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:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2015-2016 state fiscal year. Each component is wholly contained within a Part identified as Parts A through J. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 20 of 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, is amended to read as follows:

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

S 2. This act shall take effect immediately.

PART B

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

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

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

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

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

S 3. This act shall take effect immediately.

PART C

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

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

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

S 2. This act shall take effect immediately.

PART D

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

SUBCHAPTER 3-A
CORPORATE TAX OF 2015

SECTION 11-651 APPLICABILITY.
11-652 DEFINITIONS.
11-653 IMPOSITION OF TAX; EXEMPTIONS.
11-654 COMPUTATION OF TAX.
11-654.1 NET OPERATING LOSS.
11-654.2 RECEIPTS ALLOCATION.
11-654.3 COMBINED REPORTS.
11-655 REPORTS.
11-656 PAYMENT AND LIEN OF TAX.
11-657 DECLARATION OF ESTIMATED TAX.
11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX.
11-659 COLLECTION OF TAXES.
11-660 LIMITATIONS OF TIME.

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

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

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

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

(B) (1) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, AN UNINCORPORATED ORGANIZATION THAT (I) IS DESCRIBED IN SUBPARAGRAPH ONE OR THREE OF PARAGRAPH (A) OF THIS SUBDIVISION, (II) WAS SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEAR BEGINNING IN NINETEEN HUNDRED NINETY-FIVE, AND (III) MADE A ONE-TIME ELECTION NOT TO BE TREATED AS A CORPORATION AND, INSTEAD, TO CONTINUE TO BE SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX AND THEREAFTER, SHALL CONTINUE TO BE SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX.

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

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

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

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

3. INTENTIONALLY OMITTED.

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

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

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

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

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

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

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

(C) "EXEMPT UNITARY CORPORATE DIVIDENDS" MEANS THOSE DIVIDENDS FROM A CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND INCOME RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) IF SUBJECT TO TAX AND CORPORATIONS THAT WOULD HAVE BEEN TAXABLE AS INSURANCE CORPORATIONS UNDER FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR, IN LIEU OF SUBTRACTING FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY MAKE A REVOCABLE ELECTION TO REDUCE THE TOTAL AMOUNT OF THIS DIVIDEND INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION, THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A TAXPAYER THAT DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED ANY EXEMPT UNITARY CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING THIS ELECTION FOR DIVIDENDS RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE IF SUBJECT TO TAX (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) SHALL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

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

6. (A) THE TERM "BUSINESS CAPITAL" MEANS ALL ASSETS, OTHER THAN INVESTMENT CAPITAL AND STOCK ISSUED BY THE TAXPAYER, LESS LIABILITIES NOT DEDUCTED FROM INVESTMENT CAPITAL; PROVIDED, HOWEVER, BUSINESS CAPITAL SHALL INCLUDE ONLY THOSE ASSETS THE INCOME, LOSS OR EXPENSE OF WHICH ARE PROPERLY REFLECTED (OR WOULD HAVE BEEN PROPERLY REFLECTED IF NOT FULLY DEPRECIATED OR EXPENSED OR DEPRECIATED OR EXPENSED TO A NOMINAL AMOUNT) IN THE COMPUTATION OF ENTIRE NET INCOME FOR THE TAXABLE YEAR.

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

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

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,

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, ANY AMOUNT WHICH IS INCLUDED IN THE TAXPAYER'S FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(9) 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, 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, ANY AMOUNT WHICH THE TAXPAYER COULD HAVE EXCLUDED FROM FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PROVIDED FOR IN SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(10) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (J) OF THIS SUBDIVISION;

(11) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF PARAGRAPH (B) OF THIS SUBDIVISION ATTRIBUTABLE TO SUCH PROPERTY EXCEEDS THE AGGREGATE OF THE AMOUNTS DESCRIBED IN PARAGRAPH (J) OF THIS SUBDIVISION ATTRIBUTABLE TO SUCH PROPERTY;

(12) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (K) OF THIS SUBDIVISION;

(13) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (O) OF THIS SUBDIVISION;

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

(15) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (T) OF THIS SUBDIVISION.

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

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

(1) 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, (I) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK, SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFECTIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED STATES PURSUANT TO SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME WOULD BE TREATED AS EFFECTIVELY CONNECTED IN THE ABSENCE OF SUCH EXEMPTION PROVIDED THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE

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

(2) ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST OF ANY KIND OF STOCK, SECURITIES, OR INDEBTEDNESS;

(3) TAXES ON OR MEASURED BY PROFITS OR INCOME PAID OR ACCRUED TO THE UNITED STATES, ANY OF ITS POSSESSIONS, TERRITORIES OR COMMONWEALTHS, INCLUDING TAXES IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERALLY IMPOSED BY ANY POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED STATES, OR TAXES PAID OR ACCRUED TO THE STATE UNDER ARTICLE NINE, NINE-A, THIRTEEN-A OR THIRTY-TWO OF THE TAX LAW AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;

(3-A) TAXES ON OR MEASURED BY PROFITS OR INCOME, OR WHICH INCLUDE PROFITS OR INCOME AS A MEASURE, PAID OR ACCRUED TO ANY OTHER STATE OF THE UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR TO THE DISTRICT OF COLUMBIA, INCLUDING TAXES EXPRESSLY IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERALLY IMPOSED BY ANY OTHER STATE OF THE UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF COLUMBIA;

(4) TAXES IMPOSED UNDER THIS CHAPTER;

(4-A) INTENTIONALLY OMITTED;

(4-B) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE TAX LAW IN DETERMINING THE ENTIRE TAXABLE INCOME FOR A RELOCATION DESCRIBED IN SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

(4-C) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE TAX LAW FOR A RELOCATION DESCRIBED IN SUBDIVISION FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER IN DETERMINING THE ENTIRE TAXABLE INCOME WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

(4-D) INTENTIONALLY OMITTED;

(4-E) INTENTIONALLY OMITTED;

(5) INTENTIONALLY OMITTED;

(6) ANY AMOUNT ALLOWED AS A DEDUCTION FOR THE TAXABLE YEAR UNDER SECTION ONE HUNDRED SEVENTY-TWO OF THE INTERNAL REVENUE CODE, INCLUDING CARRYOVERS OF DEDUCTIONS FROM PRIOR TAXABLE YEARS;

(7) ANY AMOUNT BY REASON OF THE GRANTING, ISSUING OR ASSUMING OF A RESTRICTED STOCK OPTION, AS DEFINED IN THE INTERNAL REVENUE CODE OF NINETEEN HUNDRED FIFTY-FOUR, OR BY REASON OF THE TRANSFER OF THE SHARE OF STOCK UPON THE EXERCISE OF THE OPTION, UNLESS SUCH SHARE IS DISPOSED OF BY THE GRANTEE OF THE OPTION WITHIN TWO YEARS FROM THE DATE OF THE GRANTING OF THE OPTION OR WITHIN SIX MONTHS AFTER THE TRANSFER OF SUCH SHARE TO THE GRANTEE;

(8) INTENTIONALLY OMITTED;

(9) 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, 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, ANY AMOUNT WHICH THE TAXPAYER CLAIMED AS A DEDUCTION IN COMPUTING ITS FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(10) 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, 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, ANY AMOUNT WHICH THE TAXPAYER WOULD HAVE BEEN REQUIRED TO INCLUDE IN THE COMPUTATION OF ITS FEDERAL TAXABLE INCOME HAD IT NOT MADE THE ELECTION PERMITTED PURSUANT TO SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

(11) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE, PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR AND PROPERTY OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF 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, THE AMOUNT ALLOWABLE AS A DEDUCTION DETERMINED UNDER SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE;

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

(13) INTENTIONALLY OMITTED;

(14) INTENTIONALLY OMITTED;

(15) INTENTIONALLY OMITTED;

(16) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF 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 AMOUNT ALLOWABLE AS A DEDUCTION UNDER SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE;

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

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

(19) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR TAXES IMPOSED UNDER ARTICLE TWENTY-THREE OF THE TAX LAW.

(C) INTENTIONALLY OMITTED.

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

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

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

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

(F) INTENTIONALLY OMITTED.

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

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

(II) THE TERM "AIR POLLUTION CONTROL FACILITIES" SHALL MEAN FACILITIES WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS EMITTED FROM AN AIR CONTAMINATION SOURCE (AS THE TERMS "AIR CONTAMINANT" AND "AIR CONTAMINATION SOURCE" ARE DEFINED IN SECTION 19-0107 OF THE ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT OF SUCH REMOVAL, REDUCTION OR RENDERING TO THE POINT OF DISCHARGE OF AIR, MEETING EMISSION STANDARDS AS ESTABLISHED BY THE AIR POLLUTION CONTROL BOARD, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH RELY FOR THEIR EFFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR CONTAMINANTS IN THE AMBIENT AIR AFTER EMISSION.

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

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

(III) ON CONDITION THAT ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE YEARS BE COMPUTED WITHOUT ANY DEDUCTIONS FOR SUCH EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY OTHER THAN THE DEDUCTIONS ALLOWED BY THIS PARAGRAPH EXCEPT TO THE EXTENT THAT THE BASIS OF THE PROPERTY MAY BE ATTRIBUTABLE TO FACTORS OTHER THAN SUCH EXPENDITURES, OR IN CASE A DEDUCTION IS ALLOWABLE PURSUANT TO THIS PARAGRAPH FOR ONLY A PART OF SUCH EXPENDITURES, ON CONDITION THAT ANY DEDUCTION ALLOWED FOR FEDERAL INCOME TAX PURPOSES FOR SUCH EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY BE PROPORTIONATELY REDUCED IN COMPUTING ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE YEARS, AND

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

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

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

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

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

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

(J) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGINNING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED EIGHTY F OF THE INTERNAL REVENUE CODE AND PROPERTY SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR, AND PROVIDED A DEDUCTION HAS NOT BEEN EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH NINE OF PARAGRAPH (B) OF THIS SUBDIVISION, A TAXPAYER SHALL BE ALLOWED WITH RESPECT TO PROPERTY WHICH IS SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE THE DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE AS SUCH SECTION WOULD HAVE APPLIED TO PROPERTY PLACED IN SERVICE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY. THIS PARAGRAPH SHALL NOT APPLY TO PROPERTY OF A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF 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.

(K) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF 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.

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

(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

BRIDGE PLAZA, TO THE MANHATTAN BRIDGE, AND THENCE ALONG THE CENTERLINE OF THE MANHATTAN BRIDGE TO THE POINT WHERE THE CENTERLINE OF THE MANHATTAN BRIDGE WOULD INTERSECT WITH THE EASTERLY BANK OF THE EAST RIVER, AND BOUNDED ON THE NORTH BY A LINE RUNNING FROM THE INTERSECTION OF THE HUDSON RIVER WITH THE HOLLAND TUNNEL AND RUNNING THENCE NORTH ALONG WEST AVENUE TO THE INTERSECTION OF CLARKSON STREET THEN RUNNING EAST ALONG THE CENTERLINE OF CLARKSON STREET TO THE INTERSECTION OF WASHINGTON AVENUE, THEN RUNNING SOUTH ALONG THE CENTERLINE OF WASHINGTON AVENUE TO THE INTERSECTION OF WEST HOUSTON STREET, THEN EAST ALONG THE CENTERLINE OF WEST HOUSTON STREET, THEN AT THE INTERSECTION OF THE AVENUE OF THE AMERICAS CONTINUING EAST ALONG THE CENTERLINE OF EAST HOUSTON STREET TO THE EASTERLY BANK OF THE EAST RIVER.

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

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

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

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

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

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

(II) EXCEPTIONS. (A) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBINATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANSACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

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

(C) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER ESTABLISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM SPECIFIED BY THE COMMISSIONER OF FINANCE, THAT: (I) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED TO A RELATED MEMBER ORGANIZED UNDER THE LAWS OF A COUNTRY OTHER THAN THE UNITED STATES; (II) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS SUBJECT TO A COMPREHENSIVE INCOME TAX TREATY BETWEEN SUCH COUNTRY AND THE UNITED STATES; (III) THE RELATED MEMBER WAS SUBJECT TO TAX IN A FOREIGN NATION ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID, ACCRUED OR INCURRED BY THE TAXPAYER; (IV) THE RELATED MEMBER'S INCOME FROM THE TRANSACTION WAS TAXED IN SUCH COUNTRY AT AN EFFECTIVE RATE OF TAX AT LEAST EQUAL TO THAT IMPOSED BY THIS CITY; AND (V) THE ROYALTY PAYMENT WAS PAID, ACCRUED OR INCURRED PURSUANT TO A TRANSACTION THAT WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE AND USING TERMS THAT REFLECT AN ARM'S LENGTH RELATIONSHIP.

(D) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMISSIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND, MACHINERY, AND EQUIPMENT, SHALL BE VALUED AT COST. 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) OF THIS CLAUSE AND SUBCLAUSE (B) OF THIS CLAUSE.

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

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

(C) 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.

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

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

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

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

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

(III) TANGIBLE REAL AND PERSONAL PROPERTY, SUCH AS BUILDINGS, LAND, MACHINERY, AND EQUIPMENT SHALL BE VALUED AT COST. 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) INTERCORPORATE STOCKHOLDINGS AND BILLS, NOTES AND ACCOUNTS RECEIVABLE, AND OTHER INTERCORPORATE INDEBTEDNESS BETWEEN THE CORPORATIONS INCLUDED IN THE COMBINED REPORT SHALL BE ELIMINATED.

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

(2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (I) A TAXPAYER MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS DESCRIBED IN SUBCLAUSES (A) THROUGH (L) OF THIS CLAUSE, WITH THE APPLICATION OF THE RULE IN THE LAST UNDESIGNATED SUBCLAUSE OF THIS CLAUSE. IF THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNITY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP. ASSETS: (A) CASH, WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH ITEMS IN THE PROCESS OF COLLECTION, DEPOSITS WITH OTHER FINANCIAL INSTITUTIONS, INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL RESERVE BANKS AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH AND CASH EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERVING AS COLLATERAL FOR SECURITIES LENDING TRANSACTIONS; (B) OBLIGATIONS OF THE UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERNMENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF; (C) LOANS SECURED BY A DEPOSIT OR SHARE OF A MEMBER; (D) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR, FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS SUBCLAUSE, RESIDENTIAL REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS, FACILITIES IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROP-

ERTY USED ON A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED ON A TRANSIENT BASIS; (E) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF DEFAULTED LOANS DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (F) ANY REGULAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS DEFINED IN SECTION 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE PROPORTION WHICH THE ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED IN ANY OF THE PRECEDING SUBCLAUSES OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE PERCENT OR MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN SUBCLAUSES (A) THROUGH (E) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC SHALL QUALIFY; (G) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN, WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR WHICH CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (H) CERTIFICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION ORGANIZED UNDER A STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPORATION TO INSURE THE DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS; (I) LOANS SECURED BY AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE INSTITUTIONS OR FACILITIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMARILY FOR RESIDENTIAL PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDERCARE, EMPLOYEES, OR MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILITIES; (J) LOANS MADE FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY EDUCATION OR VOCATIONAL TRAINING; (K) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSINESS WHICH CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC AND INVESTING IN LOANS; AND (L) LOANS FOR WHICH THE TAXPAYER IS THE CREDITOR AND WHICH ARE WHOLLY SECURED BY LOANS DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) INTENTIONALLY OMITTED.

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

(D) INTENTIONALLY OMITTED.

(E) INTENTIONALLY OMITTED.

