

S. 2009

A. 3009

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

January 21, 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 the real property tax law, in relation to the maximum amount of savings allowable under the STAR exemption program (Part A); to amend the state finance law, the tax law and the administrative code of the city of New York, in relation to the New York city personal income tax rates (Part B); to amend the real property tax law, the tax law, and section 3 of part B of chapter 59 of the laws of 2012 amending the real property tax law and the tax law relating to the suspension of STAR exemptions of property owned by persons with outstanding tax liabilities, in relation to the suspension of STAR exemptions of property owned by persons with outstanding tax liabilities (Part C); to amend the real property tax law and the tax law, in relation to transitioning the school tax relief (STAR) exemption into a personal income tax credit, and to repeal subdivision 5 of section 520 of the real property tax law relating thereto (Part D); to amend the real property tax law, in relation to establishing a state-administered recoupment provision to the STAR exemption program (Part E); to amend the state finance law, in relation to making technical corrections to the school tax relief fund; and to provide one-time relief to STAR registrants who failed to file timely STAR exemption applications (Part F); to amend the tax law, in relation to the real property tax relief credit (Part G); to amend the tax law and the administrative code of the city of New York, in relation to making the limitation on charitable contribution deductions for certain taxpayers permanent (Part H); to amend the tax law, the administrative code of the city of New York and the labor law, in relation to making certain technical corrections (Part I); to amend the tax law, in relation to a report regarding the empire state commercial production tax credit; and to repeal section 9 of part V of chapter 62 of the laws of 2006, amending the tax law relating to the empire state commercial production tax credit, relating thereto (Part J); to amend the econom-

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

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ic development law with relation to the eligibility of entertainment companies for the excelsior jobs program (Part K); to amend the tax law, in relation to costs includible in the investment credit base for the investment tax credit on masters for films, television shows and commercials (Part L); to amend the labor law and the tax law, in relation to a program to provide tax incentives for employers employing at risk youth (Part M); to amend the tax law, in relation to the business income base rate (Part N); to amend the economic development law and the tax law, in relation to establishing a tax credit for employers who procure skills training for employees necessary to cultivate a talented workforce (Part O); to amend the tax law, in relation to imposing tax on wireless telecommunications businesses pursuant to sections 184 and 184-a of such law (Part P); to amend the tax law, in relation to corporation tax refunds or credits (Part Q); to amend the environmental conservation law, the tax law and the general municipal law, in relation to eligibility for participation in the brownfield cleanup program, assignment of the brownfield redevelopment tax credits and brownfield opportunity areas; to amend part H of chapter 1 of the laws of 2003, amending the tax law relating to brownfield redevelopment tax credits, remediated brownfield credit for real property taxes for qualified sites and environmental remediation insurance credits, in relation to tax credits for certain sites; to amend the environmental conservation law, in relation to hazardous waste generator fees and taxes; to amend the environmental conservation law and the state finance law, in relation to the environmental restoration program; and to repeal certain provisions of the environmental conservation law and the tax law relating thereto (Part R); to amend the business corporation law, the limited liability company law, the partnership law and the tax law, in relation to the biennial statements filed with the secretary of state (Part S); to amend the tax law in relation to making corrections to the corporate tax reform provisions; and repealing certain provisions of such law relating thereto (Part T); to amend the tax law, in relation to exempting certain items of tangible personal property furnished to customers by certain cider producers, breweries, and distilleries at tastings (Part U); to amend the tax law, in relation to the imposition of the sales and compensating use tax on prepaid mobile calling services (Part V); to amend the general municipal law, the public authorities law and the tax law, in relation to reforming the industrial development authority program and adding a tax clearance process (Part W); to amend the tax law, in relation to requiring marketplace providers collect sales tax (Part X); to amend the tax law, in relation to closing certain sales and compensating use tax avoidance strategies with regard to taxes imposed by and pursuant to the authority of articles 28 and 29 of the tax law (Part Y); to amend the tax law, in relation to exempting electricity provided by certain sources from the sales tax imposed by article 28 of the tax law and omitting such exemption from the taxes imposed pursuant to the authority of article 29 of the tax law, unless a locality elects otherwise; and to repeal subdivisions (n) and (p) of section 1210 of such law relating to tax exemptions imposed by resolution in cities having a population of one million or more persons (Part Z); to amend the tax law in relation to allowing a reimbursement of the petroleum business tax for highway diesel motor fuel used in farm production (Part AA); to amend the tax law, in relation to calculating the estate tax imposed under the tax rate table, clarifying the phase out date for certain gift add backs and disallowing deductions

