL BUSINESS ZONE TAX CREDIT" MEANS A CREDIT, AS PROVIDED
53 FOR IN THIS SUBDIVISION, AGAINST A TAX IMPOSED UNDER THIS SUBCHAPTER.

54 (6) "INDUSTRIAL AND MANUFACTURING ACTIVITIES" MEANS ACTIVITIES INVOLV-
55 ING THE ASSEMBLY OF GOODS TO CREATE A DIFFERENT ARTICLE, OR THE PROCESS-

1 ING, FABRICATION, OR PACKAGING OF GOODS. INDUSTRIAL AND MANUFACTURING
2 ACTIVITIES SHALL NOT INCLUDE WASTE MANAGEMENT OR UTILITY SERVICES.

3 (7) "RELOCATION" MEANS THE PHYSICAL RELOCATION OF FURNITURE, FIXTURES,
4 EQUIPMENT, MACHINERY AND SUPPLIES DIRECTLY TO AN ELIGIBLE PREMISES, FROM
5 ONE OR MORE LOCATIONS OF AN ELIGIBLE BUSINESS, INCLUDING AT LEAST ONE
6 LOCATION AT WHICH SUCH BUSINESS CONDUCTS SUBSTANTIAL BUSINESS OPERATIONS
7 AND ENGAGES PRIMARILY IN INDUSTRIAL AND MANUFACTURING ACTIVITIES. FOR
8 PURPOSES OF THIS SUBDIVISION, THE DATE OF RELOCATION SHALL BE (I) THE
9 DATE OF THE COMPLETION OF THE RELOCATION TO THE ELIGIBLE PREMISES OR
10 (II) NINETY DAYS FROM THE COMMENCEMENT OF THE RELOCATION TO THE ELIGIBLE
11 PREMISES, WHICHEVER IS EARLIER.

12 (8) "RELOCATION COSTS" MEANS COSTS INCURRED IN THE RELOCATION OF SUCH
13 FURNITURE, FIXTURES, EQUIPMENT, MACHINERY AND SUPPLIES, INCLUDING, BUT
14 NOT LIMITED TO, THE COST OF DISMANTLING AND REASSEMBLING EQUIPMENT AND
15 THE COST OF FLOOR PREPARATION NECESSARY FOR THE REASSEMBLY OF THE EQUIP-
16 MENT. RELOCATION COSTS SHALL INCLUDE ONLY SUCH COSTS THAT ARE INCURRED
17 DURING THE NINETY-DAY PERIOD IMMEDIATELY FOLLOWING THE COMMENCEMENT OF
18 THE RELOCATION TO AN ELIGIBLE PREMISES. RELOCATION COSTS SHALL NOT
19 INCLUDE COSTS FOR STRUCTURAL OR CAPITAL IMPROVEMENTS OR ITEMS PURCHASED
20 IN CONNECTION WITH THE RELOCATION.

21 (C) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
22 SHALL BE DEEMED TO BE AN OVERPAYMENT OF TAX BY THE TAXPAYER TO BE CRED-
23 ITED OR REFUNDED WITHOUT INTEREST, IN ACCORDANCE WITH THE PROVISIONS OF
24 SECTION 11-677 OF THIS CHAPTER.

25 (D) THE NUMBER OF FULL-TIME EMPLOYEES FOR THE PURPOSES OF CALCULATING
26 AN INDUSTRIAL BUSINESS TAX CREDIT SHALL BE THE AVERAGE NUMBER OF
27 FULL-TIME EMPLOYEES, CALCULATED ON A WEEKLY BASIS, EMPLOYED IN THE
28 ELIGIBLE PREMISES BY THE ELIGIBLE BUSINESS IN THE FIFTY-TWO WEEK PERIOD
29 IMMEDIATELY FOLLOWING THE EARLIER OF (1) THE DATE OF THE COMPLETION OF
30 THE RELOCATION TO ELIGIBLE PREMISES OR (2) NINETY DAYS FROM THE
31 COMMENCEMENT OF THE RELOCATION TO THE ELIGIBLE PREMISES.

32 (E) THE CREDIT ALLOWED UNDER THIS SUBDIVISION MUST BE TAKEN BY THE
33 TAXPAYER IN THE TAXABLE YEAR IN WHICH SUCH TWELVE MONTH PERIOD SELECTED
34 BY THE TAXPAYER ENDS.

35 (F) FOR THE PURPOSES OF CALCULATING ENTIRE NET INCOME IN THE TAXABLE
36 YEAR THAT AN INDUSTRIAL BUSINESS TAX CREDIT IS ALLOWED, A TAXPAYER MUST
37 ADD BACK THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION, TO THE
38 EXTENT OF ANY RELOCATION COSTS DEDUCTED IN THE CURRENT TAXABLE YEAR OR A
39 PRIOR TAXABLE YEAR IN CALCULATING FEDERAL TAXABLE INCOME.

40 (G) THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL NOT BE GRANTED FOR
41 AN ELIGIBLE BUSINESS FOR MORE THAN ONE RELOCATION. NOTWITHSTANDING THE
42 FOREGOING, AN INDUSTRIAL BUSINESS TAX CREDIT SHALL NOT BE GRANTED IF THE
43 ELIGIBLE BUSINESS RECEIVES BENEFITS PURSUANT TO CHAPTER SIX-B OR SIX-C
44 OF TITLE TWENTY-TWO OF THIS CODE, THROUGH A GRANT PROGRAM ADMINISTERED
45 BY THE BUSINESS RELOCATION ASSISTANCE CORPORATION, OR THROUGH THE NEW
46 YORK CITY PRINTERS RELOCATION FUND GRANT.

47 (H) THE COMMISSIONER OF FINANCE IS AUTHORIZED TO PROMULGATE RULES AND
48 REGULATIONS AND TO PRESCRIBE FORMS NECESSARY TO EFFECTUATE THE PURPOSES
49 OF THIS SUBDIVISION.

50 18. (A) IF A CORPORATION IS A PARTNER IN AN UNINCORPORATED BUSINESS
51 TAXABLE UNDER CHAPTER FIVE OF THIS TITLE, AND IS REQUIRED TO INCLUDE IN
52 ENTIRE NET INCOME ITS DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND
53 DEDUCTIONS OF, OR GUARANTEED PAYMENTS FROM, SUCH UNINCORPORATED BUSI-
54 NESS, SUCH CORPORATION SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED
55 BY THIS SUBCHAPTER EQUAL TO THE LESSER OF THE AMOUNTS DETERMINED IN
56 SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH:

1 (1) THE AMOUNT DETERMINED IN THIS SUBPARAGRAPH IS THE PRODUCT OF (I)
2 THE SUM OF (A) THE TAX IMPOSED BY CHAPTER FIVE OF THIS TITLE ON THE
3 UNINCORPORATED BUSINESS FOR ITS TAXABLE YEAR ENDING WITHIN OR WITH THE
4 TAXABLE YEAR OF THE CORPORATION AND PAID BY THE UNINCORPORATED BUSINESS
5 AND (B) THE AMOUNT OF ANY CREDIT OR CREDITS TAKEN BY THE UNINCORPORATED
6 BUSINESS UNDER SECTION 11-503 OF THIS TITLE (EXCEPT THE CREDIT ALLOWED
7 BY SUBDIVISION (B) OF SECTION 11-503 OF THIS TITLE) FOR ITS TAXABLE YEAR
8 ENDING WITHIN OR WITH THE TAXABLE YEAR OF THE CORPORATION, TO THE EXTENT
9 THAT SUCH CREDITS DO NOT REDUCE SUCH UNINCORPORATED BUSINESS'S TAX BELOW
10 ZERO, AND (II) A FRACTION, THE NUMERATOR OF WHICH IS THE NET TOTAL OF
11 THE CORPORATION'S DISTRIBUTIVE SHARE OF INCOME, GAIN, LOSS AND
12 DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED BUSINESS
13 FOR SUCH TAXABLE YEAR, AND THE DENOMINATOR OF WHICH IS THE SUM, FOR SUCH
14 TAXABLE YEAR, OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS
15 AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS TO, ALL PARTNERS IN THE UNIN-
16 CORPORATED BUSINESS FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY
17 DETERMINED FOR EACH PARTNER) IS GREATER THAN ZERO.

18 (2) THE AMOUNT DETERMINED IN THIS SUBPARAGRAPH IS THE PRODUCT OF (I)
19 THE EXCESS OF (A) THE TAX COMPUTED UNDER CLAUSE (I) OF SUBPARAGRAPH ONE
20 OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, WITHOUT ALLOWANCE
21 OF ANY CREDITS ALLOWED BY THIS SECTION, OVER (B) THE TAX SO COMPUTED,
22 DETERMINED AS IF THE CORPORATION HAD NO SUCH DISTRIBUTIVE SHARE OR GUAR-
23 ANTEED PAYMENTS WITH RESPECT TO THE UNINCORPORATED BUSINESS, AND (II) A
24 FRACTION, THE NUMERATOR OF WHICH IS FOUR AND THE DENOMINATOR OF WHICH IS
25 EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS, PROVIDED HOWEVER, IN THE CASE OF A
26 TAXPAYER THAT IS SUBJECT TO PARAGRAPH (J) OR (K) OF SUBDIVISION ONE OF
27 THIS SECTION, SUCH DENOMINATOR SHALL BE THE RATE OF TAX AS DETERMINED BY
28 SUCH PARAGRAPH (J) OR (K) FOR THE TAXABLE YEAR AND, PROVIDED, HOWEVER,
29 THAT THE AMOUNTS COMPUTED IN SUBCLAUSES (A) AND (B) OF CLAUSE (I) OF
30 THIS SUBPARAGRAPH SHALL BE COMPUTED WITH THE FOLLOWING MODIFICATIONS:

31 (A) SUCH AMOUNTS SHALL BE COMPUTED WITHOUT TAKING INTO ACCOUNT ANY
32 CARRYFORWARD OR CARRYBACK BY THE PARTNER OF A NET OPERATING LOSS OR A
33 PRIOR NET OPERATION LOSS CONVERSION SUBTRACTION;

34 (B) IF, PRIOR TO TAKING INTO ACCOUNT ANY DISTRIBUTIVE SHARE OR GUARAN-
35 TEED PAYMENTS FROM ANY UNINCORPORATED BUSINESS OR ANY NET OPERATING LOSS
36 CARRYFORWARD OR CARRYBACK, THE ENTIRE NET INCOME OF THE PARTNER IS LESS
37 THAN ZERO, SUCH ENTIRE NET INCOME SHALL BE TREATED AS ZERO; AND

38 (C) IF SUCH PARTNER'S NET TOTAL DISTRIBUTIVE SHARE OF INCOME, GAIN,
39 LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, ANY UNINCORPORATED
40 BUSINESS IS LESS THAN ZERO, SUCH NET TOTAL SHALL BE TREATED AS ZERO. THE
41 AMOUNT DETERMINED IN THIS SUBPARAGRAPH SHALL NOT BE LESS THAN ZERO.

42 (B)(1) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN PARAGRAPH (A) OF
43 THIS SUBDIVISION, IN THE CASE OF A CORPORATION THAT, BEFORE THE APPLICA-
44 TION OF THIS SUBDIVISION OR ANY OTHER CREDIT ALLOWED BY THIS SECTION, IS
45 LIABLE FOR THE TAX ON BUSINESS INCOME UNDER CLAUSE (I) OF SUBPARAGRAPH
46 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, THE CREDIT OR
47 THE SUM OF THE CREDITS THAT MAY BE TAKEN BY SUCH CORPORATION FOR A TAXA-
48 BLE YEAR UNDER THIS SUBDIVISION WITH RESPECT TO AN UNINCORPORATED BUSI-
49 NESS OR UNINCORPORATED BUSINESSES IN WHICH IT IS A PARTNER SHALL NOT
50 EXCEED THE TAX SO COMPUTED, WITHOUT ALLOWANCE OF ANY CREDITS ALLOWED BY
51 THIS SECTION, MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS FOUR
52 AND THE DENOMINATOR OF WHICH IS EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS
53 PROVIDED, HOWEVER, IN THE CASE OF A TAXPAYER THAT IS SUBJECT TO PARA-
54 GRAPH (J) OR (K) OF SUBDIVISION ONE OF THIS SECTION, SUCH DENOMINATOR
55 SHALL BE THE RATE OF TAX AS DETERMINED BY SUCH PARAGRAPH (J) OR (K) FOR
56 THE TAXABLE YEAR. IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION OR THE

1 SUM OF SUCH CREDITS EXCEEDS THE PRODUCT OF SUCH TAX AND SUCH FRACTION,
2 THE AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD, IN ORDER, TO EACH OF
3 THE SEVEN IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO THE EXTENT NOT
4 PREVIOUSLY TAKEN, SHALL BE ALLOWED AS A CREDIT IN EACH OF SUCH YEARS. IN
5 APPLYING THE PROVISIONS OF THE PRECEDING SENTENCE, THE CREDIT DETERMINED
6 FOR THE TAXABLE YEAR UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE
7 TAKEN BEFORE TAKING ANY CREDIT CARRYFORWARD PURSUANT TO THIS PARAGRAPH
8 AND THE CREDIT CARRYFORWARD ATTRIBUTABLE TO THE EARLIEST TAXABLE YEAR
9 SHALL BE TAKEN BEFORE TAKING A CREDIT CARRYFORWARD ATTRIBUTABLE TO A
10 SUBSEQUENT TAXABLE YEAR.

11 (2) INTENTIONALLY OMITTED.

12 (2-A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
13 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
14 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
15 FORTH IN SUBDIVISION EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR IN
16 SECTION 11-643.8 OF THIS CHAPTER FOR A TAX PAID UNDER CHAPTER FIVE OF
17 THIS TITLE IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-
18 SAND FIFTEEN, THE TAXPAYER MAY CARRY FORWARD THE UNUSED PORTION OF SUCH
19 CREDIT UNDER THIS SUBDIVISION TO ANY TAXABLE YEAR BEGINNING ON OR AFTER
20 JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME
21 EXTENT, INCLUDING THE SAME LIMITATIONS, THAT THE CREDIT, OR THE UNUSED
22 PORTION THEREOF, WOULD HAVE BEEN ALLOWED TO BE CARRIED FORWARD UNDER
23 SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION EIGHTEEN OF SECTION
24 11-604 OF THIS CHAPTER OR PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION
25 11-643.8 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
26 THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAY-
27 ER FOR SUCH TAXABLE YEAR.

28 (3) NO CREDIT ALLOWED UNDER THIS SUBDIVISION MAY BE TAKEN IN A TAXABLE
29 YEAR BY A TAXPAYER THAT, IN THE ABSENCE OF SUCH CREDIT, WOULD BE LIABLE
30 FOR THE TAX COMPUTED ON THE BASIS OF BUSINESS CAPITAL UNDER CLAUSE (II)
31 OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION
32 OR THE FIXED-DOLLAR MINIMUM TAX UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF
33 PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

34 (C) FOR CORPORATIONS THAT FILE A REPORT ON A COMBINED BASIS PURSUANT
35 TO SECTION 11-654.3 OF THIS SUBCHAPTER, THE CREDIT ALLOWED BY THIS
36 SUBDIVISION SHALL BE COMPUTED AS IF THE COMBINED GROUP WERE THE PARTNER
37 IN EACH UNINCORPORATED BUSINESS FROM WHICH ANY OF THE MEMBERS OF SUCH
38 GROUP HAD A DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS, PROVIDED, HOWEV-
39 ER, IF MORE THAN ONE MEMBER OF THE COMBINED GROUP IS A PARTNER IN THE
40 SAME UNINCORPORATED BUSINESS, FOR PURPOSES OF THE CALCULATION REQUIRED
41 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, THE NUMERATOR
42 OF THE FRACTION DESCRIBED IN CLAUSE (II) OF SUCH SUBPARAGRAPH ONE SHALL
43 BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS
44 AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED
45 BUSINESS OF ALL OF THE PARTNERS OF THE UNINCORPORATED BUSINESS WITHIN
46 THE COMBINED GROUP FOR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED
47 FOR EACH PARTNER) IS GREATER THAN ZERO, AND THE DENOMINATOR OF SUCH
48 FRACTION SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF
49 INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE
50 UNINCORPORATED BUSINESS OF ALL PARTNERS IN THE UNINCORPORATED BUSINESS
51 FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH
52 PARTNER) IS GREATER THAN ZERO.

53 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE CREDIT
54 ALLOWABLE UNDER THIS SUBDIVISION SHALL BE TAKEN PRIOR TO THE TAKING OF
55 ANY OTHER CREDIT ALLOWED BY THIS SECTION. NOTWITHSTANDING ANY OTHER
56 PROVISION OF THIS SUBCHAPTER, THE APPLICATION OF THIS SUBDIVISION SHALL

1 NOT CHANGE THE BASIS ON WHICH THE TAXPAYER'S TAX IS COMPUTED UNDER PARA-
2 GRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

3 19. LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE CREDIT. (A)
4 IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER THAT
5 HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-C OF TITLE TWEN-
6 TY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
7 THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE AMOUNT DETERMINED
8 BY MULTIPLYING THREE THOUSAND DOLLARS BY THE NUMBER OF ELIGIBLE AGGRE-
9 GATE EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE
10 YEAR WITH RESPECT TO ELIGIBLE PREMISES TO WHICH THE TAXPAYER HAS RELO-
11 CATED; PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR THE RELO-
12 CATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES; PROVIDED, FURTHER, THAT
13 NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO ANY TAXPAYER THAT
14 HAS ELECTED PURSUANT TO SUBDIVISION (D) OF SECTION 22-624 OF THIS CODE
15 TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS TAX IMPOSED UNDER CHAPTER
16 ELEVEN OF THIS TITLE. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS
17 "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "ELIGIBLE PREMISES," "RELOCATE,"
18 "RETAIL ACTIVITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED
19 BY SECTION 22-623 OF THIS CODE.

20 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE
21 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES
22 TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE TAXABLE
23 YEAR OF THE RELOCATION AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE
24 YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED
25 WITH RESPECT TO ELIGIBLE PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR
26 THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING
27 THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH
28 RESPECT TO ELIGIBLE PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY
29 THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER
30 OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE
31 TAXPAYER MAINTAINED EMPLOYMENT SHARES IN ELIGIBLE PREMISES IN THE TAXA-
32 BLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF
33 DAYS IN SUCH TWELFTH TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE
34 EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES.

35 (C) EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, IF THE
36 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE
37 YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE EXCESS MAY BE CARRIED
38 OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO
39 THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE DEDUCTED FROM THE TAXPAY-
40 ER'S TAX FOR SUCH YEARS.

41 (D) THE CREDITS ALLOWED UNDER THIS SUBDIVISION, AGAINST THE TAX
42 IMPOSED BY THIS CHAPTER FOR THE TAXABLE YEAR OF THE RELOCATION AND FOR
43 THE FOUR TAXABLE YEARS IMMEDIATELY SUCCEEDING THE TAXABLE YEAR OF SUCH
44 RELOCATION, SHALL BE DEEMED TO BE OVERPAYMENTS OF TAX BY THE TAXPAYER TO
45 BE CREDITED OR REFUNDED, WITHOUT INTEREST, IN ACCORDANCE WITH THE
46 PROVISIONS OF SECTION 11-677 OF THIS CHAPTER. FOR SUCH TAXABLE YEARS,
47 SUCH CREDITS OR PORTIONS THEREOF MAY NOT BE CARRIED OVER TO ANY SUCCEED-
48 ING TAXABLE YEAR.

49 (E) THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION SHALL BE DEDUCTED
50 AFTER THE CREDITS ALLOWED BY SUBDIVISIONS SEVENTEEN AND EIGHTEEN OF THIS
51 SECTION, BUT PRIOR TO THE DEDUCTION OF ANY OTHER CREDIT ALLOWED BY THIS
52 SECTION.

53 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
54 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-
55 TER SIX-C OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-
56 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,

1 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION NINETEEN OF
2 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS CHAPTER FOR
3 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER
4 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR
5 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE
6 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION
7 NINETEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS
8 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,
9 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE
10 YEAR.

11 20. INTENTIONALLY OMITTED.

12 21. BIOTECHNOLOGY CREDIT. (A) (1) A TAXPAYER THAT IS A QUALIFIED
13 EMERGING TECHNOLOGY COMPANY, ENGAGES IN BIOTECHNOLOGIES, AND MEETS THE
14 ELIGIBILITY REQUIREMENTS OF THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT
15 AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF CREDIT SHALL
16 BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN SUBPARAGRAPHS THREE,
17 FOUR AND FIVE OF THIS PARAGRAPH, SUBJECT TO THE LIMITATIONS IN SUBPARA-
18 GRAPH SEVEN OF THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION. FOR
19 THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED EMERGING TECHNOLOGY COMPA-
20 NY" SHALL MEAN A COMPANY LOCATED IN THE CITY: (I) WHOSE PRIMARY PRODUCTS
21 OR SERVICES ARE CLASSIFIED AS EMERGING TECHNOLOGIES AND WHOSE TOTAL
22 ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS; OR (II) A COMPANY
23 THAT HAS RESEARCH AND DEVELOPMENT ACTIVITIES IN THE CITY AND WHOSE RATIO
24 OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES EQUALS OR EXCEEDS THE
25 AVERAGE RATIO FOR ALL SURVEYED COMPANIES CLASSIFIED AS DETERMINED BY THE
26 NATIONAL SCIENCE FOUNDATION IN THE MOST RECENT PUBLISHED RESULTS FROM
27 ITS SURVEY OF INDUSTRY RESEARCH AND DEVELOPMENT, OR ANY COMPARABLE
28 SUCCESSOR SURVEY AS DETERMINED BY THE DEPARTMENT OF FINANCE, AND WHOSE
29 TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS. FOR THE
30 PURPOSES OF THIS SUBDIVISION, THE DEFINITION OF RESEARCH AND DEVELOPMENT
31 FUNDS SHALL BE THE SAME AS THAT USED BY THE NATIONAL SCIENCE FOUNDATION
32 IN THE AFOREMENTIONED SURVEY. FOR THE PURPOSES OF THIS SUBDIVISION,
33 "BIOTECHNOLOGIES" SHALL MEAN THE TECHNOLOGIES INVOLVING THE SCIENTIFIC
34 MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE
35 SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING
36 THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED
37 SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL
38 APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS. ACTIVITIES
39 INCLUDED WITH SUCH APPLICATIONS AND SERVICES SHALL INCLUDE, BUT NOT BE
40 LIMITED TO, ALTERNATIVE MRNA SPLICING, DNA SEQUENCE AMPLIFICATION, ANTI-
41 GENETIC SWITCHING BIOAUGMENTATION, BIOENRICHMENT, BIOREMEDIATION, CHRO-
42 MOSOME WALKING, CYTOGENETIC ENGINEERING, DNA DIAGNOSIS, FINGERPRINTING,
43 AND SEQUENCING, ELECTROPORATION, GENE TRANSLOCATION, GENETIC MAPPING,
44 SITE-DIRECTED MUTAGENESIS, BIO-TRANSDUCTION, BIO-MECHANICAL AND BIO-E-
45 LECTRICAL ENGINEERING, AND BIO-INFORMATICS.

46 (2) AN ELIGIBLE TAXPAYER SHALL (I) HAVE NO MORE THAN ONE HUNDRED
47 FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED
48 IN THE CITY, (II) HAVE A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET
49 SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC
50 AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING THE CALENDAR
51 YEAR ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS
52 CLAIMED, AND (III) HAVE GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF
53 ITS "AFFILIATES" AND "RELATED MEMBERS" NOT EXCEEDING TWENTY MILLION
54 DOLLARS FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR
55 ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.
56 FOR THE PURPOSES OF THIS SUBDIVISION, "AFFILIATES" SHALL MEAN THOSE

1 CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED
2 IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE
3 TAXPAYER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED
4 MEMBERS" SHALL MEAN A PERSON, CORPORATION, OR OTHER ENTITY, INCLUDING AN
5 ENTITY THAT IS TREATED AS A PARTNERSHIP OR OTHER PASS-THROUGH VEHICLE
6 FOR PURPOSES OF FEDERAL TAXATION, WHETHER SUCH PERSON, CORPORATION OR
7 ENTITY IS A TAXPAYER OR NOT, WHERE ONE SUCH PERSON, CORPORATION OR ENTI-
8 TY, OR SET OF RELATED PERSONS, CORPORATIONS OR ENTITIES, DIRECTLY OR
9 INDIRECTLY OWNS OR CONTROLS A CONTROLLING INTEREST IN ANOTHER ENTITY.
10 SUCH ENTITY OR ENTITIES MAY INCLUDE ALL TAXPAYERS UNDER CHAPTERS FIVE,
11 ELEVEN AND SEVENTEEN OF THIS TITLE, AND THIS SUBCHAPTER AND SUBCHAPTERS
12 TWO AND THREE OF THIS CHAPTER. A CONTROLLING INTEREST SHALL MEAN, IN THE
13 CASE OF A CORPORATION, EITHER THIRTY PERCENT OR MORE OF THE TOTAL
14 COMBINED VOTING POWER OF ALL CLASSES OF STOCK OF SUCH CORPORATION, OR
15 THIRTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST IN
16 SUCH VOTING STOCK OF SUCH CORPORATION; AND IN THE CASE OF A PARTNERSHIP,
17 ASSOCIATION, TRUST OR OTHER ENTITY, THIRTY PERCENT OR MORE OF THE CAPI-
18 TAL, PROFITS OR BENEFICIAL INTEREST IN SUCH PARTNERSHIP, ASSOCIATION,
19 TRUST OR OTHER ENTITY.

20 (3) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EIGHTEEN PER
21 CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF
22 RESEARCH AND DEVELOPMENT PROPERTY THAT IS ACQUIRED BY THE TAXPAYER BY
23 PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
24 SEVENTY-NINE OF THE INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING
25 THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH
26 THE CREDIT IS CLAIMED. PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS
27 PARAGRAPH ONLY, AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH
28 PERCENTAGE OF THE (I) COST OR OTHER BASIS FOR FEDERAL INCOME TAX
29 PURPOSES FOR PROPERTY USED IN THE TESTING OR INSPECTION OF MATERIALS AND
30 PRODUCTS, (II) THE COSTS OR EXPENSES ASSOCIATED WITH QUALITY CONTROL OF
31 THE RESEARCH AND DEVELOPMENT, (III) FEES FOR USE OF SOPHISTICATED TECH-
32 NOLOGY FACILITIES AND PROCESSES, AND (IV) FEES FOR THE PRODUCTION OR
33 EVENTUAL COMMERCIAL DISTRIBUTION OF MATERIALS AND PRODUCTS RESULTING
34 FROM THE ACTIVITIES OF AN ELIGIBLE TAXPAYER AS LONG AS SUCH ACTIVITIES
35 FALL UNDER ACTIVITIES RELATING TO BIOTECHNOLOGIES. THE COSTS, EXPENSES
36 AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS
37 PARAGRAPH SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT
38 ALLOWED UNDER THIS SUBCHAPTER. FOR THE PURPOSES OF THIS SUBDIVISION,
39 "RESEARCH AND DEVELOPMENT PROPERTY" SHALL MEAN PROPERTY THAT IS USED FOR
40 PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR LABORATORY
41 SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDINARY TESTING
42 OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL, EFFICIENCY
43 SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING, PROMOTIONS,
44 OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMILAR PROJECTS.

45 (4) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR NINE PER CENTUM
46 OF QUALIFIED RESEARCH EXPENSES PAID OR INCURRED BY THE TAXPAYER IN THE
47 CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE
48 CREDIT IS CLAIMED. FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED
49 RESEARCH EXPENSES" SHALL MEAN EXPENSES ASSOCIATED WITH IN-HOUSE RESEARCH
50 AND PROCESSES, AND COSTS ASSOCIATED WITH THE DISSEMINATION OF THE
51 RESULTS OF THE PRODUCTS THAT DIRECTLY RESULT FROM SUCH RESEARCH AND
52 DEVELOPMENT ACTIVITIES; PROVIDED, HOWEVER, THAT SUCH COSTS SHALL NOT
53 INCLUDE ADVERTISING OR PROMOTION THROUGH MEDIA. IN ADDITION, COSTS ASSO-
54 CIATED WITH THE PREPARATION OF PATENT APPLICATIONS, PATENT APPLICATION
55 FILING FEES, PATENT RESEARCH FEES, PATENT EXAMINATIONS FEES, PATENT POST
56 ALLOWANCE FEES, PATENT MAINTENANCE FEES, AND GRANT APPLICATION EXPENSES

1 AND FEES SHALL QUALIFY AS QUALIFIED RESEARCH EXPENSES. IN NO CASE SHALL
2 THE CREDIT ALLOWED UNDER THIS SUBPARAGRAPH APPLY TO EXPENSES FOR LITI-
3 GATION OR THE CHALLENGE OF ANOTHER ENTITY'S INTELLECTUAL PROPERTY
4 RIGHTS, OR FOR CONTRACT EXPENSES INVOLVING OUTSIDE PAID CONSULTANTS.

5 (5) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR QUALIFIED
6 HIGH-TECHNOLOGY TRAINING EXPENDITURES AS DESCRIBED IN THIS SUBPARAGRAPH
7 PAID OR INCURRED BY THE TAXPAYER DURING THE CALENDAR YEAR THAT ENDS WITH
8 OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

9 (I) THE AMOUNT OF CREDIT SHALL BE ONE HUNDRED PERCENT OF THE TRAINING
10 EXPENSES DESCRIBED IN CLAUSE (III) OF THIS SUBPARAGRAPH, SUBJECT TO A
11 LIMITATION OF NO MORE THAN FOUR THOUSAND DOLLARS PER EMPLOYEE PER CALEN-
12 DAR YEAR FOR SUCH TRAINING EXPENSES.

13 (II) QUALIFIED HIGH-TECHNOLOGY TRAINING SHALL INCLUDE A COURSE OR
14 COURSES TAKEN AND SATISFACTORILY COMPLETED BY AN EMPLOYEE OF THE TAXPAY-
15 ER AT AN ACCREDITED, DEGREE GRANTING POST-SECONDARY COLLEGE OR UNIVERSI-
16 TY IN THE CITY THAT (A) DIRECTLY RELATES TO BIOTECHNOLOGY ACTIVITIES,
17 AND (B) IS INTENDED TO UPGRADE, RETRAIN OR IMPROVE THE PRODUCTIVITY OR
18 THEORETICAL AWARENESS OF THE EMPLOYEE. SUCH COURSE OR COURSES MAY
19 INCLUDE, BUT ARE NOT LIMITED TO, INSTRUCTION OR RESEARCH RELATING TO
20 TECHNIQUES, META, MACRO, OR MICRO-THEORETICAL OR PRACTICAL KNOWLEDGE
21 BASES OR FRONTIERS, OR ETHICAL CONCERNS RELATED TO SUCH ACTIVITIES. SUCH
22 COURSE OR COURSES SHALL NOT INCLUDE CLASSES IN THE DISCIPLINES OF
23 MANAGEMENT, ACCOUNTING OR THE LAW OR ANY CLASS DESIGNED TO FULFILL THE
24 DISCIPLINE SPECIFIC REQUIREMENTS OF A DEGREE PROGRAM AT THE ASSOCIATE,
25 BACCALAUREATE, GRADUATE OR PROFESSIONAL LEVEL OF THESE DISCIPLINES.
26 SATISFACTORY COMPLETION OF A COURSE OR COURSES SHALL MEAN THE EARNING
27 AND GRANTING OF CREDIT OR EQUIVALENT UNIT, WITH THE ATTAINMENT OF A
28 GRADE OF "B" OR HIGHER IN A GRADUATE LEVEL COURSE OR COURSES, A GRADE OF
29 "C" OR HIGHER IN AN UNDERGRADUATE LEVEL COURSE OR COURSES, OR A SIMILAR
30 MEASURE OF COMPETENCY FOR A COURSE THAT IS NOT MEASURED ACCORDING TO A
31 STANDARD GRADE FORMULA.

32 (III) QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL INCLUDE
33 EXPENSES FOR TUITION AND MANDATORY FEES, SOFTWARE REQUIRED BY THE INSTI-
34 TUTION, FEES FOR TEXTBOOKS OR OTHER LITERATURE REQUIRED BY THE INSTITU-
35 TION OFFERING THE COURSE OR COURSES, MINUS APPLICABLE SCHOLARSHIPS AND
36 TUITION OR FEE WAIVERS NOT GRANTED BY THE TAXPAYER OR ANY AFFILIATES OF
37 THE TAXPAYER, THAT ARE PAID OR REIMBURSED BY THE TAXPAYER. QUALIFIED
38 HIGH-TECHNOLOGY EXPENDITURES DO NOT INCLUDE ROOM AND BOARD, COMPUTER
39 HARDWARE OR SOFTWARE NOT SPECIFICALLY ASSIGNED FOR SUCH COURSE OR COURSE-
40 ES, LATE-CHARGES, FINES OR MEMBERSHIP DUES AND SIMILAR EXPENSES. SUCH
41 QUALIFIED EXPENDITURES SHALL NOT BE ELIGIBLE FOR THE CREDIT PROVIDED BY
42 THIS SECTION UNLESS THE EMPLOYEE FOR WHOM THE EXPENDITURES ARE DISBURSED
43 IS CONTINUOUSLY EMPLOYED BY THE TAXPAYER IN A FULL-TIME, FULL-YEAR POSI-
44 TION PRIMARILY LOCATED AT A QUALIFIED SITE DURING THE PERIOD OF SUCH
45 COURSEWORK AND LASTING THROUGH AT LEAST ONE HUNDRED EIGHTY DAYS AFTER
46 THE SATISFACTORY COMPLETION OF THE QUALIFYING COURSE-WORK. QUALIFIED
47 HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL NOT INCLUDE EXPENSES FOR
48 IN-HOUSE OR SHARED TRAINING OUTSIDE OF A CITY HIGHER EDUCATION INSTITU-
49 TION OR THE USE OF CONSULTANTS OUTSIDE OF CREDIT GRANTING COURSES,
50 WHETHER SUCH CONSULTANTS FUNCTION INSIDE OF SUCH HIGHER EDUCATION INSTI-
51 TUTION OR NOT.

52 (IV) IF A TAXPAYER RELOCATES FROM AN ACADEMIC BUSINESS INCUBATOR
53 FACILITY PARTNERED WITH AN ACCREDITED POST-SECONDARY EDUCATION INSTITU-
54 TION LOCATED WITHIN THE CITY, WHICH PROVIDES SPACE AND BUSINESS SUPPORT
55 SERVICES TO TAXPAYERS, TO ANOTHER SITE, THE CREDIT PROVIDED IN THIS
56 SUBDIVISION SHALL BE ALLOWED FOR ALL EXPENDITURES REFERENCED IN CLAUSE

1 (III) OF THIS SUBPARAGRAPH PAID OR INCURRED IN THE TWO PRECEDING CALEN-
2 DAR YEARS THAT THE TAXPAYER WAS LOCATED IN SUCH AN INCUBATOR FACILITY
3 FOR EMPLOYEES OF THE TAXPAYER WHO ALSO RELOCATE FROM SAID INCUBATOR
4 FACILITY TO SUCH CITY SITE AND ARE EMPLOYED AND PRIMARILY LOCATED BY THE
5 TAXPAYER IN THE CITY. SUCH EXPENDITURES IN THE TWO PRECEDING YEARS
6 SHALL BE ADDED TO THE AMOUNTS OTHERWISE QUALIFYING FOR THE CREDIT
7 PROVIDED BY THIS SUBDIVISION THAT WERE PAID OR INCURRED IN THE CALENDAR
8 YEAR THAT THE TAXPAYER RELOCATES FROM SUCH A FACILITY. SUCH EXPENDITURES
9 SHALL INCLUDE EXPENSES PAID FOR AN ELIGIBLE EMPLOYEE WHO IS A FULL-TIME,
10 FULL-YEAR EMPLOYEE OF SAID TAXPAYER DURING THE CALENDAR YEAR THAT THE
11 TAXPAYER RELOCATED FROM AN INCUBATOR FACILITY NOTWITHSTANDING (A) THAT
12 SUCH EMPLOYEE WAS EMPLOYED FULL OR PART-TIME AS AN OFFICER, STAFF-PERSON
13 OR PAID INTERN OF THE TAXPAYER WHEN SUCH TAXPAYER WAS LOCATED AT SUCH
14 INCUBATOR FACILITY OR (B) THAT SUCH EMPLOYEE WAS NOT CONTINUOUSLY
15 EMPLOYED WHEN SUCH TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY DURING
16 THE ONE HUNDRED EIGHTY DAY PERIOD REFERRED TO IN CLAUSE (III) OF THIS
17 SUBPARAGRAPH, PROVIDED SUCH EMPLOYEE RECEIVED WAGES OR EQUIVALENT INCOME
18 FOR AT LEAST SEVEN HUNDRED FIFTY HOURS DURING ANY TWENTY-FOUR MONTH
19 PERIOD WHEN THE TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY. SUCH
20 EXPENDITURES SHALL INCLUDE PAYMENTS MADE TO SUCH EMPLOYEE AFTER THE
21 TAXPAYER HAS RELOCATED FROM THE INCUBATOR FACILITY FOR QUALIFIED EXPEND-
22 ITURES IF SUCH PAYMENTS ARE MADE TO REIMBURSE AN EMPLOYEE FOR EXPENDI-
23 TURES PAID BY THE EMPLOYEE DURING SUCH TWO PRECEDING YEARS. THE CREDIT
24 PROVIDED UNDER THIS PARAGRAPH SHALL BE ALLOWED IN ANY TAXABLE YEAR THAT
25 THE TAXPAYER QUALIFIES AS AN ELIGIBLE TAXPAYER.

26 (V) FOR PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC YEAR" SHALL
27 MEAN THE ANNUAL PERIOD OF SESSIONS OF A POST-SECONDARY COLLEGE OR
28 UNIVERSITY.

29 (VI) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC INCUBATOR
30 FACILITY" SHALL MEAN A FACILITY PROVIDING LOW-COST SPACE, TECHNICAL
31 ASSISTANCE, SUPPORT SERVICES AND EDUCATIONAL OPPORTUNITIES, INCLUDING
32 BUT NOT LIMITED TO CENTRAL SERVICES PROVIDED BY THE MANAGER OF THE
33 FACILITY TO THE TENANTS OF THE FACILITY, TO AN ENTITY LOCATED IN THE
34 CITY. SUCH ENTITY'S PRIMARY ACTIVITY MUST BE IN BIOTECHNOLOGIES, AND
35 SUCH ENTITY MUST BE IN THE FORMATIVE STAGE OF DEVELOPMENT. THE ACADEMIC
36 INCUBATOR FACILITY AND THE ENTITY MUST ACT IN PARTNERSHIP WITH AN
37 ACCREDITED POST-SECONDARY COLLEGE OR UNIVERSITY LOCATED IN THE CITY. AN
38 ACADEMIC INCUBATOR FACILITY'S MISSION SHALL BE TO PROMOTE JOB CREATION,
39 ENTREPRENEURSHIP, TECHNOLOGY TRANSFER, AND PROVIDE SUPPORT SERVICES TO
40 INCUBATOR TENANTS, INCLUDING, BUT NOT LIMITED TO, BUSINESS PLANNING,
41 MANAGEMENT ASSISTANCE, FINANCIAL-PACKAGING, LINKAGES TO FINANCING
42 SERVICES, AND COORDINATING WITH OTHER SOURCES OF ASSISTANCE.

43 (6) AN ELIGIBLE TAXPAYER MAY CLAIM CREDITS UNDER THIS SUBDIVISION FOR
44 THREE CONSECUTIVE YEARS. IN NO CASE SHALL THE CREDIT ALLOWED BY THIS
45 SUBDIVISION TO A TAXPAYER EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER
46 CALENDAR YEAR FOR ELIGIBLE EXPENDITURES MADE DURING SUCH CALENDAR YEAR.

47 (7) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
48 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT
49 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-
50 VISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT
51 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
52 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
53 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
54 ACCORDANCE WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER;
55 PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679
56 OF THIS CHAPTER, NO INTEREST SHALL BE PAID THEREON.

(8) THE CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL ONLY BE ALLOWED FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN.

(B) (1) THE PERCENTAGE OF THE CREDIT ALLOWED TO A TAXPAYER UNDER THIS SUBDIVISION IN ANY CALENDAR YEAR SHALL BE:

(I) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY A TAXPAYER IN THE CITY DURING THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS AT LEAST ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, ONE HUNDRED PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS CLAUSE EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS PER CALENDAR YEAR. PROVIDED, HOWEVER, THE INCREASE IN BASE YEAR EMPLOYMENT SHALL NOT APPLY TO A TAXPAYER ALLOWED A CREDIT UNDER THIS SUBDIVISION THAT WAS, (A) LOCATED OUTSIDE OF THE CITY, (B) NOT DOING BUSINESS, OR (C) DID NOT HAVE ANY EMPLOYEES, IN THE YEAR PRECEDING THE FIRST YEAR THAT THE CREDIT IS CLAIMED. ANY SUCH TAXPAYER SHALL BE ELIGIBLE FOR ONE HUNDRED PERCENT OF THE CREDIT FOR THE FIRST CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, PROVIDED THAT SUCH TAXPAYER LOCATES IN THE CITY, BEGINS DOING BUSINESS IN THE CITY OR HIRES EMPLOYEES IN THE CITY DURING SUCH CALENDAR YEAR AND IS OTHERWISE ELIGIBLE FOR THE CREDIT PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION.

(II) IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY A TAXPAYER IN THE CITY DURING THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, FIFTY PERCENT, EXCEPT THAT IN NO CASE SHALL THE CREDIT ALLOWED UNDER THIS CLAUSE EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS PER CALENDAR YEAR. IN THE CASE OF AN ENTITY LOCATED IN THE CITY RECEIVING SPACE AND BUSINESS SUPPORT SERVICES BY AN ACADEMIC INCUBATOR FACILITY, IF THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL TIME BY SUCH ENTITY IN THE CITY DURING THE CALENDAR YEAR IN WHICH THE CREDIT ALLOWED UNDER THIS SUBDIVISION IS CLAIMED IS LESS THAN ONE HUNDRED FIVE PERCENT OF THE TAXPAYER'S BASE YEAR EMPLOYMENT, THE CREDIT SHALL BE ZERO.

(2) FOR THE PURPOSES OF THIS SUBDIVISION, "BASE YEAR EMPLOYMENT" MEANS THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME BY THE TAXPAYER IN THE CITY IN THE YEAR PRECEDING THE FIRST CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.