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

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

(A) THE MAINTENANCE OF CASH BALANCES WITH BANKS OR TRUST COMPANIES IN THE CITY, OR

(B) THE OWNERSHIP OF SHARES OF STOCK OR SECURITIES KEPT IN THE CITY, IF KEPT IN A SAFE DEPOSIT BOX, SAFE, VAULT OR OTHER RECEPTACLE RENTED FOR THE PURPOSE, OR IF PLEDGED AS COLLATERAL SECURITY, OR IF DEPOSITED WITH ONE OR MORE BANKS OR TRUST COMPANIES, OR BROKERS WHO ARE MEMBERS OF A RECOGNIZED SECURITY EXCHANGE, IN SAFEKEEPING OR CUSTODY ACCOUNTS, OR

(C) THE TAKING OF ANY ACTION BY ANY SUCH BANK OR TRUST COMPANY OR BROKER, WHICH IS INCIDENTAL TO THE RENDERING OF SAFEKEEPING OR CUSTODIAN SERVICE TO SUCH CORPORATION, OR

(D) THE MAINTENANCE OF AN OFFICE IN THE CITY BY ONE OR MORE OFFICERS OR DIRECTORS OF THE CORPORATION WHO ARE NOT EMPLOYEES OF THE CORPORATION IF THE CORPORATION OTHERWISE IS NOT DOING BUSINESS IN THE CITY, AND DOES NOT EMPLOY CAPITAL OR OWN OR LEASE PROPERTY IN THE CITY, OR

(E) THE KEEPING OF BOOKS OR RECORDS OF A CORPORATION IN THE CITY IF SUCH BOOKS OR RECORDS ARE NOT KEPT BY EMPLOYEES OF SUCH CORPORATION AND SUCH CORPORATION DOES NOT OTHERWISE DO BUSINESS, EMPLOY CAPITAL, OWN OR LEASE PROPERTY OR MAINTAIN AN OFFICE IN THE CITY, OR

(F) ANY COMBINATION OF THE FOREGOING ACTIVITIES.

2-A. AN ALIEN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, IF ITS ACTIVITIES IN THE CITY ARE LIMITED SOLELY TO:

(A) INVESTING OR TRADING IN STOCKS AND SECURITIES FOR ITS OWN ACCOUNT WITHIN THE MEANING OF CLAUSE (II) OF SUBPARAGRAPH (A) OF PARAGRAPH (2) OF SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, OR:

(B) INVESTING OR TRADING IN COMMODITIES FOR ITS OWN ACCOUNT WITHIN THE MEANING OF CLAUSE (II) OF SUBPARAGRAPH (B) OF PARAGRAPH (2) OF SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL REVENUE CODE, OR

(C) ANY COMBINATION OF ACTIVITIES DESCRIBED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION.

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 AND HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE THREE OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER SHALL NOT BE SUBJECT TO TAX UNDER THIS SUBCHAPTER FOR THAT TAXABLE YEAR. FOR PURPOSES OF THIS SUBCHAPTER, AN ALIEN CORPORATION IS A CORPORATION ORGANIZED UNDER THE LAWS OF A COUNTRY, OR ANY POLITICAL SUBDIVISION THEREOF, OTHER THAN THE UNITED STATES, OR ORGANIZED UNDER THE LAWS OF A POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED STATES.

3. ANY RECEIVER, REFEREE, TRUSTEE, ASSIGNEE OR OTHER FIDUCIARY, OR ANY OFFICER OR AGENT APPOINTED BY ANY COURT, WHO CONDUCTS THE BUSINESS OF ANY CORPORATION, SHALL BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER IN THE SAME MANNER AND TO THE SAME EXTENT AS IF THE BUSINESS WERE CONDUCTED BY THE AGENTS OR OFFICERS OF SUCH CORPORATION. A DISSOLVED CORPORATION WHICH CONTINUES TO CONDUCT BUSINESS SHALL ALSO BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER.

4. (A) CORPORATIONS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE, ANY TRUST COMPANY ORGANIZED UNDER A LAW OF THIS STATE ALL OF THE STOCK OF WHICH IS OWNED BY NOT LESS THAN TWENTY SAVINGS BANKS ORGANIZED UNDER A LAW OF THIS STATE, HOUSING COMPANIES ORGANIZED AND OPERATING PURSUANT TO THE PROVISIONS OF ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW,

HOUSING DEVELOPMENT FUND COMPANIES ORGANIZED PURSUANT TO THE PROVISIONS OF ARTICLE ELEVEN OF THE PRIVATE HOUSING FINANCE LAW, CORPORATIONS DESCRIBED IN SECTION THREE OF THE TAX LAW, A CORPORATION PRINCIPALLY ENGAGED IN THE OPERATION OF MARINE VESSELS WHOSE ACTIVITIES IN THE CITY ARE LIMITED EXCLUSIVELY TO THE USE OF PROPERTY IN INTERSTATE OR FOREIGN COMMERCE, PROVIDED, HOWEVER, SUCH A CORPORATION WILL NOT BE SUBJECT TO TAX UNDER THIS SUBCHAPTER SOLELY BECAUSE IT MAINTAINS AN OFFICE IN THE CITY, OR EMPLOYS CAPITAL IN THE CITY, IN CONNECTION WITH SUCH USE OF PROPERTY, A CORPORATION PRINCIPALLY ENGAGED IN THE CONDUCT OF A FERRY BUSINESS AND OPERATING BETWEEN ANY OF THE BOROUGHS OF THE CITY UNDER A LEASE GRANTED BY THE CITY AND A CORPORATION PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, ALL OF THE CAPITAL STOCK OF WHICH IS OWNED BY A MUNICIPAL CORPORATION OF THIS STATE, SHALL NOT BE SUBJECT TO TAX UNDER THIS SUBCHAPTER; PROVIDED, HOWEVER, THAT ANY CORPORATION, OTHER THAN (1) A UTILITY CORPORATION SUBJECT TO THE SUPERVISION OF THE STATE DEPARTMENT OF PUBLIC SERVICE, AND (2) FOR TAXABLE YEARS BEGINNING ON OR AFTER AUGUST FIRST, TWO THOUSAND TWO, A UTILITY AS DEFINED IN SUBDIVISION SIX OF SECTION 11-1101 OF THIS TITLE, WHICH IS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE AS A VENDOR OF UTILITY SERVICES, SHALL BE SUBJECT TO TAX UNDER THIS SUBCHAPTER, BUT IN COMPUTING THE TAX IMPOSED BY THIS SECTION PURSUANT TO THE PROVISIONS OF CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, BUSINESS INCOME ALLOCATED TO THE CITY PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SUCH SECTION SHALL BE REDUCED BY THE PERCENTAGE WHICH SUCH CORPORATION'S GROSS OPERATING INCOME SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE IS OF ITS GROSS OPERATING INCOME.

(B) THE TERM "GROSS OPERATING INCOME", WHEN USED IN PARAGRAPH (A) OF THIS SUBDIVISION, MEANS RECEIPTS RECEIVED IN OR BY REASON OF ANY TRANSACTION HAD AND CONSUMMATED IN THE CITY, INCLUDING CASH, CREDITS AND PROPERTY OF ANY KIND OR NATURE (WHETHER OR NOT SUCH TRANSACTION IS MADE FOR PROFIT), WITHOUT ANY DEDUCTION THEREFROM ON ACCOUNT OF THE COST OF THE PROPERTY SOLD, THE COST OF MATERIALS USED, LABOR OR OTHER SERVICES, DELIVERY COSTS OR ANY OTHER COSTS WHATSOEVER, INTEREST OR DISCOUNT PAID OR ANY OTHER EXPENSES WHATSOEVER.

(C) IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT THE APPLICATION OF THE PROVISO OF PARAGRAPH (A) OF THIS SUBDIVISION, DOES NOT FAIRLY AND EQUITABLY REFLECT THE PORTION OF THE TAXPAYER'S BUSINESS INCOME ALLOCABLE TO THE CITY WHICH IS ATTRIBUTABLE TO ITS CITY ACTIVITIES WHICH ARE NOT TAXABLE UNDER CHAPTER ELEVEN OF THIS TITLE, THE COMMISSIONER OF FINANCE MAY PRESCRIBE OTHER MEANS OR METHODS OF DETERMINING SUCH PORTION, INCLUDING THE USE OF THE BOOKS AND RECORDS OF THE TAXPAYER, IF THE COMMISSIONER OF FINANCE FINDS THAT SUCH MEANS OR METHODS USED IN KEEPING THEM FAIRLY AND EQUITABLY REFLECT SUCH PORTION.

5. INTENTIONALLY OMITTED.

6. INTENTIONALLY OMITTED.

7. FOR ANY TAXABLE YEAR OF A REAL ESTATE INVESTMENT TRUST, AS DEFINED IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, IN WHICH SUCH TRUST IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUCH TRUST SHALL BE SUBJECT TO A TAX COMPUTED UNDER EITHER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, OR CLAUSE (IV), WHICHEVER IS GREATER. IN THE CASE OF SUCH A REAL ESTATE INVESTMENT TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS CHAPTER, THE TERM "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF

SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUBJECT TO THE 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

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

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

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

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

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

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

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

(III) INTENTIONALLY OMITTED.

(IV) IF NEW YORK CITY RECEIPTS ARE: FIXED DOLLAR MINIMUM TAX IS:

NOT MORE THAN $100,000	$25
MORE THAN $100,000 BUT NOT OVER $250,000	$75
MORE THAN $250,000 BUT NOT OVER $500,000	$175
MORE THAN $500,000 BUT NOT OVER $1,000,000	$500
MORE THAN $1,000,000 BUT NOT OVER $5,000,000	$1,500
MORE THAN $5,000,000 BUT NOT OVER $25,000,000	$3,500
MORE THAN $25,000,000 BUT NOT OVER $50,000,000	$5,000
MORE THAN $50,000,000 BUT NOT OVER $100,000,000	$10,000
MORE THAN $100,000,000 BUT NOT OVER $250,000,000	$20,000
MORE THAN $250,000,000 BUT NOT OVER $500,000,000	$50,000
MORE THAN $500,000,000 BUT NOT OVER $1,000,000,000	$100,000
OVER $1,000,000,000	$200,000

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

(F) INTENTIONALLY OMITTED.

(G) INTENTIONALLY OMITTED.

(H) INTENTIONALLY OMITTED.

(I) INTENTIONALLY OMITTED.

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

(2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS ONE MILLION DOLLARS OR GREATER BUT LESS THAN ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF (I) SIX AND FIVE-TENTHS PER CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED BUSINESS INCOME LESS ONE MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS FIVE HUNDRED THOUSAND DOLLARS, OF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS SECTION;

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

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

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

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

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

(4)(I) AS USED IN THIS SUBPARAGRAPH, THE TERM "MANUFACTURING CORPORATION" MEANS A CORPORATION PRINCIPALLY ENGAGED IN THE MANUFACTURING AND SALE THEREOF OF TANGIBLE PERSONAL PROPERTY; AND THE TERM "MANUFACTURING" INCLUDES THE PROCESS (INCLUDING THE ASSEMBLY PROCESS) (A) OF WORKING RAW MATERIALS INTO WARES SUITABLE FOR USE OR (B) WHICH GIVES NEW SHAPES, NEW QUALITIES OR NEW COMBINATIONS TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL PROCESS, BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR EQUIPMENT. MOREOVER, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP SHALL BE CONSIDERED A "MANUFACTURING CORPORATION" FOR PURPOSES OF THIS SUBPARAGRAPH ONLY IF THE COMBINED GROUP DURING THE TAXABLE YEAR IS PRINCIPALLY ENGAGED IN THE ACTIVITIES SET FORTH IN THIS PARAGRAPH, OR ANY COMBINATION THEREOF. A TAXPAYER OR, IN THE CASE OF A COMBINED REPORT, A COMBINED GROUP, SHALL BE "PRINCIPALLY ENGAGED" IN ACTIVITIES DESCRIBED ABOVE IF, DURING THE TAXABLE YEAR, MORE THAN FIFTY PERCENT OF THE GROSS RECEIPTS OF THE TAXPAYER OR COMBINED GROUP, RESPECTIVELY, ARE DERIVED FROM RECEIPTS FROM THE SALE OF GOODS PRODUCED BY SUCH ACTIVITIES. IN COMPUTING A COMBINED GROUP'S GROSS RECEIPTS, INTERCORPORATE RECEIPTS SHALL BE ELIMINATED.

(II) A "QUALIFIED NEW YORK MANUFACTURING CORPORATION" IS A MANUFACTURING CORPORATION THAT HAS PROPERTY IN THE STATE WHICH IS DESCRIBED IN SUBPARAGRAPH FIVE OF THIS PARAGRAPH AND EITHER (A) THE ADJUSTED BASIS OF SUCH PROPERTY FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE TAXABLE YEAR IS AT LEAST ONE MILLION DOLLARS OR (B) MORE THAN FIFTY PERCENTUM OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN THE STATE.

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

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

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

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

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

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

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

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

EMPLOYEES WITHIN THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS, TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF ALL THE TAXPAYER'S EMPLOYEES WITHIN AND WITHOUT THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

(4) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE RESULT BY THE NUMBER OF PERCENTAGES.

(5) INTENTIONALLY OMITTED.

(6) INTENTIONALLY OMITTED.

(7) INTENTIONALLY OMITTED.

(8) INTENTIONALLY OMITTED.

(9) INTENTIONALLY OMITTED.

(10) NOTWITHSTANDING SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH, THE BUSINESS ALLOCATION PERCENTAGE, TO THE EXTENT THAT IT IS COMPUTED BY REFERENCE TO THE PERCENTAGES DETERMINED UNDER SUBPARAGRAPHS ONE, TWO AND THREE OF THIS PARAGRAPH, SHALL BE COMPUTED IN THE MANNER SET FORTH IN THIS SUBPARAGRAPH.

(I) INTENTIONALLY OMITTED.

(II) INTENTIONALLY OMITTED.

(III) INTENTIONALLY OMITTED.

(IV) INTENTIONALLY OMITTED.

(V) INTENTIONALLY OMITTED.

(VI) INTENTIONALLY OMITTED.

(VII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

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

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

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

(VIII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE FOLLOWING PERCENTAGES:

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

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

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

(IX) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE DETERMINED 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.

(X) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND SEVENTEEN, THE BUSINESS ALLOCATION PERCENTAGE SHALL BE THE PERCENTAGE DETERMINED UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH.

(XI) THE COMMISSIONER OF FINANCE SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBPARAGRAPH UNDER SUCH CIRCUMSTANCES 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

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

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

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

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

5. INTENTIONALLY OMITTED.

6. INTENTIONALLY OMITTED.

7. INTENTIONALLY OMITTED.

8. INTENTIONALLY OMITTED.

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

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

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

(B) THE CREDIT ALLOWED UNDER THIS SECTION 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.

(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 FOURTEEN OF SECTION 11-604 OF THIS CHAPTER FOR AN ELIGIBLE EMPLOYMENT RELOCATION, 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, OR THE UNUSED PORTION THEREOF, WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

15. INTENTIONALLY OMITTED.

16. INTENTIONALLY OMITTED.

17. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-B OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE AMOUNT DETERMINED BY MULTIPLYING FIVE HUNDRED DOLLARS OR, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, ONE THOUSAND DOLLARS OR, IN THE CASE OF AN ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST, TWO THOUSAND, FOR A RELOCATION TO ELIGIBLE PREMISES LOCATED WITHIN A REVITALIZATION AREA DEFINED IN SUBDIVISION (N) OF SECTION 22-621 OF THIS CODE, THREE THOUSAND DOLLARS, BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED; PROVIDED, HOWEVER, WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE NOT WITHIN A REVITALIZATION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SECTION 22-621 OF THIS CODE IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS, AND WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE WITHIN A REVITALIZATION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS, AND IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS ON OR AFTER JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, AND BEFORE JULY FIRST, TWO THOUSAND, ONE THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES; PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF SECTION 22-622 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS TAX IMPOSED BY CHAPTER ELEVEN OF THIS TITLE; AND PROVIDED THAT IN THE

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

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE FIRST TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO SUCH PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE ELIGIBLE BUSINESS MAINTAINED EMPLOYMENT SHARES IN THE ELIGIBLE PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF DAYS IN SUCH TWELFTH SUCCEEDING TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE EXCESS MAY BE CARRIED OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEARS.

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

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

(E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAPTER SIX-B OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBILITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION SEVENTEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS CHAPTER FOR THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE 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 SEVENTEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

17-A. INTENTIONALLY OMITTED.

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

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

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

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

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

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

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

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

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

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

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

(C) 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.