relating to intangible personal property for estates of non-resident decedents (Part BB); to amend the tax law in relation to requiring wholesalers of motor fuel to register and file returns (Part CC); to amend part Q of chapter 59 of the laws of 2013 amending the tax law relating to serving an income execution with respect to individual tax debtors without filing a warrant, in relation to the effectiveness thereof (Part DD); to amend the tax law, in relation to the suspension of driver's licenses of persons who are delinquent in the payment of past-due tax liabilities, by lowering the driver's license suspension delinquent past-due tax liability threshold from \$10,000 to \$5,000 (Part EE); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct; chapter 63 of the laws of 2001 amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, in relation to extending certain provisions concerning the hospital excess liability pool and requiring a tax clearance for doctors and dentists to be eligible for such excess coverage; and to amend the tax law, in relation to enforcement of delinquent tax liabilities through tax clearances (Part FF); to amend the public authorities law and the tax law, in relation to authorizing clearance of past-due tax liabilities for state or local authority grant applicants (Part GG); to amend the tax law and the state finance law, in relation to allowing the commissioner of taxation and finance to enter into reciprocal tax collection agreements with other states (Part HH); to amend the tax law, in relation to multi-agency disclosure of certain information to other state agencies to enhance tax enforcement and other enforcement initiatives (Part II); to amend the general obligations law and the tax law, in relation to authorizing electronic tax clearances for professional and business licenses (Part JJ); to amend the civil service law and the tax law, in relation to tax clearances for applicants for civil service employment (Part KK); to amend the social services law, in relation to the disclosure of certain information relating to a person receiving public assistance to the commissioner of the department of taxation and finance (Part LL); to amend the tax law, in relation to capital awards to vendor tracks (Part MM); to amend the racing, pari-mutuel wagering and breeding law, in relation to licenses for simulcast facilities, sums relating to track simulcast, simulcast of out-of-state thoroughbred races, simulcasting of races run by out-of-state harness tracks and distributions of wagers; to amend chapter 281 of the laws of 1994 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and chapter 346 of the laws of 1990 amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting and the imposition of certain taxes, in relation to extending certain provisions thereof; and to amend the racing, pari-mutuel wagering and breeding law, in relation to extending certain provisions thereof (Part NN); to amend the tax law and the penal law, in relation to video lottery gaming (Part OO); to amend the racing, pari-mutuel wagering and breeding law, in relation to a franchised corporation (Part PP); and to amend the administrative code of the city of New York, in relation to the taxation of business corporations (Part QQ)

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

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

12 PART A

13 Section 1. Subparagraph (i) of paragraph (a) of subdivision 2 of
14 section 1306-a of the real property tax law, as amended by section 6 of
15 part N of chapter 58 of the laws of 2011, is amended to read as follows:

16 (i) The tax savings for each parcel receiving the exemption authorized
17 by section four hundred twenty-five of this chapter shall be computed by
18 subtracting the amount actually levied against the parcel from the
19 amount that would have been levied if not for the exemption, provided
20 however, that [beginning with] FOR the two thousand eleven-two thousand
21 twelve THROUGH TWO THOUSAND FOURTEEN-TWO THOUSAND FIFTEEN school [year]
22 YEARS, the tax savings applicable to any "portion" (which as used herein
23 shall mean that part of an assessing unit located within a school
24 district) shall not exceed the tax savings applicable to that portion in
25 the prior school year multiplied by one hundred two percent, with the
26 result rounded to the nearest dollar; AND PROVIDED FURTHER THAT BEGIN-
27 NING WITH THE TWO THOUSAND FIFTEEN-TWO THOUSAND SIXTEEN SCHOOL YEAR, THE
28 TAX SAVINGS APPLICABLE TO ANY PORTION SHALL NOT EXCEED THE TAX SAVINGS
29 FOR THE PRIOR YEAR. The tax savings attributable to the basic and
30 enhanced exemptions shall be calculated separately. It shall be the
31 responsibility of the commissioner to calculate tax savings limitations
32 for purposes of this subdivision.

33 S 2. This act shall take effect immediately.

34 PART B

35 Section 1. Subdivision 1 of section 54-f of the state finance law, as
36 amended by section 1 of part EE of chapter 57 of the laws of 2010, is
37 amended to read as follows:

38 1. Except as otherwise provided by law, the provisions of this section
39 shall be utilized by the state to calculate the annual amount due to be
40 paid to the city of New York by the state to reimburse such city for tax
41 receipts foregone (a) as a result of [a] chapter THREE HUNDRED
42 EIGHTY-NINE of the laws of nineteen hundred ninety-seven [that reduced
43 the rates of tax imposed pursuant to authority granted under section
44 thirteen hundred one of the tax law and that created a new "state school
45 tax reduction credit" against liabilities imposed pursuant to the
46 authority granted the city by such section and other statutes authoriz-
47 ing the imposition of a personal income tax on the residents of such
48 city], and (b) as a result of the tax rate adjustments made by [a] chap-
49 ter FIFTY-SEVEN of the laws of two thousand ten AND BY A CHAPTER OF THE
50 LAWS OF TWO THOUSAND FIFTEEN, which amended this subdivision.

1 S 2. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the
2 tax law, as amended by section 2 of part EE of chapter 57 of the laws of
3 2010, are amended to read as follows:

4 (1) Resident married individuals filing joint returns and resident
5 surviving spouses. The tax under this section for each taxable year on
6 the city taxable income of every city resident married individual who
7 makes a single return jointly with his or her spouse under subsection
8 (b) of section thirteen hundred six of this article and on the city
9 taxable income of every city resident surviving spouse shall be deter-
10 mined in accordance with the following tables:

11 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:	
12 IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
13 NOT OVER \$21,600	2.55% OF THE CITY TAXABLE INCOME
14 OVER \$21,600 BUT NOT	\$551 PLUS 3.1% OF EXCESS
15 OVER \$45,000	OVER \$21,600
16 OVER \$45,000 BUT NOT	\$1,276 PLUS 3.15% OF EXCESS
17 OVER \$90,000	OVER \$45,000
18 OVER \$90,000 BUT NOT	\$2,694 PLUS 3.2% OF EXCESS
19 OVER \$500,000	OVER \$90,000
20 OVER \$500,000	\$16,803 PLUS 3.4% OF EXCESS
21	OVER \$500,000

22 (B) For taxable years beginning after two thousand nine AND BEFORE TWO	
23 THOUSAND FIFTEEN:	
24 If the city taxable income is:	The tax is:
25 Not over \$21,600	2.55% of the city taxable income
26 Over \$21,600 but not	\$551 plus 3.1% of excess
27 over \$45,000	over \$21,600
28 Over \$45,000 but not	\$1,276 plus 3.15% of excess
29 over \$90,000	over \$45,000
30 Over \$90,000 but not	\$2,694 plus 3.2% of excess
31 over \$500,000	over \$90,000
32 Over \$500,000	\$15,814 plus 3.4% of excess
33	over \$500,000

34 [(B) For taxable years beginning in two thousand one and two thousand
35 two and for taxable years beginning after two thousand five and before
36 two thousand ten:

37 If the city taxable income is:	The tax is:
38 Not over \$21,600	2.55% of the city taxable income
39 Over \$21,600 but not	\$551 plus 3.1% of excess
40 over \$45,000	over \$21,600
41 Over \$45,000 but not	\$1,276 plus 3.15% of excess
42 over \$90,000	over \$45,000
43 Over \$90,000	\$2,694 plus 3.2% of excess
44	over \$90,000]

45 (2) Resident heads of households. The tax under this section for each
46 taxable year on the city taxable income of every city resident head of a
47 household shall be determined in accordance with the following tables:

48 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

1	IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
2	NOT OVER \$14,400	2.55% OF THE CITY TAXABLE INCOME
3	OVER \$14,400 BUT NOT	\$367 PLUS 3.1% OF EXCESS
4	OVER \$30,000	OVER \$14,400
5	OVER \$30,000 BUT NOT	\$851 PLUS 3.15% OF EXCESS
6	OVER \$60,000	OVER \$30,000
7	OVER \$60,000 BUT NOT	\$1,796 PLUS 3.2% OF EXCESS
8	OVER \$500,000	OVER \$60,000
9	OVER \$500,000	\$16,869 PLUS 3.4% OF EXCESS
10		OVER \$500,000

11 (B) For taxable years beginning after two thousand nine AND BEFORE TWO
 12 THOUSAND FIFTEEN:

13	If the city taxable income is:	The tax is:
14	Not over \$14,400	2.55% of the city taxable income
15	Over \$14,400 but not	\$367 plus 3.1% of excess
16	over \$30,000	over \$14,400
17	Over \$30,000 but not	\$851 plus 3.15% of excess
18	over \$60,000	over \$30,000
19	Over \$60,000 but not	\$1,796 plus 3.2% of excess
20	over \$500,000	over \$60,000
21	Over \$500,000	\$15,876 plus 3.4% of excess
22		Over \$500,000

23 [(B) For taxable years beginning in two thousand one and two thousand
 24 two and for taxable years beginning after two thousand five and before
 25 two thousand ten:

26	If the city taxable income is:	The tax is:
27	Not over \$14,400	2.55% of the city taxable income
28	Over \$14,400 but not	\$367 plus 3.1% of excess
29	over \$30,000	over \$14,400
30	Over \$30,000 but not	\$851 plus 3.15% of excess
31	over \$60,000	over \$30,000
32	Over \$60,000	\$1,796 plus 3.2% of excess
33		over \$60,000]

34 (3) Resident unmarried individuals, resident married individuals
 35 filing separate returns and resident estates and trusts. The tax under
 36 this section for each taxable year on the city taxable income of every
 37 city resident individual who is not a city resident married individual
 38 who makes a single return jointly with his or her spouse under
 39 subsection (b) of section thirteen hundred six of this article or a city
 40 resident head of household or a city resident surviving spouse, and on
 41 the city taxable income of every city resident estate and trust shall be
 42 determined in accordance with the following tables:

43 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

44	IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
45	NOT OVER \$12,000	2.55% OF THE CITY TAXABLE INCOME
46	OVER \$12,000 BUT NOT	\$306 PLUS 3.1% OF EXCESS
47	OVER \$25,000	OVER \$12,000
48	OVER \$25,000 BUT NOT	\$709 PLUS 3.15% OF EXCESS
49	OVER \$50,000	OVER \$25,000

1 OVER \$50,000 BUT NOT \$1,497 PLUS 3.2% OF EXCESS
 2 OVER \$500,000 OVER \$50,000
 3 OVER \$500,000 \$16,891 PLUS 3.4%
 4 OF EXCESS OVER \$500,000
 5 (B) For taxable years beginning after two thousand nine AND BEFORE TWO
 6 THOUSAND FIFTEEN:

7 If the city taxable income is: The tax is:
 8 Not over \$12,000 2.55% of the city taxable income
 9 Over \$12,000 but not \$306 plus 3.1% of excess
 10 over \$25,000 over \$12,000
 11 Over \$25,000 but not \$709 plus 3.15% of excess
 12 over \$50,000 over \$25,000
 13 Over \$50,000 but not \$1,497 plus 3.2% of excess
 14 over \$500,000 over \$50,000
 15 Over \$500,000 \$15,897 plus 3.4%
 16 of excess over \$500,000
 17 [(B) For taxable years beginning in two thousand one and two thousand
 18 two and for taxable years beginning after two thousand five and before
 19 two thousand ten:

20 If the city taxable income is: The tax is:
 21 Not over \$12,000 2.55% of the city taxable income
 22 Over \$12,000 but not \$306 plus 3.1% of excess
 23 over \$25,000 over \$12,000
 24 Over \$25,000 but not \$709 plus 3.15% of excess
 25 over \$50,000 over \$25,000
 26 Over \$50,000 \$1,497 plus 3.2% of excess
 27 over \$50,000]

28 S 3. Paragraphs 1, 2 and 3 of subdivision (a) of section 11-1701 of
 29 the administrative code of the city of New York, as amended by section 3
 30 of part EE of chapter 57 of the laws of 2010, are amended to read as
 31 follows:

32 (1) Resident married individuals filing joint returns and resident
 33 surviving spouses. The tax under this section for each taxable year on
 34 the city taxable income of every city resident married individual who
 35 makes a single return jointly with his or her spouse under subdivision
 36 (b) of section 11-1751 of this chapter and on the city taxable income of
 37 every city resident surviving spouse shall be determined in accordance
 38 with the following tables:

39 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

40 IF THE CITY TAXABLE INCOME IS: THE TAX IS:
 41 NOT OVER \$21,600 2.55% OF THE CITY TAXABLE INCOME
 42 OVER \$21,600 BUT NOT \$551 PLUS 3.1% OF EXCESS
 43 OVER \$45,000 OVER \$21,600
 44 OVER \$45,000 BUT NOT \$1,276 PLUS 3.15% OF EXCESS
 45 OVER \$90,000 OVER \$45,000
 46 OVER \$90,000 BUT NOT \$2,694 PLUS 3.2% OF EXCESS
 47 OVER \$500,000 OVER \$90,000
 48 OVER \$500,000 \$16,803 PLUS 3.4% OF EXCESS
 49 OVER \$500,000

50 (B) For taxable years beginning after two thousand nine AND BEFORE TWO
 51 THOUSAND FIFTEEN:

1	If the city taxable income is:	The tax is:
2	Not over \$21,600	2.55% of the city taxable income
3	Over \$21,600 but not	\$551 plus 3.1% of excess
4	over \$45,000	over \$21,600
5	Over \$45,000 but not	\$1,276 plus 3.15% of excess
6	over \$90,000	over \$45,000
7	Over \$90,000 but not	\$2,694 plus 3.2% of excess
8	over \$500,000	over \$90,000
9	Over \$500,000	\$15,814 plus 3.4% of excess
10		over \$500,000

11 [(B) For taxable years beginning in two thousand one and two thousand
12 two and for taxable years beginning after two thousand five and before
13 two thousand ten:

14	If the city taxable income is:	The tax is:
15	Not over \$21,600	2.55% of the city taxable income
16	Over \$21,600 but not	\$551 plus 3.1% of excess
17	over \$45,000	over \$21,600
18	Over \$45,000 but not	\$1,276 plus 3.15% of excess
19	over \$90,000	over \$45,000
20	Over \$90,000	\$2,694 plus 3.2% of excess
21		over \$90,000]

22 (2) Resident heads of households. The tax under this section for each
23 taxable year on the city taxable income of every city resident head of a
24 household shall be determined in accordance with the following tables:

25 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

26	IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
27	NOT OVER \$14,400	2.55% OF THE CITY TAXABLE INCOME
28	OVER \$14,400 BUT NOT	\$367 PLUS 3.1% OF EXCESS
29	OVER \$30,000	OVER \$14,400
30	OVER \$30,000 BUT NOT	\$851 PLUS 3.15% OF EXCESS
31	OVER \$60,000	OVER \$30,000
32	OVER \$60,000 BUT NOT	\$1,796 PLUS 3.2% OF EXCESS
33	OVER \$500,000	OVER \$60,000
34	OVER \$500,000	\$16,869 PLUS 3.4% OF EXCESS
35		OVER \$500,000

36 (B) For taxable years beginning after two thousand nine AND BEFORE TWO
37 THOUSAND FIFTEEN:

38	If the city taxable income is:	The tax is:
39	Not over \$14,400	2.55% of the city taxable income
40	Over \$14,400 but not	\$367 plus 3.1% of excess
41	over \$30,000	over \$14,400
42	Over \$30,000 but not	\$851 plus 3.15% of excess
43	over \$60,000	over \$30,000
44	Over \$60,000 but not	\$1,796 plus 3.2% of excess
45	over \$500,000	over \$60,000
46	Over \$500,000	\$15,876 plus 3.4% of excess
47		over \$500,000

48 [(B) For taxable years beginning in two thousand one and two thousand
49 two and for taxable years beginning after two thousand five and before
50 two thousand ten:

1	If the city taxable income is:	The tax is:
2	Not over \$14,400	2.55% of the city taxable income
3	Over \$14,400 but not	\$367 plus 3.1% of excess
4	over \$30,000	over \$14,400
5	Over \$30,000 but not	\$851 plus 3.15% of excess
6	over \$60,000	over \$30,000
7	Over \$60,000	\$1,796
8		plus 3.2% of excess
9		over \$60,000]

10 (3) Resident unmarried individuals, resident married individuals
 11 filing separate returns and resident estates and trusts. The tax under
 12 this section for each taxable year on the city taxable income of every
 13 city resident individual who is not a married individual who makes a
 14 single return jointly with his or her spouse under subdivision (b) of
 15 section 11-1751 of this chapter or a city resident head of a household
 16 or a city resident surviving spouse, and on the city taxable income of
 17 every city resident estate and trust shall be determined in accordance
 18 with the following tables:

19 (A) FOR TAXABLE YEARS BEGINNING AFTER TWO THOUSAND FOURTEEN:

20	IF THE CITY TAXABLE INCOME IS:	THE TAX IS:
21	NOT OVER \$12,000	2.55% OF THE CITY TAXABLE INCOME
22	OVER \$12,000 BUT NOT	\$306 PLUS 3.1% OF EXCESS
23	OVER \$25,000	OVER \$12,000
24	OVER \$25,000 BUT NOT	\$709 PLUS 3.15% OF EXCESS
25	OVER \$50,000	OVER \$25,000
26	OVER \$50,000 BUT NOT	\$1,497 PLUS 3.2% OF EXCESS
27	OVER \$500,000	OVER \$50,000
28	OVER \$500,000	\$16,891 PLUS 3.4% OF EXCESS
29		OVER \$500,000

30 (B) For taxable years beginning after two thousand nine AND BEFORE TWO
 31 THOUSAND FIFTEEN:

32	If the city taxable income is:	The tax is:
33	Not over \$12,000	2.55% of the city taxable income
34	Over \$12,000 but not	\$306 plus 3.1% of excess
35	over \$25,000	over \$12,000
36	Over \$25,000 but not	\$709 plus 3.15% of excess
37	over \$50,000	over \$25,000
38	Over \$50,000 but not	\$1,497 plus 3.2% of excess
39	over \$500,000	over \$50,000
40	Over \$500,000	\$15,897 plus 3.4% of excess
41		over \$500,000

42 [(B) For taxable years beginning in two thousand one and two thousand
 43 two and for taxable years beginning after two thousand five and before
 44 two thousand ten:

45	If the city taxable income is:	The tax is:
46	Not over \$12,000	2.55% of the city taxable income
47	Over \$12,000 but not	\$306 plus 3.1% of excess
48	over \$25,000	over \$12,000
49	Over \$25,000 but not	\$709 plus 3.15% of excess