(3) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR YEAR OR OTHER APPLICABLE PERIOD.

(4) NOTWITHSTANDING ANYTHING CONTAINED IN THIS SECTION TO THE CONTRARY, THE CREDIT PROVIDED BY THIS SUBDIVISION SHALL BE ALLOWED AGAINST THE TAXES AUTHORIZED BY THIS CHAPTER FOR THE TAXABLE YEAR AFTER REDUCTION BY ALL OTHER CREDITS PERMITTED BY THIS CHAPTER.

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER FOR AN ELIGIBLE ACQUISITION OF PROPERTY AND/OR EXPENSE PAID OR INCURRED, A CREDIT SHALL BE ALLOWED TO THE TAXPAYER UNDER THIS SUBDIVISION FOR ANY TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER,

1 AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH
2 SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

3 S 11-654.1 NET OPERATING LOSS. 1. IN COMPUTING THE BUSINESS INCOME
4 SUBJECT TO TAX, TAXPAYERS SHALL BE ALLOWED BOTH A PRIOR NET OPERATING
5 LOSS CONVERSION SUBTRACTION UNDER SUBDIVISION TWO OF THIS SECTION AND A
6 NET OPERATING LOSS DEDUCTION UNDER SUBDIVISION THREE OF THIS SECTION.
7 THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION COMPUTED UNDER
8 SUBDIVISION TWO OF THIS SECTION SHALL BE APPLIED AGAINST BUSINESS INCOME
9 BEFORE THE NET OPERATING LOSS DEDUCTION COMPUTED UNDER SUBDIVISION THREE
10 OF THIS SECTION.

11 2. PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION. (A) DEFINITIONS.

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

15 (2) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF
16 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION
17 EIGHT OF SECTION 11-602 OF THIS CHAPTER OR SUBDIVISION (K-1) OF SECTION
18 11-641 OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER
19 THIRTY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS NOT DEDUCTIBLE IN PREVIOUS
20 TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER ON THE LAST DAY OF THE BASE
21 YEAR SUBJECT TO THE LIMITATIONS FOR DEDUCTION UNDER SUCH SECTIONS,
22 INCLUDING ANY NET OPERATING LOSS SUSTAINED BY THE TAXPAYER DURING THE
23 BASE YEAR.

24 (3) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION PERCENT-
25 AGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
26 11-604 OF THIS CHAPTER FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION
27 PERCENTAGE AS CALCULATED UNDER SECTION 11-642 OF THIS CHAPTER FOR
28 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 (4) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE
31 YEAR AS APPLIED TO ENTIRE NET INCOME AND CALCULATED UNDER SUBDIVISION
32 ONE OF SECTION 11-604 OF THIS CHAPTER OR SUBDIVISION (A) OF SECTION
33 11-643.5 OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN EFFECT ON DECEMBER
34 THIRTY-FIRST, TWO THOUSAND FOURTEEN.

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

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

42 (2) THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH
43 SHALL THEN BE DIVIDED BY EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PER CENTUM
44 OR, IN THE CASE OF A FINANCIAL CORPORATION, AS DEFINED IN CLAUSE (I) OF
45 SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654
46 OF THIS SUBCHAPTER, THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF
47 THIS PARAGRAPH SHALL THEN BE DIVIDED BY NINE PER CENTUM. THIS RESULT
48 SHALL EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION
49 SUBTRACTION POOL.

50 (3) THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION FOR
51 THE TAXABLE YEAR SHALL EQUAL ONE-TENTH OF ITS PRIOR NET OPERATING LOSS
52 CONVERSION SUBTRACTION POOL, PLUS ANY AMOUNT OF UNUSED PRIOR NET OPERAT-
53 ING LOSS CONVERSION SUBTRACTION FROM PRECEDING TAXABLE YEARS.

54 (4) IN LIEU OF THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
55 DESCRIBED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE TAXPAYER SO
56 ELECTS, THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION

1 FOR ITS TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
2 FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN SHALL EQUAL, IN
3 EACH YEAR, NOT MORE THAN ONE-HALF OF ITS PRIOR NET OPERATING LOSS
4 CONVERSION SUBTRACTION POOL UNTIL THE POOL IS EXHAUSTED. IF THE POOL IS
5 NOT EXHAUSTED AT THE END OF SUCH TIME PERIOD, THE REMAINDER OF THE POOL
6 SHALL BE FORFEITED. THE TAXPAYER SHALL MAKE SUCH ELECTION, WHICH SHALL
7 BE REVOCABLE, ON ITS FIRST RETURN FOR THE TAX YEAR BEGINNING ON OR AFTER
8 JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOU-
9 SAND SIXTEEN BY THE DUE DATE FOR SUCH RETURN (DETERMINED WITH REGARD TO
10 EXTENSIONS).

11 (C) (1) WHERE A TAXPAYER WAS PROPERLY INCLUDED OR REQUIRED TO BE
12 INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR PURSUANT TO SECTION
13 11-605 OF THIS CHAPTER OR A COMBINED RETURN FOR THE BASE YEAR PURSUANT
14 TO SECTION 11-646 OF THIS CHAPTER, AS SUCH SECTIONS WERE IN EFFECT ON
15 DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, AND THE MEMBERS OF THE
16 COMBINED GROUP FOR THE BASE YEAR ARE THE SAME AS THE MEMBERS OF THE
17 COMBINED GROUP FOR THE TAXABLE YEAR IMMEDIATELY SUCCEEDING THE BASE
18 YEAR, THE COMBINED GROUP SHALL CALCULATE ITS PRIOR NET OPERATING LOSS
19 CONVERSION SUBTRACTION POOL USING THE COMBINED GROUP'S TOTAL UNABSORBED
20 NET OPERATING LOSS, BASE YEAR BAP, AND BASE YEAR TAX RATE.

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

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

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

44 (D) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO
45 REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF
46 THE TAX ON BUSINESS CAPITAL UNDER CLAUSE (II) OF SUBPARAGRAPH ONE OF
47 PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER OR
48 THE FIXED DOLLAR MINIMUM UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARA-
49 GRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER.
50 UNLESS THE TAXPAYER HAS MADE THE ELECTION PROVIDED FOR IN SUBPARAGRAPH
51 FOUR OF PARAGRAPH (B) OF THIS SUBDIVISION, ANY AMOUNT OF UNUSED PRIOR
52 NET OPERATING LOSS CONVERSION SUBTRACTION SHALL BE CARRIED FORWARD TO A
53 SUBSEQUENT TAX YEAR OR SUBSEQUENT TAX YEARS UNTIL THE PRIOR NET OPERAT-
54 ING LOSS CONVERSION SUBTRACTION POOL IS EXHAUSTED, BUT FOR NO LONGER
55 THAN TWENTY TAXABLE YEARS OR THE TAXABLE YEAR BEGINNING ON OR AFTER
56 JANUARY FIRST, TWO THOUSAND THIRTY-FIVE BUT BEFORE JANUARY FIRST, TWO

1 THOUSAND THIRTY-SIX, WHICHEVER COMES FIRST. SUCH AMOUNT CARRIED FORWARD
2 SHALL NOT BE SUBJECT TO THE ONE-TENTH LIMITATION FOR THE SUBSEQUENT TAX
3 YEAR OR YEARS UNDER SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVI-
4 SION. HOWEVER, IF THE TAXPAYER ELECTS TO COMPUTE ITS PRIOR NET OPERATING
5 LOSS CONVERSION SUBTRACTION PURSUANT TO SUBPARAGRAPH FOUR OF PARAGRAPH
6 (B) OF THIS SUBDIVISION, THE TAXPAYER SHALL NOT CARRY FORWARD ANY UNUSED
7 AMOUNT OF SUCH PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION TO ANY
8 TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

9 3. IN COMPUTING BUSINESS INCOME, A NET OPERATING LOSS DEDUCTION SHALL
10 BE ALLOWED. A NET OPERATING LOSS DEDUCTION SHALL BE THE AMOUNT OF NET
11 OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED
12 FORWARD OR CARRIED BACK TO A PARTICULAR TAXABLE YEAR. A NET OPERATING
13 LOSS SHALL BE THE AMOUNT OF A BUSINESS LOSS INCURRED IN A PARTICULAR TAX
14 YEAR MULTIPLIED BY THE BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR AS
15 DETERMINED UNDER SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.
16 THE MAXIMUM NET OPERATING LOSS DEDUCTION THAT IS ALLOWED IN A TAXABLE
17 YEAR SHALL BE THE AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED
18 BUSINESS INCOME TO THE HIGHER OF THE TAX ON BUSINESS CAPITAL UNDER
19 CLAUSE (II) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF
20 SECTION 11-654 OF THIS SUBCHAPTER OR THE FIXED DOLLAR MINIMUM AMOUNT
21 UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION
22 ONE OF SECTION 11-654 OF THIS SUBCHAPTER. SUCH NET OPERATING LOSS
23 DEDUCTION AND NET OPERATING LOSS SHALL BE DETERMINED IN ACCORDANCE WITH
24 THE FOLLOWING:

25 (A) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT BE LIMITED TO THE
26 AMOUNT ALLOWED UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL
27 REVENUE CODE OR THE AMOUNT THAT WOULD HAVE BEEN ALLOWED IF THE TAXPAYER
28 DID NOT HAVE AN ELECTION UNDER SUBCHAPTER S OF CHAPTER ONE OF THE INTER-
29 NAL REVENUE CODE IN EFFECT FOR THE APPLICABLE TAX YEAR.

30 (B) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-
31 ATING LOSS INCURRED DURING ANY TAXABLE YEAR BEGINNING PRIOR TO JANUARY
32 FIRST, TWO THOUSAND FIFTEEN, OR DURING ANY TAXABLE YEAR IN WHICH THE
33 TAXPAYER WAS NOT SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER.

34 (C) A TAXPAYER THAT FILES AS PART OF A FEDERAL CONSOLIDATED RETURN BUT
35 ON A SEPARATE BASIS FOR PURPOSES OF THIS SUBCHAPTER SHALL COMPUTE ITS
36 DEDUCTION AND LOSS AS IF IT WERE FILING ON A SEPARATE BASIS FOR FEDERAL
37 INCOME TAX PURPOSES.

38 (D) A NET OPERATING LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS
39 PRECEDING THE TAXABLE YEAR OF THE LOSS EXCEPT THAT NO LOSS MAY BE
40 CARRIED BACK TO A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-
41 SAND FIFTEEN. THE LOSS FIRST SHALL BE CARRIED TO THE EARLIEST OF THE
42 THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS. IF IT IS NOT
43 ENTIRELY USED IN THAT YEAR, IT SHALL BE CARRIED TO THE SECOND TAXABLE
44 YEAR PRECEDING THE TAXABLE YEAR OF THE LOSS, AND ANY REMAINING AMOUNT
45 SHALL BE CARRIED TO THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE
46 YEAR OF THE LOSS. ANY UNUSED AMOUNT OF LOSS THEN REMAINING MAY BE
47 CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS FOLLOWING THE TAXA-
48 BLE YEAR OF THE LOSS. LOSSES CARRIED FORWARD ARE CARRIED FORWARD FIRST
49 TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE TAXABLE YEAR OF THE LOSS,
50 THEN TO THE SECOND TAXABLE YEAR FOLLOWING THE TAXABLE YEAR OF THE LOSS,
51 AND THEN TO THE NEXT IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL
52 THE LOSS IS USED UP OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE TAXABLE
53 YEAR OF THE LOSS, WHICHEVER COMES FIRST.

54 (E) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-
55 ATING LOSS INCURRED DURING ANY TAXABLE YEAR COMMENCING AFTER JANUARY
56 FIRST, TWO THOUSAND FIFTEEN IF THE TAXPAYER WAS SUBJECT TO TAX UNDER

SUBCHAPTER TWO OR THREE OF THIS CHAPTER IN THAT YEAR; PROVIDED, HOWEVER, ANY YEAR COMMENCING AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN THAT THE TAXPAYER WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO OR THREE OF THIS CHAPTER IN THAT YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS MAY BE CARRIED FORWARD.

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

(G) A TAXPAYER MAY ELECT TO WAIVE THE ENTIRE CARRYBACK PERIOD WITH RESPECT TO A NET OPERATING LOSS. SUCH ELECTION MUST BE MADE ON THE TAXPAYER'S ORIGINAL TIMELY FILED RETURN (DETERMINED WITH REGARD TO EXTENSIONS) FOR THE TAXABLE YEAR OF THE NET OPERATING LOSS FOR WHICH THE ELECTION IS TO BE IN EFFECT. ONCE AN ELECTION IS MADE FOR A TAXABLE YEAR, IT SHALL BE IRREVOCABLE FOR THAT TAXABLE YEAR. A SEPARATE ELECTION MUST BE MADE FOR EACH TAXABLE YEAR OF THE LOSS. THIS ELECTION APPLIES TO ALL MEMBERS OF A COMBINED GROUP.

S 11-654.2 RECEIPTS ALLOCATION. 1. THE PERCENTAGE OF RECEIPTS OF THE TAXPAYER TO BE ALLOCATED TO THE CITY FOR PURPOSES OF SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER SHALL BE EQUAL TO THE RECEIPTS FRACTION DETERMINED PURSUANT TO THIS SECTION. THE RECEIPTS FRACTION IS A FRACTION, DETERMINED BY INCLUDING ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS DESCRIBED IN THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE TAXPAYER'S BUSINESS INCOME (DETERMINED WITHOUT REGARD TO THE MODIFICATION PROVIDED IN SUBPARAGRAPH FOURTEEN OF PARAGRAPH (A) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER) FOR THE TAXABLE YEAR. THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE PROVISIONS OF THIS SECTION AND THE DENOMINATOR OF THE RECEIPTS FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN THE DENOMINATOR PURSUANT TO THE PROVISIONS OF THIS SECTION.

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

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

(C) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY THAT ARE TRADED AS COMMODITIES AS THE TERM "COMMODITY" IS DEFINED IN SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE, SHALL BE INCLUDED IN THE RECEIPTS FRACTION IN ACCORDANCE WITH CLAUSE (I) OF SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION.

(D) NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. NET GAINS (NOT LESS THAN ZERO) FROM THE SALES OF REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

1 3. (A) RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL PROPERTY
2 LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE
3 RECEIPTS FRACTION. RECEIPTS FROM RENTALS OF REAL AND TANGIBLE PERSONAL
4 PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE
5 DENOMINATOR OF THE RECEIPTS FRACTION.

6 (B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADE-
7 MARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE CITY SHALL BE
8 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS OF ROYAL-
9 TIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTAN-
10 GIBLE PERSONAL PROPERTY WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN
11 THE DENOMINATOR OF THE RECEIPTS FRACTION. A PATENT, COPYRIGHT, TRADE-
12 MARK, OR SIMILAR INTANGIBLE PERSONAL PROPERTY IS USED WITHIN THE CITY TO
13 THE EXTENT THAT THE ACTIVITIES THEREUNDER ARE CARRIED ON WITHIN THE
14 CITY.

15 (C) RECEIPTS FROM THE SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE
16 TELEVISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A
17 REGULARLY SCHEDULED BASIS) TAKING PLACE WITHIN THE CITY AS A RESULT OF
18 THE RENDITION OF SERVICES BY EMPLOYEES OF THE CORPORATION, AS ATHLETES,
19 ENTERTAINERS OR PERFORMING ARTISTS, SHALL BE INCLUDED IN THE NUMERATOR
20 OF THE RECEIPTS FRACTION TO THE EXTENT THAT SUCH RECEIPTS ARE ATTRIBUT-
21 ABLE TO SUCH TRANSMISSIONS RECEIVED OR EXHIBITED WITHIN THE CITY.
22 RECEIPTS FROM ALL SALES OF RIGHTS FOR CLOSED-CIRCUIT AND CABLE TELE-
23 VISION TRANSMISSIONS OF AN EVENT (OTHER THAN EVENTS OCCURRING ON A REGU-
24 LARLY SCHEDULED BASIS) SHALL BE INCLUDED IN THE DENOMINATOR OF THE
25 RECEIPTS FRACTION.

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

38 (B) RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR GRANTING OF REMOTE
39 ACCESS TO DIGITAL PRODUCTS WITHIN THE CITY, DETERMINED ACCORDING TO THE
40 HIERARCHY OF METHODS SET FORTH IN SUBPARAGRAPHS ONE THROUGH FOUR OF
41 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE INCLUDED IN THE NUMERATOR OF
42 THE RECEIPTS FRACTION. RECEIPTS FROM THE SALE OF, LICENSE TO USE, OR
43 GRANTING OF REMOTE ACCESS TO DIGITAL PRODUCTS WITHIN AND WITHOUT THE
44 CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. THE
45 TAXPAYER MUST EXERCISE DUE DILIGENCE UNDER EACH METHOD DESCRIBED IN
46 PARAGRAPH (C) OF THIS SUBDIVISION BEFORE REJECTING IT AND PROCEEDING TO
47 THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS DETERMINATION ON
48 INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN TO
49 THE TAXPAYER UPON REASONABLE INQUIRY. IF THE RECEIPT FOR A DIGITAL PROD-
50 UCT IS COMPRISED OF A COMBINATION OF PROPERTY AND SERVICES, IT CANNOT BE
51 DIVIDED INTO SEPARATE COMPONENTS AND SHALL BE CONSIDERED TO BE ONE
52 RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING
53 PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

54 (C) THE HIERARCHY OF SOURCING METHODS IS AS FOLLOWS: (1) THE CUSTOM-
55 ER'S PRIMARY USE LOCATION OF THE DIGITAL PRODUCT; (2) THE LOCATION WHERE
56 THE DIGITAL PRODUCT IS RECEIVED BY THE CUSTOMER, OR IS RECEIVED BY A

PERSON DESIGNATED FOR RECEIPT BY THE CUSTOMER; (3) THE RECEIPTS FRACTION DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR FOR SUCH DIGITAL PRODUCT; OR (4) THE RECEIPTS FRACTION IN THE CURRENT TAXABLE YEAR FOR THOSE DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

5. (A) A FINANCIAL INSTRUMENT IS A "NONQUALIFIED FINANCIAL INSTRUMENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRUMENT. A QUALIFIED FINANCIAL INSTRUMENT MEANS A FINANCIAL INSTRUMENT THAT IS OF A TYPE DESCRIBED IN ANY OF CLAUSE (I), (II), (III), (IV), (VII), (VIII) OR (IX) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH AND THAT HAS BEEN MARKED TO MARKET IN THE TAXABLE YEAR BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE. FURTHER, IF THE TAXPAYER HAS IN THE TAXABLE YEAR MARKED TO MARKET A FINANCIAL INSTRUMENT OF THE TYPE DESCRIBED IN ANY OF CLAUSE (I), (II), (III), (IV), (VII), (VIII) OR (IX) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH, THEN ANY FINANCIAL INSTRUMENT WITHIN THAT TYPE DESCRIBED IN THE ABOVE SPECIFIED CLAUSE OR CLAUSES THAT HAS NOT BEEN MARKED TO MARKET BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE IS A QUALIFIED FINANCIAL INSTRUMENT IN THE TAXABLE YEAR. NOTWITHSTANDING THE TWO PRECEDING SENTENCES, (I) A LOAN SECURED BY REAL PROPERTY SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT, (II) IF THE ONLY LOANS THAT ARE MARKED TO MARKET BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE ARE LOANS SECURED BY REAL PROPERTY, THEN NO LOANS SHALL BE QUALIFIED FINANCIAL INSTRUMENTS, AND (III) STOCK THAT IS INVESTMENT CAPITAL AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION 4 OF SECTION 11-652 OF THIS SUBCHAPTER SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT. IF A CORPORATION IS INCLUDED IN A COMBINED REPORT, THE DEFINITION OF QUALIFIED FINANCIAL INSTRUMENT SHALL BE DETERMINED ON A COMBINED BASIS.

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

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

1 (I)(A) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY REAL PROP-
2 ERTY LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE
3 RECEIPTS FRACTION. RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY
4 REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN
5 THE DENOMINATOR OF THE RECEIPTS FRACTION.

6 (B) RECEIPTS CONSTITUTING INTEREST FROM LOANS NOT SECURED BY REAL
7 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF
8 THE BORROWER IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST
9 FROM LOANS NOT SECURED BY REAL PROPERTY, WHETHER THE BORROWER IS LOCATED
10 WITHIN OR WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE
11 RECEIPTS FRACTION.

12 (C) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY REAL
13 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
14 PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE SALES OF
15 LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE RECEIPTS
16 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE NET GAINS BY A FRACTION,
17 THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS FROM SALES
18 OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE CITY AND THE DENOM-
19 INATOR OF WHICH SHALL BE THE GROSS PROCEEDS FROM SALES OF LOANS SECURED
20 BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY. GROSS PROCEEDS
21 SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE
22 THE LOANS BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN
23 ZERO) FROM SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND
24 WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS
25 FRACTION.

26 (D) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS NOT SECURED BY
27 REAL PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
28 TION AS PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE
29 SALES OF LOANS NOT SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF
30 THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE NET GAINS
31 BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF GROSS
32 PROCEEDS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO PURCHASERS
33 LOCATED WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE AMOUNT
34 OF GROSS PROCEEDS FROM SALES OF LOANS NOT SECURED BY REAL PROPERTY TO
35 PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY. GROSS PROCEEDS SHALL BE
36 DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE THE LOANS
37 BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN ZERO) FROM
38 SALES OF LOANS NOT SECURED BY REAL PROPERTY SHALL BE INCLUDED IN THE
39 DENOMINATOR OF THE RECEIPTS FRACTION.

40 (E) FOR PURPOSES OF THIS SUBDIVISION, A LOAN IS SECURED BY REAL PROP-
41 ERTY IF FIFTY PERCENT OR MORE OF THE VALUE OF THE COLLATERAL USED TO
42 SECURE THE LOAN, WHEN VALUED AT FAIR MARKET VALUE AS OF THE TIME THE
43 LOAN WAS ENTERED INTO, CONSISTS OF REAL PROPERTY.

44 (II) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTER-
45 EST AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED
46 STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE
47 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS CONSTITUT-
48 ING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT
49 INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK OR ITS
50 POLITICAL SUBDIVISIONS, INCLUDING THE CITY, SHALL BE INCLUDED IN THE
51 DENOMINATOR OF THE RECEIPTS FRACTION. FIFTY PERCENT OF THE RECEIPTS
52 CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF
53 DEBT INSTRUMENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS
54 SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

55 (III) ASSET BACKED SECURITIES AND OTHER GOVERNMENT AGENCY DEBT. EIGHT
56 PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES OR OTHER

1 SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO
2 SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION
3 (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), THE FEDERAL
4 HOME LOAN MORTGAGE CORPORATION (FHLMC), OR THE SMALL BUSINESS ADMINIS-
5 TRATION, OR EIGHT PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECU-
6 RITIES ISSUED BY OTHER ENTITIES SHALL BE INCLUDED IN THE NUMERATOR OF
7 THE RECEIPTS FRACTION. EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN
8 ZERO) FROM (A) SALES OF ASSET BACKED SECURITIES OR OTHER SECURITIES
9 ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO SECURITIES
10 ISSUED BY GNMA, FNMA, FHLMC, OR THE SMALL BUSINESS ADMINISTRATION, OR
11 (B) SALES OF OTHER ASSET BACKED SECURITIES THAT ARE SOLD THROUGH A
12 REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED EXCHANGE,
13 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. THE AMOUNT
14 OF NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER ASSET BACKED SECU-
15 RITIES NOT REFERENCED IN SUBCLAUSE (A) OR (B) OF THIS CLAUSE INCLUDED IN
16 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-
17 ING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE
18 AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED IN THE
19 CITY AND THE DENOMINATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS
20 FROM SUCH SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY.
21 RECEIPTS CONSTITUTING INTEREST INCOME FROM ASSET BACKED SECURITIES AND
22 OTHER SECURITIES REFERENCED IN THIS CLAUSE AND NET GAINS (NOT LESS THAN
23 ZERO) FROM SALES OF ASSET BACKED SECURITIES AND OTHER SECURITIES REFER-
24 ENCED IN THIS CLAUSE SHALL BE INCLUDED IN THE DENOMINATOR OF THE
25 RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE
26 DEDUCTION OF ANY COST TO ACQUIRE THE SECURITIES BUT SHALL NOT BE LESS
27 THAN ZERO.

28 (IV) RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS SHALL BE
29 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE COMMERCIAL
30 DOMICILE OF THE ISSUING CORPORATION IS WITHIN THE CITY. EIGHT PERCENT OF
31 THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS SOLD
32 THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED
33 EXCHANGE SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.
34 THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES OF CORPO-
35 RATE BONDS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE
36 DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF
37 WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS
38 LOCATED WITHIN THE CITY AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF
39 GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE
40 CITY. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS, WHETHER THE
41 ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITHOUT THE CITY,
42 AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS TO
43 PURCHASERS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMI-
44 NATOR OF THE RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER
45 THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT SHALL NOT BE LESS
46 THAN ZERO.

47 (V) EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM
48 REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL
49 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. NET INTEREST
50 INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECU-
51 RITIES BORROWING AGREEMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE
52 RECEIPTS FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREE-
53 MENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE DETERMINED FOR
54 PURPOSES OF THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE
55 FROM THE TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREE-
56 MENTS BUT SHALL NOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT

1 OF SUCH INTEREST EXPENSE SHALL BE THE INTEREST EXPENSE ASSOCIATED WITH
2 THE SUM OF THE VALUE OF THE TAXPAYER'S REPURCHASE AGREEMENTS WHERE IT IS
3 THE SELLER/BORROWER PLUS THE VALUE OF THE TAXPAYER'S SECURITIES LENDING
4 AGREEMENTS WHERE IT IS THE SECURITIES LENDER, PROVIDED SUCH SUM IS
5 LIMITED TO THE SUM OF THE VALUE OF THE TAXPAYER'S REVERSE REPURCHASE
6 AGREEMENTS WHERE IT IS THE PURCHASER/LENDER PLUS THE VALUE OF THE
7 TAXPAYER'S SECURITIES LENDING AGREEMENTS WHERE IT IS THE SECURITIES
8 BORROWER.

9 (VI) EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN ZERO) FROM
10 FEDERAL FUNDS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
11 TION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS SHALL BE
12 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. NET INTEREST FROM
13 FEDERAL FUNDS SHALL BE DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE
14 FROM FEDERAL FUNDS.

15 (VII) DIVIDENDS FROM STOCK, NET GAINS (NOT LESS THAN ZERO) FROM SALES
16 OF STOCK AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF PARTNERSHIP
17 INTERESTS SHALL NOT BE INCLUDED IN EITHER THE NUMERATOR OR DENOMINATOR
18 OF THE RECEIPTS FRACTION UNLESS THE COMMISSIONER OF FINANCE DETERMINES
19 PURSUANT TO SUBDIVISION ELEVEN OF THIS SECTION THAT INCLUSION OF SUCH
20 DIVIDENDS AND NET GAINS (NOT LESS THAN ZERO) IS NECESSARY TO PROPERLY
21 REFLECT THE BUSINESS INCOME OR CAPITAL OF THE TAXPAYER.

22 (VIII)(A) RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRU-
23 MENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE
24 PAYOR IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST FROM
25 OTHER FINANCIAL INSTRUMENTS, WHETHER THE PAYOR IS WITHIN OR WITHOUT THE
26 CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

27 (B) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL
28 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL
29 INSTRUMENTS WHERE THE PURCHASER OR PAYOR IS LOCATED WITHIN THE CITY
30 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION, PROVIDED
31 THAT, IF THE PURCHASER OR PAYOR IS A REGISTERED SECURITIES BROKER OR
32 DEALER OR THE TRANSACTION IS MADE THROUGH A LICENSED EXCHANGE, THEN
33 EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) OR OTHER INCOME (NOT
34 LESS THAN ZERO) SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
35 TION. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL
36 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL
37 INSTRUMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
38 TION.

39 (IX) NET INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMOD-
40 ITIES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
41 PROVIDED IN THIS CLAUSE. THE AMOUNT OF NET INCOME FROM SALES OF PHYS-
42 ICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
43 SHALL BE DETERMINED BY MULTIPLYING THE NET INCOME FROM SALES OF PHYSICAL
44 COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF
45 RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY DELIVERED TO POINTS
46 WITHIN THE CITY OR, IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL
47 COMMODITY, SOLD TO PURCHASERS LOCATED WITHIN THE CITY, AND THE DENOMINA-
48 TOR OF WHICH SHALL BE THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL
49 COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE CITY OR,
50 IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL COMMODITY, SOLD TO
51 PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY. NET INCOME (NOT LESS
52 THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES SHALL BE INCLUDED IN THE
53 DENOMINATOR OF THE RECEIPTS FRACTION. NET INCOME (NOT LESS THAN ZERO)
54 FROM SALES OF PHYSICAL COMMODITIES SHALL BE DETERMINED AFTER THE
55 DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL COMMODITIES.

1 (X)(A) FOR PURPOSES OF THIS SUBDIVISION, "MARKED TO MARKET" MEANS THAT
2 A FINANCIAL INSTRUMENT IS, UNDER SECTION FOUR HUNDRED SEVENTY-FIVE OR
3 SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, TREATED
4 BY THE TAXPAYER AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS
5 DAY OF THE TAXPAYER'S TAXABLE YEAR. "MARKED TO MARKET GAIN OR LOSS"
6 MEANS THE GAIN OR LOSS RECOGNIZED BY THE TAXPAYER UNDER SECTION FOUR
7 HUNDRED SEVENTY-FIVE OR SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL
8 REVENUE CODE BECAUSE THE FINANCIAL INSTRUMENT IS TREATED AS SOLD FOR ITS
9 FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXPAYER'S TAXABLE
10 YEAR.

11 (B) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM
12 EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN
13 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-
14 ING THE MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM SUCH TYPE
15 OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE
16 THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF
17 FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS
18 SUBPARAGRAPH AND THE DENOMINATOR OF WHICH SHALL BE THE DENOMINATOR OF
19 THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRU-
20 MENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED
21 TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR
22 WHICH THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS IS DETERMINED
23 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-
24 INATOR OF THE RECEIPTS FRACTION.

25 (C) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS
26 NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE
27 TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRU-
28 MENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF
29 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINAN-
30 CIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL
31 BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT
32 LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION,
33 THE NUMERATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS
34 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)
35 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE, AND
36 THE DENOMINATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS
37 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)
38 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE.
39 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO
40 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IS DETERMINED
41 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-
42 INATOR OF THE RECEIPTS FRACTION.

43 (B) RECEIPTS OF A REGISTERED SECURITIES BROKER OR DEALER FROM SECURI-
44 TIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARA-
45 GRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN
46 SUBPARAGRAPHS ONE THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH
47 ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR
48 OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN
49 AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE
50 RECEIPTS FRACTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURI-
51 TIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (C)
52 OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE AND
53 THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO
54 OF SUBSECTION (E) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL
55 REVENUE CODE.

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

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

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

(II) RECEIPTS CONSTITUTING THE PRIMARY SPREAD OF SELLING CONCESSION FROM UNDERWRITTEN SECURITIES SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE CUSTOMER IS LOCATED WITHIN THE CITY.

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

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

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

(6) RECEIPTS CONSTITUTING INTEREST EARNED BY THE TAXPAYER ON LOANS AND ADVANCES MADE BY THE TAXPAYER TO A CORPORATION AFFILIATED WITH THE TAXPAYER BUT WITH WHICH THE TAXPAYER IS NOT PERMITTED OR REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER SHALL BE DEEMED TO ARISE FROM SERVICES PERFORMED AT THE PRINCIPAL PLACE OF BUSINESS OF SUCH AFFILIATED CORPORATION.

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

1 RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE
2 TAXPAYER ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH
3 RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY TO THE EXTENT
4 SET FORTH IN EACH OF SUCH SUBPARAGRAPHS.

5 (8) IF, FOR THE PURPOSES OF SUBPARAGRAPH ONE, SUBPARAGRAPH TWO, CLAUSE
6 (I) OF SUBPARAGRAPH THREE, SUBPARAGRAPH FOUR, OR SUBPARAGRAPH FIVE OF
7 THIS PARAGRAPH, THE TAXPAYER IS UNABLE FROM ITS RECORDS TO DETERMINE THE
8 MAILING ADDRESS OF THE CUSTOMER, EIGHT PERCENT OF THE RECEIPTS SHALL BE
9 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.

10 (C) RECEIPTS RELATING TO THE BANK, CREDIT, TRAVEL, AND ENTERTAINMENT
11 CARD ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENER-
12 ATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF
13 THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE CITY
14 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS
15 FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE CITY SHALL BE
16 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

17 (1) RECEIPTS CONSTITUTING INTEREST, AND FEES AND PENALTIES IN THE
18 NATURE OF INTEREST, FROM BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD
19 RECEIVABLES SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE MAIL-
20 ING ADDRESS OF THE CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS WITHIN
21 THE CITY;

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

25 (3) RECEIPTS FROM MERCHANT DISCOUNTS SHALL BE DEEMED TO BE GENERATED
26 WITHIN THE CITY IF THE MERCHANT IS LOCATED WITHIN THE CITY. IN THE CASE
27 OF A MERCHANT WITH LOCATIONS BOTH WITHIN AND WITHOUT THE CITY, ONLY
28 RECEIPTS FROM MERCHANT DISCOUNTS ATTRIBUTABLE TO SALES MADE FROM
29 LOCATIONS WITHIN THE CITY ARE ALLOCATED TO THE CITY. IT SHALL BE
30 PRESUMED THAT THE LOCATION OF THE MERCHANT IS THE ADDRESS OF THE
31 MERCHANT SHOWN ON THE INVOICE SUBMITTED BY THE MERCHANT TO THE TAXPAYER;
32 AND

33 (4) RECEIPTS FROM CREDIT CARD AUTHORIZATION PROCESSING, AND CLEARING
34 AND SETTLEMENT PROCESSING RECEIVED BY A CREDIT CARD PROCESSOR SHALL BE
35 DEEMED TO BE GENERATED WITHIN THE CITY IF THE LOCATION WHERE THE CREDIT
36 CARD PROCESSOR'S CUSTOMER ACCESSES THE CREDIT CARD PROCESSOR'S NETWORK
37 IS LOCATED WITHIN THE CITY. THE AMOUNT OF ALL OTHER RECEIPTS RECEIVED BY
38 A CREDIT CARD PROCESSOR NOT SPECIFICALLY ADDRESSED IN SUBDIVISIONS ONE
39 THROUGH NINE OR SUBDIVISION TWELVE OF THIS SECTION DEEMED TO BE GENER-
40 ATED WITHIN THE CITY SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT
41 OF SUCH OTHER RECEIPTS BY THE AVERAGE OF (I) EIGHT PERCENT AND (II) THE
42 PERCENT OF NEW YORK CITY ACCESS POINTS. THE PERCENT OF NEW YORK CITY
43 ACCESS POINTS SHALL BE THE NUMBER OF LOCATIONS IN NEW YORK CITY FROM
44 WHICH THE CREDIT CARD PROCESSOR'S CUSTOMERS ACCESS THE CREDIT CARD
45 PROCESSOR'S NETWORK DIVIDED BY THE TOTAL NUMBER OF LOCATIONS IN THE
46 UNITED STATES WHERE THE CREDIT CARD PROCESSOR'S CUSTOMERS ACCESS THE
47 CREDIT CARD PROCESSOR'S NETWORK.

48 (D) RECEIPTS RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE
49 OF MANAGEMENT, ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVEST-
50 MENT COMPANY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. THE PORTION OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE
51 RECEIPTS FRACTION (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK CITY
52 PORTION) SHALL BE DETERMINED AS PROVIDED IN THIS PARAGRAPH.

53 (1) THE NEW YORK CITY PORTION SHALL BE THE PRODUCT OF THE TOTAL OF
54 SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERA-
55 TOR OF THAT FRACTION SHALL BE THE SUM OF THE MONTHLY PERCENTAGES (AS
56

1 DEFINED HEREINAFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPA-
2 NY'S TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR
3 ENDS WITHIN THE TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH
4 DURING WHICH THE INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE
5 MONTHLY PERCENTAGE FOR EACH SUCH MONTH SHALL BE DETERMINED BY DIVIDING
6 THE NUMBER OF SHARES IN THE INVESTMENT COMPANY THAT ARE OWNED ON THE
7 LAST DAY OF THE MONTH BY SHAREHOLDERS THAT ARE LOCATED IN THE CITY BY
8 THE TOTAL NUMBER OF SHARES IN THE INVESTMENT COMPANY OUTSTANDING ON THAT
9 DATE. THE DENOMINATOR OF THE FRACTION SHALL BE THE NUMBER OF SUCH MONTH-
10 LY PERCENTAGES.

11 (2)(I) FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL, ESTATE OR TRUST
12 SHALL BE DEEMED TO BE LOCATED WITHIN THE CITY IF HIS, HER OR ITS MAILING
13 ADDRESS IN THE RECORDS OF THE INVESTMENT COMPANY IS LOCATED WITHIN THE
14 CITY. A BUSINESS ENTITY IS DEEMED TO BE LOCATED WITHIN THE CITY IF ITS
15 COMMERCIAL DOMICILE IS LOCATED WITHIN THE CITY.

16 (II) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "INVESTMENT COMPANY"
17 MEANS A REGULATED INVESTMENT COMPANY, AS DEFINED IN SECTION EIGHT
18 HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, AND A PARTNERSHIP TO
19 WHICH SUBSECTION (A) OF SECTION SEVEN THOUSAND SEVEN HUNDRED FOUR OF THE
20 INTERNAL REVENUE CODE APPLIES (BY VIRTUE OF PARAGRAPH THREE OF
21 SUBSECTION (C) OF SECTION SEVEN THOUSAND SEVEN HUNDRED FOUR OF SUCH
22 CODE) AND THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF SECTION EIGHT
23 HUNDRED FIFTY-ONE OF SUCH CODE. THE PRECEDING SENTENCE SHALL BE APPLIED
24 TO THE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES OF THE BUSINESS
25 ENTITY THAT IS ASSERTED TO CONSTITUTE AN INVESTMENT COMPANY THAT ENDS
26 WITHIN THE TAXABLE YEAR OF THE TAXPAYER.

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

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

40 (V) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "DISTRIBUTION SERVICES"
41 MEANS THE SERVICES OF ADVERTISING, SERVICING INVESTOR ACCOUNTS (INCLUD-
42 ING REDEMPTIONS), MARKETING SHARES OR SELLING SHARES OF AN INVESTMENT
43 COMPANY, BUT, IN THE CASE OF ADVERTISING, SERVICING INVESTOR ACCOUNTS
44 (INCLUDING REDEMPTIONS) OR MARKETING SHARES, ONLY WHERE SUCH SERVICE IS
45 PERFORMED BY A PERSON WHO IS (OR WAS, IN THE CASE OF A CLOSED END COMPA-
46 NY) ALSO ENGAGED IN THE SERVICE OF SELLING SUCH SHARES. IN THE CASE OF
47 AN OPEN END COMPANY, SUCH SERVICE OF SELLING SHARES MUST BE PERFORMED
48 PURSUANT TO A CONTRACT ENTERED INTO PURSUANT TO SUBSECTION (B) OF
49 SECTION FIFTEEN OF THE FEDERAL INVESTMENT COMPANY ACT OF NINETEEN
50 HUNDRED FORTY, AS AMENDED.

51 (VI) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ADMINISTRATION
52 SERVICES" INCLUDES CLERICAL, ACCOUNTING, BOOKKEEPING, DATA PROCESSING,
53 INTERNAL AUDITING, LEGAL AND TAX SERVICES PERFORMED FOR AN INVESTMENT
54 COMPANY BUT ONLY IF THE PROVIDER OF SUCH SERVICE OR SERVICES DURING THE
55 TAXABLE YEAR IN WHICH SUCH SERVICE OR SERVICES ARE SOLD ALSO SELLS

1 MANAGEMENT OR DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH
2 INVESTMENT COMPANY.

3 (E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOW-
4 ING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY,
5 BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD
6 BE KNOWN UPON REASONABLE INQUIRY: (1) THE SEAT OF MANAGEMENT AND CONTROL
7 OF THE BUSINESS ENTITY; AND (2) THE BILLING ADDRESS OF THE BUSINESS
8 ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILI-
9 GENCE BEFORE REJECTING THE FIRST METHOD IN THIS HIERARCHY AND PROCEEDING
10 TO THE NEXT METHOD.

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

18 6. RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE
19 RAILROAD, WHETHER OR NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED
20 RAILROAD, PALACE CAR OR SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS
21 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS.
22 THE AMOUNT OF RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS OR A
23 TRUCKING BUSINESS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
24 SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF RECEIPTS FROM SUCH
25 BUSINESS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE MILES IN
26 SUCH BUSINESS WITHIN THE CITY DURING THE PERIOD COVERED BY THE TAXPAY-
27 ER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE MILES IN SUCH
28 BUSINESS WITHIN AND WITHOUT THE CITY DURING SUCH PERIOD. RECEIPTS FROM
29 THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS SHALL BE
30 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

31 7. (A) RECEIPTS OF A TAXPAYER ACTING AS PRINCIPAL FROM THE ACTIVITY OF
32 AIR FREIGHT FORWARDING AND LIKE INDIRECT AIR CARRIER RECEIPTS ARISING
33 FROM SUCH ACTIVITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS
34 FRACTION AS FOLLOWS: ONE HUNDRED PERCENT OF SUCH RECEIPTS IF BOTH THE
35 PICKUP AND DELIVERY ASSOCIATED WITH SUCH RECEIPTS ARE MADE WITHIN THE
36 CITY AND FIFTY PERCENT OF SUCH RECEIPTS IF EITHER THE PICKUP OR DELIVERY
37 ASSOCIATED WITH SUCH RECEIPTS IS MADE WITHIN THIS CITY. SUCH RECEIPTS,
38 WHETHER THE PICKUP OR DELIVERY ASSOCIATED WITH THE RECEIPTS IS WITHIN OR
39 WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS
40 FRACTION.