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

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

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

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

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

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

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

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

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

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

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

(B)(1) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN PARAGRAPH (A) OF THIS SUBDIVISION, IN THE CASE OF A CORPORATION THAT, BEFORE THE APPLICATION OF THIS SUBDIVISION OR ANY OTHER CREDIT ALLOWED BY THIS SECTION, IS LIABLE FOR THE TAX ON BUSINESS INCOME UNDER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, THE CREDIT OR THE SUM OF THE CREDITS THAT MAY BE TAKEN BY SUCH CORPORATION FOR A TAXABLE YEAR UNDER THIS SUBDIVISION WITH RESPECT TO AN UNINCORPORATED BUSINESS OR UNINCORPORATED BUSINESSES IN WHICH IT IS A PARTNER SHALL NOT EXCEED THE TAX SO COMPUTED, WITHOUT ALLOWANCE OF ANY CREDITS ALLOWED BY THIS SECTION, MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS FOUR AND THE DENOMINATOR OF WHICH IS EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS PROVIDED, HOWEVER, IN THE CASE OF A TAXPAYER THAT IS SUBJECT TO PARAGRAPH (J) OR (K) OF SUBDIVISION ONE OF THIS SECTION, SUCH DENOMINATOR SHALL BE THE RATE OF TAX AS DETERMINED BY SUCH PARAGRAPH (J) OR (K) FOR THE TAXABLE YEAR. IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION OR THE

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

(2) INTENTIONALLY OMITTED.

(2-A) 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 EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR IN SECTION 11-643.8 OF THIS CHAPTER FOR A TAX PAID UNDER CHAPTER FIVE OF THIS TITLE IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE TAXPAYER MAY CARRY FORWARD THE UNUSED PORTION OF SUCH CREDIT UNDER THIS SUBDIVISION TO ANY TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME EXTENT, INCLUDING THE SAME LIMITATIONS, THAT THE CREDIT, OR THE UNUSED PORTION THEREOF, WOULD HAVE BEEN ALLOWED TO BE CARRIED FORWARD UNDER SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION 11-643.8 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

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

(C) FOR CORPORATIONS THAT FILE A REPORT ON A COMBINED BASIS PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER, THE CREDIT ALLOWED BY THIS SUBDIVISION SHALL BE COMPUTED AS IF THE COMBINED GROUP WERE THE PARTNER IN EACH UNINCORPORATED BUSINESS FROM WHICH ANY OF THE MEMBERS OF SUCH GROUP HAD A DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS, PROVIDED, HOWEVER, IF MORE THAN ONE MEMBER OF THE COMBINED GROUP IS A PARTNER IN THE SAME UNINCORPORATED BUSINESS, FOR PURPOSES OF THE CALCULATION REQUIRED IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, THE NUMERATOR OF THE FRACTION DESCRIBED IN CLAUSE (II) OF SUCH SUBPARAGRAPH ONE SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED BUSINESS OF ALL OF THE PARTNERS OF THE UNINCORPORATED BUSINESS WITHIN THE COMBINED GROUP FOR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH PARTNER) IS GREATER THAN ZERO, AND THE DENOMINATOR OF SUCH FRACTION SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED BUSINESS OF ALL PARTNERS IN THE UNINCORPORATED BUSINESS FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH PARTNER) IS GREATER THAN ZERO.

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

NOT CHANGE THE BASIS ON WHICH THE TAXPAYER'S TAX IS COMPUTED UNDER PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

19. LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE CREDIT. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-C OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE AMOUNT DETERMINED BY MULTIPLYING THREE THOUSAND DOLLARS BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR WITH RESPECT TO ELIGIBLE PREMISES TO WHICH THE TAXPAYER HAS RELOCATED; PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES; PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF SECTION 22-624 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS TAX IMPOSED UNDER CHAPTER ELEVEN OF THIS TITLE. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "ELIGIBLE PREMISES," "RELOCATE," "RETAIL ACTIVITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED BY SECTION 22-623 OF THIS CODE.

(B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE TAXABLE YEAR OF THE RELOCATION AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE TAXPAYER MAINTAINED EMPLOYMENT SHARES IN ELIGIBLE PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF DAYS IN SUCH TWELFTH TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES.

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

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

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

(F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAPTER SIX-C OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBILITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,

TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION NINETEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS CHAPTER FOR THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE 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 NINETEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

20. INTENTIONALLY OMITTED.

21. BIOTECHNOLOGY CREDIT. (A) (1) A TAXPAYER THAT IS A QUALIFIED EMERGING TECHNOLOGY COMPANY, ENGAGES IN BIOTECHNOLOGIES, AND MEETS THE ELIGIBILITY REQUIREMENTS OF THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF CREDIT SHALL BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN SUBPARAGRAPHS THREE, FOUR AND FIVE OF THIS PARAGRAPH, SUBJECT TO THE LIMITATIONS IN SUBPARAGRAPH SEVEN OF THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION. FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED EMERGING TECHNOLOGY COMPANY" SHALL MEAN A COMPANY LOCATED IN THE CITY: (I) WHOSE PRIMARY PRODUCTS OR SERVICES ARE CLASSIFIED AS EMERGING TECHNOLOGIES AND WHOSE TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS; OR (II) A COMPANY THAT HAS RESEARCH AND DEVELOPMENT ACTIVITIES IN THE CITY AND WHOSE RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES EQUALS OR EXCEEDS THE AVERAGE RATIO FOR ALL SURVEYED COMPANIES CLASSIFIED AS DETERMINED BY THE NATIONAL SCIENCE FOUNDATION IN THE MOST RECENT PUBLISHED RESULTS FROM ITS SURVEY OF INDUSTRY RESEARCH AND DEVELOPMENT, OR ANY COMPARABLE SUCCESSOR SURVEY AS DETERMINED BY THE DEPARTMENT OF FINANCE, AND WHOSE TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS. FOR THE PURPOSES OF THIS SUBDIVISION, THE DEFINITION OF RESEARCH AND DEVELOPMENT FUNDS SHALL BE THE SAME AS THAT USED BY THE NATIONAL SCIENCE FOUNDATION IN THE AFOREMENTIONED SURVEY. FOR THE PURPOSES OF THIS SUBDIVISION, "BIOTECHNOLOGIES" SHALL MEAN THE TECHNOLOGIES INVOLVING THE SCIENTIFIC MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS. ACTIVITIES INCLUDED WITH SUCH APPLICATIONS AND SERVICES SHALL INCLUDE, BUT NOT BE LIMITED TO, ALTERNATIVE MRNA SPLICING, DNA SEQUENCE AMPLIFICATION, ANTI-GENETIC SWITCHING BIOAUGMENTATION, BIOENRICHMENT, BIOREMEDIATION, CHROMOSOME WALKING, CYTOGENETIC ENGINEERING, DNA DIAGNOSIS, FINGERPRINTING, AND SEQUENCING, ELECTROPORATION, GENE TRANSLOCATION, GENETIC MAPPING, SITE-DIRECTED MUTAGENESIS, BIO-TRANSDUCTION, BIO-MECHANICAL AND BIO-ELECTRICAL ENGINEERING, AND BIO-INFORMATICS.

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

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

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

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

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

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

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

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

(III) QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL INCLUDE EXPENSES FOR TUITION AND MANDATORY FEES, SOFTWARE REQUIRED BY THE INSTITUTION, FEES FOR TEXTBOOKS OR OTHER LITERATURE REQUIRED BY THE INSTITUTION OFFERING THE COURSE OR COURSES, MINUS APPLICABLE SCHOLARSHIPS AND TUITION OR FEE WAIVERS NOT GRANTED BY THE TAXPAYER OR ANY AFFILIATES OF THE TAXPAYER, THAT ARE PAID OR REIMBURSED BY THE TAXPAYER. QUALIFIED HIGH-TECHNOLOGY EXPENDITURES DO NOT INCLUDE ROOM AND BOARD, COMPUTER HARDWARE OR SOFTWARE NOT SPECIFICALLY ASSIGNED FOR SUCH COURSE OR COURSES, LATE-CHARGES, FINES OR MEMBERSHIP DUES AND SIMILAR EXPENSES. SUCH QUALIFIED EXPENDITURES SHALL NOT BE ELIGIBLE FOR THE CREDIT PROVIDED BY THIS SECTION UNLESS THE EMPLOYEE FOR WHOM THE EXPENDITURES ARE DISBURSED IS CONTINUOUSLY EMPLOYED BY THE TAXPAYER IN A FULL-TIME, FULL-YEAR POSITION PRIMARILY LOCATED AT A QUALIFIED SITE DURING THE PERIOD OF SUCH COURSEWORK AND LASTING THROUGH AT LEAST ONE HUNDRED EIGHTY DAYS AFTER THE SATISFACTORY COMPLETION OF THE QUALIFYING COURSE-WORK. QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL NOT INCLUDE EXPENSES FOR IN-HOUSE OR SHARED TRAINING OUTSIDE OF A CITY HIGHER EDUCATION INSTITUTION OR THE USE OF CONSULTANTS OUTSIDE OF CREDIT GRANTING COURSES, WHETHER SUCH CONSULTANTS FUNCTION INSIDE OF SUCH HIGHER EDUCATION INSTITUTION OR NOT.

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

(III) OF THIS SUBPARAGRAPH PAID OR INCURRED IN THE TWO PRECEDING CALENDAR YEARS THAT THE TAXPAYER WAS LOCATED IN SUCH AN INCUBATOR FACILITY FOR EMPLOYEES OF THE TAXPAYER WHO ALSO RELOCATE FROM SAID INCUBATOR FACILITY TO SUCH CITY SITE AND ARE EMPLOYED AND PRIMARILY LOCATED BY THE TAXPAYER IN THE CITY. SUCH EXPENDITURES IN THE TWO PRECEDING YEARS SHALL BE ADDED TO THE AMOUNTS OTHERWISE QUALIFYING FOR THE CREDIT PROVIDED BY THIS SUBDIVISION THAT WERE PAID OR INCURRED IN THE CALENDAR YEAR THAT THE TAXPAYER RELOCATES FROM SUCH A FACILITY. SUCH EXPENDITURES SHALL INCLUDE EXPENSES PAID FOR AN ELIGIBLE EMPLOYEE WHO IS A FULL-TIME, FULL-YEAR EMPLOYEE OF SAID TAXPAYER DURING THE CALENDAR YEAR THAT THE TAXPAYER RELOCATED FROM AN INCUBATOR FACILITY NOTWITHSTANDING (A) THAT SUCH EMPLOYEE WAS EMPLOYED FULL OR PART-TIME AS AN OFFICER, STAFF-PERSON OR PAID INTERN OF THE TAXPAYER WHEN SUCH TAXPAYER WAS LOCATED AT SUCH INCUBATOR FACILITY OR (B) THAT SUCH EMPLOYEE WAS NOT CONTINUOUSLY EMPLOYED WHEN SUCH TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY DURING THE ONE HUNDRED EIGHTY DAY PERIOD REFERRED TO IN CLAUSE (III) OF THIS SUBPARAGRAPH, PROVIDED SUCH EMPLOYEE RECEIVED WAGES OR EQUIVALENT INCOME FOR AT LEAST SEVEN HUNDRED FIFTY HOURS DURING ANY TWENTY-FOUR MONTH PERIOD WHEN THE TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY. SUCH EXPENDITURES SHALL INCLUDE PAYMENTS MADE TO SUCH EMPLOYEE AFTER THE TAXPAYER HAS RELOCATED FROM THE INCUBATOR FACILITY FOR QUALIFIED EXPENDITURES IF SUCH PAYMENTS ARE MADE TO REIMBURSE AN EMPLOYEE FOR EXPENDITURES PAID BY THE EMPLOYEE DURING SUCH TWO PRECEDING YEARS. THE CREDIT PROVIDED UNDER THIS PARAGRAPH SHALL BE ALLOWED IN ANY TAXABLE YEAR THAT THE TAXPAYER QUALIFIES AS AN ELIGIBLE TAXPAYER.

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

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

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

(7) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER; PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679 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,

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

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

2. PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION. (A) DEFINITIONS. (1) "BASE YEAR" MEANS THE LAST TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN.

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

(3) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION PERCENTAGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 11-604 OF THIS CHAPTER FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION PERCENTAGE AS CALCULATED UNDER SECTION 11-642 OF THIS CHAPTER FOR PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(4) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE YEAR AS APPLIED TO ENTIRE NET INCOME AND CALCULATED UNDER SUBDIVISION ONE OF SECTION 11-604 OF THIS CHAPTER OR SUBDIVISION (A) OF SECTION 11-643.5 OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

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

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

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

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

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

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

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

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

(3) IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE BASE YEAR AND FILES A SEPARATE REPORT FOR A SUBSEQUENT TAXABLE YEAR, THEN THE AMOUNT OF REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE PROPORTIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND THE REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO THE REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDINGLY.

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

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

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

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

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

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

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

(D) A NET OPERATING LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS EXCEPT THAT NO LOSS MAY BE CARRIED BACK TO A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN. THE LOSS FIRST SHALL BE CARRIED TO THE EARLIEST OF THE THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS. IF IT IS NOT ENTIRELY USED IN THAT YEAR, IT SHALL BE CARRIED TO THE SECOND TAXABLE YEAR PRECEDING THE TAXABLE YEAR OF THE LOSS, AND ANY REMAINING AMOUNT SHALL BE CARRIED TO THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR OF THE LOSS. ANY UNUSED AMOUNT OF LOSS THEN REMAINING MAY BE CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS FOLLOWING THE TAXABLE YEAR OF THE LOSS. LOSSES CARRIED FORWARD ARE CARRIED FORWARD FIRST TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE TAXABLE YEAR OF THE LOSS, THEN TO THE SECOND TAXABLE YEAR FOLLOWING THE TAXABLE YEAR OF THE LOSS, AND THEN TO THE NEXT IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL THE LOSS IS USED UP OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE TAXABLE YEAR OF THE LOSS, WHICHEVER COMES FIRST.

(E) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPERATING LOSS INCURRED DURING ANY TAXABLE YEAR COMMENCING AFTER JANUARY 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.

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

(B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. A PATENT, COPYRIGHT, TRADEMARK, OR SIMILAR INTANGIBLE PERSONAL PROPERTY IS USED WITHIN THE CITY TO THE EXTENT THAT THE ACTIVITIES THEREUNDER ARE CARRIED ON WITHIN THE CITY.

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

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

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

(C) THE HIERARCHY OF SOURCING METHODS IS AS FOLLOWS: (1) THE CUSTOMER'S PRIMARY USE LOCATION OF THE DIGITAL PRODUCT; (2) THE LOCATION WHERE 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.

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

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

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

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

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

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

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

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

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

(V) EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. NET INTEREST INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE DETERMINED FOR PURPOSES OF THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE FROM THE TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREEMENTS BUT SHALL NOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT

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

(VI) EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. NET INTEREST FROM FEDERAL FUNDS SHALL BE DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE FROM FEDERAL FUNDS.

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

(VIII)(A) RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE PAYOR IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRUMENTS, WHETHER THE PAYOR IS WITHIN OR WITHOUT THE CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

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

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

(B) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM SUCH TYPE OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH AND THE DENOMINATOR OF WHICH SHALL BE THE DENOMINATOR OF THE RECEIPTS FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR WHICH THE NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

(C) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRUMENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I) THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE, AND THE DENOMINATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I) THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

(B) RECEIPTS OF A REGISTERED SECURITIES BROKER OR DEALER FROM SECURITIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (C) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE AND THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (E) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE.

(1) RECEIPTS CONSTITUTING BROKERAGE COMMISSIONS DERIVED FROM THE EXECUTION OF SECURITIES OR COMMODITIES PURCHASE OR SALES ORDERS FOR THE ACCOUNTS OF CUSTOMERS SHALL BE DEEMED TO BE GENERATED WITHIN THE 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 BROKERAGE 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 MARKETED AND THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURITIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPARATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE TAXPAYER IS NOT THE LEAD UNDERWRITER.

(4) RECEIPTS CONSTITUTING ACCOUNT MAINTENANCE FEES SHALL BE DEEMED TO BE GENERATED WITHIN THE 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

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

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

(C) RECEIPTS RELATING TO THE BANK, CREDIT, TRAVEL, AND ENTERTAINMENT CARD ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

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

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

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

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

(1) THE NEW YORK CITY PORTION SHALL BE THE PRODUCT OF THE TOTAL OF SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERATOR OF THAT FRACTION SHALL BE THE SUM OF THE MONTHLY PERCENTAGES (AS

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

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

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

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

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

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

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

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

(E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOWING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY, BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD BE KNOWN UPON REASONABLE INQUIRY: (1) THE SEAT OF MANAGEMENT AND CONTROL OF THE BUSINESS ENTITY; AND (2) THE BILLING ADDRESS OF THE BUSINESS ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILIGENCE BEFORE REJECTING THE FIRST METHOD IN THIS HIERARCHY AND PROCEEDING TO THE NEXT METHOD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR RADIO INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR

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

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

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

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

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

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

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

12. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE OPERATION OF VESSELS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF WORKING DAYS OF THE VESSELS OWNED OR LEASED BY THE TAXPAYER IN TERRITORIAL WATERS OF THE CITY DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY THE TAXPAYER DURING SUCH PERIOD. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

(B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED BUSINESS INCOME OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY, REDUCED BY ANY PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE COMBINED CAPITAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY.

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

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

(C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT UNDER THIS SECTION DOES NOT INCLUDE (1) A CORPORATION THAT IS TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF THIS CHAPTER OR CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER), OR WOULD BE TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OR THREE OF THIS CHAPTER OR CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER), OR WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION UNDER THE FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRATIVE CODE AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR; (2) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE RIC; OR (3) 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 AND HAS NO EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE (III) OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER. IF A CORPORATION IS SUBJECT TO TAX UNDER THIS SUBCHAPTER SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER INTEREST IN A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THIS CITY, AND NONE OF THE CORPORATION'S RELATED CORPORATIONS ARE SUBJECT TO TAX UNDER THIS SUBCHAPTER, SUCH CORPORATION SHALL NOT BE REQUIRED OR PERMITTED TO FILE A COMBINED REPORT UNDER THIS SECTION WITH SUCH RELATED CORPORATIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) SUCH TAX, OR THE BALANCE THEREOF, SHALL BE PAYABLE TO THE COMMISSIONER OF FINANCE IN FULL AT THE TIME THE REPORT IS REQUIRED TO BE FILED; AND

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

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

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

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

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

2. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF TIME FOR PAYMENT OF ANY TAX IMPOSED BY THIS SUBCHAPTER UNDER SUCH CONDITIONS AS THE COMMISSIONER OF FINANCE DEEMS JUST AND PROPER.

3. INTENTIONALLY OMITTED.

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

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

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

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

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

4. A TAXPAYER MAY AMEND A DECLARATION UNDER REGULATIONS OF THE COMMISSIONER OF FINANCE.

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

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

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

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

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

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

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

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

(A) IF THE DECLARATION IS FILED ON OR BEFORE JUNE FIFTEENTH, THE ESTIMATED TAX SHOWN THEREON, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SHALL BE PAID IN THREE EQUAL INSTALLMENTS. ONE OF SUCH INSTALLMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION, ONE SHALL BE PAID ON THE FOLLOWING SEPTEMBER FIFTEENTH, AND ONE ON THE FOLLOWING DECEMBER FIFTEENTH.

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

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

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

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

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

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

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

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

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

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

9. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF TIME, NOT TO EXCEED SIX MONTHS, FOR PAYMENT OF ANY INSTALLMENT OF ESTIMATED TAX REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDITIONS AS THE COMMISSIONER OF FINANCE MAY REQUIRE INCLUDING THE FURNISHING OF A BOND OR OTHER SECURITY BY THE TAXPAYER IN AN AMOUNT NOT EXCEEDING TWICE THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS GRANTED, PROVIDED, HOWEVER, THAT INTEREST AT THE UNDERPAYMENT RATE SET BY THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS SUBCHAPTER, OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF PERCENT PER ANNUM FOR THE PERIOD OF THE EXTENSION SHALL BE CHARGED AND COLLECTED ON THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS GRANTED UNDER THIS SUBDIVISION.

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

11. INTENTIONALLY OMITTED.

S 11-659 COLLECTION OF TAXES. EVERY FOREIGN CORPORATION (OTHER THAN A MONEYED CORPORATION) SUBJECT TO THE PROVISIONS OF THIS SUBCHAPTER, EXCEPT A CORPORATION HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, SHALL FILE IN THE DEPARTMENT OF STATE A CERTIFICATE OF DESIGNATION IN ITS CORPORATE NAME, SIGNED AND ACKNOWLEDGED BY ITS PRESIDENT OR A VICE-PRESIDENT OR ITS SECRETARY OR TREASURER, UNDER ITS CORPORATE SEAL, DESIGNATING THE SECRETARY OF STATE AS ITS AGENT UPON WHOM PROCESS IN ANY ACTION PROVIDED FOR BY THIS SUBCHAPTER MAY BE SERVED WITHIN THIS STATE, AND SETTING FORTH AN ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL A COPY OF ANY SUCH PROCESS AGAINST THE CORPORATION WHICH MAY BE SERVED UPON THE SECRETARY OF STATE. IN CASE ANY SUCH CORPORATION SHALL HAVE FAILED TO FILE SUCH CERTIFICATE OF DESIGNATION, IT SHALL BE DEEMED TO HAVE DESIGNATED THE SECRETARY OF STATE AS ITS AGENT UPON WHOM SUCH PROCESS AGAINST IT MAY BE SERVED; AND UNTIL A CERTIFICATE OF DESIGNATION SHALL HAVE BEEN FILED THE CORPORATION SHALL BE DEEMED TO HAVE DIRECTED THE SECRETARY OF STATE TO MAIL COPIES OF PROCESS SERVED UPON HIM OR HER

TO THE CORPORATION AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE STATE. WHEN A CERTIFICATE OF DESIGNATION HAS BEEN FILED BY SUCH CORPORATION THE SECRETARY OF STATE SHALL MAIL COPIES OF PROCESS THEREAFTER SERVED UPON THE SECRETARY OF STATE TO THE ADDRESS SET FORTH IN SUCH CERTIFICATE. ANY SUCH CORPORATION, FROM TIME TO TIME, MAY CHANGE THE ADDRESS TO WHICH THE SECRETARY OF STATE IS DIRECTED TO MAIL COPIES OF PROCESS, BY FILING A CERTIFICATE TO THAT EFFECT EXECUTED, SIGNED AND ACKNOWLEDGED IN LIKE MANNER AS A CERTIFICATE OF DESIGNATION AS HEREIN PROVIDED. SERVICE OF PROCESS UPON ANY SUCH CORPORATION OR UPON ANY CORPORATION HAVING A CERTIFICATE OF AUTHORITY UNDER SECTION EIGHT HUNDRED FIVE OF THE LIMITED LIABILITY COMPANY LAW OR HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, IN ANY ACTION COMMENCED AT ANY TIME PURSUANT TO THE PROVISIONS OF THIS SUBCHAPTER, MAY BE MADE BY EITHER: (A) PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE, A DEPUTY SECRETARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE SUCH SERVICE DUPLICATE COPIES THEREOF AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY, IN WHICH EVENT THE SECRETARY OF STATE SHALL FORTHWITH SEND BY REGISTERED MAIL, RETURN RECEIPT REQUESTED, ONE OF SUCH COPIES TO THE CORPORATION AT THE ADDRESS DESIGNATED BY IT OR AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE STATE, OR (B) PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE, A DEPUTY SECRETARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE SUCH SERVICE, A COPY THEREOF AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY AND BY DELIVERING A COPY THEREOF TO, AND LEAVING SUCH COPY WITH, THE PRESIDENT, VICE-PRESIDENT, SECRETARY, ASSISTANT SECRETARY, TREASURER, ASSISTANT TREASURER, OR CASHIER OF SUCH CORPORATION, OR THE OFFICER PERFORMING CORRESPONDING FUNCTIONS UNDER ANOTHER NAME, OR A DIRECTOR OR MANAGING AGENT OF SUCH CORPORATION, PERSONALLY WITHOUT THE STATE. PROOF OF SUCH PERSONAL SERVICE WITHOUT THE STATE SHALL BE FILED WITH THE CLERK OF THE COURT IN WHICH THE ACTION IS PENDING WITHIN THIRTY DAYS AFTER SUCH SERVICE, AND SUCH SERVICE SHALL BE COMPLETE TEN DAYS AFTER PROOF THEREOF IS FILED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If the taxpayer fails to comply with subchapter two [or], three OR THREE-A of this chapter in not reporting a change or correction or renegotiation, or computation or recomputation of tax, increasing or decreasing its federal or New York state taxable income, alternative minimum taxable income or other basis of tax as reported on its federal or New York state income tax return or in not reporting a 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 or in not filing an amended return or in not reporting the execution of a notice of waiver executed pursuant to subsection (d) of section six thousand two hundred thirteen of the internal revenue code or pursuant to subdivision (f) of section one thousand eighty-one of the tax law, instead of the mode and time of assessment provided for in subdivision two of this section, the commissioner of finance may assess a deficiency based upon such increased or decreased federal or New York state taxable income, alternative minimum taxable income or other basis of tax by mailing to the taxpayer a notice of additional tax due specifying the amount of the deficiency, and such deficiency, together with the interest, additions to tax and penalties stated in such notice, shall be deemed assessed on the date such notice is mailed unless within thirty days after the mailing of such notice a report of the federal or New York state change or correction or renegotiation, or computation or recomputation of tax, or an amended return, where such return was required by subchapter two [or], three OR THREE-A, is filed accompanied by a statement showing wherein such federal or New York state determination and such notice of additional tax due are erroneous.

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

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

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

(a) If a taxpayer fails to comply with subchapter two OR THREE-A of this chapter in not reporting a change or correction of its sales and compensating use tax liability or in not filing a copy of an amended return or report relating to its sales and compensating use tax liability, instead of the mode and time of assessment provided for in subdivision two of this section, the commissioner of finance may assess a deficiency based upon such changed or corrected sales and compensating use tax liability, as same relates to credits claimed under subchapter two OR THREE-A of this chapter, by mailing to the taxpayer a notice of additional tax due specifying the amount of the deficiency, and such deficiency, together with the interest, additions to tax and penalties stated in such notice, shall be deemed assessed on the date such notice is mailed unless within thirty days after the mailing of such notice a report of the state change or correction or a copy of an amended return or report, where such copy was required by subchapter two OR THREE-A, is filed accompanied by a statement showing wherein such state determination and such notice of additional tax due are erroneous.

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

(c) If the taxpayer has terminated its existence, a notice of additional tax due may be mailed to its last known address in or out of the city, and such notice shall be sufficient for purposes of this subchapter. If the commissioner of finance has received notice that a person is acting for the taxpayer in a fiduciary capacity, a copy of such notice shall also be mailed to the fiduciary named in such notice.

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

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

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

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

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

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

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

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

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

3. Exceptions.

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

(1) no return is filed,

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

(3) in the case of the tax imposed under subchapter two [or], three OR THREE-A of this chapter, the taxpayer fails to file a report or amended return required thereunder, in respect of 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 in respect of a change or correction or renegotiation or in respect of the execution of a notice of waiver report of which is required thereunder,

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, or

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

(b) Extension by agreement. Where, before the expiration of the time prescribed in this section for the assessment of tax, both the commissioner of finance and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(c) Report of federal or New York state change or correction. In the case of the tax imposed under subchapter two [or], three OR THREE-A of this chapter, if the taxpayer files a report or amended return required thereunder, in respect of 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 in respect of a change or correction or renegotiation, or in respect of the execution of a notice of waiver report of which is required thereunder, 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, the assessment (if not deemed to have been made upon the filing of the report or amended return) may be made at any time within two years after such report or amended return was filed. The amount of such assessment of tax shall not exceed the amount of the increase in city tax attributable to such federal or New York state change or correction or renegotiation, or computation or recomputation of tax. The provisions of this paragraph shall not affect the time within which or the amount for which an assessment may otherwise be made.

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

(e) Recovery of erroneous refund. An erroneous refund shall be considered an underpayment of tax on the date made, and an assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund, except that the assessment may be made within five years from the making of the refund if it appears that any part of the refund was induced by fraud or misrepresentation of a material fact.

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

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

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

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

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

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

(2) WITH REGARD TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, NO CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS BASED SHALL BE MADE WHERE AN ASSESSMENT OF TAX IS MADE DURING THE ADDITIONAL PERIOD OF LIMITATION UNDER SUBPARAGRAPH THREE OR FOUR OF PARAGRAPH (A) OR UNDER PARAGRAPH (C), (D) OR (I), EXCEPT TO THE EXTENT SUCH ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX, OR BASED ON A CHANGE, CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON THE EXECUTION OF A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER, OR COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT WERE A DEFICIENCY FOR NEW YORK STATE INCOME TAX PURPOSES; AND WHERE ANY SUCH ASSESSMENT HAS BEEN MADE, OR WHERE A NOTICE OF DEFICIENCY HAS BEEN MAILED TO THE TAXPAYER ON THE BASIS OF ANY SUCH PROPOSED ASSESSMENT, NO CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL SHALL BE MADE IN A PROCEEDING ON THE TAXPAYER'S CLAIM FOR REFUND OF SUCH ASSESSMENT OR ON THE TAXPAYER'S PETITION FOR REDETERMINATION OF SUCH DEFICIENCY, EXCEPT TO THE EXTENT SUCH ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX, OR BASED ON A CHANGE OR CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON THE EXECUTION OF A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER, OR COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR NEW YORK STATE INCOME TAX PURPOSES.

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

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

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

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

For the purposes of this subdivision:

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

(b) there shall not be taken into account any amount which is omitted in the return if such amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the commissioner of finance of the nature and amount of such item.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Notice of change or correction of federal or New York state income or other basis of tax. If a taxpayer is required by subchapter two [or], three OR THREE-A of this chapter to file a report or amended return in respect of (a) a decrease or increase in federal or New York state taxable income, alternative minimum taxable income or other basis of tax or federal or New York state tax, (b) 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 an overpayment for federal or New York state income tax purposes, claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the time such report or amended return was required to be filed with the commissioner of finance. If the report or amended return required by subchapter two [or], three OR THREE-A of this chapter is not filed within the ninety day period therein specified, no interest shall be payable on any claim for credit or refund of the overpayment attributable to the federal or New York state change or correction. The amount of such credit or refund:

(c) shall, (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, be computed without change of the allocation of income or capital upon which the taxpayer's return (or any additional assessment) was based, and, (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, BE COMPUTED WITHOUT CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS BASED TO THE EXTENT THAT THE CLAIM FOR REFUND ARISES FROM A DECREASE OR INCREASE IN FEDERAL TAXABLE INCOME OR OTHER BASIS OF TAX OR FEDERAL TAX, OR FROM A FEDERAL CHANGE, CORRECTION, RENEGOTIATION, COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR FEDERAL INCOME TAX PURPOSES, AND

(d) shall not exceed the amount of the reduction in tax attributable to such decrease or increase 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 to such federal or New York state change or correction or renegotiation, or computation or recomputation of tax.

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.

4. Overpayment attributable to net operating loss carry back or capital loss carry back. A claim for credit or refund of so much of an overpayment under subchapter two OR THREE-A of this chapter as is attributable to the application to the taxpayer of a net operating loss carry back or a capital loss carry back shall be filed within three years from the time the return was due (including extensions thereof) for the taxable year of the loss, or within the period prescribed in subdivision two in respect of such taxable year, or within the period prescribed in subdivision three, where applicable, in respect to the taxable year to which the net operating loss or capital loss is carried back, whichever expires the latest. Where such claim for credit or refund is filed after the expiration of the period prescribed in subdivision one or in subdivision two where applicable, in respect to the taxable year to which the net operating loss or capital loss is carried back, 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.

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

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

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.

(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.

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:

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.

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.

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:

(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.