41 (B)(1)(I) THE PORTION OF RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES
42 (OTHER THAN SERVICES DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION, BUT
43 INCLUDING THE RECEIPTS OF A QUALIFIED AIR FREIGHT FORWARDER) TO BE
44 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED
45 BY MULTIPLYING ITS RECEIPTS FROM SUCH AVIATION SERVICES BY A PERCENTAGE
46 WHICH IS EQUAL TO THE ARITHMETIC AVERAGE OF THE FOLLOWING THREE PERCENT-
47 AGES:

48 (A) THE PERCENTAGE DETERMINED BY DIVIDING THE AIRCRAFT ARRIVALS AND
49 DEPARTURES WITHIN THE CITY BY THE TAXPAYER DURING THE PERIOD COVERED BY
50 ITS REPORT BY THE TOTAL AIRCRAFT ARRIVALS AND DEPARTURES WITHIN AND
51 WITHOUT THE CITY DURING SUCH PERIOD; PROVIDED, HOWEVER, ARRIVALS AND
52 DEPARTURES SOLELY FOR MAINTENANCE OR REPAIR, REFUELING (WHERE NO DEBAR-
53 KATION OR EMBARKATION OF TRAFFIC OCCURS), ARRIVALS AND DEPARTURES OF
54 FERRY AND PERSONNEL TRAINING FLIGHTS OR ARRIVALS AND DEPARTURES IN THE
55 EVENT OF EMERGENCY SITUATIONS SHALL NOT BE INCLUDED IN COMPUTING SUCH
56 ARRIVAL AND DEPARTURE PERCENTAGE; PROVIDED, FURTHER, THE COMMISSIONER OF

1 FINANCE MAY ALSO EXEMPT FROM SUCH PERCENTAGE AIRCRAFT ARRIVALS AND
2 DEPARTURES OF ALL NON-REVENUE FLIGHTS INCLUDING FLIGHTS INVOLVING THE
3 TRANSPORTATION OF OFFICERS OR EMPLOYEES RECEIVING AIR TRANSPORTATION TO
4 PERFORM MAINTENANCE OR REPAIR SERVICES OR WHERE SUCH OFFICERS OR EMPLOY-
5 EES ARE TRANSPORTED IN CONJUNCTION WITH AN EMERGENCY SITUATION OR THE
6 INVESTIGATION OF AN AIR DISASTER (OTHER THAN ON A SCHEDULED FLIGHT);
7 PROVIDED, HOWEVER, THAT ARRIVALS AND DEPARTURES OF FLIGHTS TRANSPORTING
8 OFFICERS AND EMPLOYEES RECEIVING AIR TRANSPORTATION FOR PURPOSES OTHER
9 THAN SPECIFIED ABOVE (WITHOUT REGARD TO REMUNERATION) SHALL BE INCLUDED
10 IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE;

11 (B) THE PERCENTAGE DETERMINED BY DIVIDING THE REVENUE TONS HANDLED BY
12 THE TAXPAYER AT AIRPORTS WITHIN THE CITY DURING SUCH PERIOD BY THE TOTAL
13 REVENUE TONS HANDLED BY IT AT AIRPORTS WITHIN AND WITHOUT THE CITY
14 DURING SUCH PERIOD; AND

15 (C) THE PERCENTAGE DETERMINED BY DIVIDING THE TAXPAYER'S ORIGINATING
16 REVENUE WITHIN THE CITY FOR SUCH PERIOD BY ITS TOTAL ORIGINATING REVENUE
17 WITHIN AND WITHOUT THE CITY FOR SUCH PERIOD.

18 (II) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS
19 THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND
20 THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAY-
21 ER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM
22 THE TRANSPORTATION OF REVENUE PASSENGERS AND REVENUE PROPERTY FIRST
23 RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT
24 AIRPORTS; AND THE TERM "REVENUE TONS HANDLED BY THE TAXPAYER AT
25 AIRPORTS" MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED
26 POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGI-
27 NATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT
28 AIRPORTS.

29 (2) ALL SUCH RECEIPTS OF A TAXPAYER FROM AVIATION SERVICES DESCRIBED
30 IN THIS PARAGRAPH SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS
31 FRACTION.

32 (3) A CORPORATION IS A QUALIFIED AIR FREIGHT FORWARDER WITH RESPECT TO
33 ANOTHER CORPORATION:

34 (I) IF IT OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY ALL OF THE
35 CAPITAL STOCK OF SUCH OTHER CORPORATION, OR IF ALL OF ITS CAPITAL STOCK
36 IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY SUCH OTHER
37 CORPORATION, OR IF ALL OF THE CAPITAL STOCK OF BOTH CORPORATIONS IS
38 OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY THE SAME INTERESTS;

39 (II) IF IT IS PRINCIPALLY ENGAGED IN THE BUSINESS OF AIR FREIGHT
40 FORWARDING; AND

41 (III) IF ITS AIR FREIGHT FORWARDING BUSINESS IS CARRIED ON PRINCIPALLY
42 WITH THE AIRLINE OR AIRLINES OPERATED BY SUCH OTHER CORPORATION.

43 8. (A) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS
44 OR PERIODICALS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL
45 BE DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION,
46 THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF NEWSPAPERS AND PERIODICALS
47 DELIVERED TO POINTS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL
48 BE THE NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN
49 AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTIS-
50 ING IN NEWSPAPERS OR PERIODICALS SHALL BE INCLUDED IN THE DENOMINATOR OF
51 THE RECEIPTS FRACTION.

52 (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR
53 RADIO INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETER-
54 MINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE
55 NUMERATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN
56 THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR

1 LISTENERS WITHIN AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM
2 SALES OF ADVERTISING ON TELEVISION OR RADIO SHALL BE INCLUDED IN THE
3 DENOMINATOR OF THE RECEIPTS FRACTION.

4 (C) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING NOT DESCRIBED IN
5 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION THAT IS FURNISHED, PROVIDED OR
6 DELIVERED TO, OR ACCESSED BY THE VIEWER OR LISTENER THROUGH THE USE OF
7 WIRE, CABLE, FIBER-OPTIC, LASER, MICROWAVE, RADIO WAVE, SATELLITE OR
8 SIMILAR SUCCESSOR MEDIA OR ANY COMBINATION THEREOF, INCLUDED IN THE
9 NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING
10 THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH SHALL
11 BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE CITY AND THE DENOMINA-
12 TOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN AND
13 WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTISING
14 DESCRIBED IN THIS PARAGRAPH SHALL BE INCLUDED IN THE DENOMINATOR OF THE
15 RECEIPTS FRACTION.

16 9. RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH
17 PIPES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
18 FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION
19 OF GAS THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
20 SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY
21 A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TAXPAYER'S TRANSPORTA-
22 TION UNITS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE
23 TAXPAYER'S TRANSPORTATION UNITS WITHIN AND WITHOUT THE CITY. A TRANSPOR-
24 TATION UNIT IS THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A
25 DISTANCE OF ONE MILE. THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTA-
26 TION OR TRANSMISSION OF GAS THROUGH PIPES SHALL BE INCLUDED IN THE
27 DENOMINATOR OF THE RECEIPTS FRACTION.

28 10. (A) RECEIPTS FROM SERVICES NOT ADDRESSED IN SUBDIVISIONS ONE
29 THROUGH NINE OR SUBDIVISION TWELVE OF THIS SECTION AND OTHER BUSINESS
30 RECEIPTS NOT ADDRESSED IN SUCH SUBDIVISIONS SHALL BE INCLUDED IN THE
31 NUMERATOR OF THE RECEIPTS FRACTION IF THE LOCATION OF THE CUSTOMER IS
32 WITHIN THE CITY. SUCH RECEIPTS FROM CUSTOMERS WITHIN AND WITHOUT THE
33 CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.
34 WHETHER THE RECEIPTS ARE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
35 TION SHALL BE DETERMINED ACCORDING TO THE HIERARCHY OF METHODS SET FORTH
36 IN PARAGRAPH (B) OF THIS SUBDIVISION. THE TAXPAYER MUST EXERCISE DUE
37 DILIGENCE UNDER EACH METHOD DESCRIBED IN SUCH PARAGRAPH BEFORE REJECTING
38 IT AND PROCEEDING TO THE NEXT METHOD IN THE HIERARCHY, AND MUST BASE ITS
39 DETERMINATION ON INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT
40 WOULD BE KNOWN TO THE TAXPAYER UPON REASONABLE INQUIRY.

41 (B) THE HIERARCHY OF METHODS IS AS FOLLOWS: (1) THE BENEFIT IS
42 RECEIVED IN THE CITY; (2) DELIVERY DESTINATION; (3) THE RECEIPTS FRAC-
43 TION FOR SUCH RECEIPTS WITHIN THE CITY DETERMINED PURSUANT TO THIS
44 SUBDIVISION FOR THE PRECEDING TAXABLE YEAR; OR (4) THE RECEIPTS FRACTION
45 IN THE CURRENT TAXABLE YEAR DETERMINED PURSUANT TO THIS SUBDIVISION FOR
46 THOSE RECEIPTS THAT CAN BE SOURCED USING THE HIERARCHY OF SOURCING METH-
47 ODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

48 11. IF IT SHALL APPEAR THAT THE RECEIPTS FRACTION DETERMINED PURSUANT
49 TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE TAXPAYER'S
50 BUSINESS INCOME OR CAPITAL WITHIN THE CITY, THE COMMISSIONER OF FINANCE
51 IS AUTHORIZED IN HIS OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY
52 REQUEST THAT THE COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE
53 OR MORE ITEMS IN SUCH DETERMINATION, (B) INCLUDING ONE OR MORE OTHER
54 ITEMS IN SUCH DETERMINATION, OR (C) ANY OTHER SIMILAR OR DIFFERENT METH-
55 OD CALCULATED TO EFFECT A FAIR AND PROPER ALLOCATION OF THE BUSINESS
56 INCOME AND CAPITAL REASONABLY ATTRIBUTED TO THE CITY. THE PARTY SEEKING

1 THE ADJUSTMENT SHALL BEAR THE BURDEN OF PROOF TO DEMONSTRATE THAT THE
2 RECEIPTS FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN
3 A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN
4 THE CITY AND THAT THE PROPOSED ADJUSTMENT IS APPROPRIATE.

5 12. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE
6 NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS
7 FROM THE OPERATION OF VESSELS INCLUDED IN THE NUMERATOR OF THE RECEIPTS
8 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF SUCH RECEIPTS
9 BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF
10 WORKING DAYS OF THE VESSELS OWNED OR LEASED BY THE TAXPAYER IN TERRITO-
11 RIAL WATERS OF THE CITY DURING THE PERIOD COVERED BY THE TAXPAYER'S
12 REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF
13 WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY THE TAXPAYER DURING SUCH
14 PERIOD. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE
15 DENOMINATOR OF THE RECEIPTS FRACTION.

16 S 11-654.3 COMBINED REPORTS. 1. (A) THE TAX ON A COMBINED REPORT SHALL
17 BE THE HIGHEST OF (1) THE COMBINED BUSINESS INCOME MULTIPLIED BY THE TAX
18 RATE SPECIFIED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF
19 SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER; (2) THE COMBINED
20 CAPITAL MULTIPLIED BY THE TAX RATE SPECIFIED IN CLAUSE (II) OF SUBPARA-
21 GRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS
22 SUBCHAPTER, BUT NOT EXCEEDING THE LIMITATION PROVIDED FOR IN SUCH CLAUSE
23 (II); OR (3) THE FIXED DOLLAR MINIMUM THAT IS ATTRIBUTABLE TO THE DESIG-
24 NATED AGENT OF THE COMBINED GROUP. IN ADDITION, THE TAX ON A COMBINED
25 REPORT SHALL INCLUDE THE FIXED DOLLAR MINIMUM TAX SPECIFIED IN CLAUSE
26 (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION
27 11-654 OF THIS SUBCHAPTER FOR EACH MEMBER OF THE COMBINED GROUP, OTHER
28 THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

29 (B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED
30 BUSINESS INCOME OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY,
31 REDUCED BY ANY PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY
32 NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE COMBINED CAPI-
33 TAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE COMBINED GROUP
34 THAT IS ALLOCATED TO THE CITY.

35 2. (A) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, ANY
36 TAXPAYER (1) WHICH OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY MORE
37 THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF ONE OR
38 MORE OTHER CORPORATIONS, OR (2) MORE THAN FIFTY PERCENT OF THE VOTING
39 POWER OF THE CAPITAL STOCK OF WHICH IS OWNED OR CONTROLLED EITHER
40 DIRECTLY OR INDIRECTLY BY ONE OR MORE OTHER CORPORATIONS, OR (3) MORE
41 THAN FIFTY PERCENT OF THE VOTING POWER OF THE CAPITAL STOCK OF WHICH AND
42 THE CAPITAL STOCK OF ONE OR MORE OTHER CORPORATIONS, IS OWNED OR
43 CONTROLLED, DIRECTLY OR INDIRECTLY, BY THE SAME INTERESTS, AND (4) THAT
44 IS ENGAGED IN A UNITARY BUSINESS WITH THOSE CORPORATIONS (HEREINAFTER
45 REFERRED TO AS "RELATED CORPORATIONS"), SHALL MAKE A COMBINED REPORT
46 WITH THOSE OTHER CORPORATIONS.

47 (B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEAN-
48 ING OF THIS SECTION SHALL ALSO INCLUDE (1) A CAPTIVE REIT AND A CAPTIVE
49 RIC; (2) A COMBINABLE CAPTIVE INSURANCE COMPANY; AND (3) AN ALIEN CORPO-
50 RATION THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVI-
51 SION IF (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT
52 CORPORATION IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION
53 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II)
54 IT HAS EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO
55 CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION
56 11-652 OF THIS SUBCHAPTER.

1 (C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT
2 UNDER THIS SECTION DOES NOT INCLUDE (1) A CORPORATION THAT IS TAXABLE
3 UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF THIS CHAPTER OR CHAP-
4 TER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT
5 IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER),
6 OR WOULD BE TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF
7 THIS CHAPTER OR CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF
8 UTILITY SERVICES THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE
9 AND THIS SUBCHAPTER), OR WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPO-
10 RATION UNDER THE FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE
11 ADMINISTRATIVE CODE AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED
12 SEVENTY-FOUR; (2) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS
13 NOT A CAPTIVE RIC; OR (3) AN ALIEN CORPORATION THAT UNDER ANY PROVISION
14 OF THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION"
15 AS DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND
16 HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO
17 CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION
18 11-652 OF THIS SUBCHAPTER. IF A CORPORATION IS SUBJECT TO TAX UNDER
19 THIS SUBCHAPTER SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER
20 INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING
21 CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THIS
22 CITY, AND NONE OF THE CORPORATION'S RELATED CORPORATIONS ARE SUBJECT TO
23 TAX UNDER THIS SUBCHAPTER, SUCH CORPORATION SHALL NOT BE REQUIRED OR
24 PERMITTED TO FILE A COMBINED REPORT UNDER THIS SECTION WITH SUCH RELATED
25 CORPORATIONS.

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

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

38 (B) THE ELECTION UNDER THIS SUBDIVISION SHALL BE MADE ON AN ORIGINAL,
39 TIMELY FILED RETURN (DETERMINED WITH REGARD TO EXTENSIONS) OF THE
40 COMBINED GROUP. ANY CORPORATION ENTERING A COMMONLY OWNED GROUP SUBSE-
41 QUENT TO THE YEAR OF ELECTION SHALL BE INCLUDED IN THE COMBINED GROUP
42 AND IS CONSIDERED TO HAVE WAIVED ANY OBJECTION TO ITS INCLUSION IN THE
43 COMBINED GROUP.

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

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

5 (B)(1) IN COMPUTING COMBINED BUSINESS INCOME, ALL INTERCORPORATE DIVI-
6 DENDS SHALL BE ELIMINATED, AND ALL OTHER INTERCORPORATE TRANSACTIONS
7 SHALL BE DEFERRED IN A MANNER SIMILAR TO THE UNITED STATES TREASURY
8 DEPARTMENT REGULATIONS RELATING TO INTERCOMPANY TRANSACTIONS UNDER
9 SECTION FIFTEEN HUNDRED TWO OF THE INTERNAL REVENUE CODE.

10 (2) IN COMPUTING COMBINED CAPITAL, ALL INTERCORPORATE STOCKHOLDINGS,
11 INTERCORPORATE BILLS, INTERCORPORATE NOTES RECEIVABLE AND PAYABLE,
12 INTERCORPORATE ACCOUNTS RECEIVABLE AND PAYABLE, AND OTHER INTERCORPORATE
13 INDEBTEDNESS, SHALL BE ELIMINATED.

14 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,
15 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED
16 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS
17 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE
18 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION
19 11-654 OF THIS SUBCHAPTER, OR ANY OTHER APPLICABLE SECTION OF THIS
20 SUBCHAPTER, LIMITS A CREDIT TO THE FIXED DOLLAR MINIMUM AMOUNT
21 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-
22 VISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, SUCH FIXED DOLLAR MINI-
23 MUM AMOUNT SHALL BE THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE
24 TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

25 (D)(1) A NET OPERATING LOSS DEDUCTION IS ALLOWED IN COMPUTING THE
26 COMBINED BUSINESS INCOME BASE. SUCH DEDUCTION MAY REDUCE THE TAX ON THE
27 COMBINED BUSINESS INCOME BASE TO THE HIGHER OF THE TAX ON THE COMBINED
28 CAPITAL OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE TO THE
29 DESIGNATED AGENT OF THE COMBINED GROUP. A COMBINED NET OPERATING LOSS
30 DEDUCTION IS EQUAL TO THE AMOUNT OF COMBINED NET OPERATING LOSS OR LOSS-
31 ES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED FORWARD OR CARRIED
32 BACK TO A PARTICULAR TAXABLE YEAR. A COMBINED NET OPERATING LOSS IS THE
33 COMBINED BUSINESS LOSS INCURRED IN A PARTICULAR TAXABLE YEAR MULTIPLIED
34 BY THE COMBINED BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR DETERMINED
35 AS PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

36 (2) THE COMBINED NET OPERATING LOSS DEDUCTION AND COMBINED NET OPERAT-
37 ING LOSS ARE ALSO SUBJECT TO THE PROVISIONS CONTAINED IN PARAGRAPHS (A)
38 THROUGH (G) OF SUBDIVISION THREE OF SECTION 11-654.1 OF THIS SUBCHAPTER.

39 (3) IN THE CASE OF A CORPORATION THAT FILES A COMBINED REPORT, EITHER
40 IN THE YEAR THE NET OPERATING LOSS IS INCURRED OR IN THE YEAR IN WHICH A
41 DEDUCTION IS CLAIMED ON ACCOUNT OF THE LOSS, THE COMBINED NET OPERATING
42 LOSS DEDUCTION IS DETERMINED AS IF THE COMBINED GROUP IS A SINGLE CORPO-
43 RATION AND, TO THE EXTENT POSSIBLE AND NOT OTHERWISE INCONSISTENT WITH
44 THIS SUBDIVISION, IS SUBJECT TO THE SAME LIMITATIONS THAT WOULD APPLY
45 FOR FEDERAL INCOME TAX PURPOSES UNDER THE INTERNAL REVENUE CODE AND THE
46 CODE OF FEDERAL REGULATIONS AS IF SUCH CORPORATION HAD FILED FOR SUCH
47 TAXABLE YEAR A CONSOLIDATED FEDERAL INCOME TAX RETURN WITH THE SAME
48 CORPORATIONS INCLUDED IN THE COMBINED REPORT. IF A CORPORATION FILES A
49 COMBINED REPORT, REGARDLESS OF WHETHER IT FILED A SEPARATE RETURN OR
50 CONSOLIDATED RETURN FOR FEDERAL INCOME TAX PURPOSES, THE NET OPERATING
51 LOSS AND NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP MUST BE
52 COMPUTED AS IF THE CORPORATION HAD FILED A CONSOLIDATED RETURN FOR THE
53 SAME CORPORATIONS FOR FEDERAL INCOME TAX PURPOSES.

54 (4) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH
55 A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING
56 LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE

1 COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPA-
2 RATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE
3 SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH
4 CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE
5 GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT
6 IN COMPUTING THE COMBINED NET OPERATING LOSS.

7 (D-1) A PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION IS ALLOWED IN
8 COMPUTING THE COMBINED BUSINESS INCOME BASE, AS PROVIDED IN SUBDIVISIONS
9 ONE AND TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER. SUCH SUBTRACTION MAY
10 REDUCE THE TAX ON COMBINED BUSINESS INCOME TO THE HIGHER OF THE TAX ON
11 COMBINED CAPITAL OR THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE
12 TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

13 (E)(I) ANY ELECTION MADE PURSUANT TO PARAGRAPH (B) OF SUBDIVISION
14 FIVE, PARAGRAPHS (B) AND (C) OF SUBDIVISION FIVE-A OF SECTION 11-652 OF
15 THIS SUBCHAPTER, AND PARAGRAPH (G) OF SUBDIVISION THREE OF SECTION
16 11-654.1 OF THIS SUBCHAPTER SHALL APPLY TO ALL MEMBERS OF THE COMBINED
17 GROUP.

18 (II) THE DETERMINATION OF WHETHER OR NOT THE LIMITATION ON INVESTMENT
19 INCOME PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION
20 FIVE OF SECTION 11-652 OF THIS SUBCHAPTER TO THE COMBINED GROUP SHALL BE
21 BASED ON THE INVESTMENT INCOME OF THE COMBINED GROUP, DETERMINED WITHOUT
22 REGARD TO INTEREST EXPENSES ATTRIBUTABLE TO INVESTMENT CAPITAL OR
23 INVESTMENT INCOME, AND THE ENTIRE NET INCOME OF THE COMBINED GROUP.

24 (F)(1) IN THE CASE OF A CAPTIVE REIT OR CAPTIVE RIC REQUIRED UNDER
25 THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET INCOME
26 SHALL BE COMPUTED AS REQUIRED UNDER SUBDIVISION SEVEN (IN THE CASE OF A
27 CAPTIVE REIT) OR SUBDIVISION EIGHT (IN THE CASE OF A CAPTIVE RIC) OF
28 SECTION 11-653 OF THIS SUBCHAPTER. HOWEVER, THE DEDUCTION UNDER THE
29 INTERNAL REVENUE CODE FOR DIVIDENDS PAID BY THE CAPTIVE REIT OR CAPTIVE
30 RIC TO ANY MEMBER OF THE AFFILIATED GROUP THAT INCLUDES THE CORPORATION
31 THAT DIRECTLY OR INDIRECTLY OWNS OVER FIFTY PERCENT OF THE VOTING STOCK
32 OF THE CAPTIVE REIT OR CAPTIVE RIC SHALL NOT BE ALLOWED. FOR PURPOSES
33 OF THIS SUBPARAGRAPH, THE TERM "AFFILIATED GROUP" MEANS "AFFILIATED
34 GROUP" AS DEFINED IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE
35 CODE, BUT WITHOUT REGARD TO THE EXCEPTIONS PROVIDED FOR IN SUBSECTION
36 (B) OF THAT SECTION.

37 (2) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED
38 UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET
39 INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION EIGHT OF SECTION
40 11-652 OF THIS SUBCHAPTER.

41 (G) IF MORE THAN ONE MEMBER OF A COMBINED GROUP IS ELIGIBLE FOR ANY OF
42 THE MODIFICATIONS DESCRIBED IN PARAGRAPHS (Q), (R) OR (S) OF SUBDIVISION
43 EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER, ALL SUCH MEMBERS MUST
44 UTILIZE THE SAME MODIFICATION.

45 5. (A) IN DETERMINING THE BUSINESS ALLOCATION PERCENTAGE FOR A
46 COMBINED REPORT, THE RECEIPTS, NET INCOME, NET GAINS AND OTHER ITEMS OF
47 EACH MEMBER OF THE COMBINED GROUP, WHETHER OR NOT THEY ARE A TAXPAYER,
48 ARE INCLUDED AND INTERCORPORATE RECEIPTS, INCOME AND GAINS ARE ELIMI-
49 NATED. RECEIPTS, NET INCOME, NET GAINS AND OTHER ITEMS ARE SOURCED, AND
50 THE AMOUNTS ALLOWED IN THE RECEIPTS FRACTION ARE DETERMINED, AS PROVIDED
51 IN SECTION 11-654.2 OF THIS SUBCHAPTER.

52 (B) AN ELECTION MADE TO ALLOCATE INCOME AND GAINS FROM QUALIFYING
53 FINANCIAL INSTRUMENTS PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH (A) OF
54 SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER SHALL APPLY TO
55 ALL MEMBERS OF THE COMBINED GROUP.

1 6. EVERY MEMBER OF THE COMBINED GROUP THAT IS SUBJECT TO TAX UNDER
2 THIS ARTICLE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR THE TAX DUE
3 PURSUANT TO A COMBINED REPORT.

4 7. EACH COMBINED GROUP SHALL APPOINT A DESIGNATED AGENT FOR THE
5 COMBINED GROUP, WHICH SHALL BE A TAXPAYER. ONLY THE DESIGNATED AGENT MAY
6 ACT ON BEHALF OF THE MEMBERS OF THE COMBINED GROUP FOR MATTERS RELATING
7 TO THE COMBINED REPORT.

8 S 11-655 REPORTS. 1. EVERY CORPORATION HAVING AN OFFICER, AGENT OR
9 REPRESENTATIVE WITHIN THE CITY, SHALL ANNUALLY ON OR BEFORE MARCH
10 FIFTEENTH, TRANSMIT TO THE COMMISSIONER OF FINANCE A REPORT IN A FORM
11 PRESCRIBED BY THE COMMISSIONER OF FINANCE (EXCEPT THAT A CORPORATION
12 WHICH REPORTS ON THE BASIS OF A FISCAL YEAR SHALL TRANSMIT ITS REPORT
13 WITHIN TWO AND ONE-HALF MONTHS AFTER THE CLOSE OF ITS FISCAL YEAR)
14 SETTING FORTH SUCH INFORMATION AS THE COMMISSIONER OF FINANCE MAY
15 PRESCRIBE, AND EVERY TAXPAYER WHICH CEASES TO DO BUSINESS IN THE CITY OR
16 TO BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER SHALL TRANSMIT TO
17 THE COMMISSIONER OF FINANCE A REPORT ON THE DATE OF SUCH CESSATION OR AT
18 SUCH OTHER TIME AS THE COMMISSIONER OF FINANCE MAY REQUIRE COVERING EACH
19 YEAR OR PERIOD FOR WHICH NO REPORT WAS THERETOFORE FILED. EVERY TAXPAYER
20 SHALL ALSO TRANSMIT SUCH OTHER REPORTS AND SUCH FACTS AND INFORMATION AS
21 THE COMMISSIONER OF FINANCE MAY REQUIRE IN THE ADMINISTRATION OF THIS
22 SUBCHAPTER. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION
23 OF TIME FOR FILING REPORTS WHENEVER GOOD CAUSE EXISTS.

24 AN AUTOMATIC EXTENSION OF SIX MONTHS FOR THE FILING OF ITS ANNUAL
25 REPORT SHALL BE ALLOWED ANY TAXPAYER IF, WITHIN THE TIME PRESCRIBED BY
26 THE PRECEDING PARAGRAPH, WHICHEVER IS APPLICABLE, SUCH TAXPAYER FILES
27 WITH THE COMMISSIONER OF FINANCE AN APPLICATION FOR EXTENSION IN SUCH
28 FORM AS THE COMMISSIONER OF FINANCE MAY PRESCRIBE BY REGULATION AND PAYS
29 ON OR BEFORE THE DATE OF SUCH FILING THE AMOUNT PROPERLY ESTIMATED AS
30 ITS TAX.

31 2. EVERY REPORT SHALL HAVE ANNEXED THERETO A CERTIFICATION BY THE
32 PRESIDENT, VICE-PRESIDENT, TREASURER, ASSISTANT TREASURER, CHIEF
33 ACCOUNTING OFFICER OR ANOTHER OFFICER OF THE TAXPAYER DULY AUTHORIZED SO
34 TO ACT TO THE EFFECT THAT THE STATEMENTS CONTAINED THEREIN ARE TRUE. IN
35 THE CASE OF AN ASSOCIATION, WITHIN THE MEANING OF PARAGRAPH THREE OF
36 SECTION (A) OF SECTION SEVENTY-SEVEN HUNDRED ONE OF THE INTERNAL REVENUE
37 CODE, A PUBLICLY-TRADED PARTNERSHIP TREATED AS A CORPORATION FOR
38 PURPOSES OF THE INTERNAL REVENUE CODE PURSUANT TO SECTION SEVENTY-SEVEN
39 HUNDRED FOUR THEREOF AND ANY BUSINESS CONDUCTED BY A TRUSTEE OR TRUSTEES
40 WHEREIN INTEREST OR OWNERSHIP IS EVIDENCED BY CERTIFICATES OR OTHER
41 WRITTEN INSTRUMENTS, SUCH CERTIFICATION SHALL BE MADE BY ANY PERSON DULY
42 AUTHORIZED SO TO ACT ON BEHALF OF SUCH ASSOCIATION, PUBLICLY-TRADED
43 PARTNERSHIP OR BUSINESS. THE FACT THAT AN INDIVIDUAL'S NAME IS SIGNED ON
44 A CERTIFICATION OF THE REPORT SHALL BE PRIMA FACIE EVIDENCE THAT SUCH
45 INDIVIDUAL IS AUTHORIZED TO SIGN AND CERTIFY THE REPORT ON BEHALF OF THE
46 CORPORATION. BLANK FORMS OF REPORTS SHALL BE FURNISHED BY THE COMMIS-
47 SIONER OF FINANCE, ON APPLICATION, BUT FAILURE TO SECURE SUCH A BLANK
48 SHALL NOT RELEASE ANY CORPORATION FROM THE OBLIGATION OF MAKING ANY
49 REPORT REQUIRED BY THIS SUBCHAPTER.

50 2-A. THE COMMISSIONER OF FINANCE MAY PRESCRIBE REGULATIONS AND
51 INSTRUCTIONS REQUIRING RETURNS OF INFORMATION TO BE MADE AND FILED IN
52 CONJUNCTION WITH THE REPORTS REQUIRED TO BE FILED PURSUANT TO THIS
53 SECTION, RELATING TO PAYMENTS MADE TO SHAREHOLDERS OWNING, DIRECTLY OR
54 INDIRECTLY, INDIVIDUALLY OR IN THE AGGREGATE, MORE THAN FIFTY PERCENT OF
55 THE ISSUED CAPITAL STOCK OF THE TAXPAYER, WHERE SUCH PAYMENTS ARE TREAT-

ED AS PAYMENTS OF INTEREST IN THE COMPUTATION OF ENTIRE NET INCOME REPORTED ON SUCH REPORTS.

3. IF THE AMOUNT OF TAXABLE INCOME OR OTHER BASIS OF TAX FOR ANY YEAR OF ANY TAXPAYER AS RETURNED TO THE UNITED STATES TREASURY DEPARTMENT OR THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE IS CHANGED OR CORRECTED BY THE COMMISSIONER OF INTERNAL REVENUE OR OTHER OFFICER OF THE UNITED STATES OR THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE OR OTHER COMPETENT AUTHORITY, OR WHERE A RENEGOTIATION OF A CONTRACT OR SUBCONTRACT WITH THE UNITED STATES OR THE STATE OF NEW YORK RESULTS IN A CHANGE IN TAXABLE INCOME OR OTHER BASIS OF TAX, OR WHERE A RECOVERY OF A WAR LOSS RESULTS IN A COMPUTATION OR RECOMPUTATION OF ANY TAX IMPOSED BY THE UNITED STATES OR THE STATE OF NEW YORK, OR IF A TAXPAYER, PURSUANT TO SUBSECTION (D) OF SECTION SIXTY-TWO HUNDRED THIRTEEN OF THE INTERNAL REVENUE CODE, EXECUTES A NOTICE OF WAIVER OF THE RESTRICTIONS PROVIDED IN SUBSECTION (A) OF SAID SECTION, OR IF A TAXPAYER, PURSUANT TO SUBSECTION (F) OF SECTION ONE THOUSAND EIGHTY-ONE OF THE TAX LAW, EXECUTES A NOTICE OF WAIVER OF THE RESTRICTIONS PROVIDED IN SUBSECTION (C) OF SAID SECTION, SUCH TAXPAYER SHALL REPORT SUCH CHANGED OR CORRECTED TAXABLE INCOME OR OTHER BASIS OF TAX, OR THE RESULTS OF SUCH RENEGOTIATION, OR SUCH COMPUTATION, OR RECOMPUTATION, OR SUCH EXECUTION OF SUCH NOTICE OF WAIVER AND THE CHANGES OR CORRECTIONS OF THE TAXPAYER'S FEDERAL OR NEW YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX ON WHICH IT IS BASED, WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF A TAXPAYER MAKING A COMBINED REPORT UNDER THIS SUBCHAPTER FOR SUCH YEAR) AFTER SUCH EXECUTION OR THE FINAL DETERMINATION OF SUCH CHANGE OR CORRECTION OR RENEGOTIATION, OR SUCH COMPUTATION, OR RECOMPUTATION, OR AS REQUIRED BY THE COMMISSIONER OF FINANCE, AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE WHEREIN IT IS ERRONEOUS. THE ALLOWANCE OF A TENTATIVE CARRYBACK ADJUSTMENT BASED UPON A NET OPERATING LOSS CARRYBACK OR NET CAPITAL LOSS CARRYBACK PURSUANT TO SECTION SIXTY-FOUR HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE SHALL BE TREATED AS A FINAL DETERMINATION FOR PURPOSES OF THIS SUBDIVISION. ANY TAXPAYER FILING AN AMENDED RETURN WITH SUCH DEPARTMENT SHALL ALSO FILE WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF A TAXPAYER MAKING A COMBINED REPORT UNDER THIS SUBCHAPTER FOR SUCH YEAR) THEREAFTER AN AMENDED REPORT WITH THE COMMISSIONER OF FINANCE.

4. THE PROVISIONS OF SECTION 11-654.3 OF THIS SUBCHAPTER SHALL APPLY TO COMBINED REPORTS.

5. IN CASE IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY AGREEMENT, UNDERSTANDING OR ARRANGEMENT EXISTS BETWEEN THE TAXPAYER AND ANY OTHER CORPORATION OR ANY PERSON OR FIRM, WHEREBY THE ACTIVITY, BUSINESS, INCOME OR CAPITAL OF THE TAXPAYER WITHIN THE CITY IS IMPROPERLY OR INACCURATELY REFLECTED, THE COMMISSIONER OF FINANCE IS AUTHORIZED AND EMPOWERED, IN ITS DISCRETION AND IN SUCH MANNER AS IT MAY DETERMINE, TO ADJUST ITEMS OF INCOME, DEDUCTIONS AND CAPITAL, AND TO ELIMINATE ASSETS IN COMPUTING ANY ALLOCATION PERCENTAGE PROVIDED ONLY THAT ANY INCOME DIRECTLY TRACEABLE THERETO BE ALSO EXCLUDED FROM ENTIRE NET INCOME, SO AS EQUITABLY TO DETERMINE THE TAX. WHERE (A) ANY TAXPAYER CONDUCTS ITS ACTIVITY OR BUSINESS UNDER ANY AGREEMENT, ARRANGEMENT OR UNDERSTANDING IN SUCH MANNER AS EITHER DIRECTLY OR INDIRECTLY TO BENEFIT ITS MEMBERS OR STOCKHOLDERS, OR ANY OF THEM, OR ANY PERSON OR PERSONS DIRECTLY OR INDIRECTLY INTERESTED IN SUCH ACTIVITY OR BUSINESS, BY ENTERING INTO ANY TRANSACTION AT MORE OR LESS THAN A FAIR PRICE WHICH, BUT FOR SUCH AGREEMENT, ARRANGEMENT OR UNDERSTANDING, MIGHT HAVE BEEN PAID OR RECEIVED THEREFOR, OR (B) ANY TAXPAYER, A SUBSTANTIAL PORTION OF WHOSE CAPITAL STOCK IS OWNED EITHER DIRECTLY OR INDIRECTLY BY ANOTHER CORPORATION,

1 ENTERS INTO ANY TRANSACTION WITH SUCH OTHER CORPORATION ON SUCH TERMS AS
2 TO CREATE AN IMPROPER LOSS OR NET INCOME, THE COMMISSIONER OF FINANCE
3 MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER THE FAIR PROFITS,
4 WHICH, BUT FOR SUCH AGREEMENT, ARRANGEMENT OR UNDERSTANDING, THE TAXPAY-
5 ER MIGHT HAVE DERIVED FROM SUCH TRANSACTION. WHERE ANY TAXPAYER OWNS,
6 DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF
7 ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION FIFTEEN HUNDRED TWO-A
8 OF THE TAX LAW AND FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE
9 TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSIONER OF FINANCE MAY
10 INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED DISTRIB-
11 UTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT IS IN
12 EXCESS OF ITS NET PREMIUM INCOME.

13 6. AN ACTION MAY BE BROUGHT AT ANY TIME BY THE CORPORATION COUNSEL AT
14 THE INSTANCE OF THE COMMISSIONER OF FINANCE TO COMPEL THE FILING OF
15 REPORTS DUE UNDER THIS SUBCHAPTER.

16 7. REPORTS SHALL BE PRESERVED FOR FIVE YEARS, AND THEREAFTER UNTIL THE
17 COMMISSIONER OF FINANCE ORDERS THEM TO BE DESTROYED.

18 8. WHERE THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE
19 CHANGES OR CORRECTS A TAXPAYER'S SALES AND COMPENSATING USE TAX LIABIL-
20 ITY WITH RESPECT TO THE PURCHASE OR USE OF ITEMS FOR WHICH A SALES OR
21 COMPENSATING USE TAX CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER
22 WAS CLAIMED, THE TAXPAYER SHALL REPORT SUCH CHANGE OR CORRECTION TO THE
23 COMMISSIONER OF FINANCE WITHIN NINETY DAYS OF THE FINAL DETERMINATION OF
24 SUCH CHANGE OR CORRECTION, OR AS REQUIRED BY THE COMMISSIONER OF
25 FINANCE, AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE
26 WHEREIN IT IS ERRONEOUS. ANY TAXPAYER FILING AN AMENDED RETURN OR REPORT
27 RELATING TO THE PURCHASE OR USE OF SUCH ITEMS SHALL ALSO FILE WITHIN
28 NINETY DAYS THEREAFTER A COPY OF SUCH AMENDED RETURN OR REPORT WITH THE
29 COMMISSIONER OF FINANCE.

30 S 11-656 PAYMENT AND LIEN OF TAX. 1. TO THE EXTENT THE TAX IMPOSED BY
31 SECTION 11-653 OF THIS SUBCHAPTER SHALL NOT HAVE BEEN PREVIOUSLY PAID
32 PURSUANT TO SECTION 11-658 OF THIS SUBCHAPTER:

33 (A) SUCH TAX, OR THE BALANCE THEREOF, SHALL BE PAYABLE TO THE COMMIS-
34 SIONER OF FINANCE IN FULL AT THE TIME THE REPORT IS REQUIRED TO BE
35 FILED; AND

36 (B) SUCH TAX, OR THE BALANCE THEREOF, IMPOSED ON ANY TAXPAYER WHICH
37 CEASES TO DO BUSINESS IN THE CITY OR TO BE SUBJECT TO THE TAX IMPOSED BY
38 THIS SUBCHAPTER SHALL BE PAYABLE TO THE COMMISSIONER OF FINANCE AT THE
39 TIME THE REPORT IS REQUIRED TO BE FILED; ALL OTHER TAXES OF ANY SUCH
40 TAXPAYER, WHICH PURSUANT TO THE FOREGOING PROVISIONS OF THIS SECTION
41 WOULD OTHERWISE BE PAYABLE SUBSEQUENT TO THE TIME SUCH REPORT IS
42 REQUIRED TO BE FILED, SHALL NEVERTHELESS BE PAYABLE AT SUCH TIME.

43 IF THE TAXPAYER, WITHIN THE TIME PRESCRIBED BY SECTION 11-655 OF THIS
44 SUBCHAPTER, SHALL HAVE APPLIED FOR AN AUTOMATIC EXTENSION OF TIME TO
45 FILE ITS ANNUAL REPORT AND SHALL HAVE PAID TO THE COMMISSIONER OF
46 FINANCE ON OR BEFORE THE DATE SUCH APPLICATION IS FILED AN AMOUNT PROP-
47 ERLY ESTIMATED AS PROVIDED BY SAID SECTION, THE ONLY AMOUNT PAYABLE IN
48 ADDITION TO THE TAX SHALL BE INTEREST AT THE UNDERPAYMENT RATE SET BY
49 THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER,
50 OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF PERCENT PER
51 ANNUM UPON THE AMOUNT BY WHICH THE TAX, OR THE PORTION THEREOF PAYABLE
52 ON OR BEFORE THE DATE THE REPORT WAS REQUIRED TO BE FILED, EXCEEDS THE
53 AMOUNT SO PAID. FOR PURPOSES OF THE PRECEDING SENTENCE:

54 (1) AN AMOUNT SO PAID SHALL BE DEEMED PROPERLY ESTIMATED IF IT IS
55 EITHER: (I) NOT LESS THAN NINETY PERCENT OF THE TAX AS FINALLY DETER-
56 MINED, OR (II) NOT LESS THAN THE TAX SHOWN ON THE TAXPAYER'S REPORT FOR

1 THE PRECEDING TAXABLE YEAR, IF SUCH PRECEDING YEAR WAS A TAXABLE YEAR OF
2 TWELVE MONTHS; AND

3 (2) THE TIME WHEN A REPORT IS REQUIRED TO BE FILED SHALL BE DETERMINED
4 WITHOUT REGARD TO ANY EXTENSION OF TIME FOR FILING SUCH REPORT.

5 2. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
6 TIME FOR PAYMENT OF ANY TAX IMPOSED BY THIS SUBCHAPTER UNDER SUCH CONDI-
7 TIONS AS THE COMMISSIONER OF FINANCE DEEMS JUST AND PROPER.

8 3. INTENTIONALLY OMITTED.

9 S 11-657 DECLARATION OF ESTIMATED TAX. 1. EVERY TAXPAYER SUBJECT TO
10 THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER SHALL MAKE A DECLA-
11 RATION OF ITS ESTIMATED TAX FOR THE CURRENT PRIVILEGE PERIOD, CONTAINING
12 SUCH INFORMATION AS THE COMMISSIONER OF FINANCE MAY PRESCRIBE BY REGU-
13 LATIONS OR INSTRUCTIONS, IF SUCH ESTIMATED TAX CAN REASONABLY BE
14 EXPECTED TO EXCEED ONE THOUSAND DOLLARS.