S 19. Paragraph (c) of subdivision 5 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:

(c) whether the petitioner is liable for any increase in a deficiency where such increase is asserted initially after a notice of deficiency was mailed and a petition under this section filed, unless such increase in deficiency is the result of 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, and of which increase, decrease, change or correction or renegotiation, or computation or recomputation, the commissioner of finance had no notice at the time he or she mailed the notice of deficiency or unless such increase in deficiency is the result of a change or correction of sales and compensating use tax liability required to be reported under subchapter two OR THREE-A of this chapter, and of which change or correction the commissioner of finance had no notice at the time he or she mailed the notice of deficiency; and

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

(a) Authority to set interest rates. The commissioner of finance shall set the overpayment and underpayment rates of interest to be paid pursuant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675, 11-676, and 11-679 of this chapter, but if no such rate or rates of interest are set, such overpayment rate shall be deemed to be set at six percent per annum and such underpayment rate shall be deemed to be set at seven and one-half percent per annum. Such overpayment and underpayment rates shall be the rates prescribed in paragraph (b) of this subdivision but the underpayment rate shall not be less than seven and one-half percent per annum. Any such rates set by the commissioner of finance shall apply to taxes, or any portion thereof, which remain or become due or overpaid on or after the date on which such rates become effective and shall apply only with respect to interest computed or computable for periods or portions of periods occurring in the period during which such rates are in effect.

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

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

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

(4) No tenant shall be authorized to receive a reduction in base rent 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 29. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2015.

PART E

Section 1. 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 is REPEALED.

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

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

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

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

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

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

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

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

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

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

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

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

6. The commission may request, and shall receive, reasonable assistance from state agency personnel as necessary for the performance of its function.

7. The commission shall make a report to the governor, the legislature and the chief judge of the state of its findings, conclusions, determinations and recommendations, if any, not later than the thirty-first of December of the year in which the commission is established for judicial compensation and the fifteenth of November the following year for legislative and executive compensation. Any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the commission and findings, conclusions, determinations and recommendations with respect to executive and legislative compensation shall also be supported by at least one member appointed by each appointing authority. Each recommendation made to implement a determination pursuant to section two of this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of article 7-B of the judiciary law, section 169 of the executive law, and sections 5 and 5-a of the legislative law, unless modified or abrogated by statute prior to April first of the year as to which such determination applies to judicial compensation and January first of the year as to which such determination applies to legislative and executive compensation.

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

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

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

PART F

Section 1. This act shall be known and may be cited as the "Infrastructure investment act".

S 2. For the purposes of this act:

(a) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental conservation and the New York state bridge authority.

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

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

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

3. The level of customer satisfaction with the contractor's performance on previous projects;

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

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

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

7. The contractor's technical capacities;

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

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

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

Such basis shall reflect, wherever possible, objective and quantifiable analysis.

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

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

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

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

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

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

(a) Step one. Generation of a list of entities that have demonstrated the general capability to perform the design-build contract. Such list shall consist of a specified number of entities, as determined by an authorized state entity, and shall be generated based upon the authorized state entity's review of responses to a publicly advertised request for qualifications. The authorized state entity's request for qualifications shall include a general description of the project, the maximum number of entities to be included on the list, and the selection criteria to be used in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized state entity deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized state entity shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings, the authorized state entity shall list the entities that shall receive a request for proposals in accordance with subdivision (b) of this section. To the extent consistent with applicable federal law, the authorized state entity shall consider, when awarding any contract pursuant to this section, the participation of: (i) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; and (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law.

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

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

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

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

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

S 9. Capital projects undertaken by the authorized state entity pursuant to this act shall be subject to the requirements of article 8 of the environmental conservation law, and, where applicable, the requirements of the national environmental policy act.

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

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

S 12. Nothing contained in this act shall limit the right or obligation of the authorized state entity to comply with the provisions of any existing contract, including any existing contract with or for the benefit of the holders of the obligations of the authorized state entity, or to award contracts as otherwise provided by law.

S 13. Alternative construction awarding processes. (a) Notwithstanding the provisions of any other law to the contrary, the authorized state entity may award a construction contract:

1. To the contractor offering the best value; or

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

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

(ii) include a detailed line item cost breakdown;

(iii) include a list of all drawings, specifications and other information on which the guaranteed maximum price is based;

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

(v) include a schedule of unit prices; or

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

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

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

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

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

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

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

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

PART G

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

S 2. For purposes of this act:

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

2. "construction" shall mean:

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

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

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

S 3. 1. The environmental facilities corporation shall undertake and provide state financial assistance payments, from funds appropriated for such purpose, to municipalities in support of water quality infrastructure projects provided, however, in any such year that funds are appropriated for such purpose, no municipality shall receive more than five million dollars of appropriated funds. Such state financial assistance payments shall be awarded only to water quality infrastructure projects for:

(a) replacement or repair of infrastructure; or

(b) compliance with environmental and public health laws and regulations related to water quality.

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

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

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

5. In awarding such state financial assistance payments, the environmental facilities corporation shall consider and give preference to municipalities that meet the hardship criteria established by the environmental facilities corporation pursuant to section 1285-m of the public authorities law and projects that result in the greatest water quality improvement or greatest reduction in serious risk to public health. For the purposes of this act, the hardship criteria of section 1285-m of the public authorities law shall also apply to sewage treatment works defined in section 17-1903 of the environmental conservation law.

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

PART H

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

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

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

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

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

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

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

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

COMMISSIONER OF LABOR, THE TWELVE MONTH LAPSE DATE SHALL BE EXTENDED BY ONE ADDITIONAL MONTH.

(B) FEDERAL MEDICARE AND MEDICAID REVENUES. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE COMPTROLLER TO TRANSFER FROM THE DEDICATED INFRASTRUCTURE INVESTMENT FUND TO THE GENERAL FUND AN AMOUNT NOT TO EXCEED THE DISALLOWANCES AND/OR SETTLEMENTS RELATED TO THE OVER-PAYMENTS OF FEDERAL MEDICARE AND MEDICAID REVENUES. IN THE EVENT THIS AUTHORIZATION IS UTILIZED, THE DIRECTOR OF THE BUDGET MAY AUTHORIZE AND DIRECT THE COMPTROLLER TO TRANSFER SUCH AMOUNT AND THE CONCOMITANT REDUCTION IN STATE SHARE MEDICARE AND MEDICAID REVENUES FROM THE GENERAL FUND TO THE MISCELLANEOUS SPECIAL REVENUE FUND, MENTAL HYGIENE PROGRAM FUND (21907), THE MISCELLANEOUS SPECIAL REVENUE FUND, PATIENT INCOME ACCOUNT (21909), AND THE MEDICAID MANAGEMENT INFORMATION SYSTEM (MMIS) STATEWIDE ESCROW FUND (60901).

(C) PRIOR TO AUTHORIZING ANY TRANSFER FROM THE DEDICATED INFRASTRUCTURE INVESTMENT FUND ACCOUNTS PURSUANT TO THE PROVISIONS OF THIS SECTION, THE DIRECTOR OF THE BUDGET SHALL NOTIFY THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE MINORITY LEADERS OF THE ASSEMBLY AND THE SENATE. SUCH LETTER SHALL SPECIFY THE REASONS FOR THE TRANSFER AND THE AMOUNT THEREOF.

S 2. This act shall take effect immediately.

PART I

Section 1. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the following funds and/or accounts:

1. Tuition reimbursement account (20451).
2. Proprietary vocational school supervision account (20452).
3. Local government records management account (20501).
4. Child health plus program account (20810).
5. EPIC premium account (20818).
6. Education - New (20901).
7. VLT - Sound basic education fund (20904).
8. Sewage treatment program management and administration fund (21000).
9. Hazardous bulk storage account (21061).
10. Federal grants indirect cost recovery account (21065).
11. Low level radioactive waste account (21066).
12. Recreation account (21067).
13. Public safety recovery account (21077).
14. Environmental regulatory account (21081).
15. Natural resource account (21082).
16. Mined land reclamation program account (21084).
17. Great lakes restoration initiative account (21087).
18. Environmental protection and oil spill compensation fund (21200).
19. Public transportation systems account (21401).
20. Metropolitan mass transportation (21402).
21. Operating permit program account (21451).
22. Mobile source account (21452).
23. Statewide planning and research cooperative system account (21902).
24. OPWDD provider of service account (21903).
25. Mental hygiene program fund account (21907).

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

82. Housing assistance fund (31800).
83. Housing program fund (31850).
84. Highway facility purpose account (31951).
85. Information technology capital financing account (32215).
86. New York racing account (32213).
87. Mental hygiene facilities capital improvement fund (32300).
88. Correctional facilities capital improvement fund (32350).
89. New York State Storm Recovery Capital Fund (33000).
90. OGS convention center account (50318).
91. Centralized services fund (55000).
92. Archives records management account (55052).
93. Federal single audit account (55053).
94. Civil service law section II administrative account (55055).
95. Civil service EHS occupational health program account (55056).
96. Banking services account (55057).
97. Cultural resources survey account (55058).
98. Neighborhood work project (55059).
99. Automation & printing chargeback account (55060).
100. OFT NYT account (55061).
101. Data center account (55062).
102. Intrusion detection account (55066).
103. Domestic violence grant account (55067).
104. Centralized technology services account (55069).
105. Labor contact center account (55071).
106. Human services contact center account (55072).
107. Tax contact center account (55073).
108. Executive direction internal audit account (55251).
109. CIO Information technology centralized services account (55252).
110. Health insurance internal service account (55300).
111. Civil service employee benefits division administrative account (55301).
112. Correctional industries revolving fund (55350).
113. Employees health insurance account (60201).
114. Medicaid management information system escrow fund (60900).

S 1-a. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any account within the following federal funds, provided the comptroller has made a determination that sufficient federal grant award authority is available to reimburse such loans:

1. Federal USDA-food and nutrition services fund (25000).
2. Federal health and human services fund (25100).
3. Federal education fund (25200).
4. Federal block grant fund (25250).
5. Federal miscellaneous operating grants fund (25300).
6. Federal unemployment insurance administration fund (25900).
7. Federal unemployment insurance occupational training fund (25950).
8. Federal emergency employment act fund (26000).
9. Federal capital projects fund (31350).

S 2. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2016, up to the unencumbered balance or the following amounts:

Economic Development and Public Authorities:

1. $175,000 from the miscellaneous special revenue fund, underground facilities safety training account (22172), to the general fund.

2. An amount up to the unencumbered balance from the miscellaneous special revenue fund, business and licensing services account (21977), to the general fund.

3. $14,810,000 from the miscellaneous special revenue fund, code enforcement account (21904), to the general fund.

4. $3,000,000 from the general fund to the miscellaneous special revenue fund, tax revenue arrearage account (22168).

5. $552,000 from the miscellaneous special revenue fund, consumer food industry account (21966), to the general fund.

Education:

1. $2,219,000,000 from the general fund to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.

2. $950,000,000 from the general fund to the state lottery fund, VLT education account (20904), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.

3. Moneys from the state lottery fund up to an amount deposited in such fund pursuant to section 1612 of the tax law in excess of the current year appropriation for supplemental aid to education pursuant to section 92-c of the state finance law.

4. $300,000 from the local government records management improvement fund (20500) to the archives partnership trust fund (20350).

5. $900,000 from the general fund to the miscellaneous special revenue fund, Batavia school for the blind account (22032).

6. $900,000 from the general fund to the miscellaneous special revenue fund, Rome school for the deaf account (22053).

7. $343,400,000 from the state university dormitory income fund (40350) to the miscellaneous special revenue fund, state university dormitory income reimbursable account (21937).

8. $24,000,000 from any of the state education department special revenue and internal service funds to the miscellaneous special revenue fund, indirect cost recovery account (21978).

9. $8,318,000 from the general fund to the state university income fund, state university income offset account (22654), for the state's share of repayment of the STIP loan.

10. $45,000,000 from the state university income fund, state university hospitals income reimbursable account (22656) to the general fund for hospital debt service for the period April 1, 2015 through March 31, 2016.

Environmental Affairs:

1. $16,000,000 from any of the department of environmental conservation's special revenue federal funds to the environmental conservation special revenue fund, federal indirect recovery account (21065).

2. $2,000,000 from any of the department of environmental conservation's special revenue federal funds to the conservation fund as necessary to avoid diversion of conservation funds.

3. $3,000,000 from any of the office of parks, recreation and historic preservation capital projects federal funds and special revenue federal funds to the miscellaneous special revenue fund, federal grant indirect cost recovery account (22188).

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

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

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

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

Family Assistance:

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

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

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

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

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

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

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

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

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

General Government:

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

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

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

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

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

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

7. $19,900,000 from the general fund to the miscellaneous special revenue fund, alcoholic beverage control account (22033).

8. $23,000,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the general fund.

9. $1,826,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the miscellaneous special revenue fund, authority budget office account (22138).

10. $1,000,000 from the miscellaneous special revenue fund, parking services account (22007), to the general fund, for the purpose of reimbursing the costs of debt service related to state parking facilities.

11. $21,794,000 from the general fund to the internal service fund, COPS account (55013).

12. $8,360,000 from the general fund to the agencies internal service fund, central technology services account (55069), for the purpose of enterprise technology projects.

13. $5,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the miscellaneous capital projects fund, workers' compensation board IT business process design fund.

Health:

1. $30,000,000 from the miscellaneous special revenue fund, quality of care account (21915), to the general fund.

2. $1,000,000 from the general fund to the combined gifts, grants and bequests fund, breast cancer research and education account (20155), an amount equal to the monies collected and deposited into that account in the previous fiscal year.

3. $250,000 from the general fund to the combined gifts, grants and bequests fund, prostate cancer research, detection, and education account (20183), an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

4. $500,000 from the general fund to the combined gifts, grants and bequests fund, Alzheimer's disease research and assistance account (20143), an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

5. $30,295,000 from the HCRA resources fund (20800) to the miscellaneous special revenue fund, empire state stem cell trust fund account (22161).

6. $30,000,000 from any of the department of health accounts within the federal health and human services fund to the miscellaneous special revenue fund, quality of care account (21915).

7. $6,000,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the miscellaneous capital projects fund, healthcare IT capital subfund.

8. $1,000,000 from the miscellaneous special revenue fund, administration program account (21982), to the miscellaneous capital projects fund, healthcare IT capital account (32216).

9. $1,000,000 from the miscellaneous special revenue fund, vital records account (22103), to the miscellaneous capital projects fund, healthcare IT capital account (32216).

10. $55,000,000 from the HCRA resources fund (20800) to the capital projects fund (30000).

11. $3,700,000 from the miscellaneous New York state agency fund, medical assistance account to the general fund.

12. $6,740,000 from the general fund to the medical marihuana trust fund, health operation and oversight account (23755).

13. $4,096,000 from the HCRA resources fund (20800), to the miscellaneous special revenue fund, cigarette strike force account.

14. $3,086,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the general fund.

Labor:

1. $400,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the child performer's protection fund, child performer protection account (20401).

2. $8,400,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the general fund.

3. $3,300,000 from the unemployment insurance interest and penalty fund, unemployment insurance special interest and penalty account (23601), to the general fund.

Mental Hygiene:

1. $10,000,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the miscellaneous special revenue fund, federal salary sharing account (22056).

2. $15,000,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the miscellaneous special revenue fund, provider of service accounts (21903).

3. $15,000,000 from the miscellaneous special revenue fund, mental hygiene program fund account (21907), to the miscellaneous special revenue fund, provider of service account (21903).

4. $1,400,000,000 from the general fund to the miscellaneous special revenue fund, mental hygiene patient income account (21909).

5. $1,850,000,000 from the general fund to the miscellaneous special revenue fund, mental hygiene program fund account (21907).

6. $100,000,000 from the miscellaneous special revenue fund, mental hygiene program fund account (21907), to the general fund.

7. $100,000,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the general fund.

8. $292,888,000 from the chemical dependence service fund, chemical dependence service account (22700), to the general fund.

Public Protection:

1. $1,350,000 from the miscellaneous special revenue fund, emergency management account (21944), to the general fund.

2. $3,300,000 from the general fund to the miscellaneous special revenue fund, recruitment incentive account (22171).

3. $13,000,000 from the general fund to the correctional industries revolving fund, correctional industries internal service account (55350).

4. $3,000,000 from the federal miscellaneous operating grants fund, DMNA damage account (25324), to the general fund.

5. $14,300,000 from the general fund to the miscellaneous special revenue fund, crimes against revenue program account (22015).

6. $22,900,000 from the miscellaneous special revenue fund, criminal justice improvement account (21945), to the general fund.

7. $50,000,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the general fund.

8. $106,000,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, state police motor vehicle enforcement account (22802), to the general fund for state operation expenses of the division of state police.

9. $21,500,000 from the general fund to the correctional facilities capital improvement fund (32350).

10. $5,000,000 from the general fund to the dedicated highway and 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).

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

5. $4,550,000,000 from the general fund to the dedicated infrastructure investment fund infrastructure investment account.

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

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

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

2. Upon request of the commissioner of agriculture and markets, up to $3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the general fund, to pay appropriate administrative expenses.

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

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

5. Upon request of the commissioner of the division of housing and community renewal, up to $5,500,000 may be transferred from any miscellaneous special revenue fund account, to any miscellaneous special revenue fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S 13. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller, after consultation with the state university chancellor or his or her designee, is hereby authorized and directed to transfer moneys, in the first instance, from the state university collection fund, Stony Brook hospital collection account (61006), Brooklyn hospital collection account (61007), and Syracuse hospital collection account (61008) to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals. Notwithstanding any law to the contrary, the comptroller is also hereby authorized and directed, after consultation with the state university chancellor or his or her designee, to transfer moneys from the state university income fund to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to pay hospital operating costs or to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals on or before March 31, 2016.

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

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

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

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

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

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

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

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

S 19. Notwithstanding any provision of law to the contrary, as deemed feasible and advisable by its trustees, the power authority of the state of New York is authorized and directed to (i) make a contribution to the state treasury to the credit of the general fund, or as otherwise directed in writing by the director of the budget, in an amount of up to $90,000,000 for the state fiscal year commencing April 1, 2015, the proceeds of which will be utilized to support energy-related initiatives of the state, or for economic development purposes, and (ii) transfer up to $25,000,000 of any such contribution by June 30, 2015 and the remainder of any such contribution by March 31, 2016. Such economic development purposes may include, but shall not be limited to, efforts to attract and expand business investment and job creation in New York state through the Open for Business program as well as all expenses associated with Global NY and trade missions, domestic and international, promoting New York businesses; provided that in the event any contributed funds are used by a state agency or public authority for the purpose of advertising and promoting the benefits of the START-UP NY program, no more than sixty percent of the contributed funds used for such purpose shall be used for advertising and promotion outside the state of New York.

S 20. Notwithstanding any provision of law, rule or regulation to the contrary, the New York State energy research and development authority is authorized and directed to make a contribution to the state treasury to the credit of the general fund in the amount of $41,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation under the Regional Greenhouse Gas Initiative on or before March 31, 2016.

S 21. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 20 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, and notwithstanding the provisions of chapter ninety-four of the laws of two thousand eleven, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [fourteen] FIFTEEN, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to [$3,429,375,000] $3,382,279,000, as may be certified in such schedule as necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [fourteen] FIFTEEN.

S 22. The comptroller is authorized and directed to deposit to the general fund-state purposes account reimbursements from moneys appropri-

ated or reappropriated to the correctional facilities capital improvement fund by a chapter of the laws of 2015. Reimbursements shall be available for spending from appropriations made to the department of corrections and community supervision in the general fund-state purposes accounts by a chapter of the laws of 2015 for costs associated with the administration and security of capital projects and for other costs which are attributable, according to a plan, to such capital projects.

S 23. Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller is hereby authorized and directed to use any balance remaining in the mental health services fund debt service appropriation, after payment by the state comptroller of all obligations required pursuant to any lease, sublease, or other financing arrangement between the dormitory authority of the state of New York as successor to the New York state medical care facilities finance agency, and the facilities development corporation pursuant to chapter 83 of the laws of 1995 and the department of mental hygiene for the purpose of making payments to the dormitory authority of the state of New York for the amount of the earnings for the investment of monies deposited in the mental health services fund that such agency determines will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended, in order to enable such agency to maintain the exemption from federal income taxation on the interest paid to the holders of such agency's mental services facilities improvement revenue bonds. Annually on or before each June 30th, such agency shall certify to the state comptroller its determination of the amounts received in the mental health services fund as a result of the investment of monies deposited therein that will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended.

S 24. Subdivision 8 of section 68-b of the state finance law, as amended by section 44 of part HH of chapter 57 of the laws of 2013, is amended to read as follows:

8. Revenue bonds may only be issued for authorized purposes, as defined in section sixty-eight-a of this article. Notwithstanding the foregoing, the dormitory authority of the state of New York [and], the urban development corporation AND THE NEW YORK STATE THRUWAY AUTHORITY may issue revenue bonds for any authorized purpose of any other such authorized issuer through March thirty-first, two thousand [fifteen] TWENTY. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRUWAY AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW. The authorized issuers shall not issue any revenue bonds in an amount in excess of statutory authorizations for such authorized purposes. Authorizations for such authorized purposes shall be reduced in an amount equal to the amount of revenue bonds issued for such authorized purposes under this article. Such reduction shall not be made in relation to revenue bonds issued to fund reserve funds, if any, and costs of issuance, if these items are not counted under existing authorizations, nor shall revenue bonds issued to refund bonds issued under existing authorizations reduce the amount of such authorizations.

S 24-a. Subdivision 8 of section 69-n of the state finance law, as added by section 58 of part HH of chapter 57 of the laws of 2013, is amended to read as follows:

8. Revenue bonds may only be issued for authorized purposes, as defined in section sixty-nine-m of this article. Notwithstanding the foregoing, any authorized issuer may issue revenue bonds for any author-

ized purpose. ANY SUCH REVENUE BONDS ISSUED BY THE NEW YORK STATE THRUWAY AUTHORITY SHALL BE SUBJECT TO THE APPROVAL OF THE NEW YORK STATE PUBLIC AUTHORITIES CONTROL BOARD, PURSUANT TO SECTION FIFTY-ONE OF THE PUBLIC AUTHORITIES LAW. The authorized issuers shall not issue any revenue bonds in an amount in excess of statutory authorizations for such authorized purposes. Authorizations for such authorized purposes shall be reduced in an amount equal to the amount of revenue bonds issued for such authorized purposes under this article. Such reduction shall not be made in relation to revenue bonds issued to fund reserve funds, if any, and costs of issuance, if these items are not counted under existing authorizations, nor shall revenue bonds issued to refund bonds issued under existing authorizations reduce the amount of such authorizations.

S 25. Subdivision 1 of section 47 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 28 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

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 office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [one] TWO hundred [eighty-two] SIXTY-NINE million [four] ONE hundred forty thousand dollars, excluding bonds issued to fund 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. Such bonds and notes of the dormitory authority and the corporation 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 the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract 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 26. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 51 to read as follows:

S 51. 1. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION ARE HEREBY AUTHORIZED TO ISSUE BONDS OR NOTES IN ONE OR MORE SERIES FOR THE PURPOSE OF FUNDING PROJECT COSTS FOR THE NONPROFIT INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCIATED WITH SUCH CAPITAL PROJECTS. THE AGGREGATE PRINCIPAL AMOUNT OF BONDS AUTHORIZED TO BE ISSUED PURSUANT TO THIS SECTION SHALL NOT EXCEED FIFTY MILLION DOLLARS, EXCLUDING BONDS ISSUED TO FUND 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. SUCH BONDS AND NOTES OF THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION 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 THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION FOR PRINCIPAL, INTEREST, AND RELATED EXPENSES PURSUANT TO A SERVICE CONTRACT 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.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IN ORDER TO ASSIST THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION IN UNDERTAKING THE FINANCING FOR PROJECT COSTS FOR THE NONPROFIT INFRASTRUCTURE CAPITAL INVESTMENT PROGRAM AND OTHER STATE COSTS ASSOCIATED WITH SUCH CAPITAL PROJECTS, THE DIRECTOR OF THE BUDGET IS HEREBY AUTHORIZED TO ENTER INTO ONE OR MORE SERVICE CONTRACTS WITH THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, NONE OF WHICH SHALL EXCEED THIRTY YEARS IN DURATION, UPON SUCH TERMS AND CONDITIONS AS THE DIRECTOR OF THE BUDGET AND THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION AGREE, SO AS TO ANNUALLY PROVIDE TO THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION, IN THE AGGREGATE, A SUM NOT TO EXCEED THE PRINCIPAL, INTEREST, AND RELATED EXPENSES REQUIRED FOR SUCH BONDS AND NOTES. ANY SERVICE CONTRACT ENTERED INTO PURSUANT TO THIS SECTION SHALL PROVIDE THAT THE OBLIGATION OF THE STATE TO PAY THE AMOUNT THEREIN PROVIDED SHALL NOT CONSTITUTE A DEBT OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION AND SHALL BE DEEMED EXECUTORY ONLY TO THE EXTENT OF MONIES AVAILABLE AND THAT NO LIABILITY SHALL BE INCURRED BY THE STATE BEYOND THE MONIES AVAILABLE FOR SUCH PURPOSE, SUBJECT TO ANNUAL APPROPRIATION BY THE LEGISLATURE. ANY SUCH CONTRACT OR ANY PAYMENTS MADE OR TO BE MADE THEREUNDER MAY BE ASSIGNED AND PLEDGED BY THE DORMITORY AUTHORITY AND THE URBAN DEVELOPMENT CORPORATION AS SECURITY FOR ITS BONDS AND NOTES, AS AUTHORIZED BY THIS SECTION.

S 27. Subdivision 1 of section 16 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 29 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed seven billion one hundred [forty-eight] SIXTY-THREE million THREE HUNDRED sixty-nine thousand dollars [$7,148,069,000] $7,163,369,000, and shall include all bonds, notes and other obligations issued pursuant to chapter 56 of the laws of 1983, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the correctional facilities capital improvement fund to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the department of corrections and community supervision from the correctional facilities capital improvement fund for capital projects. The aggregate amount of bonds, notes or other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the department of corrections and community supervision; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than seven billion one hundred [forty-eight] SIXTY-THREE million THREE HUNDRED sixty-nine thousand dollars [$7,148,069,000]

$7,163,369,000, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

S 28. Paragraph (a) of subdivision 2 of section 47-e of the private housing finance law, as amended by section 30 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding [two] THREE billion [nine] ONE hundred [ninety-nine] FIFTY-THREE million SEVEN HUNDRED ninety-nine thousand dollars, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

S 29. Subdivision (b) of section 11 of 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, as amended by section 31 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide 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,

REGIONAL INFRASTRUCTURE PROJECTS, and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed two billion [two] EIGHT hundred [three] EIGHTY-EIGHT million two hundred fifty-seven thousand dollars, excluding bonds issued to fund 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. Such bonds and notes of the dormitory authority and the corporation 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 the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract 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.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for 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, REGIONAL INFRASTRUCTURE PROJECTS and other state costs associated with such projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

S 33. Subdivisions 1 and 3 of section 1285-p of the public authorities law, subdivision 1 as amended by section 55 of part HH of chapter 57 of the laws of 2013 and subdivision 3 as amended by section 35 of part I of chapter 55 of the laws of 2014, are amended to read as follows:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of the design, acquisition, construction, improvement, installation, and related work for all or any portion of any of the following environ-

mental infrastructure projects and for the provision of funds to the state for any amounts disbursed therefor: (a) projects authorized under the environmental protection fund, or for which appropriations are made to the environmental protection fund including, but not limited to municipal parks and historic preservation, stewardship, farmland protection, non-point source, pollution control, Hudson River Park, land acquisition, and waterfront revitalization; (b) department of environmental conservation capital appropriations for Onondaga Lake for certain water quality improvement projects in the same manner as set forth in paragraph (d) of subdivision one of section 56-0303 of the environmental conservation law; (c) for the purpose of the administration, management, maintenance, and use of the real property at the western New York nuclear service center; [and] (d) department of environmental conservation capital appropriations for the administration, design, acquisition, construction, improvement, installation, and related work on department of environmental conservation environmental infrastructure projects; [and] (e) office of parks, recreation and historic preservation appropriations or reappropriations from the state parks infrastructure fund; [and] (f) capital grants for the cleaner, greener communities program AND (G) CAPITAL COSTS OF WATER QUALITY INFRASTRUCTURE PROJECTS the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be one billion [three] SEVEN hundred [ninety-eight] SEVENTY-FIVE million [two] SEVEN hundred sixty thousand dollars, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation 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 the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

S 34. Subdivision 1 of section 45 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 37 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the urban development corporation of the state of New York is hereby authorized to issue bonds or notes in one or more series for the purpose

of funding project costs for the implementation of a NY-SUNY and NY-CUNY 2020 challenge grant program subject to the approval of a NY-SUNY and NY-CUNY 2020 plan or plans by the governor and either the chancellor of the state university of New York or the chancellor of the city university of New York, as applicable. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [$330,000,000] $440,000,000, excluding bonds issued to fund 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. Such bonds and notes of the corporation 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 the corporation for principal, interest, and related expenses pursuant to a service contract 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 35. Subdivision (a) of section 48 of part K of chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, as amended by section 38 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 the provisions of section 18 of the urban development corporation act, the corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed $197,000,000 excluding bonds issued to fund 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 costs related to homeland security and training facilities for the division of state police, the division of military and naval affairs, and any other state agency, including the reimbursement of any disbursements made from the state capital projects fund, and is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$317,800,000] $469,800,000, excluding bonds issued to fund 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 improvements to State office buildings and other facilities located statewide, including the reimbursement of any disbursements made from the state capital projects fund. Such bonds and notes of the corporation 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 the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision (b) of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

S 36. Subdivision 1 of section 386-b of the public authorities law, as amended by section 39 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of financing peace bridge projects and capital costs of state and local highways, parkways, bridges, the New York state thruway,

Indian reservation roads, and facilities, and transportation infrastructure projects including aviation projects, non-MTA mass transit projects, and rail service preservation projects, including work appurtenant and ancillary thereto. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [four] ONE BILLION SIX hundred [sixty-five] NINETY million dollars [($465,000,000)] $1,690,000,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation 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 the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract 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 37. Paragraph (c) of subdivision 19 of section 1680 of the public authorities law, as amended by section 40 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, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed [ten] ELEVEN billion [nine] TWO hundred [eighty-four] TWENTY-EIGHT million dollars; provided, however, that bonds issued or to be issued shall be excluded from such limitation if: (1) such bonds are issued to refund state university construction bonds and state university construction notes previously issued by the housing finance agency; or (2) such bonds are issued to refund bonds of the authority or other obligations issued for state university educational facilities purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby; provided, further that upon certification by the director of the budget that the issuance of refunding bonds or other obligations issued between April first, nineteen hundred ninety-two and March thirty-first, nineteen hundred ninety-three will generate long term economic benefits to the state, as assessed on a present value basis, such issuance will be deemed to have met the present value test noted above. For purposes of this subdivision, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the state university construction fund, of the facilities in connection with which 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.