15 2. THE TERM "ESTIMATED TAX" MEANS THE AMOUNT WHICH A TAXPAYER ESTI-
16 MATES TO BE THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER FOR THE
17 CURRENT PRIVILEGE PERIOD, LESS THE AMOUNT WHICH IT ESTIMATES TO BE THE
18 SUM OF ANY CREDITS ALLOWABLE AGAINST THE TAX.

19 3. IN THE CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A CALENDAR
20 YEAR, A DECLARATION OF ESTIMATED TAX SHALL BE FILED ON OR BEFORE JUNE
21 FIFTEENTH OF THE CURRENT PRIVILEGE PERIOD, EXCEPT THAT IF THE REQUIRE-
22 MENTS OF SUBDIVISION ONE OF THIS SECTION ARE FIRST MET:

23 (A) AFTER MAY THIRTY-FIRST AND BEFORE SEPTEMBER FIRST OF SUCH CURRENT
24 PRIVILEGE PERIOD, THE DECLARATION SHALL BE FILED ON OR BEFORE SEPTEMBER
25 FIFTEENTH; OR

26 (B) AFTER AUGUST THIRTY-FIRST AND BEFORE DECEMBER FIRST OF SUCH
27 CURRENT PRIVILEGE PERIOD, THE DECLARATION SHALL BE FILED ON OR BEFORE
28 DECEMBER FIFTEENTH.

29 4. A TAXPAYER MAY AMEND A DECLARATION UNDER REGULATIONS OF THE COMMIS-
30 SIONER OF FINANCE.

31 5. IF, ON OR BEFORE FEBRUARY FIFTEENTH OF THE SUCCEEDING YEAR IN THE
32 CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A CALENDAR YEAR, A
33 TAXPAYER FILES ITS REPORT FOR THE YEAR FOR WHICH THE DECLARATION IS
34 REQUIRED, AND PAYS THEREWITH THE BALANCE, IF ANY, OF THE FULL AMOUNT OF
35 THE TAX SHOWN TO BE DUE ON THE REPORT:

36 (A) SUCH REPORT SHALL BE CONSIDERED AS ITS DECLARATION IF NO DECLARA-
37 TION IS REQUIRED TO BE FILED DURING THE CALENDAR OR FISCAL YEAR FOR
38 WHICH THE TAX WAS IMPOSED, BUT IS OTHERWISE REQUIRED TO BE FILED ON OR
39 BEFORE DECEMBER FIFTEENTH PURSUANT TO SUBDIVISION THREE OF THIS SECTION;
40 AND

41 (B) SUCH REPORT SHALL BE CONSIDERED AS THE AMENDMENT PERMITTED BY
42 SUBDIVISION FOUR OF THIS SECTION TO BE FILED ON OR BEFORE DECEMBER
43 FIFTEENTH IF THE TAX SHOWN ON THE REPORT IS GREATER THAN THE ESTIMATED
44 TAX SHOWN ON A DECLARATION PREVIOUSLY MADE.

45 6. THIS SECTION SHALL APPLY TO PRIVILEGE PERIODS OF TWELVE MONTHS
46 OTHER THAN A CALENDAR YEAR BY THE SUBSTITUTION OF THE MONTHS OF SUCH
47 FISCAL YEAR FOR THE CORRESPONDING MONTHS SPECIFIED IN THIS SECTION.

48 7. IF THE PRIVILEGE PERIOD FOR WHICH A TAX IS IMPOSED BY SECTION
49 11-653 OF THIS SUBCHAPTER IS LESS THAN TWELVE MONTHS, EVERY TAXPAYER
50 REQUIRED TO MAKE A DECLARATION OF ESTIMATED TAX FOR SUCH PRIVILEGE PERI-
51 OD SHALL MAKE SUCH A DECLARATION IN ACCORDANCE WITH REGULATIONS OF THE
52 COMMISSIONER OF FINANCE.

53 8. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
54 TIME, NOT TO EXCEED THREE MONTHS, FOR THE FILING OF ANY DECLARATION
55 REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDITIONS AS IT
56 MAY REQUIRE.

1 S 11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX. 1. EVERY TAXPAYER
2 SUBJECT TO THE TAX IMPOSED BY SECTION 11-653 OF THIS SUBCHAPTER SHALL
3 PAY WITH THE REPORT REQUIRED TO BE FILED FOR THE PRECEDING PRIVILEGE
4 PERIOD, IF ANY, OR WITH AN APPLICATION FOR EXTENSION OF THE TIME AND
5 FILING SUCH REPORT, AN AMOUNT EQUAL TO TWENTY-FIVE PER CENTUM OF THE
6 PRECEDING YEAR'S TAX IF SUCH PRECEDING YEAR'S TAX EXCEEDED ONE THOUSAND
7 DOLLARS.

8 2. THE ESTIMATED TAX WITH RESPECT TO WHICH A DECLARATION FOR SUCH
9 PRIVILEGE PERIOD IS REQUIRED SHALL BE PAID, IN THE CASE OF A TAXPAYER
10 WHICH REPORTS ON THE BASIS OF A CALENDAR YEAR, AS FOLLOWS:

11 (A) IF THE DECLARATION IS FILED ON OR BEFORE JUNE FIFTEENTH, THE ESTI-
12 MATED TAX SHOWN THEREON, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID
13 DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS
14 SECTION, SHALL BE PAID IN THREE EQUAL INSTALLMENTS. ONE OF SUCH INSTALL-
15 MENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION, ONE
16 SHALL BE PAID ON THE FOLLOWING SEPTEMBER FIFTEENTH, AND ONE ON THE
17 FOLLOWING DECEMBER FIFTEENTH.

18 (B) IF THE DECLARATION IS FILED AFTER JUNE FIFTEENTH AND NOT AFTER
19 SEPTEMBER FIFTEENTH OF SUCH PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE
20 FILED ON OR BEFORE JUNE FIFTEENTH OF SUCH PERIOD, THE ESTIMATED TAX
21 SHOWN ON SUCH DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY,
22 PAID DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF
23 THIS SECTION, SHALL BE PAID IN TWO EQUAL INSTALLMENTS. ONE OF SUCH
24 INSTALLMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION
25 AND ONE SHALL BE PAID ON THE FOLLOWING DECEMBER FIFTEENTH.

26 (C) IF THE DECLARATION IS FILED AFTER SEPTEMBER FIFTEENTH OF SUCH
27 PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE FILED ON OR BEFORE SEPTEMBER
28 FIFTEENTH OF SUCH PRIVILEGE PERIOD, THE ESTIMATED TAX SHOWN ON SUCH
29 DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID IN RESPECT
30 TO SUCH PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS SECTION,
31 SHALL BE PAID IN FULL AT THE TIME OF THE FILING OF THE DECLARATION.

32 (D) IF THE DECLARATION IS FILED AFTER THE TIME PRESCRIBED THEREFOR, OR
33 AFTER THE EXPIRATION OF ANY EXTENSION OF TIME THEREFOR, PARAGRAPHS (B)
34 AND (C) OF THIS SUBDIVISION SHALL NOT APPLY, AND THERE SHALL BE PAID AT
35 THE TIME OF SUCH FILING ALL INSTALLMENTS OF ESTIMATED TAX PAYABLE AT OR
36 BEFORE SUCH TIME, AND THE REMAINING INSTALLMENTS SHALL BE PAID AT THE
37 TIMES AT WHICH, AND IN THE AMOUNTS IN WHICH, THEY WOULD HAVE BEEN PAYA-
38 BLE IF THE DECLARATION HAD BEEN FILED WHEN DUE.

39 3. IF ANY AMENDMENT OF A DECLARATION IS FILED, THE REMAINING INSTALL-
40 MENTS, IF ANY, SHALL BE RATABLY INCREASED OR DECREASED (AS THE CASE MAY
41 BE) TO REFLECT ANY INCREASE OR DECREASE IN THE ESTIMATED TAX BY REASON
42 OF SUCH AMENDMENT, AND IF ANY AMENDMENT IS MADE AFTER SEPTEMBER
43 FIFTEENTH OF THE PRIVILEGE PERIOD, ANY INCREASE IN THE ESTIMATED TAX BY
44 REASON THEREOF SHALL BE PAID AT THE TIME OF MAKING SUCH AMENDMENT.

45 4. ANY AMOUNT PAID SHALL BE APPLIED AFTER PAYMENT AS A FIRST INSTALL-
46 MENT AGAINST THE ESTIMATED TAX OF THE TAXPAYER FOR THE CURRENT PRIVILEGE
47 PERIOD SHOWN ON THE DECLARATION REQUIRED TO BE FILED PURSUANT TO SECTION
48 11-657 OF THIS SUBCHAPTER OR, IF NO DECLARATION OF ESTIMATED TAX IS
49 REQUIRED TO BE FILED BY THE TAXPAYER PURSUANT TO SUCH SECTION, ANY SUCH
50 AMOUNT SHALL BE CONSIDERED A PAYMENT ON ACCOUNT OF THE TAX SHOWN ON THE
51 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR SUCH PRIVILEGE PERIOD.

52 5. NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679 OF THIS CHAPTER OR
53 OF SECTION THREE-A OF THE GENERAL MUNICIPAL LAW, IF AN AMOUNT PAID
54 PURSUANT TO SUBDIVISION ONE OF THIS SECTION EXCEEDS THE TAX SHOWN ON THE
55 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR THE PRIVILEGE PERIOD
56 DURING WHICH THE AMOUNT WAS PAID, INTEREST SHALL BE ALLOWED AND PAID ON

1 THE AMOUNT BY WHICH THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION
2 EXCEEDS SUCH TAX, AT THE OVERPAYMENT RATE SET BY THE COMMISSIONER OF
3 FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER, OR, IF NO RATE IS
4 SET, AT THE RATE OF FOUR PERCENT PER ANNUM FROM THE DATE OF PAYMENT OF
5 THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION TO THE FIFTEENTH DAY OF
6 THE THIRD MONTH FOLLOWING THE CLOSE OF THE PRIVILEGE PERIOD, PROVIDED,
7 HOWEVER, THAT NO INTEREST SHALL BE ALLOWED OR PAID UNDER THIS SUBDIVI-
8 SION IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR OR IF SUCH INTEREST
9 BECOMES PAYABLE SOLELY BECAUSE OF A CARRYBACK OF A NET OPERATING LOSS IN
10 A SUBSEQUENT PRIVILEGE PERIOD.

11 6. AS USED IN THIS SECTION, "THE PRECEDING YEAR'S TAX" MEANS THE TAX
12 IMPOSED UPON THE TAXPAYER BY SECTION 11-653 OF THIS SUBCHAPTER FOR THE
13 PRECEDING CALENDAR OR FISCAL YEAR, OR, FOR PURPOSES OF COMPUTING THE
14 FIRST INSTALLMENT OF ESTIMATED TAX WHEN AN APPLICATION HAS BEEN FILED
15 FOR EXTENSION OF THE TIME FOR FILING THE REPORT REQUIRED TO BE FILED FOR
16 SUCH PRECEDING CALENDAR OR FISCAL YEAR, THE AMOUNT PROPERLY ESTIMATED
17 PURSUANT TO SECTION 11-657 OF THIS SUBCHAPTER AS THE TAX IMPOSED UPON
18 THE TAXPAYER FOR SUCH CALENDAR OR FISCAL YEAR.

19 7. THIS SECTION SHALL APPLY TO A PRIVILEGE PERIOD OF LESS THAN TWELVE
20 MONTHS IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER OF FINANCE.

21 8. THE PROVISIONS OF THIS SECTION SHALL APPLY TO PRIVILEGE PERIODS OF
22 TWELVE MONTHS OTHER THAN A CALENDAR YEAR BY THE SUBSTITUTION OF THE
23 MONTHS OF SUCH FISCAL YEAR FOR THE CORRESPONDING MONTHS SPECIFIED IN
24 SUCH PROVISIONS.

25 9. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
26 TIME, NOT TO EXCEED SIX MONTHS, FOR PAYMENT OF ANY INSTALLMENT OF ESTI-
27 MATED TAX REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDI-
28 TIONS AS THE COMMISSIONER OF FINANCE MAY REQUIRE INCLUDING THE FURNISH-
29 ING OF A BOND OR OTHER SECURITY BY THE TAXPAYER IN AN AMOUNT NOT
30 EXCEEDING TWICE THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT
31 IS GRANTED, PROVIDED, HOWEVER, THAT INTEREST AT THE UNDERPAYMENT RATE
32 SET BY THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS
33 SUBCHAPTER, OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF
34 PERCENT PER ANNUM FOR THE PERIOD OF THE EXTENSION SHALL BE CHARGED AND
35 COLLECTED ON THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS
36 GRANTED UNDER THIS SUBDIVISION.

37 10. A TAXPAYER MAY ELECT TO PAY ANY INSTALLMENT OF ESTIMATED TAX PRIOR
38 TO THE DATE PRESCRIBED IN THIS SECTION FOR PAYMENT THEREOF.

39 11. INTENTIONALLY OMITTED.

40 S 11-659 COLLECTION OF TAXES. EVERY FOREIGN CORPORATION (OTHER THAN A
41 MONEYED CORPORATION) SUBJECT TO THE PROVISIONS OF THIS SUBCHAPTER,
42 EXCEPT A CORPORATION HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF
43 SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, SHALL
44 FILE IN THE DEPARTMENT OF STATE A CERTIFICATE OF DESIGNATION IN ITS
45 CORPORATE NAME, SIGNED AND ACKNOWLEDGED BY ITS PRESIDENT OR A VICE-PRE-
46 SIDENT OR ITS SECRETARY OR TREASURER, UNDER ITS CORPORATE SEAL, DESIG-
47 NATING THE SECRETARY OF STATE AS ITS AGENT UPON WHOM PROCESS IN ANY
48 ACTION PROVIDED FOR BY THIS SUBCHAPTER MAY BE SERVED WITHIN THIS STATE,
49 AND SETTING FORTH AN ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL
50 A COPY OF ANY SUCH PROCESS AGAINST THE CORPORATION WHICH MAY BE SERVED
51 UPON THE SECRETARY OF STATE. IN CASE ANY SUCH CORPORATION SHALL HAVE
52 FAILED TO FILE SUCH CERTIFICATE OF DESIGNATION, IT SHALL BE DEEMED TO
53 HAVE DESIGNATED THE SECRETARY OF STATE AS ITS AGENT UPON WHOM SUCH PROC-
54 ESS AGAINST IT MAY BE SERVED; AND UNTIL A CERTIFICATE OF DESIGNATION
55 SHALL HAVE BEEN FILED THE CORPORATION SHALL BE DEEMED TO HAVE DIRECTED
56 THE SECRETARY OF STATE TO MAIL COPIES OF PROCESS SERVED UPON HIM OR HER

1 TO THE CORPORATION AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT
2 THE STATE. WHEN A CERTIFICATE OF DESIGNATION HAS BEEN FILED BY SUCH
3 CORPORATION THE SECRETARY OF STATE SHALL MAIL COPIES OF PROCESS THERE-
4 AFTER SERVED UPON THE SECRETARY OF STATE TO THE ADDRESS SET FORTH IN
5 SUCH CERTIFICATE. ANY SUCH CORPORATION, FROM TIME TO TIME, MAY CHANGE
6 THE ADDRESS TO WHICH THE SECRETARY OF STATE IS DIRECTED TO MAIL COPIES
7 OF PROCESS, BY FILING A CERTIFICATE TO THAT EFFECT EXECUTED, SIGNED AND
8 ACKNOWLEDGED IN LIKE MANNER AS A CERTIFICATE OF DESIGNATION AS HEREIN
9 PROVIDED. SERVICE OF PROCESS UPON ANY SUCH CORPORATION OR UPON ANY
10 CORPORATION HAVING A CERTIFICATE OF AUTHORITY UNDER SECTION EIGHT
11 HUNDRED FIVE OF THE LIMITED LIABILITY COMPANY LAW OR HAVING AUTHORITY TO
12 DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS
13 CORPORATION LAW, IN ANY ACTION COMMENCED AT ANY TIME PURSUANT TO THE
14 PROVISIONS OF THIS SUBCHAPTER, MAY BE MADE BY EITHER: (A) PERSONALLY
15 DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE, A DEPUTY SECRE-
16 TARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE TO
17 RECEIVE SUCH SERVICE DUPLICATE COPIES THEREOF AT THE OFFICE OF THE
18 DEPARTMENT OF STATE IN THE CITY OF ALBANY, IN WHICH EVENT THE SECRETARY
19 OF STATE SHALL FORTHWITH SEND BY REGISTERED MAIL, RETURN RECEIPT
20 REQUESTED, ONE OF SUCH COPIES TO THE CORPORATION AT THE ADDRESS DESIG-
21 NATED BY IT OR AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE
22 STATE, OR (B) PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF
23 STATE, A DEPUTY SECRETARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE
24 SECRETARY OF STATE TO RECEIVE SUCH SERVICE, A COPY THEREOF AT THE OFFICE
25 OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY AND BY DELIVERING A
26 COPY THEREOF TO, AND LEAVING SUCH COPY WITH, THE PRESIDENT, VICE-PRESI-
27 DENT, SECRETARY, ASSISTANT SECRETARY, TREASURER, ASSISTANT TREASURER, OR
28 CASHIER OF SUCH CORPORATION, OR THE OFFICER PERFORMING CORRESPONDING
29 FUNCTIONS UNDER ANOTHER NAME, OR A DIRECTOR OR MANAGING AGENT OF SUCH
30 CORPORATION, PERSONALLY WITHOUT THE STATE. PROOF OF SUCH PERSONAL
31 SERVICE WITHOUT THE STATE SHALL BE FILED WITH THE CLERK OF THE COURT IN
32 WHICH THE ACTION IS PENDING WITHIN THIRTY DAYS AFTER SUCH SERVICE, AND
33 SUCH SERVICE SHALL BE COMPLETE TEN DAYS AFTER PROOF THEREOF IS FILED.

34 S 11-660 LIMITATIONS OF TIME. THE PROVISIONS OF THE CIVIL PRACTICE LAW
35 AND RULES RELATIVE TO THE LIMITATION OF TIME ENFORCING A CIVIL REMEDY
36 SHALL NOT APPLY TO ANY PROCEEDING OR ACTION TAKEN TO LEVY, APPRAISE,
37 ASSESS, DETERMINE OR ENFORCE THE COLLECTION OF ANY TAX OR PENALTY
38 PRESCRIBED BY THIS SUBCHAPTER, PROVIDED, HOWEVER, THAT AS TO REAL ESTATE
39 IN THE HANDS OF PERSONS WHO ARE OWNERS THEREOF WHO WOULD BE PURCHASERS
40 IN GOOD FAITH BUT FOR SUCH TAX OR PENALTY AND AS TO THE LIEN ON REAL
41 ESTATE OF MORTGAGES HELD BY PERSONS WHO WOULD BE HOLDERS THEREOF IN GOOD
42 FAITH BUT FOR SUCH TAX OR PENALTY, ALL SUCH TAXES AND PENALTIES SHALL
43 CEASE TO BE A LIEN ON SUCH REAL ESTATE AS AGAINST SUCH PURCHASERS OR
44 HOLDERS AFTER THE EXPIRATION OF TEN YEARS FROM THE DATE SUCH TAXES
45 BECAME DUE AND PAYABLE. THE LIMITATIONS HEREIN PROVIDED FOR SHALL NOT
46 APPLY TO ANY TRANSFER FROM A CORPORATION TO A PERSON OR CORPORATION WITH
47 INTENT TO AVOID PAYMENT OF ANY TAXES, OR WHERE WITH LIKE INTENT THE
48 TRANSFER IS MADE TO A GRANTEE CORPORATION, OR ANY SUBSEQUENT GRANTEE
49 CORPORATION, CONTROLLED BY SUCH GRANTOR OR WHICH HAS ANY COMMUNITY OF
50 INTEREST WITH IT, EITHER THROUGH STOCK OWNERSHIP OR OTHERWISE.

51 S 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section
52 11-508 of the administrative code of the city of New York, as added by
53 chapter 485 of the laws of 1994, is amended to read as follows:

54 (A) In the case of an issuer or obligor subject to tax under subchap-
55 ter two OR THREE-A of chapter six of this title, or subject to tax as a
56 utility corporation under chapter eleven of this title, the issuer's

1 allocation percentage shall be the percentage of the appropriate measure
2 (as defined hereinafter) which is required to be allocated within the
3 city on the report or reports, if any, required of the issuer or obligor
4 under chapter six or eleven of this title for the preceding year. The
5 appropriate measure referred to in the preceding sentence shall be: in
6 the case of an issuer or obligor subject to subchapter two OR THREE-A of
7 chapter six of this title, entire capital; and in the case of an issuer
8 or obligor subject to chapter eleven of this title as a utility corpo-
9 ration, gross income.

10 S 3. The administrative code of the city of New York is amended by
11 adding a new section 11-602.1 to read as follows:

12 S 11-602.1 APPLICATION OF THIS SUBCHAPTER. 1. FOR TAXABLE YEARS BEGIN-
13 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, THE TAX IMPOSED
14 UNDER THIS SUBCHAPTER SHALL ONLY APPLY TO A CORPORATION THAT (A) HAS AN
15 ELECTION IN EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED
16 SIXTY-TWO OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (B) IS A
17 QUALIFIED SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE
18 OF SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL
19 REVENUE CODE OF 1986, AS AMENDED.

20 2. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
21 FIFTEEN, THE TAX IMPOSED UNDER THIS SUBCHAPTER SHALL NOT APPLY TO A
22 CORPORATION THAT IS NOT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION
23 EXCEPT TO THE EXTENT PROVIDED IN SUBCHAPTER THREE-A OF THIS CHAPTER.

24 3. CROSS-REFERENCE. FOR THE TAXATION OF CORPORATIONS THAT ARE NOT
25 DESCRIBED IN SUBDIVISION ONE OF THIS SECTION, THAT WERE TAXABLE UNDER
26 THIS SUBCHAPTER FOR TAX YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOU-
27 SAND FIFTEEN, SEE SUBCHAPTER THREE-A OF THIS CHAPTER.

28 S 4. Subdivision (a) of section 11-639 of the administrative code of
29 the city of New York is amended to read as follows:

30 (a) (1) For the privilege of doing business in the city in a corporate
31 or organized capacity, a tax, computed under section 11-643 of this
32 part, is hereby annually imposed on every banking corporation for each
33 of its taxable years, or any part thereof, beginning on or after January
34 first, nineteen hundred seventy-three AND BEFORE JANUARY FIRST, TWO
35 THOUSAND FIFTEEN.

36 (2) FOR THE PRIVILEGE OF DOING BUSINESS IN THE CITY IN A CORPORATE OR
37 ORGANIZED CAPACITY, A TAX, COMPUTED UNDER SECTION 11-643 OF THIS PART,
38 IS HEREBY ANNUALLY IMPOSED ON EVERY BANKING CORPORATION FOR EACH TAXABLE
39 YEAR, OR ANY PART THEREOF, COMMENCING ON OR AFTER JANUARY FIRST, TWO
40 THOUSAND FIFTEEN, WHERE SUCH BANKING CORPORATION (I) HAS AN ELECTION IN
41 EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE
42 INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (II) IS A QUALIFIED
43 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF
44 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL
45 REVENUE CODE OF 1986, AS AMENDED.

46 S 5. Section 11-639 of the administrative code of the city of New York
47 is amended by adding a new subdivision (d) to read as follows:

48 (D) CROSS-REFERENCE. FOR THE TAXATION OF CORPORATIONS THAT ARE NOT
49 DESCRIBED IN PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, THAT WERE
50 TAXABLE UNDER THIS SUBCHAPTER FOR TAX YEARS BEGINNING BEFORE JANUARY
51 FIRST, TWO THOUSAND FIFTEEN, SEE SUBCHAPTER THREE-A OF THIS CHAPTER.

52 S 6. Paragraph 2 of subdivision (b) of section 11-641 of the adminis-
53 trative code of the city of New York, as amended by chapter 525 of the
54 laws of 1988, is amended to read as follows:

55 (2) taxes on or measured by income or profits paid or accrued within
56 the taxable year to the United States, or any of its possessions or to

1 any foreign country and taxes imposed under article nine, nine-A, thir-
2 teen-A or thirty-two of the tax law AS IN EFFECT ON DECEMBER
3 THIRTY-FIRST, TWO THOUSAND FOURTEEN and any tax imposed under this part
4 or subchapter two OR THREE-A of this chapter;

5 S 7. Subdivision 1 and paragraph (a) of subdivision 2 of section
6 11-671 of the administrative code of the city of New York are amended to
7 read as follows:

8 1. General. The provisions of this subchapter shall apply to the
9 administration of and the procedures with respect to the taxes imposed
10 by subchapters two, three, THREE-A and four of this chapter.

11 (a) the term "named subchapters" means subchapters two, three OR
12 THREE-A and four of this chapter;

13 S 8. Paragraph (a) of subdivision 5 and subdivisions 7, 8 and 9 of
14 section 11-672 of the administrative code of the city of New York, para-
15 graph (a) of subdivision 5 as amended by chapter 525 of the laws of
16 1988, and paragraph (b) of subdivision 9 as amended by chapter 808 of
17 the laws of 1992, are amended to read as follows:

18 (a) If the taxpayer fails to comply with subchapter two [or], three OR
19 THREE-A of this chapter in not reporting a change or correction or rene-
20 gotiation, or computation or recomputation of tax, increasing or
21 decreasing its federal or New York state taxable income, alternative
22 minimum taxable income or other basis of tax as reported on its federal
23 or New York state income tax return or in not reporting a change or
24 correction or renegotiation, or computation or recomputation of tax,
25 which is treated in the same manner as if it were a deficiency for
26 federal or New York state income tax purposes or in not filing an
27 amended return or in not reporting the execution of a notice of waiver
28 executed pursuant to subsection (d) of section six thousand two hundred
29 thirteen of the internal revenue code or pursuant to subdivision (f) of
30 section one thousand eighty-one of the tax law, instead of the mode and
31 time of assessment provided for in subdivision two of this section, the
32 commissioner of finance may assess a deficiency based upon such
33 increased or decreased federal or New York state taxable income, alter-
34 native minimum taxable income or other basis of tax by mailing to the
35 taxpayer a notice of additional tax due specifying the amount of the
36 deficiency, and such deficiency, together with the interest, additions
37 to tax and penalties stated in such notice, shall be deemed assessed on
38 the date such notice is mailed unless within thirty days after the mail-
39 ing of such notice a report of the federal or New York state change or
40 correction or renegotiation, or computation or recomputation of tax, or
41 an amended return, where such return was required by subchapter two
42 [or], three OR THREE-A, is filed accompanied by a statement showing
43 wherein such federal or New York state determination and such notice of
44 additional tax due are erroneous.

45 7. Two or more corporations. In case of a combined return under
46 subchapter two OR THREE-A or a consolidated return under subchapter
47 three of two or more corporations, the commissioner of finance may
48 determine a deficiency of tax under subchapter two [or subchapter],
49 three OR THREE-A of this chapter with respect to the entire tax due upon
50 such return against any taxpayer included therein. In the case of a
51 taxpayer which might have been included in such a return under subchap-
52 ter two [or subchapter], three OR THREE-A of this chapter when the tax
53 was originally reported, the commissioner of finance may determine a
54 deficiency of tax under subchapter two [or], three OR THREE-A of this
55 chapter against such taxpayer and against any other taxpayers which
56 might have been included in such a return.

1 8. Deficiency defined. For the purposes of this subchapter, a defi-
2 ciency means the amount of the tax imposed by the named subchapters, or
3 any of them, less: (a) the amount shown as the tax upon the taxpayer's
4 return (whether the return was made or the tax computed by it or by the
5 commissioner of finance), and less (b) the amounts previously assessed
6 (or collected without assessment) as a deficiency and plus (c) the
7 amount of any rebates. For the purpose of this definition, the tax
8 imposed by subchapter two [or], three OR THREE-A of this chapter and the
9 tax shown on the return shall both be determined without regard to any
10 payment of estimated tax; and a rebate means so much of an abatement,
11 credit, refund or other repayment (whether or not erroneous) as was made
12 on the ground that the amounts entering into the definition of a defi-
13 ciency showed a balance in favor of the taxpayer.

14 9. Exception where change or correction of sales and compensating use
15 tax liability is not reported.

16 (a) If a taxpayer fails to comply with subchapter two OR THREE-A of
17 this chapter in not reporting a change or correction of its sales and
18 compensating use tax liability or in not filing a copy of an amended
19 return or report relating to its sales and compensating use tax liabil-
20 ity, instead of the mode and time of assessment provided for in subdivi-
21 sion two of this section, the commissioner of finance may assess a defi-
22 ciency based upon such changed or corrected sales and compensating use
23 tax liability, as same relates to credits claimed under subchapter two
24 OR THREE-A of this chapter, by mailing to the taxpayer a notice of addi-
25 tional tax due specifying the amount of the deficiency, and such defi-
26 ciency, together with the interest, additions to tax and penalties stat-
27 ed in such notice, shall be deemed assessed on the date such notice is
28 mailed unless within thirty days after the mailing of such notice a
29 report of the state change or correction or a copy of an amended return
30 or report, where such copy was required by subchapter two OR THREE-A, is
31 filed accompanied by a statement showing wherein such state determi-
32 nation and such notice of additional tax due are erroneous.

33 (b) Such notice shall not be considered as a notice of deficiency for
34 the purposes of this section, subdivision six of section 11-678 (limit-
35 ing credits or refunds after petition to the tax appeals tribunal), or
36 subdivision two of section 11-680 (authorizing the filing of a petition
37 with the tax appeals tribunal based on a notice of deficiency), nor
38 shall such assessment or the collection thereof be prohibited by the
39 provisions of subdivision three of this section.

40 (c) If the taxpayer has terminated its existence, a notice of addi-
41 tional tax due may be mailed to its last known address in or out of the
42 city, and such notice shall be sufficient for purposes of this subchap-
43 ter. If the commissioner of finance has received notice that a person is
44 acting for the taxpayer in a fiduciary capacity, a copy of such notice
45 shall also be mailed to the fiduciary named in such notice.

46 S 9. Subdivisions 1 and 3 of section 11-673 of the administrative code
47 of the city of New York, the first undesignated paragraph of subdivision
48 1 as amended by chapter 808 of the laws of 1992, are amended to read as
49 follows:

50 1. Assessment date. The amount of tax which a return shows to be due,
51 or the amount of tax which a return would have shown to be due but for a
52 mathematical error, shall be deemed to be assessed on the date of filing
53 of the return (including any amended return showing an increase of tax).
54 If a notice of deficiency has been mailed, the amount of the deficiency
55 shall be deemed to be assessed on the date specified in subdivision two
56 of section 11-672 of this subchapter if no petition is both served on

1 the commissioner of finance and filed with the tax appeals tribunal, or
2 if a petition is so served and filed, then upon the date when a decision
3 of the tax appeals tribunal establishing the amount of the deficiency
4 becomes final. If a report or an amended return filed pursuant to
5 subchapter two [or], three OR THREE-A of this chapter concedes the accu-
6 racy of a federal or New York state adjustment or change or correction
7 or renegotiation or computation or recomputation of tax, any deficiency
8 in tax under subchapter two [or], three OR THREE-A of this chapter
9 resulting therefrom shall be deemed to be assessed on the date of filing
10 such report or amended return, and such assessment shall be timely
11 notwithstanding section 11-674 of this chapter.

12 If a report filed pursuant to subchapter two OR THREE-A of this chap-
13 ter concedes the accuracy of a state change or correction of sales and
14 compensating use tax liability, any deficiency in tax under subchapter
15 two OR THREE-A of this chapter resulting therefrom shall be deemed
16 assessed on the date of filing such report, and such assessment shall be
17 timely notwithstanding section 11-674 of this chapter.

18 If a notice of additional tax due, as prescribed in subdivision five
19 of section 11-672 of this chapter, has been mailed, the amount of the
20 deficiency shall be deemed to be assessed on the date specified in such
21 subdivision unless within thirty days after the mailing of such notice a
22 report of the federal or New York state adjustment or change or
23 correction or renegotiation or computation or recomputation of tax, or
24 an amended return, where such return was required by subchapter two
25 [or], three OR THREE-A of this chapter, is filed accompanied by a state-
26 ment showing wherein such federal or New York state determination and
27 such notice of additional tax due are erroneous.

28 If a notice of additional tax due, as prescribed in subdivision nine
29 of section 11-672 of this subchapter, has been mailed, the amount of the
30 deficiency shall be deemed to be assessed on the date specified in such
31 subdivision unless within thirty days after the mailing of such notice a
32 report of the state change or correction, or a copy of an amended return
33 or report, where such copy was required by subchapter two OR THREE-A of
34 this chapter, is filed accompanied by a statement showing wherein such
35 state determination and such notice of additional tax due are erroneous.

36 Any amount paid as a tax or in respect of a tax, other than amounts
37 paid as estimated tax, shall be deemed to be assessed upon the date of
38 receipt of payment notwithstanding any other provisions.

39 3. Estimated tax. No unpaid amount of estimated tax under subchapter
40 two [or], three OR THREE-A of this chapter shall be assessed.

41 S 10. Subdivisions 3 and 4 of section 11-674 of the administrative
42 code of the city of New York, subparagraph 3 of paragraph (a) and para-
43 graph (c) of subdivision 3 as amended by chapter 525 of the laws of 1988
44 and paragraph (d) of subdivision 3 as amended by local law number 57 of
45 the city of New York for the year 2001, are amended to read as follows:

46 3. Exceptions.

47 (a) Assessment at any time. The tax may be assessed at any time if:

48 (1) no return is filed,

49 (2) a false or fraudulent return is filed with intent to evade tax,

50 (3) in the case of the tax imposed under subchapter two [or], three OR
51 THREE-A of this chapter, the taxpayer fails to file a report or amended
52 return required thereunder, in respect of an increase or decrease in
53 federal or New York state taxable income, alternative minimum taxable
54 income or other basis of tax or federal or New York state tax, or in
55 respect of a change or correction or renegotiation or in respect of the
56 execution of a notice of waiver report of which is required thereunder,

1 or computation or recomputation of tax, which is treated in the same
2 manner as if it were a deficiency for federal or New York state income
3 tax purposes, or

4 (4) in the case of the tax imposed under subchapter two OR THREE-A of
5 this chapter, the taxpayer fails to file a report or amended return or
6 report required thereunder, in respect of a change or correction of
7 sales and compensating use tax liability, relating to the purchase or
8 use of items for which a sales or compensating use tax credit against
9 the tax imposed by subchapter two OR THREE-A was claimed.

10 (b) Extension by agreement. Where, before the expiration of the time
11 prescribed in this section for the assessment of tax, both the commis-
12 sioner of finance and the taxpayer have consented in writing to its
13 assessment after such time, the tax may be assessed at any time prior to
14 the expiration of the period agreed upon. The period so agreed upon may
15 be extended by subsequent agreements in writing made before the expira-
16 tion of the period previously agreed upon.

17 (c) Report of federal or New York state change or correction. In the
18 case of the tax imposed under subchapter two [or], three OR THREE-A of
19 this chapter, if the taxpayer files a report or amended return required
20 thereunder, in respect of an increase or decrease in federal or New York
21 state taxable income, alternative minimum taxable income or other basis
22 of tax or federal or New York state tax, or in respect of a change or
23 correction or renegotiation, or in respect of the execution of a notice
24 of waiver report of which is required thereunder, or computation or
25 recomputation of tax, which is treated in the same manner as if it were
26 a deficiency for federal or New York state income tax purposes, the
27 assessment (if not deemed to have been made upon the filing of the
28 report or amended return) may be made at any time within two years after
29 such report or amended return was filed. The amount of such assessment
30 of tax shall not exceed the amount of the increase in city tax attribut-
31 able to such federal or New York state change or correction or renegoti-
32 ation, or computation or recomputation of tax. The provisions of this
33 paragraph shall not affect the time within which or the amount for which
34 an assessment may otherwise be made.

35 (d) Deficiency attributable to carry back. If a deficiency of tax
36 under subchapter two OR THREE-A of this chapter is attributable to the
37 application to taxpayer of a net operating loss carry back or a capital
38 loss carry back, it may be assessed at any time that a deficiency for
39 the taxable year of the loss may be assessed.

40 (e) Recovery of erroneous refund. An erroneous refund shall be consid-
41 ered an underpayment of tax on the date made, and an assessment of a
42 deficiency arising out of an erroneous refund may be made at any time
43 within two years from the making of the refund, except that the assess-
44 ment may be made within five years from the making of the refund if it
45 appears that any part of the refund was induced by fraud or misrepresen-
46 tation of a material fact.

47 (f) Request for prompt assessment. The tax shall be assessed within
48 eighteen months after written request therefor (made after the return is
49 filed) by the taxpayer or by a fiduciary representing the taxpayer, but
50 not more than three years after the return was filed, except as other-
51 wise provided in this subdivision and subdivision four. This subdivision
52 shall not apply unless:

53 (1) (A) such written request notifies the commissioner of finance that
54 the taxpayer contemplates dissolution at or before the expiration of
55 such eighteen-month period, (B) the dissolution is in good faith begun

1 before the expiration of such eighteen-month period, (C) the dissolution
2 is completed;

3 (2) (A) such written request notifies the commissioner of finance that
4 a dissolution has in good faith been begun, and (B) the dissolution is
5 completed; or

6 (3) a dissolution has been completed at the time such written request
7 is made.

8 (g) Change of the allocation of taxpayer's income or capital. [No]

9 (1) WITH REGARD TO TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO
10 THOUSAND FIFTEEN, NO change of the allocation of income or capital upon
11 which the taxpayer's return (or any additional assessment) was based
12 shall be made where an assessment of tax is made during the additional
13 period of limitation under subparagraph three or four of paragraph (a),
14 or under paragraph (c), (d) or (i); and where any such assessment has
15 been made, or where a notice of deficiency has been mailed to the
16 taxpayer on the basis of any such proposed assessment, no change of the
17 allocation of income or capital shall be made in a proceeding on the
18 taxpayer's claim for refund of such assessment or on the taxpayer's
19 petition for redetermination of such deficiency.

20 (2) WITH REGARD TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,
21 TWO THOUSAND FIFTEEN, NO CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL
22 UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS
23 BASED SHALL BE MADE WHERE AN ASSESSMENT OF TAX IS MADE DURING THE ADDI-
24 TIONAL PERIOD OF LIMITATION UNDER SUBPARAGRAPH THREE OR FOUR OF PARA-
25 GRAPH (A) OR UNDER PARAGRAPH (C), (D) OR (I), EXCEPT TO THE EXTENT SUCH
26 ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW YORK STATE TAXABLE
27 INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX, OR BASED ON A
28 CHANGE, CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON THE EXECUTION OF
29 A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER, OR COMPUTATION
30 OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT
31 WERE A DEFICIENCY FOR NEW YORK STATE INCOME TAX PURPOSES; AND WHERE ANY
32 SUCH ASSESSMENT HAS BEEN MADE, OR WHERE A NOTICE OF DEFICIENCY HAS BEEN
33 MAILED TO THE TAXPAYER ON THE BASIS OF ANY SUCH PROPOSED ASSESSMENT, NO
34 CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL SHALL BE MADE IN A
35 PROCEEDING ON THE TAXPAYER'S CLAIM FOR REFUND OF SUCH ASSESSMENT OR ON
36 THE TAXPAYER'S PETITION FOR REDETERMINATION OF SUCH DEFICIENCY, EXCEPT
37 TO THE EXTENT SUCH ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW
38 YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX,
39 OR BASED ON A CHANGE OR CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON
40 THE EXECUTION OF A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER,
41 OR COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME
42 MANNER AS IF IT WERE AN OVERPAYMENT FOR NEW YORK STATE INCOME TAX
43 PURPOSES.

44 (h) Report concerning waste treatment facility. Under the circum-
45 stances described in subparagraph three of paragraph (g) of subdivision
46 eight of section 11-602 of this chapter OR IN SUBPARAGRAPH THREE OF
47 PARAGRAPH (G) OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS CHAPTER,
48 the tax may be assessed within three years after the filing of the
49 report containing the information required by such paragraph.

50 (i) Report of changed or corrected sales and compensating use tax
51 liability. In the case of a tax imposed under subchapter two OR THREE-A
52 of this chapter, if the taxpayer files a report or amended return or
53 report required thereunder, in respect of a change or correction of
54 sales and compensating use tax liability, the assessment (if not deemed
55 to have been made upon the filing of the report) may be made at any time
56 within two years after such report or amended return or report was

1 filed. The amount of such assessment of tax shall not exceed the amount
2 of the increase in city tax attributable to such state change or
3 correction. The provisions of this paragraph shall not affect the time
4 within which or the amount for which an assessment may otherwise be
5 made.

6 4. Omission of income on return. The tax may be assessed at any time
7 within six years after the return was filed if a taxpayer omits from
8 gross income required to be reported on a return under any of the named
9 subchapters an amount properly includable therein which is in excess of
10 twenty-five per centum of the amount of gross income stated in the
11 return.

12 For the purposes of this subdivision:

13 (a) the term "gross income" means gross income for federal income tax
14 purposes as reportable on a return under subchapter two OR THREE-A of
15 this chapter and "gross earnings", "gross income," "gross operating
16 income" and "gross direct premiums less return premiums," as those terms
17 are used in whichever of the named subchapters is applicable;

18 (b) there shall not be taken into account any amount which is omitted
19 in the return if such amount is disclosed in the return, or in a state-
20 ment attached to the return, in a manner adequate to apprise the commis-
21 sioner of finance of the nature and amount of such item.

22 S 11. Subdivisions 2 and 5 of section 11-675 of the administrative
23 code of the city of New York, subdivision 5 as amended by local law
24 number 57 of the city of New York for the year 2001, are amended to read
25 as follows:

26 2. Exception as to estimated tax. This section shall not apply to any
27 failure to pay estimated tax under subchapter two [or subchapter], three
28 OR THREE-A of this chapter.

29 5. Tax reduced by carry back. If the amount of tax under subchapter
30 two OR THREE-A for any taxable year is reduced by reason of a carryback
31 of a net operating loss or a capital loss, such reduction in tax shall
32 not affect the computation of interest under this section for the period
33 ending with the filing date for the taxable year in which the net oper-
34 ating loss or capital loss arises. Such filing date shall be determined
35 without regard to extensions of time to file.

36 S 12. Subdivision 3 of section 11-676 of the administrative code of
37 the city of New York, as amended by chapter 201 of the laws of 2009, is
38 amended to read as follows:

39 3. Failure to file declaration or underpayment of estimated tax. If
40 any taxpayer fails to file a declaration of estimated tax under subchap-
41 ter two [or], three OR THREE-A of this chapter, or fails to pay all or
42 any part of an amount which is applied as an installment against such
43 estimated tax, it shall be deemed to have made an underpayment of esti-
44 mated tax. There shall be added to the tax for the taxable year an
45 amount at the underpayment rate set by the commissioner of finance
46 pursuant to section 11-687 of this subchapter, or, if no rate is set, at
47 the rate of seven and one-half percent per annum upon the amount of the
48 underpayment for the period of the underpayment but not beyond the
49 fifteenth day of the third month following the close of the taxable
50 year. The amount of the underpayment shall be, with respect to any
51 installment of estimated tax computed on the basis of the preceding
52 year's tax, the excess of the amount required to be paid over the
53 amount, if any, paid on or before the last day prescribed for such
54 payment or, with respect to any other installment of estimated tax, the
55 excess of the amount of the installment which would be required to be
56 paid if the estimated tax were equal to ninety percent of the tax shown

1 on the return for the taxable year (or if no return was filed, ninety
2 percent of the tax for such year) over the amount, if any, of the
3 installment paid on or before the last day prescribed for such payment.
4 In any case in which there would be no underpayment if "eighty percent"
5 were substituted for "ninety percent" each place it appears in this
6 subdivision, the addition to the tax shall be equal to seventy-five
7 percent of the amount otherwise determined. No underpayment shall be
8 deemed to exist with respect to a declaration or installment otherwise
9 due on or after the termination of existence of the taxpayer.

10 S 13. The opening paragraph of subdivision 4 of section 11-676 of the
11 administrative code of the city of New York is amended to read as
12 follows:

13 The addition to tax under subdivision three with respect to any under-
14 payment of any amount which is applied as an installment against esti-
15 mated tax under subchapter two [or], three OR THREE-A of this chapter
16 shall not be imposed if the total amount of all payments of estimated
17 tax made on or before the last date prescribed for the payment of any
18 such amount equals or exceeds the amount which would have been required
19 to be paid on or before such date if the estimated tax were whichever of
20 the following is the least:

21 S 14. Subdivision 13 of section 11-676 of the administrative code of
22 the city of New York, as added by chapter 525 of the laws of 1988, is
23 amended to read as follows:

24 13. Failure to file report of information relating to certain interest
25 payments. In case of failure to file the report of information required
26 under EITHER subdivision two-a of section 11-605 of this chapter OR
27 SUBDIVISION TWO-A OF SECTION 11-655 OF THIS CHAPTER, unless it is shown
28 that such failure is due to reasonable cause and not due to willful
29 neglect, there shall be added to the tax a penalty of five hundred
30 dollars.

31 S 15. Subdivision 2 of section 11-677 of the administrative code of
32 the city of New York is amended to read as follows:

33 2. Credits against estimated tax. The commissioner of finance may
34 prescribe regulations providing for the crediting against the estimated
35 tax under subchapter two [or], three OR THREE-A of this chapter for any
36 taxable year of the amount determined to be an overpayment of tax under
37 any such subchapter for a preceding taxable year. If any overpayment of
38 tax is so claimed as a credit against estimated tax for the succeeding
39 taxable year, such amount shall be considered as a payment of the tax
40 under subchapter two [or], three OR THREE-A of this chapter for the
41 succeeding taxable year (whether or not claimed as a credit in the
42 declaration of estimated tax for such succeeding taxable year), and no
43 claim for credit or refund of such overpayment shall be allowed for the
44 taxable year for which the overpayment arises.

45 S 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administra-
46 tive code of the city of New York, subdivision 3 as amended by chapter
47 241 of the laws of 1989 and subdivision 4 as amended by local law number
48 57 of the city of New York for the year 2001, are amended to read as
49 follows:

50 3. Notice of change or correction of federal or New York state income
51 or other basis of tax. If a taxpayer is required by subchapter two [or],
52 three OR THREE-A of this chapter to file a report or amended return in
53 respect of (a) a decrease or increase in federal or New York state taxa-
54 ble income, alternative minimum taxable income or other basis of tax or
55 federal or New York state tax, (b) a federal or New York state change or
56 correction or renegotiation, or computation or recomputation of tax,

1 which is treated in the same manner as if it were an overpayment for
2 federal or New York state income tax purposes, claim for credit or
3 refund of any resulting overpayment of tax shall be filed by the taxpay-
4 er within two years from the time such report or amended return was
5 required to be filed with the commissioner of finance. If the report or
6 amended return required by subchapter two [or], three OR THREE-A of this
7 chapter is not filed within the ninety day period therein specified, no
8 interest shall be payable on any claim for credit or refund of the over-
9 payment attributable to the federal or New York state change or
10 correction. The amount of such credit or refund:

11 (c) shall, (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO
12 THOUSAND FIFTEEN, be computed without change of the allocation of income
13 or capital upon which the taxpayer's return (or any additional assess-
14 ment) was based, and, (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANU-
15 ARY FIRST, TWO THOUSAND FIFTEEN, BE COMPUTED WITHOUT CHANGE OF THE ALLO-
16 CATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY
17 ADDITIONAL ASSESSMENT) WAS BASED TO THE EXTENT THAT THE CLAIM FOR REFUND
18 ARISES FROM A DECREASE OR INCREASE IN FEDERAL TAXABLE INCOME OR OTHER
19 BASIS OF TAX OR FEDERAL TAX, OR FROM A FEDERAL CHANGE, CORRECTION, RENE-
20 GOTIATION, COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE
21 SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR FEDERAL INCOME TAX
22 PURPOSES, AND

23 (d) shall not exceed the amount of the reduction in tax attributable
24 to such decrease or increase in federal or New York state taxable
25 income, alternative minimum taxable income or other basis of tax or
26 federal or New York state tax or to such federal or New York state
27 change or correction or renegotiation, or computation or recomputation
28 of tax.

29 This subdivision shall not affect the time within which or the amount
30 for which a claim for credit or refund may be filed apart from this
31 subdivision.

32 4. Overpayment attributable to net operating loss carry back or capi-
33 tal loss carry back. A claim for credit or refund of so much of an over-
34 payment under subchapter two OR THREE-A of this chapter as is attribut-
35 able to the application to the taxpayer of a net operating loss carry
36 back or a capital loss carry back shall be filed within three years from
37 the time the return was due (including extensions thereof) for the taxa-
38 ble year of the loss, or within the period prescribed in subdivision two
39 in respect of such taxable year, or within the period prescribed in
40 subdivision three, where applicable, in respect to the taxable year to
41 which the net operating loss or capital loss is carried back, whichever
42 expires the latest. Where such claim for credit or refund is filed after
43 the expiration of the period prescribed in subdivision one or in subdivi-
44 sion two where applicable, in respect to the taxable year to which the
45 net operating loss or capital loss is carried back, the amount of such
46 credit or refund shall be computed without change of the allocation of
47 income or capital upon which the taxpayer's return (or any additional
48 assessment) was based.

49 9. Prepaid tax. For purposes of this section, any tax paid by the
50 taxpayer before the last day prescribed for its payment (including any
51 amount paid by the taxpayer as estimated tax for a taxable year) shall
52 be deemed to have been paid by it on the fifteenth day of the third
53 month following the close of the taxable year the income of which is the
54 basis for tax under subchapter two [or], three OR THREE-A of this chap-
55 ter, or on the last day prescribed in part one of subchapter three or
56 subchapter four for the filing of a final return for such taxable year,

1 or portion thereof, determined in all cases without regard to any extension of time granted the taxpayer.

3 11. Notice of change or correction of sales and compensating use tax liability. (a) If a taxpayer is required by subchapter two OR THREE-A of this chapter to file a report or amended return in respect of a change or correction of its sales and compensating use tax liability, claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the time such report or amended return was required to be filed with the commissioner of finance. The amount of such credit or refund shall be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based, and shall not exceed the amount of the reduction in tax attributable to such change or correction of sales and compensating use tax liability.

15 (b) This subdivision shall not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subdivision.

18 S 17. Subdivisions 4 and 6 of section 11-679 of the administrative code of the city of New York, subdivision 4 as amended by local law number 57 of the city of New York for the year 2001 and subdivision 6 as amended by chapter 241 of the laws of 1989, are amended to read as follows:

23 4. Refund of tax caused by carryback. For purposes of this section, if any overpayment of tax imposed by subchapter two OR THREE-A of this chapter results from a carryback of a net operating loss or a net capital loss, such overpayment shall be deemed not to have been made prior to the filing date for the taxable year in which such net operating loss or net capital loss arises. Such filing date shall be determined without regard to extensions of time to file. For purposes of subdivision three of this section any overpayment described herein shall be treated as an overpayment for the loss year and such subdivision shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed. The term "loss year" means the taxable year in which such loss arises.

35 6. Cross reference. For provision with respect to interest after failure to file a report of federal or New York state change or correction or amended return under subchapter two [or], three OR THREE-A, see subdivision three of section 11-678 of this subchapter.

39 S 18. Paragraph (d) of subdivision 4 of section 11-680 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

42 (d) Restriction on further notices of deficiency. If the taxpayer files a petition with the tax appeals tribunal under this section, no notice of deficiency under section 11-672 of this subchapter may thereafter be issued by the commissioner of finance for the same taxable year, except in case of fraud or with respect to an increase or decrease in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax or a federal or New York state change or correction or renegotiation, or computation or recomputation of tax, which is treated in the same manner as if it were a deficiency for federal or New York state income tax purposes, required to be reported under subchapter two [or], three OR THREE-A of this chapter or with respect to a state change or correction of sales and compensating use tax liability required to be reported under subchapter two OR THREE-A of this chapter.

1 S 19. Paragraph (c) of subdivision 5 of section 11-680 of the adminis-
2 trative code of the city of New York, as amended by chapter 808 of the
3 laws of 1992, is amended to read as follows:

4 (c) whether the petitioner is liable for any increase in a deficiency
5 where such increase is asserted initially after a notice of deficiency
6 was mailed and a petition under this section filed, unless such increase
7 in deficiency is the result of an increase or decrease in federal or New
8 York state taxable income, alternative minimum taxable income or other
9 basis of tax or federal or New York state tax or a federal or New York
10 state change or correction or renegotiation, or computation or recompu-
11 tation of tax, which is treated in the same manner as if it were a defi-
12 ciency for federal or New York state income tax purposes, required to be
13 reported under subchapter two [or], three OR THREE-A of this chapter,
14 and of which increase, decrease, change or correction or renegotiation,
15 or computation or recomputation, the commissioner of finance had no
16 notice at the time he or she mailed the notice of deficiency or unless
17 such increase in deficiency is the result of a change or correction of
18 sales and compensating use tax liability required to be reported under
19 subchapter two OR THREE-A of this chapter, and of which change or
20 correction the commissioner of finance had no notice at the time he or
21 she mailed the notice of deficiency; and

22 S 20. Paragraph (a) of subdivision 5 of section 11-687 of the adminis-
23 trative code of the city of New York, as amended by chapter 201 of the
24 laws of 2009, is amended to read as follows:

25 (a) Authority to set interest rates. The commissioner of finance shall
26 set the overpayment and underpayment rates of interest to be paid pursu-
27 ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675,
28 11-676, and 11-679 of this chapter, but if no such rate or rates of
29 interest are set, such overpayment rate shall be deemed to be set at six
30 percent per annum and such underpayment rate shall be deemed to be set
31 at seven and one-half percent per annum. Such overpayment and underpay-
32 ment rates shall be the rates prescribed in paragraph (b) of this subdivi-
33 sion but the underpayment rate shall not be less than seven and one-
34 half percent per annum. Any such rates set by the commissioner of
35 finance shall apply to taxes, or any portion thereof, which remain or
36 become due or overpaid on or after the date on which such rates become
37 effective and shall apply only with respect to interest computed or
38 computable for periods or portions of periods occurring in the period
39 during which such rates are in effect.

40 S 21. Subdivision 7 of section 11-688 of the administrative code of
41 the city of New York, as added by section 22 of part M of chapter 686 of
42 the laws of 2003, is amended to read as follows:

43 7. Notwithstanding anything in subdivision one of this section, the
44 commissioner of finance may disclose to a taxpayer or a taxpayer's
45 related member, as defined in paragraph (n) of subdivision eight of
46 section 11-602, PARAGRAPH (N) OF SUBDIVISION EIGHT OF SECTION 11-652 or
47 paragraph one of subdivision (q) of section 11-641 of this chapter,
48 information relating to any royalty paid, incurred or received by such
49 taxpayer or related member to or from the other, including the treatment
50 of such payments by the taxpayer or the related member in any report or
51 return transmitted to the commissioner of finance under this title.

52 S 22. Paragraph 4 of subdivision (f) of section 11-704 of the adminis-
53 trative code of the city of New York, as amended by chapter 831 of the
54 laws of 1992, is amended to read as follows:

55 (4) No tenant shall be authorized to receive a reduction in base rent
56 subject to tax under the provisions of this subdivision, until the prem-

ises with respect to which it is claiming a reduction in base rent meet the requirements in the definition of eligible premises and until it has obtained a certification of eligibility from the mayor or an agency designated by the mayor, and an annual certification from the mayor or an agency designated by the mayor as to the number of eligible aggregate employment shares maintained by such tenant which may qualify for obtaining a base rent reduction for the tenant's tax year. Any written documentation submitted to the mayor or such agency or agencies in order to obtain any such certification shall be deemed a written instrument for purposes of section 175.00 of the penal law. Application fees for such certifications shall be determined by the mayor or such agency or agencies. No certification of eligibility shall be issued to an eligible business on or after July first, nineteen hundred ninety-nine unless such business meets the requirements of either subparagraph (a) or (b) below:

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

(2) prior to such date improvements have been commenced on such premises or parcel which improvements will meet the requirements of subdivision (e) of section 22-621 of this code relating to expenditures for improvements;

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

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

(b) (1) not later than June thirtieth, two thousand two, such business has purchased, leased or entered into a contract to purchase or lease particular premises wholly contained in a building in which at least an aggregate of forty per centum or two hundred thousand square feet, whichever is less, of the nonresidential floor area of such building has been purchased or leased by a business or businesses which meet or will meet the requirements of subparagraph (a) of this paragraph with respect to such floor area and which are or will become certified as eligible to receive a credit under section 22-622 of this code with respect to such floor area;

(2) not later than June thirtieth, two thousand two, such business submits a preliminary application for a certification of eligibility to such mayor or such agency or agencies with respect to a proposed relocation to such particular premises; and

(3) not later than June thirtieth, two thousand two, such business relocates to such particular premises.

Any tenant subject to a tax imposed under chapter five, or subchapter two [or], three OR THREE-A of chapter six, of this title obtaining a certification of eligibility pursuant to subdivision (b) of section 22-622 of the code shall be deemed to have obtained the certification of eligibility required by this paragraph.

S 23. Subdivision (a) and the opening paragraph of subdivision (o) of section 22-621 of the administrative code of the city of New York, subdivision (a) as amended by chapter 149 of the laws of 1999 and the

1 opening paragraph of subdivision (o) as added by chapter 143 of the laws
2 of 2004, are amended to read as follows:

3 (a) "Eligible Business." Any person subject to a tax imposed under
4 chapter five, or subchapter two [or], three OR THREE-A of chapter six,
5 or chapter eleven, of title eleven of the code, that: (1) has been
6 conducting substantial business operations at one or more business
7 locations outside the eligible area for the twenty-four consecutive
8 months immediately preceding the taxable year during which such eligible
9 business relocates as defined in subdivision (j) of this section; and
10 (2) on or after May twenty-seventh, nineteen hundred eighty-seven relo-
11 cates as defined in subdivision (j) of this section all or part of such
12 business operations; and (3) either (i) on or after May twenty-seventh,
13 nineteen hundred eighty-seven first enters into a contract to purchase
14 or lease the premises to which it relocates as defined in subdivision
15 (j) of this section, or a parcel on which will be constructed such prem-
16 ises, or (ii) as of May twenty-seventh, nineteen hundred eighty-seven
17 owns such parcel or premises and has not prior to such date made appli-
18 cation for benefits pursuant to part four of subchapter two of chapter
19 two of title eleven of the code.

20 "Total attributed eligible aggregate employment shares" means, for any
21 relocation, the sum of the number of eligible aggregate employment
22 shares apportioned to such relocation pursuant to paragraph one of this
23 subdivision, less any excess shares determined with respect to such
24 relocation pursuant to paragraph two of this subdivision, plus any
25 excess shares attributed to such relocation pursuant to paragraph three
26 of this subdivision. Except as provided in paragraph four of this subdivi-
27 sion, any eligible aggregate employment shares that are attributed to
28 a relocation to particular premises pursuant to paragraph three of this
29 subdivision shall be treated as eligible aggregate employment shares
30 that are maintained with respect to such premises and shall be subject
31 to all provisions of this chapter and the provisions for a credit
32 against a tax imposed under chapter five or subchapter two [or], three
33 OR THREE-A of chapter six or chapter eleven of title eleven of the code
34 as such provisions pertain to such relocation.

35 S 24. Subdivisions (a) and (d) of section 22-622 of the administrative
36 code of the city of New York, subdivision (a) as amended and subdivision
37 (d) as added by chapter 149 of the laws of 1999, are amended to read as
38 follows:

39 (a) An eligible business that relocates as defined in subdivision (j)
40 of section 22-621 of the code shall be allowed to receive a credit
41 against a tax imposed by chapter five, or subchapter two [or], three OR
42 THREE-A of chapter six, or chapter eleven, of title eleven of the code,
43 as described in subdivision (i) of section 11-503, subdivision seventeen
44 of section 11-604, SUBDIVISION SEVENTEEN OF SECTION 11-654, section
45 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent
46 subject to tax as described in subdivision f of section 11-704 of the
47 code, provided, however, notwithstanding any other provision of law to
48 the contrary, no such credit shall be allowed against the tax imposed
49 under such chapter eleven for a relocation taking place prior to January
50 first, nineteen hundred ninety-nine.

51 (d) An eligible business other than a utility company subject to the
52 supervision of the department of public service shall not be authorized
53 to receive a credit against the gross receipts tax imposed under chapter
54 eleven of title eleven of the code, unless such eligible business elects
55 to take the credit authorized by this section against the tax imposed by
56 such chapter on an application filed with respect to the first relo-

1 cation of such business that qualifies or will qualify under this
2 section, with the mayor or the agency designated by such mayor pursuant
3 to subdivision (b) of this section. The election authorized by this
4 subdivision may not be withdrawn after the issuance of such certifi-
5 cation of eligibility. No taxpayer that has previously received a
6 certification of eligibility to receive such credit against any tax
7 imposed by chapter five or subchapter two [or], three OR THREE-A of
8 chapter six of title eleven of the code may make the election authorized
9 by this subdivision. No taxpayer that makes the election provided in
10 this subdivision shall be authorized to take such credit against any tax
11 imposed by chapter five or subchapter two [or], three OR THREE-A of
12 chapter six of title eleven of the code.

13 S 25. Subdivisions (a) and (l) of section 22-623 of the administrative
14 code of the city of New York, subdivision (a) as added by chapter 143 of
15 the laws of 2004 and subdivision (l) as added by section 10 of part E of
16 chapter 2 of the laws of 2005, are amended to read as follows:

17 (a) "Eligible business" means any person subject to a tax imposed
18 under chapter five, or subchapter two [or], three OR THREE-A of chapter
19 six, or chapter eleven, of title eleven of the code, that:

20 (1) has been conducting substantial business operations at one or more
21 business locations outside the city of New York for the twenty-four
22 consecutive months immediately preceding the taxable year during which
23 such eligible business relocates as defined in subdivision (j) of this
24 section but has not maintained employment shares at premises in the city
25 of New York at any time during the period beginning January first, two
26 thousand two and ending on the date it enters into a lease or a contract
27 to purchase the premises that will qualify as eligible premises pursuant
28 to this chapter; and

29 (2) on or after July first, two thousand three relocates as defined in
30 subdivision (j) of this section all or part of such business operations.

31 (l) "Special eligible business" means any person subject to a tax
32 imposed under chapter five, or subchapter two [or], three OR THREE-A of
33 chapter six, or chapter eleven, of title eleven of the code, that: (1)
34 has been conducting substantial business operations at one or more busi-
35 ness locations outside the city of New York for the twenty-four consec-
36 utive months immediately preceding the taxable year during which such
37 eligible business relocates as defined in subdivision (m); (2) main-
38 tained employment shares at premises in Manhattan in the city of New
39 York at some time during the period beginning January first, two thou-
40 sand two, and ending on the date it enters into a lease or a contract to
41 purchase the premises that will qualify as eligible premises pursuant to
42 this section, and (3) on or after June thirtieth, two thousand five,
43 relocates as defined in subdivision (m) of this section all or part of
44 such business operations.

45 S 26. Subdivisions (a) and (d) of section 22-624 of the administrative
46 code of the city of New York, subdivision (a) as amended by section 11
47 of part E of chapter 2 of the laws of 2005 and subdivision (d) as
48 amended by section 12 of part E of chapter 2 of the laws of 2005, are
49 amended to read as follows:

50 (a) An eligible business that relocates as defined in subdivision (j)
51 of section 22-623 of this chapter or a special eligible business that
52 relocates as defined in subdivision (m) of section 22-623 of this chap-
53 ter shall be allowed to receive a credit against a tax imposed by chap-
54 ter five, or subchapter two [or], three OR THREE-A of chapter six, or
55 chapter eleven, of title eleven of the code, as described in subdivision
56 (l) of section 11-503, subdivision nineteen of section 11-604, SUBDIVI-

1 SION NINETEEN OF SECTION 11-654, section 11-643.9 or section 11-1105.3
2 of the code.

3 (d) An eligible business or special eligible business other than a
4 utility company subject to the supervision of the department of public
5 service shall not be authorized to receive a credit against the gross
6 receipts tax imposed under chapter eleven of title eleven of the code
7 unless such eligible business or special eligible business elects to
8 take the credit authorized by this section against the tax imposed by
9 such chapter on its application filed with the mayor or the agency
10 designated by such mayor pursuant to subdivision (b) of this section.
11 The election authorized by this subdivision may not be withdrawn after
12 the issuance of such certification of eligibility. No taxpayer that has
13 previously received a certification of eligibility to receive such cred-
14 it against any tax imposed by chapter five or subchapter two [or], three
15 OR THREE-A of chapter six of title eleven of the code may make the
16 election authorized by this subdivision. No taxpayer that makes the
17 election provided in this subdivision shall be authorized to take such
18 credit against any tax imposed by chapter five or subchapter two [or],
19 three OR THREE-A of chapter six of title eleven of the code.

20 S 27. No addition to tax under subdivision 3 of section 11-676 of the
21 administrative code of the city of New York shall be imposed with
22 respect to declarations or payments of estimated tax required under
23 sections 11-657 and 11-658 of the administrative code of the city of New
24 York for declarations otherwise required to be filed and payments other-
25 wise required to be made, by reason of section one of this act, prior to
26 or on June 15, 2015, on the condition that the taxpayer files such
27 declarations and makes such payments no later than the first date
28 following June 15, 2015 on which an installment of estimated tax is
29 required to be paid, together with all other such declarations and
30 payments then due.

31 S 28. Severability clause. If any clause, sentence, paragraph, subdi-
32 vision, section or part of this act shall be adjudged by any court of
33 competent jurisdiction to be invalid, such judgment shall not affect,
34 impair, or invalidate the remainder thereof, but shall be confined in
35 its operation to the clause, sentence, paragraph, subdivision, section
36 or part thereof directly involved in the controversy in which such judg-
37 ment shall have been rendered. It is hereby declared to be the intent of
38 the legislature that this act would have been enacted even if such
39 invalid provisions had not been included herein.

40 S 29. This act shall take effect immediately and shall apply to taxa-
41 ble years beginning on or after January 1, 2015.

42

PART E

43 Section 1. Chapter 567 of the laws of 2010 relating to establishing a
44 special commission on compensation, and providing for their powers and
45 duties; and to provide periodic salary increases to state officers is
46 REPEALED.

47 S 2. 1. On the first of June of every fourth year, commencing June 1,
48 2015, there shall be established a commission on legislative, judicial
49 and executive compensation to examine, evaluate and make recommendations
50 with respect to adequate levels of compensation and non-salary benefits
51 for members of the legislature, judges and justices of the state-paid
52 courts of the unified court system, statewide elected officials, and
53 those state officers referred to in section 169 of the executive law.

1 2. (a) In accordance with the provisions of this section, the commis-
2 sion shall examine: (1) the prevailing adequacy of pay levels and other
3 non-salary benefits received by members of the legislature, statewide
4 elected officials, and those state officers referred to in section 169
5 of the executive law; and

6 (2) the prevailing adequacy of pay levels and non-salary benefits
7 received by the judges and justices of the state-paid courts of the
8 unified court system and housing judges of the civil court of the city
9 of New York and determine whether any of such pay levels warrant adjust-
10 ment; and

11 (b) The commission shall determine whether: (1) for any of the four
12 years commencing on the first of April of such years, following the year
13 in which the commission is established, the annual salaries for the
14 judges and justices of the state-paid courts of the unified court system
15 and housing judges of the civil court of the city of New York warrant an
16 increase; and

17 (2) on the first of January after the November general election at
18 which members of the state legislature are elected following the year in
19 which the commission is established, and on the first of January follow-
20 ing the next such election, the like annual salaries and allowances of
21 members of the legislature, and salaries of statewide elected officials
22 and state officers referred to in section 169 of the executive law
23 warrant an increase.

24 3. In discharging its responsibilities under subdivision two of this
25 section, the commission shall take into account all appropriate factors
26 including, but not limited to: the overall economic climate; rates of
27 inflation; changes in public-sector spending; the levels of compensation
28 and non-salary benefits received by executive branch officials and
29 legislators of other states and of the federal government; the levels of
30 compensation and non-salary benefits received by professionals in
31 government, academia and private and nonprofit enterprise; and the
32 state's ability to fund increases in compensation and non-salary bene-
33 fits.

34 S 3. 1. The commission shall consist of seven members to be appointed
35 as follows: three shall be appointed by the governor; one shall be
36 appointed by the temporary president of the senate; one shall be
37 appointed by the speaker of the assembly; and two shall be appointed by
38 the chief judge of the state, one of whom shall serve as chair of the
39 commission. With regard to any matters regarding legislative or execu-
40 tive compensation, the chair shall preside but not vote. Vacancies in
41 the commission shall be filled in the same manner as original appoint-
42 ments. To the extent practicable, members of the commission shall have
43 experience in one or more of the following: determination of executive
44 compensation, human resource administration or financial management.

45 2. The commission shall only meet within the state, may hold public
46 hearings, at least one of which shall be open for the public to provide
47 comments and shall have all the powers of a legislative committee pursu-
48 ant to the legislative law. It shall be governed by articles 6, 6-A and
49 7 of the public officers law.

50 3. The members of the commission shall receive no compensation for
51 their services but shall be allowed their actual and necessary expenses
52 incurred in the performance of their duties hereunder.

53 4. No member of the commission shall be disqualified from holding any
54 other public office or employment, nor shall he or she forfeit any such
55 office or employment by reason of his or her appointment pursuant to

1 this section, notwithstanding the provisions of any general, special or
2 local law, regulation, ordinance or city charter.

3 5. To the maximum extent feasible, the commission shall be entitled to
4 request and receive and shall utilize and be provided with such facili-
5 ties, resources and data of any court, department, division, board,
6 bureau, commission, agency or public authority of the state or any poli-
7 tical subdivision thereof as it may reasonably request to carry out
8 properly its powers and duties pursuant to this section.

9 6. The commission may request, and shall receive, reasonable assist-
10 ance from state agency personnel as necessary for the performance of its
11 function.

12 7. The commission shall make a report to the governor, the legisla-
13 ture and the chief judge of the state of its findings, conclusions,
14 determinations and recommendations, if any, not later than the thirty-
15 first of December of the year in which the commission is established for
16 judicial compensation and the fifteenth of November the following year
17 for legislative and executive compensation. Any findings, conclusions,
18 determinations and recommendations in the report must be adopted by a
19 majority vote of the commission and findings, conclusions, determi-
20 nations and recommendations with respect to executive and legislative
21 compensation shall also be supported by at least one member appointed by
22 each appointing authority. Each recommendation made to implement a
23 determination pursuant to section two of this act shall have the force
24 of law, and shall supersede, where appropriate, inconsistent provisions
25 of article 7-B of the judiciary law, section 169 of the executive law,
26 and sections 5 and 5-a of the legislative law, unless modified or abro-
27 gated by statute prior to April first of the year as to which such
28 determination applies to judicial compensation and January first of the
29 year as to which such determination applies to legislative and executive
30 compensation.

31 8. Upon the making of its report as provided in subdivision seven of
32 this section, each commission established pursuant to this section shall
33 be deemed dissolved.

34 S 4. Date of entitlement to salary increase. Notwithstanding the
35 provisions of this act or of any other law, each increase in salary or
36 compensation of any officer or employee provided by this act shall be
37 added to the salary or compensation of such officer or employee at the
38 beginning of that payroll period the first day of which is nearest to
39 the effective date of such increase as provided in this act, or at the
40 beginning of the earlier of two payroll periods the first days of which
41 are nearest but equally near to the effective date of such increase as
42 provided in this act; provided, however, the payment of such salary
43 increase pursuant to this section on a date prior thereto instead of on
44 such effective date, shall not operate to confer any additional salary
45 rights or benefits on such officer or employee. The annual salaries as
46 prescribed pursuant to this act whenever adjusted pursuant to the
47 provisions of this act, shall be rounded up to the nearest multiple of
48 one hundred dollars.

49 S 5. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on and after April 1, 2015.

51

PART F

52 Section 1. This act shall be known and may be cited as the "Infras-
53 tructure investment act".

54 S 2. For the purposes of this act:

1 (a) "authorized state entity" shall mean the New York state thruway
2 authority, the department of transportation, the office of parks, recre-
3 ation and historic preservation, the department of environmental conser-
4 vation and the New York state bridge authority.

5 (b) "best value" shall mean the basis for awarding contracts for
6 services to the offerer that optimize quality, cost and efficiency,
7 price and performance criteria, which may include, but is not limited
8 to:

9 1. The quality of the contractor's performance on previous projects;

10 2. The timeliness of the contractor's performance on previous
11 projects;

12 3. The level of customer satisfaction with the contractor's perform-
13 ance on previous projects;

14 4. The contractor's record of performing previous projects on budget
15 and ability to minimize cost overruns;

16 5. The contractor's ability to limit change orders;

17 6. The contractor's ability to prepare appropriate project plans;

18 7. The contractor's technical capacities;

19 8. The individual qualifications of the contractor's key personnel;

20 9. The contractor's ability to assess and manage risk and minimize
21 risk impact; and

22 10. The contractor's past record of compliance with article 15-A of
23 the executive law.

24 Such basis shall reflect, wherever possible, objective and quantifi-
25 able analysis.

26 (c) "capital project" shall have the same meaning as such term is
27 defined by subdivision 2-a of section 2 of the state finance law.

28 (d) "cost plus" shall mean compensating a contractor for the cost to
29 complete a contract by reimbursing actual costs for labor, equipment and
30 materials plus an additional amount for overhead and profit.

31 (e) "design-build contract" shall mean a contract for the design and
32 construction of a capital project with a single entity, which may be a
33 team comprised of separate entities.

34 (f) "procurement record" means documentation of the decisions made and
35 the approach taken in the procurement process.

36 S 3. Notwithstanding the provisions of section 38 of the highway law,
37 section 136-a of the state finance law, section 359 of the public
38 authorities law, section 7210 of the education law, and the provisions
39 of any other law to the contrary, and in conformity with the require-
40 ments of this act, an authorized state entity may utilize the alterna-
41 tive delivery method referred to as design-build contracts, in consulta-
42 tion with relevant local labor organizations and construction industry,
43 for capital projects related to the state's physical infrastructure,
44 including, but not limited to, the state's highways, bridges, dams,
45 flood control projects, canals, and parks, including, but not limited
46 to, to repair damage caused by natural disaster, to correct health and
47 safety defects, to comply with federal and state laws, standards, and
48 regulations, to extend the useful life of or replace the state's high-
49 ways, bridges, dams, flood control projects, canals, and parks or to
50 improve or add to the state's highways, bridges, dams, flood control
51 projects, canals, and parks; provided that for the contracts executed by
52 the department of transportation, the office of parks, recreation and
53 historic preservation, or the department of environmental conservation,
54 the total cost of each such project shall not be less than one million
55 two hundred thousand dollars (\$1,200,000).

1 S 4. An entity selected by an authorized state entity to enter into a
2 design-build contract shall be selected through a two-step method, as
3 follows:

4 (a) Step one. Generation of a list of entities that have demonstrated
5 the general capability to perform the design-build contract. Such list
6 shall consist of a specified number of entities, as determined by an
7 authorized state entity, and shall be generated based upon the author-
8 ized state entity's review of responses to a publicly advertised request
9 for qualifications. The authorized state entity's request for qualifica-
10 tions shall include a general description of the project, the maximum
11 number of entities to be included on the list, and the selection crite-
12 ria to be used in generating the list. Such selection criteria shall
13 include the qualifications and experience of the design and construction
14 team, organization, demonstrated responsibility, ability of the team or
15 of a member or members of the team to comply with applicable require-
16 ments, including the provisions of articles 145, 147 and 148 of the
17 education law, past record of compliance with the labor law, and such
18 other qualifications the authorized state entity deems appropriate which
19 may include but are not limited to project understanding, financial
20 capability and record of past performance. The authorized state entity
21 shall evaluate and rate all entities responding to the request for qual-
22 ifications. Based upon such ratings, the authorized state entity shall
23 list the entities that shall receive a request for proposals in accord-
24 ance with subdivision (b) of this section. To the extent consistent
25 with applicable federal law, the authorized state entity shall consider,
26 when awarding any contract pursuant to this section, the participation
27 of: (i) firms certified pursuant to article 15-A of the executive law as
28 minority or women-owned businesses and the ability of other businesses
29 under consideration to work with minority and women-owned businesses so
30 as to promote and assist participation by such businesses; and (ii)
31 small business concerns identified pursuant to subdivision (b) of
32 section 139-g of the state finance law.

33 (b) Step two. Selection of the proposal which is the best value to the
34 state. The authorized state entity shall issue a request for proposals
35 to the entities listed pursuant to subdivision (a) of this section. If
36 such an entity consists of a team of separate entities, the entities
37 that comprise such a team must remain unchanged from the entity as list-
38 ed pursuant to subdivision (a) of this section unless otherwise approved
39 by the authorized state entity. The request for proposals shall set
40 forth the project's scope of work, and other requirements, as determined
41 by the authorized state entity. The request for proposals shall specify
42 the criteria to be used to evaluate the responses and the relative
43 weight of each such criteria. Such criteria shall include the
44 proposal's cost, the quality of the proposal's solution, the qualifica-
45 tions and experience of the design-build entity, and other factors
46 deemed pertinent by the authorized state entity, which may include, but
47 shall not be limited to, the proposal's project implementation, ability
48 to complete the work in a timely and satisfactory manner, maintenance
49 costs of the completed project, maintenance of traffic approach, and
50 community impact. Any contract awarded pursuant to this act shall be
51 awarded to a responsive and responsible entity that submits the
52 proposal, which, in consideration of these and other specified criteria
53 deemed pertinent to the project, offers the best value to the state, as
54 determined by the authorized state entity. Nothing herein shall be
55 construed to prohibit the authorized entity from negotiating final
56 contract terms and conditions including cost.

1 S 5. Any contract entered into pursuant to this act shall include a
2 clause requiring that any professional services regulated by articles
3 145, 147 and 148 of the education law shall be performed and stamped and
4 sealed, where appropriate, by a professional licensed in accordance with
5 such articles.

6 S 6. Construction for each capital project undertaken by the author-
7 ized state entity pursuant to this act shall be deemed a "public work"
8 to be performed in accordance with the provisions of article 8 of the
9 labor law, as well as subject to sections 200, 240, 241 and 242 of the
10 labor law and enforcement of prevailing wage requirements by the New
11 York state department of labor.

12 S 7. If otherwise applicable, capital projects undertaken by the
13 authorized state entity pursuant to this act shall be subject to section
14 135 of the state finance law and section 222 of the labor law.

15 S 8. Each contract entered into by the authorized state entity pursu-
16 ant to this section shall comply with the objectives and goals of minor-
17 ity and women-owned business enterprises pursuant to article 15-A of the
18 executive law or, for projects receiving federal aid, shall comply with
19 applicable federal requirements for disadvantaged business enterprises.

20 S 9. Capital projects undertaken by the authorized state entity pursu-
21 ant to this act shall be subject to the requirements of article 8 of the
22 environmental conservation law, and, where applicable, the requirements
23 of the national environmental policy act.

24 S 10. If otherwise applicable, capital projects undertaken by the
25 authorized state entity pursuant to this act shall be governed by
26 sections 139-d, 139-j, 139-k, paragraph f of subdivision 1 and paragraph
27 g of subdivision 9 of section 163 of the state finance law.

28 S 11. The submission of a proposal or responses or the execution of a
29 design-build contract pursuant to this act shall not be construed to be
30 a violation of section 6512 of the education law.

31 S 12. Nothing contained in this act shall limit the right or obli-
32 gation of the authorized state entity to comply with the provisions of
33 any existing contract, including any existing contract with or for the
34 benefit of the holders of the obligations of the authorized state enti-
35 ty, or to award contracts as otherwise provided by law.

36 S 13. Alternative construction awarding processes. (a) Notwithstand-
37 ing the provisions of any other law to the contrary, the authorized
38 state entity may award a construction contract:

39 1. To the contractor offering the best value; or

40 2. Utilizing a cost-plus not to exceed guaranteed maximum price form
41 of contract in which the authorized state entity shall be entitled to
42 monitor and audit all project costs. In establishing the schedule and
43 process for determining a guaranteed maximum price, the contract between
44 the authorized state entity and the contractor shall:

45 (i) describe the scope of the work and the cost of performing such
46 work;

47 (ii) include a detailed line item cost breakdown;

48 (iii) include a list of all drawings, specifications and other infor-
49 mation on which the guaranteed maximum price is based;

50 (iv) include the dates for substantial and final completion on which
51 the guaranteed maximum price is based; and

52 (v) include a schedule of unit prices; or

53 3. Utilizing a lump sum contract in which the contractor agrees to
54 accept a set dollar amount for a contract which comprises a single bid
55 without providing a cost breakdown for all costs such as for equipment,

1 labor, materials, as well as such contractor's profit for completing all
2 items of work comprising the project.

3 (b) Capital projects undertaken by an authorized state entity may
4 include an incentive clause in the contract for various performance
5 objectives, but the incentive clause shall not include an incentive that
6 exceeds the quantifiable value of the benefit received by the state. The
7 authorized state entity shall establish such performance and payment
8 bonds as it deems necessary.

9 S 14. Prequalified contractors. (a) Notwithstanding any other
10 provision of law, the authorized state entity may maintain a list of
11 prequalified contractors who are eligible to submit a proposal pursuant
12 to this act and entry into such list shall be continuously available.
13 Prospective contractors may be prequalified as contractors to provide
14 particular types of construction, in accordance with general criteria
15 established by the authorized state entity which may include, but shall
16 not be limited to, the experience, past performance, ability to under-
17 take the type and complexity of work, financial capability, responsibil-
18 ity, compliance with equal employment opportunity requirements and anti-
19 discrimination laws, and reliability. Such prequalification may be by
20 categories designed by size and other factors.

21 (b) A contractor who is denied prequalification or whose prequalifica-
22 tion is revoked or suspended by the authorized state entity may appeal
23 such decision to the authorized state entity. If such a suspension
24 extends for more than three months, it shall be deemed a revocation of
25 the prequalification. The authorized state entity may proceed with the
26 contract award during any appeal.

27 S 15. Nothing in this act shall affect existing powers of New York
28 state public entities to use alternative project delivery methods.

29 S 16. A report shall be submitted on or no later than June 30, 2016 to
30 the governor, the temporary president of the senate and the speaker of
31 the assembly by the New York state urban development corporation
32 containing information on each authorized state entity that has entered
33 into a design-build contract pursuant to this act, which shall include,
34 but not be limited to, a description of each project, procurement infor-
35 mation including the short list of qualified bidders, the total cost of
36 each project, the estimated cost and schedule savings of each project,
37 an explanation of how the savings were determined, and whether a project
38 labor agreement was used, and if applicable, the justification for using
39 a project labor agreement.

40 S 17. This act shall take effect immediately and shall expire and be
41 deemed repealed 2 years after such date, provided that, projects with
42 requests for qualifications issued prior to such repeal shall be permit-
43 ted to continue under this act notwithstanding such repeal.

44 PART G

45 Section 1. This act may be known and be cited as the "New York State
46 water infrastructure improvement act of 2015".

47 S 2. For purposes of this act:

48 1. "water quality infrastructure project" shall mean "sewage treatment
49 works" as defined in section 17-1903 of the environmental conservation
50 law or "eligible project" as defined in paragraphs (a), (b), (c) and (e)
51 of subdivision 4 of section 1160 of the public health law.

52 2. "construction" shall mean:

53 (a) for sewage treatment works, the same as defined in section 17-1903
54 of the environmental conservation law; and

55 (b) for eligible projects, the same meaning as defined in section 1160
56 of the public health law.

1 3. "municipality" shall mean any county, city, town, village, district
2 corporation, county or town improvement district, school district, Indi-
3 an nation or tribe recognized by the state or the United States with a
4 reservation wholly or partly within the boundaries of New York state,
5 any public benefit corporation or public authority established pursuant
6 to the laws of New York or any agency of New York state which is
7 empowered to construct and operate a water quality infrastructure
8 project, or any two or more of the foregoing which are acting jointly in
9 connection with a water quality infrastructure project.

10 S 3. 1. The environmental facilities corporation shall undertake and
11 provide state financial assistance payments, from funds appropriated for
12 such purpose, to municipalities in support of water quality infrastruc-
13 ture projects provided, however, in any such year that funds are appro-
14 priated for such purpose, no municipality shall receive more than five
15 million dollars of appropriated funds. Such state financial assistance
16 payments shall be awarded only to water quality infrastructure projects
17 for:

18 (a) replacement or repair of infrastructure; or

19 (b) compliance with environmental and public health laws and regu-
20 lations related to water quality.

21 2. Any state financial assistance payment awarded pursuant to this act
22 shall not exceed sixty percent of the project cost.