S 40. Section 1680-r of the public authorities law, as added by section 43 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

S 1680-r. Authorization for the issuance of bonds for the capital restructuring financing program AND THE HEALTH CARE FACILITY TRANSFORMATION PROGRAM. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated with such capital projects AND THE HEALTH CARE FACILITY TRANSFORMATION PROGRAM. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [one] TWO billion two hundred million dollars, excluding bonds issued to fund 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. Such bonds and notes of the dormitory authority and the urban development corporation 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 the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract 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.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated with such capital projects AND THE HEALTH CARE FACILITY TRANSFORMATION PROGRAM, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

S 41. Subdivision 1 of section 17 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by

section 44 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed [four] SIX hundred [sixty-five] ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN thousand dollars [($465,365,000)] ($611,215,000), which authorization increases the aggregate principal amount of bonds, notes and other obligations authorized by section 40 of chapter 309 of the laws of 1996, and shall include all bonds, notes and other obligations issued pursuant to chapter 211 of the laws of 1990, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the youth facilities improvement fund, to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the office of children and family services from the youth facilities improvement fund for capital projects. The aggregate amount of bonds, notes and other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the office of children and family services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [four] SIX hundred [sixty-five] ELEVEN million [three] TWO hundred [sixty-five] FIFTEEN thousand dollars [($465,365,000)] ($611,215,000), only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

S 42. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by section 46 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other moneys which may be available for the purpose, to provide sufficient funds to the facilities development corporation, or any successor agency, for the financing or refinancing of or for the design,

construction, acquisition, reconstruction, rehabilitation or improvement of mental health services facilities pursuant to paragraph a of this subdivision, the payment of interest on mental health services improvement bonds and mental health services improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, the cost or premium of bond insurance or the costs of any financial mechanisms which may be used to reduce the debt service that would be payable by the agency on its mental health services facilities improvement bonds and notes and all other expenditures of the agency incident to and necessary or convenient to providing the facilities development corporation, or any successor agency, with funds for the financing or refinancing of or for any such design, construction, acquisition, reconstruction, rehabilitation or improvement and for the refunding of mental hygiene improvement bonds issued pursuant to section 47-b of the private housing finance law; provided, however, that the agency shall not issue mental health services facilities improvement bonds and mental health services facilities improvement notes in an aggregate principal amount exceeding seven billion [four] SEVEN hundred [thirty-five] TWENTY-TWO million eight hundred fifteen thousand dollars, excluding mental health services facilities improvement bonds and mental health services facilities improvement notes issued to refund outstanding mental health services facilities improvement bonds and mental health services facilities improvement notes; provided, however, that upon any such refunding or repayment of mental health services facilities improvement bonds and/or mental health services facilities improvement notes the total aggregate principal amount of outstanding mental health services facilities improvement bonds and mental health facilities improvement notes may be greater than seven billion [four] SEVEN hundred [thirty-five] TWENTY-TWO million eight hundred fifteen thousand dollars only if, except as hereinafter provided with respect to mental health services facilities bonds and mental health services facilities notes issued to refund mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law, the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Such bonds, other than bonds issued to refund outstanding bonds, shall be scheduled to mature over a term not to exceed the average useful life, as certified by the facilities development corporation, of the projects for which the bonds are issued, and in any case shall not exceed thirty years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes. Notwithstanding the provisions of this section, the agency shall have the power and is hereby authorized to issue mental health

services facilities improvement bonds and/or mental health services facilities improvement notes to refund outstanding mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law and the amount of bonds issued or outstanding for such purposes shall not be included for purposes of determining the amount of bonds issued pursuant to this section. The director of the budget shall allocate the aggregate principal authorized to be issued by the agency among the office of mental health, office for people with developmental disabilities, and the office of alcoholism and substance abuse services, in consultation with their respective commissioners to finance bondable appropriations previously approved by the legislature.

S 43. Paragraph (b) of subdivision 3 of section 1 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005 relating to the composition and responsibilities of the New York state higher education capital matching grant board, as amended by section 46-c of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling [180] 210 million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of [180] 210 million dollars for the purposes of this section; excluding bonds or notes issued to fund 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. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

S 44. Subdivision 1 of section 49 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 46-a of part I of chapter 55 of the laws of 2014, is amended to read as follows:

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 state and municipal facilities program and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [seven hundred seventy] ONE BILLION ONE HUNDRED FIFTY-FIVE million dollars, excluding bonds issued to fund 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. Such bonds and notes of the dormitory authority and the corporation 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 the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract 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 45. Intentionally omitted.

S 46. Subdivision 1 of section 386-a of the public authorities law, as added by section 46 of part U of chapter 59 of the laws of 2012, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of assisting the metropolitan transportation authority in the financing of transportation facilities as defined in subdivision seventeen of section twelve hundred sixty-one of this chapter. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed ONE BILLION [seven] FIVE hundred [seventy] TWENTY million dollars [($770,000,000)] ($1,520,000,000), excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation 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 the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract 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 47. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015; provided, however, that the provisions of sections one through eight and sections thirteen through twenty of this act shall expire March 31, 2016, when upon such date the provisions of such sections shall be deemed repealed.

PART J

Section 1. The public health law is amended by adding a new section 2825-a to read as follows:

S 2825-A. HEALTH CARE FACILITY TRANSFORMATION PROGRAM: KINGS COUNTY PROJECT. 1. A KINGS 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 THAT REPLACE INEFFICIENT AND OUTDATED FACILITIES AS PART OF A MERGER, CONSOLIDATION, ACQUISITION OR OTHER SIGNIFICANT CORPORATE RESTRUCTURING ACTIVITY INTENDED TO CREATE A FINANCIALLY SUSTAINABLE 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 AWARDING, 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, RESIDENTIAL HEALTH CARE FACILITIES, DIAGNOSTIC AND TREATMENT CENTERS, PRIMARY CARE PROVIDERS, AND HOME CARE PROVIDERS, CERTIFIED OR LICENSED PURSUANT TO ARTICLE THIRTY-SIX OF THIS CHAPTER, 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 SEVEN 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 KINGS.

(A) ELIGIBLE APPLICANTS SHALL SERVE COMMUNITIES WHOSE RESIDENTS ARE EXPERIENCING SIGNIFICANT LEVELS OF HEALTH CARE DISPARITIES AND HEALTH CARE NEEDS COMPARED TO OTHER COMMUNITIES WITHIN THE COUNTY OF KINGS AS EVIDENCED BY:

(I) A HIGH NUMBER OF MEDICAID ENROLLEES AND UNINSURED INDIVIDUALS;

(II) ELEVATED BLOOD LEAD LEVEL RATES AMONG CHILDREN, HIGH RATES OF DIABETES, HIGH BLOOD PRESSURE, ASTHMA, OBESITY, INFANT DEATH OR PREMATURE BIRTH, HEART FAILURE, BEHAVIORAL HEALTH CONDITIONS, SUBSTANCE ABUSE;

(III) LOW LEVELS OF INCOME, HIGH RATES OF UNEMPLOYMENT, DISTRESSED HOUSING CONDITIONS, AND POOR NUTRITIONAL STATUS;

(IV) OTHER RISK FACTORS AS DETERMINED BY THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY; AND

(B) SUCH ELIGIBLE APPLICANT SHALL:

(I) (A) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

(B) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS; AND

(C) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSECUTIVE PRECEDING YEARS; OR

(II) BE DEEMED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY TO BE A PROVIDER THAT FULFILLS OR WILL FULFILL AN UNMET HEALTH CARE NEED FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR RESIDENTIAL HEALTH CARE SERVICES IN A COMMUNITY.

4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION, THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER CRITERIA INCLUDING, BUT NOT LIMITED TO:

(A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE TO THE LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH SERVICES IN THE COMMUNITY OR COMMUNITIES SERVED BY THE APPLICANT;

(B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES;

(C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTIFIED 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 AWARDING, 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.

4. IN DETERMINING AWARDS FOR ELIGIBLE APPLICANTS UNDER THIS SECTION, THE COMMISSIONER AND THE PRESIDENT OF THE AUTHORITY SHALL CONSIDER CRITERIA INCLUDING, BUT NOT LIMITED TO:

(A) THE EXTENT TO WHICH THE PROPOSED CAPITAL PROJECT WILL CONTRIBUTE TO THE INTEGRATION OF HEALTH CARE SERVICES AND LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH SERVICES IN THE COMMUNITY OR COMMUNITIES SERVED BY THE APPLICANT;

(B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES;

(C) THE RELATIONSHIP BETWEEN THE PROPOSED CAPITAL PROJECT AND IDENTIFIED 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 3. The public health law is amended by adding a new section 2825-c to read as follows:

S 2825-C. ESSENTIAL HEALTH CARE PROVIDER SUPPORT PROGRAM. 1. NOTWITHSTANDING SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, WITHIN AMOUNTS APPROPRIATED, FUNDS MAY BE ALLOCATED AND DISTRIBUTED BY THE COMMISSIONER WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, FOR GRANTS TO ESSENTIAL HEALTH CARE PROVIDERS TO SUPPORT DEBT RETIREMENT, CAPITAL PROJECTS OR NON-CAPITAL PROJECTS THAT FACILITATE HEALTH CARE TRANSFORMATION, INCLUDING MERGERS, CONSOLIDATION, AND RESTRUCTURING ACTIVITIES INTENDED TO CREATE A FINANCIALLY SUSTAINABLE SYSTEM OF CARE. GRANTS SHALL NOT BE AVAILABLE TO SUPPORT GENERAL OPERATING EXPENSES. FOR PURPOSES OF THIS SECTION, AN ESSENTIAL HEALTH CARE PROVIDER IS A HOSPITAL OR HOSPITAL SYSTEM THAT, IN THE DISCRETION OF THE COMMISSIONER, OFFERS HEALTH CARE SERVICES WITHIN A DEFINED GEOGRAPHIC REGION WHERE SUCH SERVICES WOULD OTHERWISE BE UNAVAILABLE TO THE POPULATION OF SUCH REGION.

2. THE COMMISSIONER SHALL AWARD GRANTS FOR PROJECTS CONSISTENT WITH THE PURPOSES OF THIS SECTION. ELIGIBLE APPLICANTS SHALL MEET THE FOLLOWING CRITERIA:

(A) (I) HAVE A LOSS FROM OPERATIONS FOR EACH OF THE THREE CONSECUTIVE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS;

(II) HAVE A NEGATIVE FUND BALANCE OR NEGATIVE EQUITY POSITION IN EACH OF THE THREE PRECEDING YEARS AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS; AND

(III) HAVE A CURRENT RATIO OF LESS THAN 1:1 FOR EACH OF THREE CONSECUTIVE PRECEDING YEARS; OR

(B) BE DEEMED BY THE COMMISSIONER TO BE A PROVIDER THAT FULFILLS OR WILL FULFILL AN UNMET NEED FOR ACUTE INPATIENT, OUTPATIENT, PRIMARY OR

RESIDENTIAL HEALTH CARE SERVICES IN A DEFINED GEOGRAPHIC REGION WHERE SUCH SERVICES WOULD BE OTHERWISE UNAVAILABLE TO THE POPULATION OF SUCH REGION.

3. SUCH AWARDS SHALL BE DISTRIBUTED PURSUANT TO CRITERIA, INCLUDING BUT NOT LIMITED TO:

(A) THE EXTENT TO WHICH THE PROPOSED PROJECT WILL CONTRIBUTE TO THE LONG TERM SUSTAINABILITY OF THE APPLICANT OR PRESERVATION OF ESSENTIAL HEALTH CARE SERVICES IN A COMMUNITY;

(B) THE EXTENT TO WHICH THE PROPOSED PROJECT OR PURPOSE IS ALIGNED WITH DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES;

(C) CONSIDERATION OF GEOGRAPHIC DISTRIBUTION OF FUNDS;

(D) THE RELATIONSHIP BETWEEN THE PROPOSED PROJECT AND AN IDENTIFIED COMMUNITY NEED;

(E) THE EXTENT TO WHICH THE APPLICANT HAS ACCESS TO ALTERNATIVE FINANCING;

(F) THE EXTENT TO WHICH THE PROPOSED PROJECT FURTHERS THE DEVELOPMENT OF PRIMARY CARE;

(G) THE EXTENT TO WHICH THE PROPOSED PROJECT BENEFITS MEDICAID ENROLLEES AND UNINSURED INDIVIDUALS;

(H) THE EXTENT TO WHICH THE APPLICANT HAS ENGAGED THE COMMUNITY AFFECTED BY THE PROPOSED PROJECT AND THE MANNER IN WHICH THE COMMUNITY ENGAGEMENT HAS SHAPED SUCH PROJECT; AND

(I) THE EXTENT TO WHICH THE PROPOSED PROJECT ADDRESSES POTENTIAL RISK TO PATIENT SAFETY AND WELFARE.

4. DISBURSEMENT OF AWARDS MADE PURSUANT TO THIS SECTION SHALL BE CONDITIONED ON THE AWARDEE ACHIEVING CERTAIN PROCESS AND PERFORMANCE METRICS AND MILESTONES AS DETERMINED IN THE SOLE DISCRETION OF THE COMMISSIONER. SUCH METRICS AND MILESTONES SHALL BE STRUCTURED TO ENSURE THAT THE HEALTH CARE TRANSFORMATION AND PROVIDER SUSTAINABILITY GOALS OF THE PROJECT ARE ACHIEVED, AND SUCH METRICS AND MILESTONES SHALL BE INCLUDED IN GRANT DISBURSEMENT AGREEMENTS OR OTHER CONTRACTUAL DOCUMENTS AS REQUIRED BY THE COMMISSIONER.

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 INCLUDE, FOR EACH AWARD, THE NAME OF THE APPLICANT, A DESCRIPTION OF THE PROJECT OR PURPOSE, THE AMOUNT OF THE AWARD, DISBURSEMENT DATE, AND STATUS OF ACHIEVEMENT OF PROCESS AND PERFORMANCE METRICS AND MILESTONES PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

S 4. The opening paragraph of subdivision 3 of section 2825 of the public health law, as added by section 8 of part A of chapter 60 of the laws of 2014, is amended to read as follows:

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, as added by a chapter of the laws of two thousand fourteen, for the purposes of awarding, distributing, and administering the funds made available pursuant to this section. TO THE EXTENT PRACTICABLE, FUNDS SHALL BE AWARDED REGIONALLY IN PROPORTION TO THE APPLICATIONS RECEIVED FROM THE REQUEST FOR APPLICATION ISSUED BY OR BEFORE MAY FIRST, TWO THOUSAND FIFTEEN. PROJECTS AWARDED UNDER SECTIONS TWENTY-EIGHT HUNDRED TWENTY-FIVE-A AND TWENTY-EIGHT HUNDRED TWENTY-FIVE-B OF THIS ARTICLE SHALL NOT BE ELIGIBLE FOR GRANTS OR AWARDS MADE AVAILABLE UNDER THIS SECTION.

S 5. The public health law is amended by adding a new section 2815-a to read as follows:

S 2815-A. COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING IS PLAINLY REQUIRED BY THE CONTEXT:

A. "ADMINISTRATOR" SHALL MEAN A NOT FOR PROFIT COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION CDFI THAT IS CERTIFIED BY THE U.S. TREASURY COMMUNITY DEVELOPMENT FINANCIAL FUND, HAS EXPERIENCE FINANCING PROJECTS IN THE NEW YORK STATE HEALTHCARE SECTOR AND OTHERWISE MEETS THE REQUIREMENTS OF THIS SECTION.

B. "DORMITORY AUTHORITY" OR "AUTHORITY" SHALL MEAN THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK CREATED BY TITLE FOUR OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW WHICH HAS SUCCEEDED TO THE POWERS, FUNCTIONS AND DUTIES OF THE MEDICAL CARE FACILITIES FINANCE AGENCY PURSUANT TO CHAPTER EIGHTY-THREE OF THE LAWS OF NINETEEN HUNDRED NINETY-FIVE.

C. "PARTICIPATING BORROWER" SHALL MEAN A COMMUNITY-BASED HEALTH CARE PROVIDER, WHICH FOR THE PURPOSES OF THIS SECTION, SHALL BE DEFINED AS DIAGNOSTIC AND TREATMENT CENTER LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, A MENTAL HEALTH CLINIC LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-ONE OF THE MENTAL HEALTH LAW; OR AN ALCOHOL AND SUBSTANCE ABUSE TREATMENT CLINIC LICENSED OR GRANTED AN OPERATING CERTIFICATE UNDER ARTICLE THIRTY-TWO OF THE MENTAL HYGIENE LAW, EACH ORGANIZED UNDER THE LAWS OF THIS STATE.

D. "REVOLVING CAPITAL FUND" SHALL MEAN COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND AUTHORIZED TO BE ESTABLISHED BY THE DORMITORY AUTHORITY AND ADMINISTERED PURSUANT TO THIS SECTION.

2. REVOLVING CAPITAL FUND. THE DORMITORY AUTHORITY SHALL, WITHIN AMOUNTS APPROPRIATED, ESTABLISH THE COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND. MONIES IN THE REVOLVING CAPITAL FUND SHALL BE UTILIZED FOR THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS TO IMPROVE ACCESS TO AFFORDABLE CAPITAL FINANCING TO EXPAND AND IMPROVE CAPACITY TO PROVIDE HEALTH CARE IN THE STATE. FUNDS SHALL BE TRANSFERRED BY THE COMMISSIONER TO THE DORMITORY AUTHORITY FOR DEPOSIT IN THE REVOLVING CAPITAL FUND IN AN AMOUNT AS AUTHORIZED BY APPROPRIATION. MONIES IN THE FUND SHALL BE: (A) HELD BY THE AUTHORITY PURSUANT TO THIS SECTION AS CUSTODIAN PURSUANT TO AN AGREEMENT WITH THE COMMISSIONER UNTIL TRANSFERRED TO THE ADMINISTRATOR PURSUANT TO THIS SECTION, AND (B) INVESTED BY THE AUTHORITY IN ACCORDANCE WITH THE INVESTMENT GUIDELINES OF THE AUTHORITY DURING SAID CUSTODIAL PERIOD. ALL INVESTMENT INCOME SHALL BE CREDITED TO, AND SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL FUND.