23 3. A municipality may make an application for such state financial
24 assistance payment, in a manner, form and timeframe and containing such
25 information as the environmental facilities corporation may require
26 provided however, such requirements shall not include a requirement for
27 prior listing on the intended use plan.

28 4. A municipality shall not be required to accept environmental facil-
29 ities corporation loan financing in order to obtain a state financial
30 assistance payment pursuant to this act if it can provide proof of
31 having obtained similarly low cost financing or other funding from
32 another source.

33 5. In awarding such state financial assistance payments, the environ-
34 mental facilities corporation shall consider and give preference to
35 municipalities that meet the hardship criteria established by the envi-
36 ronmental facilities corporation pursuant to section 1285-m of the
37 public authorities law and projects that result in the greatest water
38 quality improvement or greatest reduction in serious risk to public
39 health. For the purposes of this act, the hardship criteria of section
40 1285-m of the public authorities law shall also apply to sewage treat-
41 ment works defined in section 17-1903 of the environmental conservation
42 law.

43 S 4. This act shall take effect April 1, 2015.

44 PART H

45 Section 1. The state finance law is amended by adding a new section
46 93-b to read as follows:

47 S 93-B. DEDICATED INFRASTRUCTURE INVESTMENT FUND. 1. DEDICATED INFRAS-
48 TRUCTURE INVESTMENT FUND. (A) THERE IS HEREBY ESTABLISHED IN THE JOINT
49 CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND
50 FINANCE A SPECIAL FUND TO BE KNOWN AS THE "DEDICATED INFRASTRUCTURE
51 INVESTMENT FUND".

52 (B) ACCOUNT. THE DEDICATED INFRASTRUCTURE INVESTMENT FUND SHALL
53 CONSIST OF ONE ACCOUNT, THE "INFRASTRUCTURE INVESTMENT ACCOUNT". MONEYS

1 IN THIS ACCOUNT SHALL BE KEPT SEPARATE AND NOT COMMINGLED WITH ANY OTHER
2 MONEYS IN THE CUSTODY OF THE COMPTROLLER.

3 (C) SOURCES OF FUNDS. THE SOURCES OF FUNDS SHALL CONSIST OF ALL MONEYS
4 COLLECTED THEREFOR, OR MONEYS CREDITED, APPROPRIATED OR TRANSFERRED
5 THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW OR ANY OTHER
6 MONEYS MADE AVAILABLE FOR THE PURPOSES OF THE FUND. ANY INTEREST
7 RECEIVED BY THE COMPTROLLER ON MONEYS ON DEPOSIT SHALL BE RETAINED AND
8 BECOME PART OF THE FUND, UNLESS OTHERWISE DIRECTED BY LAW.

9 2. USES OF FUNDS. FOLLOWING APPROPRIATION BY THE LEGISLATURE, MONEYS
10 IN THE INFRASTRUCTURE INVESTMENT ACCOUNT SHALL BE AVAILABLE TO FINANCE
11 PROJECTS, WORKS, ACTIVITIES OR PURPOSES NECESSARY TO SUPPORT STATEWIDE
12 INVESTMENTS AS APPROPRIATED BY THE LEGISLATURE. NOTHING CONTAINED IN
13 THIS SECTION SHALL BE CONSTRUED TO LIMIT IN ANY WAY THE PROJECTS, WORKS,
14 ACTIVITIES OR PURPOSES THAT CAN BE FINANCED FROM THIS ACCOUNT, INCLUDING
15 BUT NOT LIMITED TO LOANS OF MONEY TO PUBLIC CORPORATIONS OR AUTHORITIES
16 UNDER TERMS APPROVED BY THE DIRECTOR OF THE BUDGET.

17 3. TRANSFERS. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE
18 CONTRARY, FOR THE STATE FISCAL YEAR COMMENCING ON APRIL FIRST, TWO THOU-
19 SAND FIFTEEN, THE COMPTROLLER IS HEREBY AUTHORIZED TO TRANSFER MONIES
20 FROM THE DEDICATED INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND,
21 AND FROM THE GENERAL FUND TO THE DEDICATED INFRASTRUCTURE INVESTMENT
22 FUND, IN AN AMOUNT DETERMINED BY THE DIRECTOR OF THE BUDGET TO THE
23 EXTENT MONEYS ARE AVAILABLE IN THE FUND; PROVIDED, HOWEVER, THAT THE
24 COMPTROLLER IS ONLY AUTHORIZED TO TRANSFER MONIES FROM THE DEDICATED
25 INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND IN THE EVENT OF AN
26 ECONOMIC DOWNTURN AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION;
27 AND/OR TO FULFILL DISALLOWANCES AND/OR SETTLEMENTS RELATED TO OVER-PAY-
28 MENTS OF FEDERAL MEDICARE AND MEDICAID REVENUES IN EXCESS OF ONE HUNDRED
29 MILLION DOLLARS FROM ANTICIPATED LEVELS, AS DETERMINED BY THE DIRECTOR
30 OF THE BUDGET AND DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION.

31 (A) ECONOMIC DOWNTURN. NOTWITHSTANDING ANY LAW TO THE CONTRARY, FOR
32 THE PURPOSE OF THIS SECTION, THE COMMISSIONER OF LABOR SHALL CALCULATE
33 AND PUBLISH, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, A COMPOSITE
34 INDEX OF BUSINESS CYCLE INDICATORS. SUCH INDEX SHALL BE CALCULATED USING
35 MONTHLY DATA ON NEW YORK STATE EMPLOYMENT, TOTAL MANUFACTURING HOURS
36 WORKED, AND UNEMPLOYMENT PREPARED BY THE DEPARTMENT OF LABOR OR ITS
37 SUCCESSOR AGENCY, AND TOTAL SALES TAX COLLECTED NET OF LAW CHANGES,
38 PREPARED BY THE DEPARTMENT OF TAXATION AND FINANCE OR ITS SUCCESSOR
39 AGENCY. SUCH INDEX SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE PROCE-
40 DURES FOR CALCULATING COMPOSITE INDEXES ISSUED BY THE CONFERENCE BOARD
41 OR ITS SUCCESSOR ORGANIZATION, AND ADJUSTED FOR SEASONAL VARIATIONS IN
42 ACCORDANCE WITH THE PROCEDURES ISSUED BY THE CENSUS BUREAU OF THE UNITED
43 STATES DEPARTMENT OF COMMERCE OR ITS SUCCESSOR AGENCY. IF THE COMPOSITE
44 INDEX DECLINES FOR FIVE CONSECUTIVE MONTHS, THE COMMISSIONER OF LABOR
45 SHALL NOTIFY THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY
46 PRESIDENT OF THE SENATE, AND THE MINORITY LEADERS OF THE ASSEMBLY AND
47 THE SENATE. UPON SUCH NOTIFICATION, THE DIRECTOR OF THE BUDGET MAY
48 AUTHORIZE AND DIRECT THE COMPTROLLER TO TRANSFER FROM THE DEDICATED
49 INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND SUCH AMOUNTS AS THE
50 DIRECTOR OF THE BUDGET DEEMS NECESSARY TO MEET THE REQUIREMENTS OF THE
51 STATE FINANCIAL PLAN. THE AUTHORITY TO TRANSFER FUNDS UNDER THE
52 PROVISIONS OF THIS PARAGRAPH SHALL LAPSE WHEN THE COMPOSITE INDEX SHALL
53 HAVE INCREASED FOR FIVE CONSECUTIVE MONTHS OR TWELVE MONTHS FROM THE
54 ORIGINAL NOTIFICATION OF THE COMMISSIONER OF LABOR, WHICHEVER OCCURS
55 EARLIER. PROVIDED, HOWEVER, THAT FOR EVERY ADDITIONAL AND CONSECUTIVE
56 MONTHLY DECLINE SUCCEEDING THE FIVE MONTH DECLINE SO NOTED BY THE

1 COMMISSIONER OF LABOR, THE TWELVE MONTH LAPSE DATE SHALL BE EXTENDED BY
2 ONE ADDITIONAL MONTH.
3 (B) FEDERAL MEDICARE AND MEDICAID REVENUES. NOTWITHSTANDING ANY LAW TO
4 THE CONTRARY, THE DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE
5 COMPTROLLER TO TRANSFER FROM THE DEDICATED INFRASTRUCTURE INVESTMENT
6 FUND TO THE GENERAL FUND AN AMOUNT NOT TO EXCEED THE DISALLOWANCES
7 AND/OR SETTLEMENTS RELATED TO THE OVER-PAYMENTS OF FEDERAL MEDICARE AND
8 MEDICAID REVENUES. IN THE EVENT THIS AUTHORIZATION IS UTILIZED, THE
9 DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE COMPTROLLER TO
10 TRANSFER SUCH AMOUNT AND THE CONCOMITANT REDUCTION IN STATE SHARE MEDI-
11 CARE AND MEDICAID REVENUES FROM THE GENERAL FUND TO THE MISCELLANEOUS
12 SPECIAL REVENUE FUND, MENTAL HYGIENE PROGRAM FUND (21907), THE MISCELLA-
13 NEOUS SPECIAL REVENUE FUND, PATIENT INCOME ACCOUNT (21909), AND THE
14 MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) STATEWIDE ESCROW FUND
15 (60901).
16 (C) PRIOR TO AUTHORIZING ANY TRANSFER FROM THE DEDICATED INFRASTRUC-
17 TURE INVESTMENT FUND ACCOUNTS PURSUANT TO THE PROVISIONS OF THIS
18 SECTION, THE DIRECTOR OF THE BUDGET SHALL NOTIFY THE SPEAKER OF THE
19 ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEAD-
20 ERS OF THE ASSEMBLY AND THE SENATE. SUCH LETTER SHALL SPECIFY THE
21 REASONS FOR THE TRANSFER AND THE AMOUNT THEREOF.
22 S 2. This act shall take effect immediately.

23 PART I

24 Section 1. The state comptroller is hereby authorized and directed to
25 loan money in accordance with the provisions set forth in subdivision 5
26 of section 4 of the state finance law to the following funds and/or
27 accounts:
28 1. Tuition reimbursement account (20451).
29 2. Proprietary vocational school supervision account (20452).
30 3. Local government records management account (20501).
31 4. Child health plus program account (20810).
32 5. EPIC premium account (20818).
33 6. Education - New (20901).
34 7. VLT - Sound basic education fund (20904).
35 8. Sewage treatment program management and administration fund
36 (21000).
37 9. Hazardous bulk storage account (21061).
38 10. Federal grants indirect cost recovery account (21065).
39 11. Low level radioactive waste account (21066).
40 12. Recreation account (21067).
41 13. Public safety recovery account (21077).
42 14. Environmental regulatory account (21081).
43 15. Natural resource account (21082).
44 16. Mined land reclamation program account (21084).
45 17. Great lakes restoration initiative account (21087).
46 18. Environmental protection and oil spill compensation fund (21200).
47 19. Public transportation systems account (21401).
48 20. Metropolitan mass transportation (21402).
49 21. Operating permit program account (21451).
50 22. Mobile source account (21452).
51 23. Statewide planning and research cooperative system account
52 (21902).
53 24. OPWDD provider of service account (21903).
54 25. Mental hygiene program fund account (21907).

- 1 26. Mental hygiene patient income account (21909).
- 2 27. Financial control board account (21911).
- 3 28. Regulation of racing account (21912).
- 4 29. New York Metropolitan Transportation Council account (21913).
- 5 30. State university dormitory income reimbursable account (21937).
- 6 31. Energy research account (21943).
- 7 32. Criminal justice improvement account (21945).
- 8 33. Fingerprint identification and technology account (21950).
- 9 34. Environmental laboratory reference fee account (21959).
- 10 35. Clinical laboratory reference system assessment account (21962).
- 11 36. Indirect cost recovery account (21978).
- 12 37. High school equivalency program account (21979).
- 13 38. Multi-agency training account (21989).
- 14 39. Bell jar collection account (22003).
- 15 40. Industry and utility service account (22004).
- 16 41. Real property disposition account (22006).
- 17 42. Parking account (22007).
- 18 43. Asbestos safety training program account (22009).
- 19 44. Batavia school for the blind account (22032).
- 20 45. Investment services account (22034).
- 21 46. Surplus property account (22036).
- 22 47. Financial oversight account (22039).
- 23 48. Regulation of indian gaming account (22046).
- 24 49. Rome school for the deaf account (22053).
- 25 50. Seized assets account (22054).
- 26 51. Administrative adjudication account (22055).
- 27 52. Federal salary sharing account (22056).
- 28 53. New York City assessment account (22062).
- 29 54. Cultural education account (22063).
- 30 55. Local services account (22078).
- 31 56. DHCR mortgage servicing account (22085).
- 32 57. Department of motor vehicles compulsory insurance account (22087).
- 33 58. Housing indirect cost recovery account (22090).
- 34 59. Accident prevention course program account (22094).
- 35 60. DHCR-HCA application fee account (22100).
- 36 61. Low income housing monitoring account (22130).
- 37 62. Corporation administration account (22135).
- 38 63. Montrose veteran's home account (22144).
- 39 64. Deferred compensation administration account (22151).
- 40 65. Rent revenue other New York City account (22156).
- 41 66. Rent revenue account (22158).
- 42 67. Tax revenue arrearage account (22168).
- 43 68. State university general income offset account (22654).
- 44 69. State police motor vehicle law enforcement account (22802).
- 45 70. Highway safety program account (23001).
- 46 71. EFC drinking water program account (23101).
- 47 72. DOH drinking water program account (23102).
- 48 73. NYCCC operating offset account (23151).
- 49 74. Commercial gaming revenue account (23701).
- 50 75. Commercial gaming regulation account (23702).
- 51 76. Highway and bridge capital account (30051).
- 52 77. State university residence hall rehabilitation fund (30100).
- 53 78. State parks infrastructure account (30351).
- 54 79. Clean water/clean air implementation fund (30500).
- 55 80. Hazardous waste remedial cleanup account (31506).
- 56 81. Youth facilities improvement account (31701).

1 82. Housing assistance fund (31800).
2 83. Housing program fund (31850).
3 84. Highway facility purpose account (31951).
4 85. Information technology capital financing account (32215).
5 86. New York racing account (32213).
6 87. Mental hygiene facilities capital improvement fund (32300).
7 88. Correctional facilities capital improvement fund (32350).
8 89. New York State Storm Recovery Capital Fund (33000).
9 90. OGS convention center account (50318).
10 91. Centralized services fund (55000).
11 92. Archives records management account (55052).
12 93. Federal single audit account (55053).
13 94. Civil service law section II administrative account (55055).
14 95. Civil service EHS occupational health program account (55056).
15 96. Banking services account (55057).
16 97. Cultural resources survey account (55058).
17 98. Neighborhood work project (55059).
18 99. Automation & printing chargeback account (55060).
19 100. OFT NYT account (55061).
20 101. Data center account (55062).
21 102. Intrusion detection account (55066).
22 103. Domestic violence grant account (55067).
23 104. Centralized technology services account (55069).
24 105. Labor contact center account (55071).
25 106. Human services contact center account (55072).
26 107. Tax contact center account (55073).
27 108. Executive direction internal audit account (55251).
28 109. CIO Information technology centralized services account (55252).
29 110. Health insurance internal service account (55300).
30 111. Civil service employee benefits division administrative account
31 (55301).
32 112. Correctional industries revolving fund (55350).
33 113. Employees health insurance account (60201).
34 114. Medicaid management information system escrow fund (60900).
35 S 1-a. The state comptroller is hereby authorized and directed to loan
36 money in accordance with the provisions set forth in subdivision 5 of
37 section 4 of the state finance law to any account within the following
38 federal funds, provided the comptroller has made a determination that
39 sufficient federal grant award authority is available to reimburse such
40 loans:
41 1. Federal USDA-food and nutrition services fund (25000).
42 2. Federal health and human services fund (25100).
43 3. Federal education fund (25200).
44 4. Federal block grant fund (25250).
45 5. Federal miscellaneous operating grants fund (25300).
46 6. Federal unemployment insurance administration fund (25900).
47 7. Federal unemployment insurance occupational training fund (25950).
48 8. Federal emergency employment act fund (26000).
49 9. Federal capital projects fund (31350).
50 S 2. Notwithstanding any law to the contrary, and in accordance with
51 section 4 of the state finance law, the comptroller is hereby authorized
52 and directed to transfer, upon request of the director of the budget, on
53 or before March 31, 2016, up to the unencumbered balance or the follow-
54 ing amounts:
55 Economic Development and Public Authorities:

- 1 1. \$175,000 from the miscellaneous special revenue fund, underground
- 2 facilities safety training account (22172), to the general fund.
- 3 2. An amount up to the unencumbered balance from the miscellaneous
- 4 special revenue fund, business and licensing services account (21977),
- 5 to the general fund.
- 6 3. \$14,810,000 from the miscellaneous special revenue fund, code
- 7 enforcement account (21904), to the general fund.
- 8 4. \$3,000,000 from the general fund to the miscellaneous special
- 9 revenue fund, tax revenue arrearage account (22168).
- 10 5. \$552,000 from the miscellaneous special revenue fund, consumer food
- 11 industry account (21966), to the general fund.
- 12 Education:
- 13 1. \$2,219,000,000 from the general fund to the state lottery fund,
- 14 education account (20901), as reimbursement for disbursements made from
- 15 such fund for supplemental aid to education pursuant to section 92-c of
- 16 the state finance law that are in excess of the amounts deposited in
- 17 such fund for such purposes pursuant to section 1612 of the tax law.
- 18 2. \$950,000,000 from the general fund to the state lottery fund, VLT
- 19 education account (20904), as reimbursement for disbursements made from
- 20 such fund for supplemental aid to education pursuant to section 92-c of
- 21 the state finance law that are in excess of the amounts deposited in
- 22 such fund for such purposes pursuant to section 1612 of the tax law.
- 23 3. Moneys from the state lottery fund up to an amount deposited in
- 24 such fund pursuant to section 1612 of the tax law in excess of the
- 25 current year appropriation for supplemental aid to education pursuant to
- 26 section 92-c of the state finance law.
- 27 4. \$300,000 from the local government records management improvement
- 28 fund (20500) to the archives partnership trust fund (20350).
- 29 5. \$900,000 from the general fund to the miscellaneous special revenue
- 30 fund, Batavia school for the blind account (22032).
- 31 6. \$900,000 from the general fund to the miscellaneous special revenue
- 32 fund, Rome school for the deaf account (22053).
- 33 7. \$343,400,000 from the state university dormitory income fund
- 34 (40350) to the miscellaneous special revenue fund, state university
- 35 dormitory income reimbursable account (21937).
- 36 8. \$24,000,000 from any of the state education department special
- 37 revenue and internal service funds to the miscellaneous special revenue
- 38 fund, indirect cost recovery account (21978).
- 39 9. \$8,318,000 from the general fund to the state university income
- 40 fund, state university income offset account (22654), for the state's
- 41 share of repayment of the STIP loan.
- 42 10. \$45,000,000 from the state university income fund, state universi-
- 43 ty hospitals income reimbursable account (22656) to the general fund for
- 44 hospital debt service for the period April 1, 2015 through March 31,
- 45 2016.
- 46 Environmental Affairs:
- 47 1. \$16,000,000 from any of the department of environmental conserva-
- 48 tion's special revenue federal funds to the environmental conservation
- 49 special revenue fund, federal indirect recovery account (21065).
- 50 2. \$2,000,000 from any of the department of environmental conserva-
- 51 tion's special revenue federal funds to the conservation fund as neces-
- 52 sary to avoid diversion of conservation funds.
- 53 3. \$3,000,000 from any of the office of parks, recreation and historic
- 54 preservation capital projects federal funds and special revenue federal
- 55 funds to the miscellaneous special revenue fund, federal grant indirect
- 56 cost recovery account (22188).

1 4. \$1,000,000 from any of the office of parks, recreation and historic
2 preservation special revenue federal funds to the miscellaneous special
3 revenue fund, I love NY water account (21930).

4 5. \$23,000,000 from the general fund to the environmental protection
5 fund, environmental protection fund transfer account (30451).

6 6. \$8,500,000 from the general fund to the hazardous waste remedial
7 fund, hazardous waste oversight and assistance account (31505).

8 7. \$25,000,000 from the environmental protection fund, environmental
9 protection transfer account (30451), to the general fund.

10 Family Assistance:

11 1. \$10,000,000 from any of the office of children and family services,
12 office of temporary and disability assistance, or department of health
13 special revenue federal funds and the general fund, in accordance with
14 agreements with social services districts, to the miscellaneous special
15 revenue fund, office of human resources development state match account
16 (21967).

17 2. \$3,000,000 from any of the office of children and family services
18 or office of temporary and disability assistance special revenue federal
19 funds to the miscellaneous special revenue fund, family preservation and
20 support services and family violence services account (22082).

21 3. \$18,670,000 from any of the office of children and family services,
22 office of temporary and disability assistance, or department of health
23 special revenue federal funds and any other miscellaneous revenues
24 generated from the operation of office of children and family services
25 programs to the general fund.

26 4. \$166,000,000 from any of the office of temporary and disability
27 assistance or department of health special revenue funds to the general
28 fund.

29 5. \$2,500,000 from any of the office of temporary and disability
30 assistance or office of children and family services special revenue
31 federal funds to the miscellaneous special revenue fund, office of
32 temporary and disability assistance program account (21980).

33 6. \$35,000,000 from any of the office of children and family services,
34 office of temporary and disability assistance, department of labor, and
35 department of health special revenue federal funds to the office of
36 children and family services miscellaneous special revenue fund, multi-
37 agency training contract account (21989).

38 7. \$65,000,000 from the miscellaneous special revenue fund, youth
39 facility per diem account (22186), to the general fund.

40 8. \$621,850 from the general fund to the combined gifts, grants, and
41 bequests fund, WB Hoyt Memorial account (20128).

42 9. \$3,100,000 from the miscellaneous special revenue fund, state
43 central registry (22028), to the general fund.

44 General Government:

45 1. \$1,566,000 from the miscellaneous special revenue fund, examination
46 and miscellaneous revenue account (22065) to the general fund.

47 2. \$12,500,000 from the general fund to the health insurance revolving
48 fund (55300).

49 3. \$192,400,000 from the health insurance reserve receipts fund
50 (60550) to the general fund.

51 4. \$150,000 from the general fund to the not-for-profit revolving loan
52 fund (20650).

53 5. \$150,000 from the not-for-profit revolving loan fund (20650) to the
54 general fund.

55 6. \$3,000,000 from the miscellaneous special revenue fund, surplus
56 property account (22036), to the general fund.

1 7. \$19,900,000 from the general fund to the miscellaneous special
2 revenue fund, alcoholic beverage control account (22033).
3 8. \$23,000,000 from the miscellaneous special revenue fund, revenue
4 arrearage account (22024), to the general fund.
5 9. \$1,826,000 from the miscellaneous special revenue fund, revenue
6 arrearage account (22024), to the miscellaneous special revenue fund,
7 authority budget office account (22138).
8 10. \$1,000,000 from the miscellaneous special revenue fund, parking
9 services account (22007), to the general fund, for the purpose of reim-
10 bursing the costs of debt service related to state parking facilities.
11 11. \$21,794,000 from the general fund to the internal service fund,
12 COPS account (55013).
13 12. \$8,360,000 from the general fund to the agencies internal service
14 fund, central technology services account (55069), for the purpose of
15 enterprise technology projects.
16 13. \$5,000,000 from the miscellaneous special revenue fund, workers'
17 compensation account (21995), to the miscellaneous capital projects
18 fund, workers' compensation board IT business process design fund.
19 Health:
20 1. \$30,000,000 from the miscellaneous special revenue fund, quality of
21 care account (21915), to the general fund.
22 2. \$1,000,000 from the general fund to the combined gifts, grants and
23 bequests fund, breast cancer research and education account (20155), an
24 amount equal to the monies collected and deposited into that account in
25 the previous fiscal year.
26 3. \$250,000 from the general fund to the combined gifts, grants and
27 bequests fund, prostate cancer research, detection, and education
28 account (20183), an amount equal to the moneys collected and deposited
29 into that account in the previous fiscal year.
30 4. \$500,000 from the general fund to the combined gifts, grants and
31 bequests fund, Alzheimer's disease research and assistance account
32 (20143), an amount equal to the moneys collected and deposited into that
33 account in the previous fiscal year.
34 5. \$30,295,000 from the HCRA resources fund (20800) to the miscella-
35 neous special revenue fund, empire state stem cell trust fund account
36 (22161).
37 6. \$30,000,000 from any of the department of health accounts within
38 the federal health and human services fund to the miscellaneous special
39 revenue fund, quality of care account (21915).
40 7. \$6,000,000 from the miscellaneous special revenue fund, certificate
41 of need account (21920), to the miscellaneous capital projects fund,
42 healthcare IT capital subfund.
43 8. \$1,000,000 from the miscellaneous special revenue fund, adminis-
44 tration program account (21982), to the miscellaneous capital projects
45 fund, healthcare IT capital account (32216).
46 9. \$1,000,000 from the miscellaneous special revenue fund, vital
47 records account (22103), to the miscellaneous capital projects fund,
48 healthcare IT capital account (32216).
49 10. \$55,000,000 from the HCRA resources fund (20800) to the capital
50 projects fund (30000).
51 11. \$3,700,000 from the miscellaneous New York state agency fund,
52 medical assistance account to the general fund.
53 12. \$6,740,000 from the general fund to the medical marihuana trust
54 fund, health operation and oversight account (23755).
55 13. \$4,096,000 from the HCRA resources fund (20800), to the miscella-
56 neous special revenue fund, cigarette strike force account.

1 14. \$3,086,000 from the miscellaneous special revenue fund, certif-
2 icate of need account (21920), to the general fund.
3 Labor:
4 1. \$400,000 from the miscellaneous special revenue fund, DOL fee and
5 penalty account (21923), to the child performer's protection fund, child
6 performer protection account (20401).
7 2. \$8,400,000 from the miscellaneous special revenue fund, DOL fee and
8 penalty account (21923), to the general fund.
9 3. \$3,300,000 from the unemployment insurance interest and penalty
10 fund, unemployment insurance special interest and penalty account
11 (23601), to the general fund.
12 Mental Hygiene:
13 1. \$10,000,000 from the miscellaneous special revenue fund, mental
14 hygiene patient income account (21909), to the miscellaneous special
15 revenue fund, federal salary sharing account (22056).
16 2. \$15,000,000 from the miscellaneous special revenue fund, mental
17 hygiene patient income account (21909), to the miscellaneous special
18 revenue fund, provider of service accounts (21903).
19 3. \$15,000,000 from the miscellaneous special revenue fund, mental
20 hygiene program fund account (21907), to the miscellaneous special
21 revenue fund, provider of service account (21903).
22 4. \$1,400,000,000 from the general fund to the miscellaneous special
23 revenue fund, mental hygiene patient income account (21909).
24 5. \$1,850,000,000 from the general fund to the miscellaneous special
25 revenue fund, mental hygiene program fund account (21907).
26 6. \$100,000,000 from the miscellaneous special revenue fund, mental
27 hygiene program fund account (21907), to the general fund.
28 7. \$100,000,000 from the miscellaneous special revenue fund, mental
29 hygiene patient income account (21909), to the general fund.
30 8. \$292,888,000 from the chemical dependence service fund, chemical
31 dependence service account (22700), to the general fund.
32 Public Protection:
33 1. \$1,350,000 from the miscellaneous special revenue fund, emergency
34 management account (21944), to the general fund.
35 2. \$3,300,000 from the general fund to the miscellaneous special
36 revenue fund, recruitment incentive account (22171).
37 3. \$13,000,000 from the general fund to the correctional industries
38 revolving fund, correctional industries internal service account
39 (55350).
40 4. \$3,000,000 from the federal miscellaneous operating grants fund,
41 DMNA damage account (25324), to the general fund.
42 5. \$14,300,000 from the general fund to the miscellaneous special
43 revenue fund, crimes against revenue program account (22015).
44 6. \$22,900,000 from the miscellaneous special revenue fund, criminal
45 justice improvement account (21945), to the general fund.
46 7. \$50,000,000 from the miscellaneous special revenue fund, statewide
47 public safety communications account (22123), to the general fund.
48 8. \$106,000,000 from the state police motor vehicle law enforcement
49 and motor vehicle theft and insurance fraud prevention fund, state
50 police motor vehicle enforcement account (22802), to the general fund
51 for state operation expenses of the division of state police.
52 9. \$21,500,000 from the general fund to the correctional facilities
53 capital improvement fund (32350).
54 10. \$5,000,000 from the general fund to the dedicated highway and
55 bridge trust fund (30050) for the purpose of work zone safety activities

provided by the division of state police for the department of transportation.

11. \$5,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the capital projects fund (30000).

12. \$2,900,000 from the miscellaneous special revenue fund, legal services assistance account (22096), to the general fund.

13. \$300,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, motor vehicle theft and insurance fraud account (22801), to the general fund.

Transportation:

1. \$17,672,000 from the federal miscellaneous operating grants fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

2. \$20,147,000 from the federal capital projects fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

3. \$15,700,000 from the miscellaneous special revenue fund, compulsory insurance account (22087), to the general fund.

4. \$14,878,096 from the general fund to the mass transportation operating assistance fund, public transportation systems operating assistance account (21401), of which \$12,000,000 constitutes the base need for operations.

5. \$728,507,000 from the general fund to the dedicated highway and bridge trust fund (30050).

6. \$606,000 from the miscellaneous special revenue fund, accident prevention course program account (22094), to the general fund.

7. \$6,000 from the miscellaneous special revenue fund, motorcycle safety account (21976), to the general fund.

8. \$309,250,000 from the general fund to the MTA financial assistance fund, mobility tax trust account (23651).

9. \$20,000,000 from the mass transportation operating assistance fund, metropolitan mass transportation operating assistance account (21402), to the general debt service fund (40151), for reimbursement of the state's expenses in connection with payments of debt service and related expenses for the metropolitan transportation authority's state service contract bonds.

10. \$5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the dedicated highway and bridge trust fund (30050), for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the dedicated highway and bridge trust fund (30050) for such purpose pursuant to section 94 of the transportation law.

11. \$121,548,000 from the mass transportation operating assistance fund, metropolitan mass transportation operating assistance account (21402), to the transit assistance for capital investments fund, metropolitan transit assistance for capital investments account, for disbursements made from such fund pursuant to a chapter of the laws of 2015.

Miscellaneous:

1. \$200,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances.

2. \$500,000,000 from the general fund to the debt reduction reserve fund (40000).

3. \$450,000,000 from the New York state storm recovery capital fund (33000) to the revenue bond tax fund (40152).

1 4. \$15,500,000 from the general fund, community projects account GG
2 (10256), to the general fund, state purposes account (10050).

3 5. \$4,550,000,000 from the general fund to the dedicated infrastruc-
4 ture investment fund infrastructure investment account.

5 6. Upon request of the director of the budget, up to \$850,000,000 from
6 the general fund to any special revenue fund or account, agency fund or
7 account, or any combination of funds or accounts.

8 S 3. Notwithstanding any law to the contrary, and in accordance with
9 section 4 of the state finance law, the comptroller is hereby authorized
10 and directed to transfer, on or before March 31, 2016:

11 1. Upon request of the commissioner of environmental conservation, up
12 to \$11,354,000 from revenues credited to any of the department of envi-
13 ronmental conservation special revenue funds, including \$3,285,400 from
14 the environmental protection and oil spill compensation fund (21200),
15 and \$1,779,600 from the conservation fund (21150), to the environmental
16 conservation special revenue fund, indirect charges account (21060).

17 2. Upon request of the commissioner of agriculture and markets, up to
18 \$3,000,000 from any special revenue fund or enterprise fund within the
19 department of agriculture and markets to the general fund, to pay appro-
20 priate administrative expenses.

21 3. Upon request of the commissioner of agriculture and markets, up to
22 \$2,000,000 from the state exposition special fund, state fair receipts
23 account (50051) to the miscellaneous capital projects fund, state fair
24 capital improvement account (32208).

25 4. Upon request of the commissioner of the division of housing and
26 community renewal, up to \$6,221,000 from revenues credited to any divi-
27 sion of housing and community renewal federal or miscellaneous special
28 revenue fund to the miscellaneous special revenue fund, housing indirect
29 cost recovery account (22090).

30 5. Upon request of the commissioner of the division of housing and
31 community renewal, up to \$5,500,000 may be transferred from any miscel-
32 laneous special revenue fund account, to any miscellaneous special
33 revenue fund.

34 6. Upon request of the commissioner of health up to \$5,000,000 from
35 revenues credited to any of the department of health's special revenue
36 funds, to the miscellaneous special revenue fund, administration account
37 (21982).

38 S 4. On or before March 31, 2016, the comptroller is hereby authorized
39 and directed to deposit earnings that would otherwise accrue to the
40 general fund that are attributable to the operation of section 98-a of
41 the state finance law, to the agencies internal service fund, banking
42 services account (55057), for the purpose of meeting direct payments
43 from such account.

44 S 5. Notwithstanding any law to the contrary, upon the direction of
45 the director of the budget and upon requisition by the state university
46 of New York, the dormitory authority of the state of New York is
47 directed to transfer, up to \$22,000,000 in revenues generated from the
48 sale of notes or bonds, to the state university of New York for
49 reimbursement of bondable equipment for further transfer to the state's
50 general fund.

51 S 6. Notwithstanding any law to the contrary, and in accordance with
52 section 4 of the state finance law, the comptroller is hereby authorized
53 and directed to transfer, upon request of the director of the budget and
54 upon consultation with the state university chancellor or his or her
55 designee, on or before March 31, 2016, up to \$16,000,000 from the state
56 university income fund general revenue account (22653) to the state

1 general fund for debt service costs related to campus supported capital
2 project costs for the NY-SUNY 2020 challenge grant program at the
3 University at Buffalo.

4 S 7. Notwithstanding any law to the contrary, and in accordance with
5 section 4 of the state finance law, the comptroller is hereby authorized
6 and directed to transfer, upon request of the director of the budget and
7 upon consultation with the state university chancellor or his or her
8 designee, on or before March 31, 2016, up to \$6,500,000 from the state
9 university income fund general revenue account (22653) to the state
10 general fund for debt service costs related to campus supported capital
11 project costs for the NY-SUNY 2020 challenge grant program at the
12 University at Albany.

13 S 8. Notwithstanding any law to the contrary, the state university
14 chancellor or his or her designee is authorized and directed to transfer
15 estimated tuition revenue balances from the state university collection
16 fund (61000) to the state university income fund, state university
17 general revenue offset account (22655) on or before March 31, 2016.

18 S 9. Notwithstanding any law to the contrary, and in accordance with
19 section 4 of the state finance law, the comptroller is hereby authorized
20 and directed to transfer, upon request of the director of the budget, up
21 to \$87,864,000 from the general fund to the state university income
22 fund, state university hospitals income reimbursable account (22656)
23 during the period July 1, 2015 through June 30, 2016 to reflect ongoing
24 state subsidy of SUNY hospitals and to pay costs attributable to the
25 SUNY hospitals' state agency status.

26 S 10. Notwithstanding any law to the contrary, and in accordance with
27 section 4 of the state finance law, the comptroller is hereby authorized
28 and directed to transfer, upon request of the director of the budget, up
29 to \$1,004,249,800 from the general fund to the state university income
30 fund, state university general revenue offset account (22655) during the
31 period of July 1, 2015 through June 30, 2016 to support operations at
32 the state university.

33 S 11. Notwithstanding any law to the contrary, and in accordance with
34 section 4 of the state finance law, the comptroller is hereby authorized
35 and directed to transfer, upon request of the director of the budget, up
36 to \$3,370,000 from the general fund to the state university income fund,
37 state university general revenue offset account (22655) during the peri-
38 od of April 1, 2015 through June 30, 2015 to support operations at the
39 state university.

40 S 12. Notwithstanding any law to the contrary, and in accordance with
41 section 4 of the state finance law, the comptroller is hereby authorized
42 and directed to transfer, upon request of the state university chancel-
43 lor or his or her designee, up to \$55,000,000 from the state university
44 income fund, state university hospitals income reimbursable account
45 (22656), for services and expenses of hospital operations and capital
46 expenditures at the state university hospitals; and the state university
47 income fund, Long Island veterans' home account (22652) to the state
48 university capital projects fund (32400) on or before June 30, 2016.

49 S 12-a. Subdivision 2 of section 92-cc of the state finance law, as
50 amended by section 17 of part U of chapter 59 of the laws of 2012, is
51 amended to read as follows:

52 2. Such fund shall have a maximum balance not to exceed [three] FIVE
53 per centum of the aggregate amount projected to be disbursed from the
54 general fund during the fiscal year immediately following the then-cur-
55 rent fiscal year. At the request of the director of the budget, the
56 state comptroller shall transfer monies to the rainy day reserve fund up

1 to and including an amount equivalent to [three-tenths of] SEVENTY-FIVE
2 ONE-HUNDREDTHS OF one per centum of the aggregate amount projected to be
3 disbursed from the general fund during the then-current fiscal year,
4 unless such transfer would increase the rainy day reserve fund to an
5 amount in excess of [three] FIVE per centum of the aggregate amount
6 projected to be disbursed from the general fund during the fiscal year
7 immediately following the then-current fiscal year, in which event such
8 transfer shall be limited to such amount as will increase the rainy day
9 reserve fund to such [three] FIVE per centum limitation.

10 S 13. Notwithstanding any law to the contrary, and in accordance with
11 section 4 of the state finance law, the comptroller, after consultation
12 with the state university chancellor or his or her designee, is hereby
13 authorized and directed to transfer moneys, in the first instance, from
14 the state university collection fund, Stony Brook hospital collection
15 account (61006), Brooklyn hospital collection account (61007), and Syra-
16 cuse hospital collection account (61008) to the state university income
17 fund, state university hospitals income reimbursable account (22656) in
18 the event insufficient funds are available in the state university
19 income fund, state university hospitals income reimbursable account
20 (22656) to permit the full transfer of moneys authorized for transfer,
21 to the general fund for payment of debt service related to the SUNY
22 hospitals. Notwithstanding any law to the contrary, the comptroller is
23 also hereby authorized and directed, after consultation with the state
24 university chancellor or his or her designee, to transfer moneys from
25 the state university income fund to the state university income fund,
26 state university hospitals income reimbursable account (22656) in the
27 event insufficient funds are available in the state university income
28 fund, state university hospitals income reimbursable account (22656) to
29 pay hospital operating costs or to permit the full transfer of moneys
30 authorized for transfer, to the general fund for payment of debt service
31 related to the SUNY hospitals on or before March 31, 2016.

32 S 14. Notwithstanding any law to the contrary, upon the direction of
33 the director of the budget and the chancellor of the state university of
34 New York or his or her designee, and in accordance with section 4 of the
35 state finance law, the comptroller is hereby authorized and directed to
36 transfer monies from the state university dormitory income fund (40350)
37 to the state university residence hall rehabilitation fund (30100), and
38 from the state university residence hall rehabilitation fund (30100) to
39 the state university dormitory income fund (40350), in a net amount not
40 to exceed \$80 million.

41 S 15. Notwithstanding any law to the contrary, and in accordance with
42 section 4 of the state finance law, the comptroller is hereby authorized
43 and directed to transfer monies, upon request of the director of the
44 budget, on or before March 31, 2016, from and to any of the following
45 accounts: the miscellaneous special revenue fund, patient income account
46 (21909), the miscellaneous special revenue fund, mental hygiene program
47 fund account (21907), the miscellaneous special revenue fund, federal
48 salary sharing account (22056), or the general fund in any combination,
49 the aggregate of which shall not exceed \$350 million.

50 S 16. Notwithstanding any law to the contrary, and in accordance with
51 section 4 of the state finance law, the comptroller is hereby authorized
52 and directed to transfer, at the request of the director of the budget,
53 up to \$500 million from the unencumbered balance of any special revenue
54 fund or account, agency fund or account, internal service fund or
55 account, enterprise fund or account, or any combination of such funds
56 and accounts, to the general fund. The amounts transferred pursuant to

1 this authorization shall be in addition to any other transfers expressly
2 authorized in the 2015-16 budget. Transfers from federal funds, debt
3 service funds, capital projects funds, the community projects fund, or
4 funds that would result in the loss of eligibility for federal benefits
5 or federal funds pursuant to federal law, rule, or regulation as assent-
6 ed to in chapter 683 of the laws of 1938 and chapter 700 of the laws of
7 1951 are not permitted pursuant to this authorization.

8 S 16-a. Notwithstanding any law to the contrary, and in accordance
9 with section 4 of the state finance law, the comptroller is hereby
10 authorized and directed to transfer, at the request of the director of
11 the budget, up to 28 million dollars (\$28,000,000) from the unencumbered
12 balance of any special revenue fund or account, or combination of funds
13 and accounts, to the community projects fund. The amounts transferred
14 pursuant to this authorization shall be in addition to any other trans-
15 fers expressly authorized in the 2014-15 budget. Transfers from federal
16 funds, debt services funds, capital projects funds, or funds that would
17 result in the loss of eligibility for federal benefits or federal funds
18 pursuant to federal law, rule, or regulation as assented to in chapter
19 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not
20 permitted pursuant to this authorization. The director of the budget
21 shall (a) have received a request in writing from one or both houses of
22 the legislature, and (b) notify both houses of the legislature in writ-
23 ing prior to initiating transfers pursuant to this authorization. The
24 comptroller shall provide the director of the budget, the chair of the
25 senate finance committee, and the chair of the assembly ways and means
26 committee with an accurate accounting and report of any transfers that
27 occur pursuant to this section on or before the fifteenth day of the
28 following month in which such transfers occur.

29 S 17. Notwithstanding any law to the contrary, and in accordance with
30 section 4 of the state finance law, the comptroller is hereby authorized
31 and directed to transfer, at the request of the director of the budget,
32 up to \$100 million from any non-general fund or account, or combination
33 of funds and accounts, to the miscellaneous special revenue fund, tech-
34 nology financing account (22207) or the miscellaneous capital projects
35 fund, information technology capital financing account (32215), for the
36 purpose of consolidating technology procurement and services. The
37 amounts transferred to the miscellaneous special revenue fund, technolo-
38 gy financing account (22207) pursuant to this authorization shall be
39 equal to or less than the amount of such monies intended to support
40 information technology costs which are attributable, according to a
41 plan, to such account made in pursuance to an appropriation by law.
42 Transfers to the technology financing account shall be completed from
43 amounts collected by non-general funds or accounts pursuant to a fund
44 deposit schedule or permanent statute, and shall be transferred to the
45 technology financing account pursuant to a schedule agreed upon by the
46 affected agency commissioner. Transfers from funds that would result in
47 the loss of eligibility for federal benefits or federal funds pursuant
48 to federal law, rule, or regulation as assented to in chapter 683 of the
49 laws of 1938 and chapter 700 of the laws of 1951 are not permitted
50 pursuant to this authorization.

51 S 18. Notwithstanding any law to the contrary, and in accordance with
52 section 4 of the state finance law, the comptroller is hereby authorized
53 and directed to transfer, at the request of the director of the budget,
54 up to \$300 million from any non-general fund or account, or combination
55 of funds and accounts, to the general fund for the purpose of consol-
56 idating technology procurement and services. The amounts transferred

1 pursuant to this authorization shall be equal to or less than the amount
2 of such monies intended to support information technology costs which
3 are attributable, according to a plan, to such account made in pursuance
4 to an appropriation by law. Transfers to the general fund shall be
5 completed from amounts collected by non-general funds or accounts pursu-
6 ant to a fund deposit schedule. Transfers from funds that would result
7 in the loss of eligibility for federal benefits or federal funds pursu-
8 ant to federal law, rule, or regulation as assented to in chapter 683 of
9 the laws of 1938 and chapter 700 of the laws of 1951 are not permitted
10 pursuant to this authorization.

11 S. 19. Notwithstanding any provision of law to the contrary, as deemed
12 feasible and advisable by its trustees, the power authority of the state
13 of New York is authorized and directed to (i) make a contribution to the
14 state treasury to the credit of the general fund, or as otherwise
15 directed in writing by the director of the budget, in an amount of up to
16 \$90,000,000 for the state fiscal year commencing April 1, 2015, the
17 proceeds of which will be utilized to support energy-related initiatives
18 of the state, or for economic development purposes, and (ii) transfer up
19 to \$25,000,000 of any such contribution by June 30, 2015 and the remain-
20 der of any such contribution by March 31, 2016. Such economic develop-
21 ment purposes may include, but shall not be limited to, efforts to
22 attract and expand business investment and job creation in New York
23 state through the Open for Business program as well as all expenses
24 associated with Global NY and trade missions, domestic and interna-
25 tional, promoting New York businesses; provided that in the event any
26 contributed funds are used by a state agency or public authority for the
27 purpose of advertising and promoting the benefits of the START-UP NY
28 program, no more than sixty percent of the contributed funds used for
29 such purpose shall be used for advertising and promotion outside the
30 state of New York.

31 S. 20. Notwithstanding any provision of law, rule or regulation to the
32 contrary, the New York State energy research and development authority
33 is authorized and directed to make a contribution to the state treasury
34 to the credit of the general fund in the amount of \$41,000,000 from
35 proceeds collected by the authority from the auction or sale of carbon
36 dioxide emission allowances allocated by the department of environmental
37 conservation under the Regional Greenhouse Gas Initiative on or before
38 March 31, 2016.

39 S. 21. Subdivision 5 of section 97-rrr of the state finance law, as
40 amended by section 20 of part I of chapter 55 of the laws of 2014, is
41 amended to read as follows:

42 5. Notwithstanding the provisions of section one hundred seventy-one-a
43 of the tax law, as separately amended by chapters four hundred eighty-
44 one and four hundred eighty-four of the laws of nineteen hundred eight-
45 y-one, and notwithstanding the provisions of chapter ninety-four of the
46 laws of two thousand eleven, or any other provisions of law to the
47 contrary, during the fiscal year beginning April first, two thousand
48 [fourteen] FIFTEEN, the state comptroller is hereby authorized and
49 directed to deposit to the fund created pursuant to this section from
50 amounts collected pursuant to article twenty-two of the tax law and
51 pursuant to a schedule submitted by the director of the budget, up to
52 [\$3,429,375,000] \$3,382,279,000, as may be certified in such schedule as
53 necessary to meet the purposes of such fund for the fiscal year begin-
54 ning April first, two thousand [fourteen] FIFTEEN.

55 S. 22. The comptroller is authorized and directed to deposit to the
56 general fund-state purposes account reimbursements from moneys appropri-

1 ated or reappropriated to the correctional facilities capital improve-
2 ment fund by a chapter of the laws of 2015. Reimbursements shall be
3 available for spending from appropriations made to the department of
4 corrections and community supervision in the general fund-state purposes
5 accounts by a chapter of the laws of 2015 for costs associated with the
6 administration and security of capital projects and for other costs
7 which are attributable, according to a plan, to such capital projects.

8 S 23. Notwithstanding any other law, rule, or regulation to the
9 contrary, the state comptroller is hereby authorized and directed to use
10 any balance remaining in the mental health services fund debt service
11 appropriation, after payment by the state comptroller of all obligations
12 required pursuant to any lease, sublease, or other financing arrangement
13 between the dormitory authority of the state of New York as successor to
14 the New York state medical care facilities finance agency, and the
15 facilities development corporation pursuant to chapter 83 of the laws of
16 1995 and the department of mental hygiene for the purpose of making
17 payments to the dormitory authority of the state of New York for the
18 amount of the earnings for the investment of monies deposited in the
19 mental health services fund that such agency determines will or may have
20 to be rebated to the federal government pursuant to the provisions of
21 the internal revenue code of 1986, as amended, in order to enable such
22 agency to maintain the exemption from federal income taxation on the
23 interest paid to the holders of such agency's mental services facilities
24 improvement revenue bonds. Annually on or before each June 30th, such
25 agency shall certify to the state comptroller its determination of the
26 amounts received in the mental health services fund as a result of the
27 investment of monies deposited therein that will or may have to be
28 rebated to the federal government pursuant to the provisions of the
29 internal revenue code of 1986, as amended.

30 S 24. Subdivision 8 of section 68-b of the state finance law, as
31 amended by section 44 of part HH of chapter 57 of the laws of 2013, is
32 amended to read as follows:

33 8. Revenue bonds may only be issued for authorized purposes, as
34 defined in section sixty-eight-a of this article. Notwithstanding the
35 foregoing, the dormitory authority of the state of New York [and], the
36 urban development corporation AND THE NEW YORK STATE THRUWAY AUTHORITY
37 may issue revenue bonds for any authorized purpose of any other such
38 authorized issuer through March thirty-first, two thousand [fifteen]
39 TWENTY. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRUWAY
40 AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC
41 AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE PUBLIC
42 AUTHORITIES LAW. The authorized issuers shall not issue any revenue
43 bonds in an amount in excess of statutory authorizations for such
44 authorized purposes. Authorizations for such authorized purposes shall
45 be reduced in an amount equal to the amount of revenue bonds issued for
46 such authorized purposes under this article. Such reduction shall not be
47 made in relation to revenue bonds issued to fund reserve funds, if any,
48 and costs of issuance, if these items are not counted under existing
49 authorizations, nor shall revenue bonds issued to refund bonds issued
50 under existing authorizations reduce the amount of such authorizations.

51 S 24-a. Subdivision 8 of section 69-n of the state finance law, as
52 added by section 58 of part HH of chapter 57 of the laws of 2013, is
53 amended to read as follows:

54 8. Revenue bonds may only be issued for authorized purposes, as
55 defined in section sixty-nine-m of this article. Notwithstanding the
56 foregoing, any authorized issuer may issue revenue bonds for any author-

1 ized purpose. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRU-
2 WAY AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE
3 PUBLIC AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE
4 PUBLIC AUTHORITIES LAW. The authorized issuers shall not issue any
5 revenue bonds in an amount in excess of statutory authorizations for
6 such authorized purposes. Authorizations for such authorized purposes
7 shall be reduced in an amount equal to the amount of revenue bonds
8 issued for such authorized purposes under this article. Such reduction
9 shall not be made in relation to revenue bonds issued to fund reserve
10 funds, if any, and costs of issuance, if these items are not counted
11 under existing authorizations, nor shall revenue bonds issued to refund
12 bonds issued under existing authorizations reduce the amount of such
13 authorizations.

14 S 25. Subdivision 1 of section 47 of section 1 of chapter 174 of the
15 laws of 1968, constituting the New York state urban development corpo-
16 ration act, as amended by section 28 of part I of chapter 55 of the laws
17 of 2014, is amended to read as follows:

18 1. Notwithstanding the provisions of any other law to the contrary,
19 the dormitory authority and the corporation are hereby authorized to
20 issue bonds or notes in one or more series for the purpose of funding
21 project costs for the office of information technology services, depart-
22 ment of law, and other state costs associated with such capital
23 projects. The aggregate principal amount of bonds authorized to be
24 issued pursuant to this section shall not exceed [one] TWO hundred
25 [eighty-two] SIXTY-NINE million [four] ONE hundred forty thousand
26 dollars, excluding bonds issued to fund one or more debt service reserve
27 funds, to pay costs of issuance of such bonds, and bonds or notes issued
28 to refund or otherwise repay such bonds or notes previously issued. Such
29 bonds and notes of the dormitory authority and the corporation shall not
30 be a debt of the state, and the state shall not be liable thereon, nor
31 shall they be payable out of any funds other than those appropriated by
32 the state to the dormitory authority and the corporation for principal,
33 interest, and related expenses pursuant to a service contract and such
34 bonds and notes shall contain on the face thereof a statement to such
35 effect. Except for purposes of complying with the internal revenue code,
36 any interest income earned on bond proceeds shall only be used to pay
37 debt service on such bonds.

38 S 26. Section 1 of chapter 174 of the laws of 1968, constituting the
39 New York state urban development corporation act, is amended by adding a
40 new section 51 to read as follows:

41 S 51. 1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE
42 CONTRARY, THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION
43 ARE HEREBY AUTHORIZED TO ISSUE BONDS OR NOTES IN ONE OR MORE SERIES FOR
44 THE PURPOSE OF FUNDING PROJECT COSTS FOR THE NONPROFIT INFRASTRUCTURE
45 CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCIATED WITH SUCH
46 CAPITAL PROJECTS. THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AUTHORIZED TO
47 BE ISSUED PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY MILLION
48 DOLLARS, EXCLUDING BONDS ISSUED TO FUND ONE OR MORE DEBT SERVICE RESERVE
49 FUNDS, TO PAY COSTS OF ISSUANCE OF SUCH BONDS, AND BONDS OR NOTES ISSUED
50 TO REFUND OR OTHERWISE REPAY SUCH BONDS OR NOTES PREVIOUSLY ISSUED. SUCH
51 BONDS AND NOTES OF THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT
52 CORPORATION SHALL NOT BE A DEBT OF THE STATE, AND THE STATE SHALL NOT BE
53 LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF ANY FUNDS OTHER THAN
54 THOSE APPROPRIATED BY THE STATE TO THE DORMITORY AUTHORITY AND THE URBAN
55 DEVELOPMENT CORPORATION FOR PRINCIPAL, INTEREST, AND RELATED EXPENSES
56 PURSUANT TO A SERVICE CONTRACT AND SUCH BONDS AND NOTES SHALL CONTAIN ON

1 THE FACE THEREOF A STATEMENT TO SUCH EFFECT. EXCEPT FOR PURPOSES OF
2 COMPLYING WITH THE INTERNAL REVENUE CODE, ANY INTEREST INCOME EARNED ON
3 BOND PROCEEDS SHALL ONLY BE USED TO PAY DEBT SERVICE ON SUCH BONDS.

4 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN
5 ORDER TO ASSIST THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPO-
6 RATION IN UNDERTAKING THE FINANCING FOR PROJECT COSTS FOR THE NONPROFIT
7 INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCI-
8 ATED WITH SUCH CAPITAL PROJECTS, THE DIRECTOR OF THE BUDGET IS HEREBY
9 AUTHORIZED TO ENTER INTO ONE OR MORE SERVICE CONTRACTS WITH THE DORMITO-
10 RY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, NONE OF WHICH SHALL
11 EXCEED THIRTY YEARS IN DURATION, UPON SUCH TERMS AND CONDITIONS AS THE
12 DIRECTOR OF THE BUDGET AND THE DORMITORY AUTHORITY AND THE URBAN DEVEL-
13 OPMENT CORPORATION AGREE, SO AS TO ANNUALLY PROVIDE TO THE DORMITORY
14 AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, IN THE AGGREGATE, A SUM
15 NOT TO EXCEED THE PRINCIPAL, INTEREST, AND RELATED EXPENSES REQUIRED FOR
16 SUCH BONDS AND NOTES. ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO THIS
17 SECTION SHALL PROVIDE THAT THE OBLIGATION OF THE STATE TO PAY THE AMOUNT
18 THEREIN PROVIDED SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE
19 MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED
20 EXECUTORY ONLY TO THE EXTENT OF MONIES AVAILABLE AND THAT NO LIABILITY
21 SHALL BE INCURRED BY THE STATE BEYOND THE MONIES AVAILABLE FOR SUCH
22 PURPOSE, SUBJECT TO ANNUAL APPROPRIATION BY THE LEGISLATURE. ANY SUCH
23 CONTRACT OR ANY PAYMENTS MADE OR TO BE MADE THEREUNDER MAY BE ASSIGNED
24 AND PLEDGED BY THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPO-
25 RATION AS SECURITY FOR ITS BONDS AND NOTES, AS AUTHORIZED BY THIS
26 SECTION.

27 S 27. Subdivision 1 of section 16 of part D of chapter 389 of the laws
28 of 1997, relating to the financing of the correctional facilities
29 improvement fund and the youth facility improvement fund, as amended by
30 section 29 of part I of chapter 55 of the laws of 2014, is amended to
31 read as follows:

32 1. Subject to the provisions of chapter 59 of the laws of 2000, but
33 notwithstanding the provisions of section 18 of section 1 of chapter 174
34 of the laws of 1968, the New York state urban development corporation is
35 hereby authorized to issue bonds, notes and other obligations in an
36 aggregate principal amount not to exceed seven billion one hundred
37 [forty-eight] SIXTY-THREE million THREE HUNDRED sixty-nine thousand
38 dollars [\$7,148,069,000] \$7,163,369,000, and shall include all bonds,
39 notes and other obligations issued pursuant to chapter 56 of the laws of
40 1983, as amended or supplemented. The proceeds of such bonds, notes or
41 other obligations shall be paid to the state, for deposit in the correc-
42 tional facilities capital improvement fund to pay for all or any portion
43 of the amount or amounts paid by the state from appropriations or reap-
44 propriations made to the department of corrections and community super-
45 vision from the correctional facilities capital improvement fund for
46 capital projects. The aggregate amount of bonds, notes or other obli-
47 gations authorized to be issued pursuant to this section shall exclude
48 bonds, notes or other obligations issued to refund or otherwise repay
49 bonds, notes or other obligations theretofore issued, the proceeds of
50 which were paid to the state for all or a portion of the amounts
51 expended by the state from appropriations or reappropriations made to
52 the department of corrections and community supervision; provided,
53 however, that upon any such refunding or repayment the total aggregate
54 principal amount of outstanding bonds, notes or other obligations may be
55 greater than seven billion one hundred [forty-eight] SIXTY-THREE million
56 THREE HUNDRED sixty-nine thousand dollars [\$7,148,069,000]

1 \$7,163,369,000, only if the present value of the aggregate debt service
2 of the refunding or repayment bonds, notes or other obligations to be
3 issued shall not exceed the present value of the aggregate debt service
4 of the bonds, notes or other obligations so to be refunded or repaid.
5 For the purposes hereof, the present value of the aggregate debt service
6 of the refunding or repayment bonds, notes or other obligations and of
7 the aggregate debt service of the bonds, notes or other obligations so
8 refunded or repaid, shall be calculated by utilizing the effective
9 interest rate of the refunding or repayment bonds, notes or other obli-
10 gations, which shall be that rate arrived at by doubling the semi-annual
11 interest rate (compounded semi-annually) necessary to discount the debt
12 service payments on the refunding or repayment bonds, notes or other
13 obligations from the payment dates thereof to the date of issue of the
14 refunding or repayment bonds, notes or other obligations and to the
15 price bid including estimated accrued interest or proceeds received by
16 the corporation including estimated accrued interest from the sale ther-
17 eof.

18 S 28. Paragraph (a) of subdivision 2 of section 47-e of the private
19 housing finance law, as amended by section 30 of part I of chapter 55 of
20 the laws of 2014, is amended to read as follows:

21 (a) Subject to the provisions of chapter fifty-nine of the laws of two
22 thousand, in order to enhance and encourage the promotion of housing
23 programs and thereby achieve the stated purposes and objectives of such
24 housing programs, the agency shall have the power and is hereby author-
25 ized from time to time to issue negotiable housing program bonds and
26 notes in such principal amount as shall be necessary to provide suffi-
27 cient funds for the repayment of amounts disbursed (and not previously
28 reimbursed) pursuant to law or any prior year making capital appropri-
29 ations or reappropriations for the purposes of the housing program;
30 provided, however, that the agency may issue such bonds and notes in an
31 aggregate principal amount not exceeding [two] THREE billion [nine] ONE
32 hundred [ninety-nine] FIFTY-THREE million SEVEN HUNDRED ninety-nine
33 thousand dollars, plus a principal amount of bonds issued to fund the
34 debt service reserve fund in accordance with the debt service reserve
35 fund requirement established by the agency and to fund any other
36 reserves that the agency reasonably deems necessary for the security or
37 marketability of such bonds and to provide for the payment of fees and
38 other charges and expenses, including underwriters' discount, trustee
39 and rating agency fees, bond insurance, credit enhancement and liquidity
40 enhancement related to the issuance of such bonds and notes. No reserve
41 fund securing the housing program bonds shall be entitled or eligible to
42 receive state funds apportioned or appropriated to maintain or restore
43 such reserve fund at or to a particular level, except to the extent of
44 any deficiency resulting directly or indirectly from a failure of the
45 state to appropriate or pay the agreed amount under any of the contracts
46 provided for in subdivision four of this section.

47 S 29. Subdivision (b) of section 11 of chapter 329 of the laws of
48 1991, amending the state finance law and other laws relating to the
49 establishment of the dedicated highway and bridge trust fund, as amended
50 by section 31 of part I of chapter 55 of the laws of 2014, is amended to
51 read as follows:

52 (b) Any service contract or contracts for projects authorized pursuant
53 to sections 10-c, 10-f, 10-g and 80-b of the highway law and section
54 14-k of the transportation law, and entered into pursuant to subdivision
55 (a) of this section, shall provide for state commitments to provide
56 annually to the thruway authority a sum or sums, upon such terms and

conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund or to reimburse the state for funding such projects having a cost not in excess of [\$8,120,728,000] \$8,658,881,000 cumulatively by the end of fiscal year [2014-15] 2015-16.

S 30. Subdivision 1 of section 1689-i of the public authorities law, as amended by section 32 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to exceed a total principal amount of [one hundred twenty-six] ONE HUNDRED FORTY million dollars.

S 31. Subdivision (a) of section 27 of part Y of chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 33 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [\$149,600,000] \$155,600,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects including IT initiatives for the division of state police, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 32. Section 44 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 34 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

S 44. Issuance of certain bonds or notes. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, a project at nano Utica, onondaga county revitalization projects, BINGHAMTON UNIVERSITY SCHOOL OF PHARMACY, NEW YORK POWER ELECTRONICS MANUFACTURING CONSORTIUM,

1 REGIONAL INFRASTRUCTURE PROJECTS, and other state costs associated with
2 such projects. The aggregate principal amount of bonds authorized to be
3 issued pursuant to this section shall not exceed two billion [two] EIGHT
4 hundred [three] EIGHTY-EIGHT million two hundred fifty-seven thousand
5 dollars, excluding bonds issued to fund one or more debt service reserve
6 funds, to pay costs of issuance of such bonds, and bonds or notes issued
7 to refund or otherwise repay such bonds or notes previously issued. Such
8 bonds and notes of the dormitory authority and the corporation shall not
9 be a debt of the state, and the state shall not be liable thereon, nor
10 shall they be payable out of any funds other than those appropriated by
11 the state to the dormitory authority and the corporation for principal,
12 interest, and related expenses pursuant to a service contract and such
13 bonds and notes shall contain on the face thereof a statement to such
14 effect. Except for purposes of complying with the internal revenue code,
15 any interest income earned on bond proceeds shall only be used to pay
16 debt service on such bonds.

17 2. Notwithstanding any other provision of law to the contrary, in
18 order to assist the dormitory authority and the corporation in undertak-
19 ing the financing for project costs for the regional economic develop-
20 ment council initiative, the economic transformation program, state
21 university of New York college for nanoscale and science engineering,
22 projects within the city of Buffalo or surrounding environs, the New
23 York works economic development fund, projects for the retention of
24 professional football in western New York, the empire state economic
25 development fund, the clarkson-trudeau partnership, the New York genome
26 center, the cornell university college of veterinary medicine, the olym-
27 pic regional development authority, a project at nano Utica, onondaga
28 county revitalization projects, BINGHAMTON UNIVERSITY SCHOOL OF PHARMA-
29 CY, NEW YORK POWER ELECTRONICS MANUFACTURING CONSORTIUM, REGIONAL
30 INFRASTRUCTURE PROJECTS and other state costs associated with such
31 projects, the director of the budget is hereby authorized to enter into
32 one or more service contracts with the dormitory authority and the
33 corporation, none of which shall exceed thirty years in duration, upon
34 such terms and conditions as the director of the budget and the dormito-
35 ry authority and the corporation agree, so as to annually provide to the
36 dormitory authority and the corporation, in the aggregate, a sum not to
37 exceed the principal, interest, and related expenses required for such
38 bonds and notes. Any service contract entered into pursuant to this
39 section shall provide that the obligation of the state to pay the amount
40 therein provided shall not constitute a debt of the state within the
41 meaning of any constitutional or statutory provision and shall be deemed
42 executory only to the extent of monies available and that no liability
43 shall be incurred by the state beyond the monies available for such
44 purpose, subject to annual appropriation by the legislature. Any such
45 contract or any payments made or to be made thereunder may be assigned
46 and pledged by the dormitory authority and the corporation as security
47 for its bonds and notes, as authorized by this section.

48 S 33. Subdivisions 1 and 3 of section 1285-p of the public authorities
49 law, subdivision 1 as amended by section 55 of part HH of chapter 57 of
50 the laws of 2013 and subdivision 3 as amended by section 35 of part I of
51 chapter 55 of the laws of 2014, are amended to read as follows:

52 1. Subject to chapter fifty-nine of the laws of two thousand, but
53 notwithstanding any other provisions of law to the contrary, in order to
54 assist the corporation in undertaking the administration and the financ-
55 ing of the design, acquisition, construction, improvement, installation,
56 and related work for all or any portion of any of the following environ-

1 mental infrastructure projects and for the provision of funds to the
2 state for any amounts disbursed therefor: (a) projects authorized under
3 the environmental protection fund, or for which appropriations are made
4 to the environmental protection fund including, but not limited to
5 municipal parks and historic preservation, stewardship, farmland
6 protection, non-point source, pollution control, Hudson River Park, land
7 acquisition, and waterfront revitalization; (b) department of environ-
8 mental conservation capital appropriations for Onondaga Lake for certain
9 water quality improvement projects in the same manner as set forth in
10 paragraph (d) of subdivision one of section 56-0303 of the environmental
11 conservation law; (c) for the purpose of the administration, management,
12 maintenance, and use of the real property at the western New York nucle-
13 ar service center; [and] (d) department of environmental conservation
14 capital appropriations for the administration, design, acquisition,
15 construction, improvement, installation, and related work on department
16 of environmental conservation environmental infrastructure projects;
17 [and] (e) office of parks, recreation and historic preservation appro-
18 priations or reappropriations from the state parks infrastructure fund;
19 [and] (f) capital grants for the cleaner, greener communities program
20 AND (G) CAPITAL COSTS OF WATER QUALITY INFRASTRUCTURE PROJECTS the
21 director of the division of budget and the corporation are each author-
22 ized to enter into one or more service contracts, none of which shall
23 exceed twenty years in duration, upon such terms and conditions as the
24 director and the corporation may agree, so as to annually provide to the
25 corporation in the aggregate, a sum not to exceed the annual debt
26 service payments and related expenses required for any bonds and notes
27 authorized pursuant to section twelve hundred ninety of this title. Any
28 service contract entered into pursuant to this section shall provide
29 that the obligation of the state to fund or to pay the amounts therein
30 provided for shall not constitute a debt of the state within the meaning
31 of any constitutional or statutory provision and shall be deemed execu-
32 tory only to the extent of moneys available for such purposes, subject
33 to annual appropriation by the legislature. Any such service contract or
34 any payments made or to be made thereunder may be assigned and pledged
35 by the corporation as security for its bonds and notes, as authorized
36 pursuant to section twelve hundred ninety of this title.

37 3. The maximum amount of bonds that may be issued for the purpose of
38 financing environmental infrastructure projects authorized by this
39 section shall be one billion [three] SEVEN hundred [ninety-eight] SEVEN-
40 TY-FIVE million [two] SEVEN hundred sixty thousand dollars, exclusive of
41 bonds issued to fund any debt service reserve funds, pay costs of issu-
42 ance of such bonds, and bonds or notes issued to refund or otherwise
43 repay bonds or notes previously issued. Such bonds and notes of the
44 corporation shall not be a debt of the state, and the state shall not be
45 liable thereon, nor shall they be payable out of any funds other than
46 those appropriated by the state to the corporation for debt service and
47 related expenses pursuant to any service contracts executed pursuant to
48 subdivision one of this section, and such bonds and notes shall contain
49 on the face thereof a statement to such effect.

50 S 34. Subdivision 1 of section 45 of section 1 of chapter 174 of the
51 laws of 1968, constituting the New York state urban development corpo-
52 ration act, as amended by section 37 of part I of chapter 55 of the laws
53 of 2014, is amended to read as follows:

54 1. Notwithstanding the provisions of any other law to the contrary,
55 the urban development corporation of the state of New York is hereby
56 authorized to issue bonds or notes in one or more series for the purpose

1 of funding project costs for the implementation of a NY-SUNY and NY-CUNY
2 2020 challenge grant program subject to the approval of a NY-SUNY and
3 NY-CUNY 2020 plan or plans by the governor and either the chancellor of
4 the state university of New York or the chancellor of the city universi-
5 ty of New York, as applicable. The aggregate principal amount of bonds
6 authorized to be issued pursuant to this section shall not exceed
7 [\$330,000,000] \$440,000,000, excluding bonds issued to fund one or more
8 debt service reserve funds, to pay costs of issuance of such bonds, and
9 bonds or notes issued to refund or otherwise repay such bonds or notes
10 previously issued. Such bonds and notes of the corporation shall not be
11 a debt of the state, and the state shall not be liable thereon, nor
12 shall they be payable out of any funds other than those appropriated by
13 the state to the corporation for principal, interest, and related
14 expenses pursuant to a service contract and such bonds and notes shall
15 contain on the face thereof a statement to such effect. Except for
16 purposes of complying with the internal revenue code, any interest
17 income earned on bond proceeds shall only be used to pay debt service on
18 such bonds.

19 S 35. Subdivision (a) of section 48 of part K of chapter 81 of the
20 laws of 2002, providing for the administration of certain funds and
21 accounts related to the 2002-2003 budget, as amended by section 38 of
22 part I of chapter 55 of the laws of 2014, is amended to read as follows:

23 (a) Subject to the provisions of chapter 59 of the laws of 2000 but
24 notwithstanding the provisions of section 18 of the urban development
25 corporation act, the corporation is hereby authorized to issue bonds or
26 notes in one or more series in an aggregate principal amount not to
27 exceed \$197,000,000 excluding bonds issued to fund one or more debt
28 service reserve funds, to pay costs of issuance of such bonds, and bonds
29 or notes issued to refund or otherwise repay such bonds or notes previ-
30 ously issued, for the purpose of financing capital costs related to
31 homeland security and training facilities for the division of state
32 police, the division of military and naval affairs, and any other state
33 agency, including the reimbursement of any disbursements made from the
34 state capital projects fund, and is hereby authorized to issue bonds or
35 notes in one or more series in an aggregate principal amount not to
36 exceed [\$317,800,000] \$469,800,000, excluding bonds issued to fund one
37 or more debt service reserve funds, to pay costs of issuance of such
38 bonds, and bonds or notes issued to refund or otherwise repay such bonds
39 or notes previously issued, for the purpose of financing improvements to
40 State office buildings and other facilities located statewide, including
41 the reimbursement of any disbursements made from the state capital
42 projects fund. Such bonds and notes of the corporation shall not be a
43 debt of the state, and the state shall not be liable thereon, nor shall
44 they be payable out of any funds other than those appropriated by the
45 state to the corporation for debt service and related expenses pursuant
46 to any service contracts executed pursuant to subdivision (b) of this
47 section, and such bonds and notes shall contain on the face thereof a
48 statement to such effect.

49 S 36. Subdivision 1 of section 386-b of the public authorities law, as
50 amended by section 39 of part I of chapter 55 of the laws of 2014, is
51 amended to read as follows:

52 1. Notwithstanding any other provision of law to the contrary, the
53 authority, the dormitory authority and the urban development corporation
54 are hereby authorized to issue bonds or notes in one or more series for
55 the purpose of financing peace bridge projects and capital costs of
56 state and local highways, parkways, bridges, the New York state thruway,

1 Indian reservation roads, and facilities, and transportation infrastruc-
2 ture projects including aviation projects, non-MTA mass transit
3 projects, and rail service preservation projects, including work appur-
4 tenant and ancillary thereto. The aggregate principal amount of bonds
5 authorized to be issued pursuant to this section shall not exceed [four]
6 ONE BILLION SIX hundred [sixty-five] NINETY million dollars
7 [(\$465,000,000)] \$1,690,000,000, excluding bonds issued to fund one or
8 more debt service reserve funds, to pay costs of issuance of such bonds,
9 and to refund or otherwise repay such bonds or notes previously issued.
10 Such bonds and notes of the authority, the dormitory authority and the
11 urban development corporation shall not be a debt of the state, and the
12 state shall not be liable thereon, nor shall they be payable out of any
13 funds other than those appropriated by the state to the authority, the
14 dormitory authority and the urban development corporation for principal,
15 interest, and related expenses pursuant to a service contract and such
16 bonds and notes shall contain on the face thereof a statement to such
17 effect. Except for purposes of complying with the internal revenue code,
18 any interest income earned on bond proceeds shall only be used to pay
19 debt service on such bonds.

20 S 37. Paragraph (c) of subdivision 19 of section 1680 of the public
21 authorities law, as amended by section 40 of part I of chapter 55 of the
22 laws of 2014, is amended to read as follows:

23 (c) Subject to the provisions of chapter fifty-nine of the laws of two
24 thousand, the dormitory authority shall not issue any bonds for state
25 university educational facilities purposes if the principal amount of
26 bonds to be issued when added to the aggregate principal amount of bonds
27 issued by the dormitory authority on and after July first, nineteen
28 hundred eighty-eight for state university educational facilities will
29 exceed [ten] ELEVEN billion [nine] TWO hundred [eighty-four]
30 TWENTY-EIGHT million dollars; provided, however, that bonds issued or to
31 be issued shall be excluded from such limitation if: (1) such bonds are
32 issued to refund state university construction bonds and state universi-
33 ty construction notes previously issued by the housing finance agency;
34 or (2) such bonds are issued to refund bonds of the authority or other
35 obligations issued for state university educational facilities purposes
36 and the present value of the aggregate debt service on the refunding
37 bonds does not exceed the present value of the aggregate debt service on
38 the bonds refunded thereby; provided, further that upon certification by
39 the director of the budget that the issuance of refunding bonds or other
40 obligations issued between April first, nineteen hundred ninety-two and
41 March thirty-first, nineteen hundred ninety-three will generate long
42 term economic benefits to the state, as assessed on a present value
43 basis, such issuance will be deemed to have met the present value test
44 noted above. For purposes of this subdivision, the present value of the
45 aggregate debt service of the refunding bonds and the aggregate debt
46 service of the bonds refunded, shall be calculated by utilizing the true
47 interest cost of the refunding bonds, which shall be that rate arrived
48 at by doubling the semi-annual interest rate (compounded semi-annually)
49 necessary to discount the debt service payments on the refunding bonds
50 from the payment dates thereof to the date of issue of the refunding
51 bonds to the purchase price of the refunding bonds, including interest
52 accrued thereon prior to the issuance thereof. The maturity of such
53 bonds, other than bonds issued to refund outstanding bonds, shall not
54 exceed the weighted average economic life, as certified by the state
55 university construction fund, of the facilities in connection with which
56 the bonds are issued, and in any case not later than the earlier of

thirty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

S 38. Paragraph (c) of subdivision 14 of section 1680 of the public authorities law, as amended by section 41 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed seven billion [two] THREE hundred [seventy-three] NINETY-TWO million [three] SEVEN hundred [thirty-one] FIFTY-THREE thousand dollars. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

S 39. Subdivision 10-a of section 1680 of the public authorities law, as amended by section 42 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be [seven] EIGHT hundred [seventy-six] THIRTY-EIGHT million [three] FOUR hundred [five] FIFTY-EIGHT thousand dollars. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

1 S 40. Section 1680-r of the public authorities law, as added by
2 section 43 of part I of chapter 55 of the laws of 2014, is amended to
3 read as follows:

4 S 1680-r. Authorization for the issuance of bonds for the capital
5 restructuring financing program AND THE HEALTH CARE FACILITY TRANSFORMA-
6 TION PROGRAM. 1. Notwithstanding the provisions of any other law to the
7 contrary, the dormitory authority and the urban development corporation
8 are hereby authorized to issue bonds or notes in one or more series for
9 the purpose of funding project costs for the capital restructuring
10 financing program for health care and related facilities licensed pursu-
11 ant to the public health law or the mental hygiene law and other state
12 costs associated with such capital projects AND THE HEALTH CARE FACILITY
13 TRANSFORMATION PROGRAM. The aggregate principal amount of bonds author-
14 ized to be issued pursuant to this section shall not exceed [one] TWO
15 billion two hundred million dollars, excluding bonds issued to fund one
16 or more debt service reserve funds, to pay costs of issuance of such
17 bonds, and bonds or notes issued to refund or otherwise repay such bonds
18 or notes previously issued. Such bonds and notes of the dormitory
19 authority and the urban development corporation shall not be a debt of
20 the state, and the state shall not be liable thereon, nor shall they be
21 payable out of any funds other than those appropriated by the state to
22 the dormitory authority and the urban development corporation for prin-
23 cipal, interest, and related expenses pursuant to a service contract and
24 such bonds and notes shall contain on the face thereof a statement to
25 such effect. Except for purposes of complying with the internal revenue
26 code, any interest income earned on bond proceeds shall only be used to
27 pay debt service on such bonds.

28 2. Notwithstanding any other provision of law to the contrary, in
29 order to assist the dormitory authority and the urban development corpo-
30 ration in undertaking the financing for project costs for the capital
31 restructuring financing program for health care and related facilities
32 licensed pursuant to the public health law or the mental hygiene law and
33 other state costs associated with such capital projects AND THE HEALTH
34 CARE FACILITY TRANSFORMATION PROGRAM, the director of the budget is
35 hereby authorized to enter into one or more service contracts with the
36 dormitory authority and the urban development corporation, none of which
37 shall exceed thirty years in duration, upon such terms and conditions as
38 the director of the budget and the dormitory authority and the urban
39 development corporation agree, so as to annually provide to the dormito-
40 ry authority and the urban development corporation, in the aggregate, a
41 sum not to exceed the principal, interest, and related expenses required
42 for such bonds and notes. Any service contract entered into pursuant to
43 this section shall provide that the obligation of the state to pay the
44 amount therein provided shall not constitute a debt of the state within
45 the meaning of any constitutional or statutory provision and shall be
46 deemed executory only to the extent of monies available and that no
47 liability shall be incurred by the state beyond the monies available for
48 such purpose, subject to annual appropriation by the legislature. Any
49 such contract or any payments made or to be made thereunder may be
50 assigned and pledged by the dormitory authority and the urban develop-
51 ment corporation as security for its bonds and notes, as authorized by
52 this section.

53 S 41. Subdivision 1 of section 17 of part D of chapter 389 of the laws
54 of 1997, relating to the financing of the correctional facilities
55 improvement fund and the youth facility improvement fund, as amended by

1 section 44 of part I of chapter 55 of the laws of 2014, is amended to
2 read as follows:

3 1. Subject to the provisions of chapter 59 of the laws of 2000, but
4 notwithstanding the provisions of section 18 of section 1 of chapter 174
5 of the laws of 1968, the New York state urban development corporation is
6 hereby authorized to issue bonds, notes and other obligations in an
7 aggregate principal amount not to exceed [four] SIX hundred [sixty-five]
8 ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN thousand dollars
9 [(\$465,365,000)] (\$611,215,000), which authorization increases the
10 aggregate principal amount of bonds, notes and other obligations author-
11 ized by section 40 of chapter 309 of the laws of 1996, and shall include
12 all bonds, notes and other obligations issued pursuant to chapter 211 of
13 the laws of 1990, as amended or supplemented. The proceeds of such
14 bonds, notes or other obligations shall be paid to the state, for depos-
15 it in the youth facilities improvement fund, to pay for all or any
16 portion of the amount or amounts paid by the state from appropriations
17 or reappropriations made to the office of children and family services
18 from the youth facilities improvement fund for capital projects. The
19 aggregate amount of bonds, notes and other obligations authorized to be
20 issued pursuant to this section shall exclude bonds, notes or other
21 obligations issued to refund or otherwise repay bonds, notes or other
22 obligations theretofore issued, the proceeds of which were paid to the
23 state for all or a portion of the amounts expended by the state from
24 appropriations or reappropriations made to the office of children and
25 family services; provided, however, that upon any such refunding or
26 repayment the total aggregate principal amount of outstanding bonds,
27 notes or other obligations may be greater than [four] SIX hundred
28 [sixty-five] ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN
29 thousand dollars [(\$465,365,000)] (\$611,215,000), only if the present
30 value of the aggregate debt service of the refunding or repayment bonds,
31 notes or other obligations to be issued shall not exceed the present
32 value of the aggregate debt service of the bonds, notes or other obli-
33 gations so to be refunded or repaid. For the purposes hereof, the pres-
34 ent value of the aggregate debt service of the refunding or repayment
35 bonds, notes or other obligations and of the aggregate debt service of
36 the bonds, notes or other obligations so refunded or repaid, shall be
37 calculated by utilizing the effective interest rate of the refunding or
38 repayment bonds, notes or other obligations, which shall be that rate
39 arrived at by doubling the semi-annual interest rate (compounded semi-
40 annually) necessary to discount the debt service payments on the refund-
41 ing or repayment bonds, notes or other obligations from the payment
42 dates thereof to the date of issue of the refunding or repayment bonds,
43 notes or other obligations and to the price bid including estimated
44 accrued interest or proceeds received by the corporation including esti-
45 mated accrued interest from the sale thereof.

46 S 42. Paragraph b of subdivision 2 of section 9-a of section 1 of
47 chapter 392 of the laws of 1973, constituting the New York state medical
48 care facilities finance agency act, as amended by section 46 of part I
49 of chapter 55 of the laws of 2014, is amended to read as follows:

50 b. The agency shall have power and is hereby authorized from time to
51 time to issue negotiable bonds and notes in conformity with applicable
52 provisions of the uniform commercial code in such principal amount as,
53 in the opinion of the agency, shall be necessary, after taking into
54 account other moneys which may be available for the purpose, to provide
55 sufficient funds to the facilities development corporation, or any
56 successor agency, for the financing or refinancing of or for the design,

1 construction, acquisition, reconstruction, rehabilitation or improvement
2 of mental health services facilities pursuant to paragraph a of this
3 subdivision, the payment of interest on mental health services improve-
4 ment bonds and mental health services improvement notes issued for such
5 purposes, the establishment of reserves to secure such bonds and notes,
6 the cost or premium of bond insurance or the costs of any financial
7 mechanisms which may be used to reduce the debt service that would be
8 payable by the agency on its mental health services facilities improve-
9 ment bonds and notes and all other expenditures of the agency incident
10 to and necessary or convenient to providing the facilities development
11 corporation, or any successor agency, with funds for the financing or
12 refinancing of or for any such design, construction, acquisition, recon-
13 struction, rehabilitation or improvement and for the refunding of mental
14 hygiene improvement bonds issued pursuant to section 47-b of the private
15 housing finance law; provided, however, that the agency shall not issue
16 mental health services facilities improvement bonds and mental health
17 services facilities improvement notes in an aggregate principal amount
18 exceeding seven billion [four] SEVEN hundred [thirty-five] TWENTY-TWO
19 million eight hundred fifteen thousand dollars, excluding mental health
20 services facilities improvement bonds and mental health services facili-
21 ties improvement notes issued to refund outstanding mental health
22 services facilities improvement bonds and mental health services facili-
23 ties improvement notes; provided, however, that upon any such refunding
24 or repayment of mental health services facilities improvement bonds
25 and/or mental health services facilities improvement notes the total
26 aggregate principal amount of outstanding mental health services facili-
27 ties improvement bonds and mental health facilities improvement notes
28 may be greater than seven billion [four] SEVEN hundred [thirty-five]
29 TWENTY-TWO million eight hundred fifteen thousand dollars only if,
30 except as hereinafter provided with respect to mental health services
31 facilities bonds and mental health services facilities notes issued to
32 refund mental hygiene improvement bonds authorized to be issued pursuant
33 to the provisions of section 47-b of the private housing finance law,
34 the present value of the aggregate debt service of the refunding or
35 repayment bonds to be issued shall not exceed the present value of the
36 aggregate debt service of the bonds to be refunded or repaid. For
37 purposes hereof, the present values of the aggregate debt service of the
38 refunding or repayment bonds, notes or other obligations and of the
39 aggregate debt service of the bonds, notes or other obligations so
40 refunded or repaid, shall be calculated by utilizing the effective
41 interest rate of the refunding or repayment bonds, notes or other obli-
42 gations, which shall be that rate arrived at by doubling the semi-annual
43 interest rate (compounded semi-annually) necessary to discount the debt
44 service payments on the refunding or repayment bonds, notes or other
45 obligations from the payment dates thereof to the date of issue of the
46 refunding or repayment bonds, notes or other obligations and to the
47 price bid including estimated accrued interest or proceeds received by
48 the authority including estimated accrued interest from the sale there-
49 of. Such bonds, other than bonds issued to refund outstanding bonds,
50 shall be scheduled to mature over a term not to exceed the average
51 useful life, as certified by the facilities development corporation, of
52 the projects for which the bonds are issued, and in any case shall not
53 exceed thirty years and the maximum maturity of notes or any renewals
54 thereof shall not exceed five years from the date of the original issue
55 of such notes. Notwithstanding the provisions of this section, the agen-
56 cy shall have the power and is hereby authorized to issue mental health

1 services facilities improvement bonds and/or mental health services
2 facilities improvement notes to refund outstanding mental hygiene
3 improvement bonds authorized to be issued pursuant to the provisions of
4 section 47-b of the private housing finance law and the amount of bonds
5 issued or outstanding for such purposes shall not be included for
6 purposes of determining the amount of bonds issued pursuant to this
7 section. The director of the budget shall allocate the aggregate princi-
8 pal authorized to be issued by the agency among the office of mental
9 health, office for people with developmental disabilities, and the
10 office of alcoholism and substance abuse services, in consultation with
11 their respective commissioners to finance bondable appropriations previ-
12 ously approved by the legislature.