3. ADMINISTRATION AGREEMENT. THE COMMISSIONER AND THE AUTHORITY SHALL ENTER INTO AN AGREEMENT, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, FOR THE PURPOSE OF ADMINISTERING THE FUNDS IN THE REVOLVING CAPITAL FUND THROUGH AN ADMINISTRATOR. A COPY OF SUCH AGREEMENT, AND ANY AMENDMENTS THERETO, SHALL BE PROVIDED TO THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE DIRECTOR OF THE DIVISION OF BUDGET, AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE. THE AGREEMENT SHALL SPECIFY THAT THE ADMINISTRATOR SHALL ADMINISTER THE COMMUNITY HEALTH CARE REVOLVING CAPITAL FUND IN A MANNER THAT WILL BENEFIT THE PUBLIC HEALTH BY ENCOURAGING IMPROVEMENTS IN THE COMMUNITY HEALTH CARE DELIVERY SYSTEM IN THE STATE, IN COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER REQUIREMENTS.

4. AGREEMENT WITH THE ADMINISTRATOR. THE DORMITORY AUTHORITY SHALL, IN CONSULTATION WITH THE COMMISSIONER, ENTER INTO AN AGREEMENT WITH THE ADMINISTRATOR. SUCH AGREEMENT SHALL PROVIDE FOR THE ADMINISTRATION OF THE REVOLVING CAPITAL FUND ADMINISTRATOR, IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION, THE COMMISSIONER AND DORMITORY AUTHORITY AND ALL APPLICABLE LAWS, RULES, REGULATIONS AND OTHER REQUIREMENTS. UPON THE EFFECTIVE DATE OF THE AGREEMENT, CUSTODY OF, AND RESPONSIBILITY FOR, THE REVOLVING CAPITAL FUND SHALL BE TRANSFERRED FROM THE DORMITORY AUTHORITY TO THE ADMINISTRATOR, SUBJECT TO THE REQUIREMENTS OF THE AGREEMENT. SUCH AGREEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING PROVISIONS:

A. THAT THE ADMINISTRATOR SHALL BE RESPONSIBLE FOR THE RECEIPT, MANAGEMENT AND EXPENDITURE OF MONIES HELD IN THE REVOLVING CAPITAL FUND;

B. THAT THE ADMINISTRATOR SHALL MAINTAIN BOOKS AND RECORDS PERTAINING TO ALL MONIES RECEIVED AND DISBURSED PURSUANT TO THIS SECTION AND THE AGREEMENT;

C. THAT MONIES IN SUCH REVOLVING CAPITAL FUND SHALL BE UTILIZED FOR THE PURPOSE OF MAKING LOANS TO QUALIFYING PARTICIPATING BORROWERS, TO PROVIDE PARTICIPATING BORROWERS WITH IMPROVED ACCESS TO AFFORDABLE CAPITAL TO EXPAND AND IMPROVE PREVENTIVE OR PRIMARY CARE CAPACITY;

D. THAT PARTICIPATING BORROWERS SHALL BE CHOSEN BY THE ADMINISTRATOR THROUGH AN APPLICATION PROCESS APPROVED BY THE AUTHORITY AND THE COMMISSIONER;

E. THAT ELIGIBLE USES OF FUNDS SO LOANED TO PARTICIPATING BORROWERS SHALL INCLUDE BUT NOT BE LIMITED TO: (I) ELIGIBLE COSTS AS DESCRIBED IN PARAGRAPH (F) OF THIS SUBDIVISION, ATTRIBUTABLE TO THE PROPOSED CONSTRUCTION, RECONSTRUCTION, RENOVATION, REHABILITATION, REFURBISHING, EXPANSION, UPGRADING AND EQUIPPING OF A PARTICIPATING BORROWER'S COMMUNITY-BASED HEALTH CARE FACILITY; (II) RESERVES FOR CREDIT ENHANCEMENT INCLUDING LOAN GUARANTEES; (III) LOAN LOSS AND DEBT SERVICE RESERVES AND SUBORDINATED LOANS; AND (IV) FACILITY FINANCING, INCLUDING LOANS FOR PREDEVELOPMENT, ACQUISITION AND CONSTRUCTION, PERMANENT FINANCING AND BRIDGE LOANS;

F. THAT ELIGIBLE COSTS UNDER THIS SECTION SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL HARD CONSTRUCTION COSTS AND ASSOCIATED PROFESSIONAL AND OTHER COSTS, FURNITURE, FIXTURES AND EQUIPMENT, INCLUDING HEALTH INFORMATION TECHNOLOGY, ACQUISITION, PREDEVELOPMENT DUE DILIGENCE, INITIAL OPERATING EXPENSES AND WORKING CAPITAL;

G. THAT THE ADMINISTRATOR ADMINISTERING THE REVOLVING CAPITAL FUND SHALL REPORT QUARTERLY ON THE TRANSACTIONS IN THE REVOLVING CAPITAL FUND IN A FORM AND MANNER SPECIFIED BY THE AUTHORITY IN CONSULTATION WITH THE COMMISSIONER, INCLUDING BUT NOT LIMITED TO: RECEIPTS OR DEPOSITS TO THE FUND, DISBURSEMENTS, LOANS OR CREDIT ENHANCEMENT MADE FROM THE FUND, INVESTMENT INCOME, AND THE BALANCE ON HAND AS OF THE END OF THE MONTH FOR EACH SUCH QUARTER;

H. THAT THE ADMINISTRATOR SHALL BE REQUIRED TO INVEST MONIES ON DEPOSIT IN THE FUND IN ACCORDANCE WITH INVESTMENT GUIDELINES MEETING THE REQUIREMENTS OF THE DEPARTMENT AND DORMITORY AUTHORITY, AND ALL INVESTMENT INCOME SHALL BE CREDITED TO, AND ANY REPAYMENT OF LOANS AS HEREINAFTER PROVIDED SHALL BE DEPOSITED IN, THE REVOLVING CAPITAL FUND, AND SPENT THEREFROM ONLY FOR THE PURPOSES SET FORTH IN THIS SECTION;

I. THAT ONLY THE REASONABLE EXPENSES OF THE ADMINISTRATOR, AS DETERMINED BY THE COMMISSIONER AND PRESIDENT OF THE AUTHORITY, INCURRED IN THE ESTABLISHMENT AND ADMINISTRATION OF THE REVOLVING CAPITAL LOAN PROGRAM (INCLUDING THE RETENTION OF PROFESSIONALS AND CONSULTANTS, IF ANY) MAY BE PAID OR REIMBURSED FROM THE REVOLVING CAPITAL FUND;

J. THAT REVOLVING CAPITAL FUND MONIES SHALL BE HELD IN TRUST AND USED FOR THE BENEFIT OF ELIGIBLE COMMUNITY-BASED HEALTH CARE FACILITY CAPITAL PROJECTS; AND

K. ANY OTHER TERM OR CONDITION AS DETERMINED BY THE AUTHORITY, IN CONSULTATION WITH THE COMMISSIONER.

5. LOAN DOCUMENTATION. LOANS FROM THE REVOLVING CAPITAL FUND SHALL BE MADE PURSUANT TO A WRITTEN LOAN AGREEMENT BETWEEN THE ADMINISTRATOR AND THE PARTICIPATING BORROWER, SPECIFYING THE TERMS THEREOF INCLUDING REPAYMENT TERMS. THE LOAN AGREEMENT SHALL BE IN SUCH FORM AND CONTENT AS SHALL BE ACCEPTABLE TO THE COMMISSIONER AND DORMITORY AUTHORITY, AND MAY INCLUDE SUCH OTHER ANY FURTHER WRITTEN DOCUMENTATION AND/OR AGREEMENTS AS SHALL BE REQUIRED IN THE JUDGMENT OF THE COMMISSIONER AND DORMITORY AUTHORITY, INCLUDING BUT NOT LIMITED TO ALL REQUIRED FILINGS UNDER THE UNIFORM COMMERCIAL CODE.

S 6. Section 2826 of the public health law is amended by adding a new subdivision (g) to read as follows:

(G) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, AND WITHIN AMOUNTS APPROPRIATED FOR SUCH PURPOSES AS DESCRIBED HEREIN, FOR THE PERIOD OF APRIL FIRST, TWO THOUSAND FIFTEEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN, THE COMMISSIONER MAY AWARD A TEMPORARY ADJUSTMENT TO THE NON-CAPITAL COMPONENTS OF RATES, OR MAKE TEMPORARY LUMP-SUM MEDICAID PAYMENTS TO ELIGIBLE GENERAL HOSPITALS IN SEVERE FINANCIAL DISTRESS TO ENABLE SUCH FACILITIES TO MAINTAIN OPERATIONS AND VITAL SERVICES WHILE SUCH FACILITIES ESTABLISH LONG TERM SOLUTIONS TO ACHIEVE SUSTAINABLE HEALTH SERVICES.

(I) ELIGIBLE GENERAL HOSPITALS SHALL INCLUDE:

(A) A PUBLIC HOSPITAL, WHICH FOR PURPOSES OF THIS SUBDIVISION, SHALL MEAN A GENERAL HOSPITAL OPERATED BY A COUNTY OR MUNICIPALITY, BUT SHALL EXCLUDE ANY SUCH HOSPITAL OPERATED BY A PUBLIC BENEFIT CORPORATION;

(B) A FEDERALLY DESIGNATED CRITICAL ACCESS HOSPITAL;

(C) A FEDERALLY DESIGNATED SOLE COMMUNITY HOSPITAL; OR

(D) A GENERAL HOSPITAL THAT IS A SAFETY NET HOSPITAL, WHICH FOR PURPOSES OF THIS SUBDIVISION SHALL MEAN:

(1) SUCH HOSPITAL HAS AT LEAST THIRTY PERCENT OF ITS INPATIENT DISCHARGES MADE UP OF MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALLY ELIGIBLE INDIVIDUALS AND WITH AT LEAST THIRTY-FIVE PERCENT OF ITS OUTPATIENT VISITS MADE UP OF MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALLY-ELIGIBLE INDIVIDUALS; OR

(2) SUCH HOSPITAL SERVES AT LEAST THIRTY PERCENT OF THE RESIDENTS OF A COUNTY OR A MULTI-COUNTY AREA WHO ARE MEDICAID ELIGIBLE INDIVIDUALS, UNINSURED INDIVIDUALS OR MEDICAID DUALLY-ELIGIBLE INDIVIDUALS.

(II) ELIGIBLE APPLICANTS MUST DEMONSTRATE THAT WITHOUT SUCH AWARD, THEY WILL BE IN SEVERE FINANCIAL DISTRESS THROUGH MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN, AS EVIDENCED BY:

(A) CERTIFICATION THAT SUCH APPLICANT HAS LESS THAN FIFTEEN DAYS CASH AND EQUIVALENTS;

(B) SUCH APPLICANT HAS NO ASSETS THAT CAN BE MONETIZED OTHER THAN THOSE VITAL TO OPERATIONS; AND

(C) SUCH APPLICANT HAS EXHAUSTED ALL EFFORTS TO OBTAIN RESOURCES FROM CORPORATE PARENTS AND AFFILIATED ENTITIES TO SUSTAIN OPERATIONS.

(III) AWARDS UNDER THIS SUBDIVISION SHALL BE MADE UPON APPLICATION TO THE DEPARTMENT.

(A) APPLICATIONS UNDER THIS SUBDIVISION SHALL INCLUDE A MULTI-YEAR TRANSFORMATION PLAN THAT IS ALIGNED WITH THE DELIVERY SYSTEM REFORM INCENTIVE PAYMENT ("DSRIP") PROGRAM GOALS AND OBJECTIVES. SUCH PLAN

SHALL BE APPROVED BY THE DEPARTMENT AND SHALL DEMONSTRATE A PATH TOWARDS LONG TERM SUSTAINABILITY AND IMPROVED PATIENT CARE.

(B) THE DEPARTMENT MAY AUTHORIZE INITIAL AWARD PAYMENTS TO ELIGIBLE APPLICANTS BASED SOLELY ON THE CRITERIA PURSUANT TO PARAGRAPHS (I) AND (II) OF THIS SUBDIVISION.

(C) NOTWITHSTANDING SUBPARAGRAPH (B) OF THIS PARAGRAPH, THE DEPARTMENT MAY SUSPEND OR REPEAL AN AWARD IF AN ELIGIBLE APPLICANT FAILS TO SUBMIT A MULTI-YEAR TRANSFORMATION PLAN PURSUANT TO SUBPARAGRAPH (A) OF THIS PARAGRAPH THAT IS ACCEPTABLE TO THE DEPARTMENT BY NO LATER THAN THE THIRTIETH DAY OF SEPTEMBER TWO THOUSAND FIFTEEN.

(D) APPLICANTS UNDER THIS SUBDIVISION SHALL DETAIL THE EXTENT TO WHICH THE AFFECTED COMMUNITY HAS BEEN ENGAGED AND CONSULTED ON POTENTIAL PROJECTS OF SUCH APPLICATION, AS WELL AS ANY OUTREACH TO STAKEHOLDERS AND HEALTH PLANS.

(E) THE DEPARTMENT SHALL REVIEW ALL APPLICATIONS UNDER THIS SUBDIVISION, AND A DETERMINE:

(1) APPLICANT ELIGIBILITY;

(2) EACH APPLICANT'S PROJECTED FINANCIAL STATUS;

(3) EACH APPLICANT'S PROPOSED USE OF FUNDS TO MAINTAIN CRITICAL SERVICES NEEDED BY ITS COMMUNITY; AND

(4) THE ANTICIPATED IMPACT OF THE LOSS OF SUCH SERVICES.

(F) AFTER REVIEW OF ALL APPLICATIONS UNDER THIS SUBDIVISION, AND A DETERMINATION OF THE AGGREGATE AMOUNT OF REQUESTED FUNDS, THE DEPARTMENT SHALL MAKE AWARDS TO ELIGIBLE APPLICANTS; PROVIDED, HOWEVER, THAT SUCH AWARDS MAY BE IN AN AMOUNT LOWER THAN SUCH REQUESTED FUNDING, ON A PER APPLICANT OR AGGREGATE BASIS.

(IV) AWARDS UNDER THIS SUBDIVISION MAY NOT BE USED FOR:

(A) CAPITAL EXPENDITURES, INCLUDING, BUT NOT LIMITED TO: CONSTRUCTION, RENOVATION AND ACQUISITION OF CAPITAL EQUIPMENT, INCLUDING MAJOR MEDICAL EQUIPMENT;

(B) CONSULTANT FEES;

(C) RETIREMENT OF LONG TERM DEBT; OR

(D) BANKRUPTCY-RELATED COSTS.

(V) PAYMENTS MADE TO AWARDEES PURSUANT TO THIS SUBDIVISION SHALL BE MADE ON A MONTHLY BASIS. SUCH PAYMENTS WILL BE BASED ON THE APPLICANT'S ACTUAL MONTHLY FINANCIAL PERFORMANCE DURING SUCH PERIOD AND THE REASONABLE CASH AMOUNT NECESSARY TO SUSTAIN OPERATIONS FOR THE FOLLOWING MONTH. THE APPLICANT'S MONTHLY FINANCIAL PERFORMANCE SHALL BE MEASURED BY SUCH APPLICANT'S MONTHLY FINANCIAL AND ACTIVITY REPORTS, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, ACTUAL REVENUE AND EXPENSES FOR THE PRIOR MONTH, PROJECTED CASH NEED FOR THE CURRENT MONTH, AND PROJECTED CASH NEED FOR THE FOLLOWING MONTH.

(VI) 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 INCLUDE FOR EACH AWARD, THE NAME OF THE APPLICANT, THE AMOUNT OF THE AWARD, PAYMENTS TO DATE, AND A DESCRIPTION OF THE STATUS OF THE MULTI-YEAR TRANSFORMATION PLAN PURSUANT TO PARAGRAPH (III) OF THIS SUBDIVISION.

S 7. This act shall take effect immediately.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judg-

ment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through J of this act shall be as specifically set forth in the last section of such Parts.