13 S 43. Paragraph (b) of subdivision 3 of section 1 and clause (B) of
14 subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of
15 part D of chapter 63 of the laws of 2005 relating to the composition and
16 responsibilities of the New York state higher education capital matching
17 grant board, as amended by section 46-c of part I of chapter 55 of the
18 laws of 2014, is amended to read as follows:

19 (b) Within amounts appropriated therefor, the board is hereby author-
20 ized and directed to award matching capital grants totaling [180] 210
21 million dollars. Each college shall be eligible for a grant award amount
22 as determined by the calculations pursuant to subdivision five of this
23 section. In addition, such colleges shall be eligible to compete for
24 additional funds pursuant to paragraph (h) of subdivision four of this
25 section.

26 (B) The dormitory authority shall not issue any bonds or notes in an
27 amount in excess of [180] 210 million dollars for the purposes of this
28 section; excluding bonds or notes issued to fund one or more debt
29 service reserve funds, to pay costs of issuance of such bonds, and bonds
30 or notes issued to refund or otherwise repay such bonds or notes previ-
31 ously issued. Except for purposes of complying with the internal revenue
32 code, any interest on bond proceeds shall only be used to pay debt
33 service on such bonds.

34 S 44. Subdivision 1 of section 49 of section 1 of chapter 174 of the
35 laws of 1968, constituting the New York state urban development corpo-
36 ration act, as amended by section 46-a of part I of chapter 55 of the
37 laws of 2014, is amended to read as follows:

38 1. Notwithstanding the provisions of any other law to the contrary,
39 the dormitory authority and the corporation are hereby authorized to
40 issue bonds or notes in one or more series for the purpose of funding
41 project costs for the state and municipal facilities program and other
42 state costs associated with such capital projects. The aggregate princi-
43 pal amount of bonds authorized to be issued pursuant to this section
44 shall not exceed [seven hundred seventy] ONE BILLION ONE HUNDRED FIFTY-
45 FIVE million dollars, excluding bonds issued to fund one or more debt
46 service reserve funds, to pay costs of issuance of such bonds, and bonds
47 or notes issued to refund or otherwise repay such bonds or notes previ-
48 ously issued. Such bonds and notes of the dormitory authority and the
49 corporation shall not be a debt of the state, and the state shall not be
50 liable thereon, nor shall they be payable out of any funds other than
51 those appropriated by the state to the dormitory authority and the
52 corporation for principal, interest, and related expenses pursuant to a
53 service contract and such bonds and notes shall contain on the face
54 thereof a statement to such effect. Except for purposes of complying
55 with the internal revenue code, any interest income earned on bond
56 proceeds shall only be used to pay debt service on such bonds.

1 S 45. Intentionally omitted.

2 S 46. Subdivision 1 of section 386-a of the public authorities law, as
3 added by section 46 of part U of chapter 59 of the laws of 2012, is
4 amended to read as follows:

5 1. Notwithstanding any other provision of law to the contrary, the
6 authority, the dormitory authority and the urban development corporation
7 are hereby authorized to issue bonds or notes in one or more series for
8 the purpose of assisting the metropolitan transportation authority in
9 the financing of transportation facilities as defined in subdivision
10 seventeen of section twelve hundred sixty-one of this chapter. The
11 aggregate principal amount of bonds authorized to be issued pursuant to
12 this section shall not exceed ONE BILLION [seven] FIVE hundred [seventy]
13 TWENTY million dollars [(\$770,000,000)] (\$1,520,000,000), excluding
14 bonds issued to fund one or more debt service reserve funds, to pay
15 costs of issuance of such bonds, and to refund or otherwise repay such
16 bonds or notes previously issued. Such bonds and notes of the authority,
17 the dormitory authority and the urban development corporation shall not
18 be a debt of the state, and the state shall not be liable thereon, nor
19 shall they be payable out of any funds other than those appropriated by
20 the state to the authority, the dormitory authority and the urban devel-
21 opment corporation for principal, interest, and related expenses pursu-
22 ant to a service contract and such bonds and notes shall contain on the
23 face thereof a statement to such effect. Except for purposes of comply-
24 ing with the internal revenue code, any interest income earned on bond
25 proceeds shall only be used to pay debt service on such bonds.

26 S 47. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after April 1, 2015; provided,
28 however, that the provisions of sections one through eight and sections
29 thirteen through twenty of this act shall expire March 31, 2016, when
30 upon such date the provisions of such sections shall be deemed repealed.

31

PART J

32 Section 1. The public health law is amended by adding a new section
33 2825-a to read as follows:

34 S 2825-A. HEALTH CARE FACILITY TRANSFORMATION PROGRAM: KINGS COUNTY
35 PROJECT. 1. A KINGS COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM
36 IS HEREBY ESTABLISHED UNDER THE JOINT ADMINISTRATION OF THE COMMISSIONER
37 AND THE PRESIDENT OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK
38 FOR THE PURPOSE OF STRENGTHENING AND PROTECTING CONTINUED ACCESS TO
39 HEALTH CARE SERVICES IN COMMUNITIES. THE PROGRAM SHALL PROVIDE CAPITAL
40 FUNDING IN SUPPORT OF PROJECTS THAT REPLACE INEFFICIENT AND OUTDATED
41 FACILITIES AS PART OF A MERGER, CONSOLIDATION, ACQUISITION OR OTHER
42 SIGNIFICANT CORPORATE RESTRUCTURING ACTIVITY INTENDED TO CREATE A FINAN-
43 CIALY SUSTAINABLE SYSTEM OF CARE. THE ISSUANCE OF ANY BONDS OR NOTES
44 HEREUNDER SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DIVI-
45 SION OF THE BUDGET, AND ANY PROJECTS FUNDED THROUGH THE ISSUANCE OF
46 BONDS OR NOTES HEREUNDER SHALL BE APPROVED BY THE NEW YORK STATE PUBLIC
47 AUTHORITIES CONTROL BOARD, AS REQUIRED UNDER SECTION FIFTY-ONE OF THE
48 PUBLIC AUTHORITIES LAW.

49 2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER
50 INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET,
51 AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORI-
52 TIES LAW, FOR THE PURPOSES OF AWARDED, DISTRIBUTING, AND ADMINISTERING
53 THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE
54 DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR

1 CAPITAL GRANTS TO GENERAL HOSPITALS, RESIDENTIAL HEALTH CARE FACILITIES,
2 DIAGNOSTIC AND TREATMENT CENTERS, PRIMARY CARE PROVIDERS, AND HOME CARE
3 PROVIDERS, CERTIFIED OR LICENSED PURSUANT TO ARTICLE THIRTY-SIX OF THIS
4 CHAPTER, FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE
5 PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY
6 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE
7 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE
8 DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO
9 THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS
10 PROGRAM. PROJECTS AWARDED UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE
11 OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAIL-
12 ABLE UNDER THIS SECTION.

13 3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE
14 FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO
15 SEVEN HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM
16 SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROC-
17 ESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLICANTS")
18 LOCATED IN THE COUNTY OF KINGS.

19 (A) ELIGIBLE APPLICANTS SHALL SERVE COMMUNITIES WHOSE RESIDENTS ARE
20 EXPERIENCING SIGNIFICANT LEVELS OF HEALTH CARE DISPARITIES AND HEALTH
21 CARE NEEDS COMPARED TO OTHER COMMUNITIES WITHIN THE COUNTY OF KINGS AS
22 EVIDENCED BY:

23 (I) A HIGH NUMBER OF MEDICAID ENROLLEES AND UNINSURED INDIVIDUALS;

24 (II) ELEVATED BLOOD LEAD LEVEL RATES AMONG CHILDREN, HIGH RATES OF
25 DIABETES, HIGH BLOOD PRESSURE, ASTHMA, OBESITY, INFANT DEATH OR PREMA-
26 TURE BIRTH, HEART FAILURE, BEHAVIORAL HEALTH CONDITIONS, SUBSTANCE
27 ABUSE;

28 (III) LOW LEVELS OF INCOME, HIGH RATES OF UNEMPLOYMENT, DISTRESSED
29 HOUSING CONDITIONS, AND POOR NUTRITIONAL STATUS;

30 (IV) OTHER RISK FACTORS AS DETERMINED BY THE COMMISSIONER AND THE
31 PRESIDENT OF THE AUTHORITY; AND

32 (B) SUCH ELIGIBLE APPLICANT SHALL:

33 (I) (A) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE
34 PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

35 (B) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH
36 OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATE-
37 MENTS; AND

38 (C) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSEC-
39 UTIVE PRECEDING YEARS; OR

40 (II) BE DEEMED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY TO
41 BE A PROVIDER THAT FULFILLS OR WILL FULFILL AN UNMET HEALTH CARE NEED
42 FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR RESIDENTIAL HEALTH CARE
43 SERVICES IN A COMMUNITY.

44 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,
45 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER
46 CRITERIA INCLUDING, BUT NOT LIMITED TO:

47 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE
48 TO THE LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF
49 ESSENTIAL HEALTH SERVICES IN THE COMMUNITY OR COMMUNITIES SERVED BY THE
50 APPLICANT;

51 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
52 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
53 AND OBJECTIVES;

54 (C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-
55 FIED COMMUNITY NEED;

(D) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOPMENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

(E) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID ENROLLEES AND UNINSURED INDIVIDUALS;

(F) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMUNITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

(G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTENTIAL RISK TO PATIENT SAFETY AND WELFARE.

5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL CONFORM TO THE REPORTING REQUIREMENTS OF SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE, AS APPLICABLE.

S 2. The public health law is amended by adding a new section 2825-b to read as follows:

S 2825-B. ONEIDA COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM: ONEIDA COUNTY PROJECT. 1. AN ONEIDA COUNTY HEALTH CARE FACILITY TRANSFORMATION PROGRAM IS HEREBY ESTABLISHED UNDER THE JOINT ADMINISTRATION OF THE COMMISSIONER AND THE PRESIDENT OF THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK FOR THE PURPOSE OF STRENGTHENING AND PROTECTING CONTINUED ACCESS TO HEALTH CARE SERVICES IN COMMUNITIES. THE PROGRAM SHALL PROVIDE CAPITAL FUNDING IN SUPPORT OF PROJECTS LOCATED IN THE LARGEST POPULATION CENTER IN ONEIDA COUNTY THAT CONSOLIDATE MULTIPLE LICENSED HEALTH CARE FACILITIES INTO AN INTEGRATED SYSTEM OF CARE. THE ISSUANCE OF ANY BONDS OR NOTES HEREUNDER SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET, AND ANY PROJECTS FUNDED THROUGH THE ISSUANCE OF BONDS OR NOTES HEREUNDER SHALL BE APPROVED BY THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, AS REQUIRED UNDER SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW.

2. THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL ENTER INTO AN AGREEMENT, SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET, AND SUBJECT TO SECTION SIXTEEN HUNDRED EIGHTY-R OF THE PUBLIC AUTHORITIES LAW, FOR THE PURPOSES OF AWARDED, DISTRIBUTING, AND ADMINISTERING THE FUNDS MADE AVAILABLE PURSUANT TO THIS SECTION. SUCH FUNDS MAY BE DISTRIBUTED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY FOR CAPITAL GRANTS TO GENERAL HOSPITALS FOR THE PURPOSES OF CONSOLIDATING MULTIPLE LICENSED HEALTH CARE FACILITIES INTO AN INTEGRATED SYSTEM OF CARE FOR CAPITAL NON-OPERATIONAL WORKS OR PURPOSES THAT SUPPORT THE PURPOSES SET FORTH IN THIS SECTION. A COPY OF SUCH AGREEMENT, AND ANY AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, AND THE DIRECTOR OF THE DIVISION OF BUDGET NO LATER THAN THIRTY DAYS PRIOR TO THE RELEASE OF A REQUEST FOR APPLICATIONS FOR FUNDING UNDER THIS PROGRAM. PROJECTS AWARDED UNDER SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAILABLE UNDER THIS SECTION.

3. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, UP TO THREE HUNDRED MILLION DOLLARS OF THE FUNDS APPROPRIATED FOR THIS PROGRAM SHALL BE AWARDED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS FOR CAPITAL GRANTS TO HEALTH CARE PROVIDERS (HEREAFTER "APPLICANTS") LOCATED IN THE COUNTY OF ONEIDA.

1 4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION,
2 THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER
3 CRITERIA INCLUDING, BUT NOT LIMITED TO:

4 (A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE
5 TO THE INTEGRATION OF HEALTH CARE SERVICES AND LONG TERM SUSTAINABILITY
6 OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH SERVICES IN THE
7 COMMUNITY OR COMMUNITIES SERVED BY THE APPLICANT;

8 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
9 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
10 AND OBJECTIVES;

11 (C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTI-
12 FIED COMMUNITY NEED;

13 (D) THE EXTENT THAT THE PROPOSED CAPITAL PROJECT FURTHERS THE DEVELOP-
14 MENT OF PRIMARY CARE AND OTHER OUTPATIENT SERVICES;

15 (E) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT BENEFITS MEDICAID
16 ENROLLEES AND UNINSURED INDIVIDUALS;

17 (F) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY
18 AFFECTED BY THE PROPOSED CAPITAL PROJECT AND THE MANNER IN WHICH COMMU-
19 NITY ENGAGEMENT HAS SHAPED SUCH CAPITAL PROJECT; AND

20 (G) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT ADDRESSES POTEN-
21 TIAL RISK TO PATIENT SAFETY AND WELFARE.

22 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
23 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
24 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
25 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL CONFORM TO THE
26 REPORTING REQUIREMENTS OF SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT
27 HUNDRED SEVEN OF THIS ARTICLE, AS APPLICABLE.

28 S 3. The public health law is amended by adding a new section 2825-c
29 to read as follows:

30 S 2825-C. ESSENTIAL HEALTH CARE PROVIDER SUPPORT PROGRAM. 1. NOTWITH-
31 STANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR
32 ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, WITHIN AMOUNTS APPRO-
33 PRIATED, FUNDS MAY BE ALLOCATED AND DISTRIBUTED BY THE COMMISSIONER
34 WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, FOR GRANTS TO
35 ESSENTIAL HEALTH CARE PROVIDERS TO SUPPORT DEBT RETIREMENT, CAPITAL
36 PROJECTS OR NON-CAPITAL PROJECTS THAT FACILITATE HEALTH CARE TRANSFORMA-
37 TION, INCLUDING MERGERS, CONSOLIDATION, AND RESTRUCTURING ACTIVITIES
38 INTENDED TO CREATE A FINANCIALLY SUSTAINABLE SYSTEM OF CARE. GRANTS
39 SHALL NOT BE AVAILABLE TO SUPPORT GENERAL OPERATING EXPENSES. FOR
40 PURPOSES OF THIS SECTION, AN ESSENTIAL HEALTH CARE PROVIDER IS A HOSPI-
41 TAL OR HOSPITAL SYSTEM THAT, IN THE DISCRETION OF THE COMMISSIONER,
42 OFFERS HEALTH CARE SERVICES WITHIN A DEFINED GEOGRAPHIC REGION WHERE
43 SUCH SERVICES WOULD OTHERWISE BE UNAVAILABLE TO THE POPULATION OF SUCH
44 REGION.

45 2. THE COMMISSIONER SHALL AWARD GRANTS FOR PROJECTS CONSISTENT WITH
46 THE PURPOSES OF THIS SECTION. ELIGIBLE APPLICANTS SHALL MEET THE FOLLOW-
47 ING CRITERIA:

48 (A) (I) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE
49 PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

50 (II) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH
51 OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATE-
52 MENTS; AND

53 (III) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSEC-
54 UTIVE PRECEDING YEARS; OR

55 (B) BE DEEMED BY THE COMMISSIONER TO BE A PROVIDER THAT FULFILLS OR
56 WILL FULFILL AN UNMET NEED FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR

1 RESIDENTIAL HEALTH CARE SERVICES IN A DEFINED GEOGRAPHIC REGION WHERE
2 SUCH SERVICES WOULD BE OTHERWISE UNAVAILABLE TO THE POPULATION OF SUCH
3 REGION.

4 3. SUCH AWARDS SHALL BE DISTRIBUTED PURSUANT TO CRITERIA, INCLUDING
5 BUT NOT LIMITED TO:

6 (A) THE EXTENT TO WHICH THE PROPOSED PROJECT WILL CONTRIBUTE TO THE
7 LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF ESSENTIAL
8 HEALTH CARE SERVICES IN A COMMUNITY;

9 (B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED
10 WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS
11 AND OBJECTIVES;

12 (C) CONSIDERATION OF GEOGRAPHIC DISTRIBUTION OF FUNDS;

13 (D) THE RELATIONSHIP BETWEEN THE PROPOSED PROJECT AND AN IDENTIFIED
14 COMMUNITY NEED;

15 (E) THE EXTENT TO WHICH THE APPLICANT HAS ACCESS TO ALTERNATIVE
16 FINANCING;

17 (F) THE EXTENT TO WHICH THE PROPOSED PROJECT FURTHERS THE DEVELOPMENT
18 OF PRIMARY CARE;

19 (G) THE EXTENT TO WHICH THE PROPOSED PROJECT BENEFITS MEDICAID ENROL-
20 LEES AND UNINSURED INDIVIDUALS;

21 (H) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY
22 AFFECTED BY THE PROPOSED PROJECT AND THE MANNER IN WHICH THE COMMUNITY
23 ENGAGEMENT HAS SHAPED SUCH PROJECT; AND

24 (I) THE EXTENT TO WHICH THE PROPOSED PROJECT ADDRESSES POTENTIAL RISK
25 TO PATIENT SAFETY AND WELFARE.

26 4. DISBURSEMENT OF AWARDS MADE PURSUANT TO THIS SECTION SHALL BE
27 CONDITIONED ON THE AWARDEE ACHIEVING CERTAIN PROCESS AND PERFORMANCE
28 METRICS AND MILESTONES AS DETERMINED IN THE SOLE DISCRETION OF THE
29 COMMISSIONER. SUCH METRICS AND MILESTONES SHALL BE STRUCTURED TO ENSURE
30 THAT THE HEALTH CARE TRANSFORMATION AND PROVIDER SUSTAINABILITY GOALS OF
31 THE PROJECT ARE ACHIEVED, AND SUCH METRICS AND MILESTONES SHALL BE
32 INCLUDED IN GRANT DISBURSEMENT AGREEMENTS OR OTHER CONTRACTUAL DOCUMENTS
33 AS REQUIRED BY THE COMMISSIONER.

34 5. THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
35 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
36 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
37 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE, FOR
38 EACH AWARD, THE NAME OF THE APPLICANT, A DESCRIPTION OF THE PROJECT OR
39 PURPOSE, THE AMOUNT OF THE AWARD, DISBURSEMENT DATE, AND STATUS OF
40 ACHIEVEMENT OF PROCESS AND PERFORMANCE METRICS AND MILESTONES PURSUANT
41 TO SUBDIVISION FOUR OF THIS SECTION.

42 S 4. The opening paragraph of subdivision 3 of section 2825 of the
43 public health law, as added by section 8 of part A of chapter 60 of the
44 laws of 2014, is amended to read as follows:

45 The commissioner and the president of the authority shall enter into
46 an agreement, subject to approval by the director of the budget and
47 subject to section sixteen hundred eighty-r of the public authorities
48 law, as added by a chapter of the laws of two thousand fourteen, for the
49 purposes of awarding, distributing, and administering the funds made
50 available pursuant to this section. TO THE EXTENT PRACTICABLE, FUNDS
51 SHALL BE AWARDED REGIONALLY IN PROPORTION TO THE APPLICATIONS RECEIVED
52 FROM THE REQUEST FOR APPLICATION ISSUED BY OR BEFORE MAY FIRST, TWO
53 THOUSAND FIFTEEN. PROJECTS AWARDED UNDER SECTIONS TWENTY-EIGHT HUNDRED
54 TWENTY-FIVE-A AND TWENTY-EIGHT HUNDRED TWENTY-FIVE-B OF THIS ARTICLE
55 SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAILABLE UNDER THIS
56 SECTION.

1 S 5. The public health law is amended by adding a new section 2815-a
2 to read as follows:

3 S 2815-A. COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND. 1. DEFINI-
4 TIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL
5 HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING IS PLAINLY
6 REQUIRED BY THE CONTEXT:

7 A. "ADMINISTRATOR" SHALL MEAN A NOT FOR PROFIT COMMUNITY DEVELOPMENT
8 FINANCIAL INSTITUTION CDFI THAT IS CERTIFIED BY THE U.S. TREASURY COMMU-
9 NITY DEVELOPMENT FINANCIAL FUND, HAS EXPERIENCE FINANCING PROJECTS IN
10 THE NEW YORK STATE HEALTHCARE SECTOR AND OTHERWISE MEETS THE REQUIRE-
11 MENTS OF THIS SECTION.

12 B. "DORMITORY AUTHORITY" OR "AUTHORITY" SHALL MEAN THE DORMITORY
13 AUTHORITY OF THE STATE OF NEW YORK CREATED BY TITLE FOUR OF ARTICLE
14 EIGHT OF THE PUBLIC AUTHORITIES LAW WHICH HAS SUCCEEDED TO THE POWERS,
15 FUNCTIONS AND DUTIES OF THE MEDICAL CARE FACILITIES FINANCE AGENCY
16 PURSUANT TO CHAPTER EIGHTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINE-
17 TY-FIVE.

18 C. "PARTICIPATING BORROWER" SHALL MEAN A COMMUNITY-BASED HEALTH CARE
19 PROVIDER, WHICH FOR THE PURPOSES OF THIS SECTION, SHALL BE DEFINED AS
20 DIAGNOSTIC AND TREATMENT CENTER LICENSED OR GRANTED AN OPERATING CERTIF-
21 ICATE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, A MENTAL HEALTH CLINIC
22 LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-ONE OF
23 THE MENTAL HEALTH LAW; OR AN ALCOHOL AND SUBSTANCE ABUSE TREATMENT CLIN-
24 IC LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-TWO
25 OF THE MENTAL HYGIENE LAW, EACH ORGANIZED UNDER THE LAWS OF THIS STATE.

26 D. "REVOLVING CAPITAL FUND" SHALL MEAN COMMUNITY HEALTH CARE REVOLVING
27 CAPITAL FUND AUTHORIZED TO BE ESTABLISHED BY THE DORMITORY AUTHORITY AND
28 ADMINISTERED PURSUANT TO THIS SECTION.

29 2. REVOLVING CAPITAL FUND. THE DORMITORY AUTHORITY SHALL, WITHIN
30 AMOUNTS APPROPRIATED, ESTABLISH THE COMMUNITY HEALTH CARE REVOLVING
31 CAPITAL FUND. MONIES IN THE REVOLVING CAPITAL FUND SHALL BE UTILIZED
32 FOR THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS TO
33 IMPROVE ACCESS TO AFFORDABLE CAPITAL FINANCING TO EXPAND AND IMPROVE
34 CAPACITY TO PROVIDE HEALTH CARE IN THE STATE. FUNDS SHALL BE TRANSFERRED
35 BY THE COMMISSIONER TO THE DORMITORY AUTHORITY FOR DEPOSIT IN THE
36 REVOLVING CAPITAL FUND IN AN AMOUNT AS AUTHORIZED BY APPROPRIATION.
37 MONIES IN THE FUND SHALL BE: (A) HELD BY THE AUTHORITY PURSUANT TO THIS
38 SECTION AS CUSTODIAN PURSUANT TO AN AGREEMENT WITH THE COMMISSIONER
39 UNTIL TRANSFERRED TO THE ADMINISTRATOR PURSUANT TO THIS SECTION, AND (B)
40 INVESTED BY THE AUTHORITY IN ACCORDANCE WITH THE INVESTMENT GUIDELINES
41 OF THE AUTHORITY DURING SAID CUSTODIAL PERIOD. ALL INVESTMENT INCOME
42 SHALL BE CREDITED TO, AND SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL
43 FUND.

44 3. ADMINISTRATION AGREEMENT. THE COMMISSIONER AND THE AUTHORITY SHALL
45 ENTER INTO AN AGREEMENT, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE
46 BUDGET, FOR THE PURPOSE OF ADMINISTERING THE FUNDS IN THE REVOLVING
47 CAPITAL FUND THROUGH AN ADMINISTRATOR. A COPY OF SUCH AGREEMENT, AND ANY
48 AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE
49 COMMITTEE, THE DIRECTOR OF THE DIVISION OF BUDGET, AND THE CHAIR OF THE
50 ASSEMBLY WAYS AND MEANS COMMITTEE. THE AGREEMENT SHALL SPECIFY THAT THE
51 ADMINISTRATOR SHALL ADMINISTER THE COMMUNITY HEALTH CARE REVOLVING CAPI-
52 TAL FUND IN A MANNER THAT WILL BENEFIT THE PUBLIC HEALTH BY ENCOURAGING
53 IMPROVEMENTS IN THE COMMUNITY HEALTH CARE DELIVERY SYSTEM IN THE STATE,
54 IN COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER
55 REQUIREMENTS.

1 4. AGREEMENT WITH THE ADMINISTRATOR. THE DORMITORY AUTHORITY SHALL, IN
2 CONSULTATION WITH THE COMMISSIONER, ENTER INTO AN AGREEMENT WITH THE
3 ADMINISTRATOR. SUCH AGREEMENT SHALL PROVIDE FOR THE ADMINISTRATION OF
4 THE REVOLVING CAPITAL FUND ADMINISTRATOR, IN ACCORDANCE WITH THE
5 REQUIREMENTS OF THIS SECTION, THE COMMISSIONER AND DORMITORY AUTHORITY
6 AND ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER REQUIREMENTS. UPON
7 THE EFFECTIVE DATE OF THE AGREEMENT, CUSTODY OF, AND RESPONSIBILITY FOR,
8 THE REVOLVING CAPITAL FUND SHALL BE TRANSFERRED FROM THE DORMITORY
9 AUTHORITY TO THE ADMINISTRATOR, SUBJECT TO THE REQUIREMENTS OF THE
10 AGREEMENT. SUCH AGREEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
11 FOLLOWING PROVISIONS:

12 A. THAT THE ADMINISTRATOR SHALL BE RESPONSIBLE FOR THE RECEIPT,
13 MANAGEMENT AND EXPENDITURE OF MONIES HELD IN THE REVOLVING CAPITAL FUND;

14 B. THAT THE ADMINISTRATOR SHALL MAINTAIN BOOKS AND RECORDS PERTAINING
15 TO ALL MONIES RECEIVED AND DISBURSED PURSUANT TO THIS SECTION AND THE
16 AGREEMENT;

17 C. THAT MONIES IN SUCH REVOLVING CAPITAL FUND SHALL BE UTILIZED FOR
18 THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS, TO
19 PROVIDE PARTICIPATING BORROWERS WITH IMPROVED ACCESS TO AFFORDABLE CAPI-
20 TAL TO EXPAND AND IMPROVE PREVENTIVE OR PRIMARY CARE CAPACITY;

21 D. THAT PARTICIPATING BORROWERS SHALL BE CHOSEN BY THE ADMINISTRATOR
22 THROUGH AN APPLICATION PROCESS APPROVED BY THE AUTHORITY AND THE COMMIS-
23 SIONER;

24 E. THAT ELIGIBLE USES OF FUNDS SO LOANED TO PARTICIPATING BORROWERS
25 SHALL INCLUDE BUT NOT BE LIMITED TO: (I) ELIGIBLE COSTS AS DESCRIBED IN
26 PARAGRAPH (F) OF THIS SUBDIVISION, ATTRIBUTABLE TO THE PROPOSED
27 CONSTRUCTION, RECONSTRUCTION, RENOVATION, REHABILITATION, REFURBISHING,
28 EXPANSION, UPGRADING AND EQUIPPING OF A PARTICIPATING BORROWER'S COMMU-
29 NITY-BASED HEALTH CARE FACILITY; (II) RESERVES FOR CREDIT ENHANCEMENT
30 INCLUDING LOAN GUARANTEES; (III) LOAN LOSS AND DEBT SERVICE RESERVES AND
31 SUBORDINATED LOANS; AND (IV) FACILITY FINANCING, INCLUDING LOANS FOR
32 PREDEVELOPMENT, ACQUISITION AND CONSTRUCTION, PERMANENT FINANCING AND
33 BRIDGE LOANS;

34 F. THAT ELIGIBLE COSTS UNDER THIS SECTION SHALL INCLUDE, BUT NOT BE
35 LIMITED TO, ALL HARD CONSTRUCTION COSTS AND ASSOCIATED PROFESSIONAL AND
36 OTHER COSTS, FURNITURE, FIXTURES AND EQUIPMENT, INCLUDING HEALTH INFOR-
37 MATION TECHNOLOGY, ACQUISITION, PREDEVELOPMENT DUE DILIGENCE, INITIAL
38 OPERATING EXPENSES AND WORKING CAPITAL;

39 G. THAT THE ADMINISTRATOR ADMINISTERING THE REVOLVING CAPITAL FUND
40 SHALL REPORT QUARTERLY ON THE TRANSACTIONS IN THE REVOLVING CAPITAL FUND
41 IN A FORM AND MANNER SPECIFIED BY THE AUTHORITY IN CONSULTATION WITH THE
42 COMMISSIONER, INCLUDING BUT NOT LIMITED TO: RECEIPTS OR DEPOSITS TO THE
43 FUND, DISBURSEMENTS, LOANS OR CREDIT ENHANCEMENT MADE FROM THE FUND,
44 INVESTMENT INCOME, AND THE BALANCE ON HAND AS OF THE END OF THE MONTH
45 FOR EACH SUCH QUARTER;

46 H. THAT THE ADMINISTRATOR SHALL BE REQUIRED TO INVEST MONIES ON DEPOS-
47 IT IN THE FUND IN ACCORDANCE WITH INVESTMENT GUIDELINES MEETING THE
48 REQUIREMENTS OF THE DEPARTMENT AND DORMITORY AUTHORITY, AND ALL INVEST-
49 MENT INCOME SHALL BE CREDITED TO, AND ANY REPAYMENT OF LOANS AS HEREIN-
50 AFTER PROVIDED SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL FUND, AND
51 SPENT THEREFROM ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION;

52 I. THAT ONLY THE REASONABLE EXPENSES OF THE ADMINISTRATOR, AS DETER-
53 MINED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY, INCURRED IN
54 THE ESTABLISHMENT AND ADMINISTRATION OF THE REVOLVING CAPITAL LOAN
55 PROGRAM (INCLUDING THE RETENTION OF PROFESSIONALS AND CONSULTANTS, IF
56 ANY) MAY BE PAID OR REIMBURSED FROM THE REVOLVING CAPITAL FUND;

1 J. THAT REVOLVING CAPITAL FUND MONIES SHALL BE HELD IN TRUST AND USED
2 FOR THE BENEFIT OF ELIGIBLE COMMUNITY-BASED HEALTH CARE FACILITY CAPITAL
3 PROJECTS; AND

4 K. ANY OTHER TERM OR CONDITION AS DETERMINED BY THE AUTHORITY, IN
5 CONSULTATION WITH THE COMMISSIONER.

6 5. LOAN DOCUMENTATION. LOANS FROM THE REVOLVING CAPITAL FUND SHALL BE
7 MADE PURSUANT TO A WRITTEN LOAN AGREEMENT BETWEEN THE ADMINISTRATOR AND
8 THE PARTICIPATING BORROWER, SPECIFYING THE TERMS THEREOF INCLUDING
9 REPAYMENT TERMS. THE LOAN AGREEMENT SHALL BE IN SUCH FORM AND CONTENT AS
10 SHALL BE ACCEPTABLE TO THE COMMISSIONER AND DORMITORY AUTHORITY, AND MAY
11 INCLUDE SUCH OTHER ANY FURTHER WRITTEN DOCUMENTATION AND/OR AGREEMENTS
12 AS SHALL BE REQUIRED IN THE JUDGMENT OF THE COMMISSIONER AND DORMITORY
13 AUTHORITY, INCLUDING BUT NOT LIMITED TO ALL REQUIRED FILINGS UNDER THE
14 UNIFORM COMMERCIAL CODE.

15 S 6. Section 2826 of the public health law is amended by adding a new
16 subdivision (g) to read as follows:

17 (G) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, AND WITHIN
18 AMOUNTS APPROPRIATED FOR SUCH PURPOSES AS DESCRIBED HEREIN, FOR THE
19 PERIOD OF APRIL FIRST, TWO THOUSAND FIFTEEN THROUGH MARCH THIRTY-FIRST,
20 TWO THOUSAND SIXTEEN, THE COMMISSIONER MAY AWARD A TEMPORARY ADJUSTMENT
21 TO THE NON-CAPITAL COMPONENTS OF RATES, OR MAKE TEMPORARY LUMP-SUM MEDI-
22 CAID PAYMENTS TO ELIGIBLE GENERAL HOSPITALS IN SEVERE FINANCIAL DISTRESS
23 TO ENABLE SUCH FACILITIES TO MAINTAIN OPERATIONS AND VITAL SERVICES
24 WHILE SUCH FACILITIES ESTABLISH LONG TERM SOLUTIONS TO ACHIEVE SUSTAINA-
25 BLE HEALTH SERVICES.

26 (I) ELIGIBLE GENERAL HOSPITALS SHALL INCLUDE:

27 (A) A PUBLIC HOSPITAL, WHICH FOR PURPOSES OF THIS SUBDIVISION, SHALL
28 MEAN A GENERAL HOSPITAL OPERATED BY A COUNTY OR MUNICIPALITY, BUT SHALL
29 EXCLUDE ANY SUCH HOSPITAL OPERATED BY A PUBLIC BENEFIT CORPORATION;

30 (B) A FEDERALLY DESIGNATED CRITICAL ACCESS HOSPITAL;

31 (C) A FEDERALLY DESIGNATED SOLE COMMUNITY HOSPITAL; OR

32 (D) A GENERAL HOSPITAL THAT IS A SAFETY NET HOSPITAL, WHICH FOR
33 PURPOSES OF THIS SUBDIVISION SHALL MEAN:

34 (1) SUCH HOSPITAL HAS AT LEAST THIRTY PERCENT OF ITS INPATIENT
35 DISCHARGES MADE UP OF MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVID-
36 UALS OR MEDICAID DUALY ELIGIBLE INDIVIDUALS AND WITH AT LEAST
37 THIRTY-FIVE PERCENT OF ITS OUTPATIENT VISITS MADE UP OF MEDICAID ELIGI-
38 BLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALY-ELIGIBLE INDI-
39 VIDUALS; OR

40 (2) SUCH HOSPITAL SERVES AT LEAST THIRTY PERCENT OF THE RESIDENTS OF A
41 COUNTY OR A MULTI-COUNTY AREA WHO ARE MEDICAID ELIGIBLE INDIVIDUALS,
42 UNINSURED INDIVIDUALS OR MEDICAID DUALY-ELIGIBLE INDIVIDUALS.

43 (II) ELIGIBLE APPLICANTS MUST DEMONSTRATE THAT WITHOUT SUCH AWARD,
44 THEY WILL BE IN SEVERE FINANCIAL DISTRESS THROUGH MARCH THIRTY-FIRST,
45 TWO THOUSAND SIXTEEN, AS EVIDENCED BY:

46 (A) CERTIFICATION THAT SUCH APPLICANT HAS LESS THAN FIFTEEN DAYS CASH
47 AND EQUIVALENTS;

48 (B) SUCH APPLICANT HAS NO ASSETS THAT CAN BE MONETIZED OTHER THAN
49 THOSE VITAL TO OPERATIONS; AND

50 (C) SUCH APPLICANT HAS EXHAUSTED ALL EFFORTS TO OBTAIN RESOURCES FROM
51 CORPORATE PARENTS AND AFFILIATED ENTITIES TO SUSTAIN OPERATIONS.

52 (III) AWARDS UNDER THIS SUBDIVISION SHALL BE MADE UPON APPLICATION TO
53 THE DEPARTMENT.

54 (A) APPLICATIONS UNDER THIS SUBDIVISION SHALL INCLUDE A MULTI-YEAR
55 TRANSFORMATION PLAN THAT IS ALIGNED WITH THE DELIVERY SYSTEM REFORM
56 INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES. SUCH PLAN

1 SHALL BE APPROVED BY THE DEPARTMENT AND SHALL DEMONSTRATE A PATH TOWARDS
2 LONG TERM SUSTAINABILITY AND IMPROVED PATIENT CARE.

3 (B) THE DEPARTMENT MAY AUTHORIZE INITIAL AWARD PAYMENTS TO ELIGIBLE
4 APPLICANTS BASED SOLELY ON THE CRITERIA PURSUANT TO PARAGRAPHS (I) AND
5 (II) OF THIS SUBDIVISION.

6 (C) NOTWITHSTANDING SUBPARAGRAPH (B) OF THIS PARAGRAPH, THE DEPARTMENT
7 MAY SUSPEND OR REPEAL AN AWARD IF AN ELIGIBLE APPLICANT FAILS TO SUBMIT
8 A MULTI-YEAR TRANSFORMATION PLAN PURSUANT TO SUBPARAGRAPH (A) OF THIS
9 PARAGRAPH THAT IS ACCEPTABLE TO THE DEPARTMENT BY NO LATER THAN THE
10 THIRTIETH DAY OF SEPTEMBER TWO THOUSAND FIFTEEN.

11 (D) APPLICANTS UNDER THIS SUBDIVISION SHALL DETAIL THE EXTENT TO WHICH
12 THE AFFECTED COMMUNITY HAS BEEN ENGAGED AND CONSULTED ON POTENTIAL
13 PROJECTS OF SUCH APPLICATION, AS WELL AS ANY OUTREACH TO STAKEHOLDERS
14 AND HEALTH PLANS.

15 (E) THE DEPARTMENT SHALL REVIEW ALL APPLICATIONS UNDER THIS SUBDIVI-
16 SION, AND A DETERMINE:

17 (1) APPLICANT ELIGIBILITY;

18 (2) EACH APPLICANT'S PROJECTED FINANCIAL STATUS;

19 (3) EACH APPLICANT'S PROPOSED USE OF FUNDS TO MAINTAIN CRITICAL
20 SERVICES NEEDED BY ITS COMMUNITY; AND

21 (4) THE ANTICIPATED IMPACT OF THE LOSS OF SUCH SERVICES.

22 (F) AFTER REVIEW OF ALL APPLICATIONS UNDER THIS SUBDIVISION, AND A
23 DETERMINATION OF THE AGGREGATE AMOUNT OF REQUESTED FUNDS, THE DEPARTMENT
24 SHALL MAKE AWARDS TO ELIGIBLE APPLICANTS; PROVIDED, HOWEVER, THAT SUCH
25 AWARDS MAY BE IN AN AMOUNT LOWER THAN SUCH REQUESTED FUNDING, ON A PER
26 APPLICANT OR AGGREGATE BASIS.

27 (IV) AWARDS UNDER THIS SUBDIVISION MAY NOT BE USED FOR:

28 (A) CAPITAL EXPENDITURES, INCLUDING, BUT NOT LIMITED TO: CONSTRUCTION,
29 RENOVATION AND ACQUISITION OF CAPITAL EQUIPMENT, INCLUDING MAJOR MEDICAL
30 EQUIPMENT;

31 (B) CONSULTANT FEES;

32 (C) RETIREMENT OF LONG TERM DEBT; OR

33 (D) BANKRUPTCY-RELATED COSTS.

34 (V) PAYMENTS MADE TO AWARDEES PURSUANT TO THIS SUBDIVISION SHALL BE
35 MADE ON A MONTHLY BASIS. SUCH PAYMENTS WILL BE BASED ON THE APPLICANT'S
36 ACTUAL MONTHLY FINANCIAL PERFORMANCE DURING SUCH PERIOD AND THE REASON-
37 ABLE CASH AMOUNT NECESSARY TO SUSTAIN OPERATIONS FOR THE FOLLOWING
38 MONTH. THE APPLICANT'S MONTHLY FINANCIAL PERFORMANCE SHALL BE MEASURED
39 BY SUCH APPLICANT'S MONTHLY FINANCIAL AND ACTIVITY REPORTS, WHICH SHALL
40 INCLUDE, BUT NOT BE LIMITED TO, ACTUAL REVENUE AND EXPENSES FOR THE
41 PRIOR MONTH, PROJECTED CASH NEED FOR THE CURRENT MONTH, AND PROJECTED
42 CASH NEED FOR THE FOLLOWING MONTH.

43 (VI) THE DEPARTMENT SHALL PROVIDE A REPORT ON A QUARTERLY BASIS TO THE
44 CHAIRS OF THE SENATE FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH AND
45 ASSEMBLY HEALTH COMMITTEES. SUCH REPORTS SHALL BE SUBMITTED NO LATER
46 THAN SIXTY DAYS AFTER THE CLOSE OF THE QUARTER, AND SHALL INCLUDE FOR
47 EACH AWARD, THE NAME OF THE APPLICANT, THE AMOUNT OF THE AWARD, PAYMENTS
48 TO DATE, AND A DESCRIPTION OF THE STATUS OF THE MULTI-YEAR TRANSFORMA-
49 TION PLAN PURSUANT TO PARAGRAPH (III) OF THIS SUBDIVISION.

50 S 7. This act shall take effect immediately.

51 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
52 sion, section or part of this act shall be adjudged by any court of
53 competent jurisdiction to be invalid, such judgment shall not affect,
54 impair, or invalidate the remainder thereof, but shall be confined in
55 its operation to the clause, sentence, paragraph, subdivision, section
56 or part thereof directly involved in the controversy in which such judg-

1 ment shall have been rendered. It is hereby declared to be the intent of
2 the legislature that this act would have been enacted even if such
3 invalid provisions had not been included herein.
4 S 3. This act shall take effect immediately provided, however, that
5 the applicable effective date of Parts A through J of this act shall be
6 as specifically set forth in the last section of such Parts.