1	over \$50,000	over \$25,000
2	Over \$50,000	\$1,497 plus 3.2% of excess
3		over \$50,000]

4 S 4. Notwithstanding any provision of law to the contrary, the method
5 of determining the amount to be deducted and withheld from wages on
6 account of taxes imposed by or pursuant to the authority of article 30
7 of the tax law in connection with the implementation of the provisions
8 of this act shall be prescribed by regulations of the commissioner of
9 taxation and finance with due consideration to the effect such withhold-
10 ing tables and methods would have on the receipt and amount of revenue.
11 The commissioner of taxation and finance shall adjust such withholding
12 tables and methods in regard to taxable years beginning in 2015 and
13 after in such manner as to result, so far as practicable, in withholding
14 from an employee's wages an amount substantially equivalent to the tax
15 reasonably estimated to be due for such taxable years as a result of the
16 provisions of this act. Provided, however, for tax year 2015 the with-
17 holding tables shall reflect as accurately as practicable the full
18 amount of tax year 2015 liability so that such amount is withheld by
19 December 31, 2015. Any such regulations to implement a change in with-
20 holding tables and methods for tax year 2015 shall be adopted and effec-
21 tive as soon as practicable and the commissioner may adopt such regu-
22 lations on an emergency basis notwithstanding anything to the contrary
23 in section 202 of the state administrative procedure act. In carrying
24 out his or her duties and responsibilities under this section, the
25 commissioner of taxation and finance may accompany such a rule making
26 procedure with a similar procedure with respect to the taxes required to
27 be deducted and withheld by local laws imposing taxes pursuant to the
28 authority of articles 30, 30-A and 30-B of the tax law, the provisions
29 of any other law in relation to such a procedure to the contrary
30 notwithstanding.

31 S 5. 1. Notwithstanding any provision of law to the contrary, no addi-
32 tion to tax shall be imposed for failure to pay the estimated tax in
33 subsection (c) of section 685 of the tax law and subdivision (c) of
34 section 11-1785 of the administrative code of the city of New York with
35 respect to any underpayment of a required installment due prior to, or
36 within thirty days of, the effective date of this act to the extent that
37 such underpayment was created or increased by the amendments made by
38 this act, provided, however, that the taxpayer remits the amount of any
39 underpayment prior to or with his or her next quarterly estimated tax
40 payment.

41 2. The commissioner of taxation and finance shall take steps to publi-
42 cize the necessary adjustments to estimated tax and, to the extent
43 reasonably possible, to inform the taxpayer of the tax liability changes
44 made by this act.

45 S 6. This act shall take effect immediately.

46 PART C

47 Section 1. The opening paragraph of paragraph (f) of subdivision 3 of
48 section 425 of the real property tax law, as added by section 1 of part
49 B of chapter 59 of the laws of 2012, is amended to read as follows:

50 Compliance with state tax obligations. [The] A PROPERTY SHALL NOT BE
51 ELIGIBLE [property's eligibility] for the STAR exemption [must not be]
52 IF THE PROPERTY'S ELIGIBILITY HAS BEEN suspended pursuant to section one
53 hundred seventy-one-y of the tax law due to the past-due state tax
54 liabilities of one or more of its owners. Notwithstanding any provision

1 of law to the contrary, where a property's eligibility for a STAR
2 exemption has been suspended pursuant to such section, the following
3 provisions shall be applicable:

4 S 2. Paragraphs (h) and (i) of subdivision 2 and subdivision 7 of
5 section 171-y of the tax law, as added by section 2 of part B of chapter
6 59 of the laws of 2012, are amended to read as follows:

7 (h) [The procedures by which the department shall apply the amount of
8 a taxpayer's lost STAR benefits as an offset against the amount of that
9 taxpayer's past-due state tax liabilities.

10 (i)] Any other matter as the department shall deem necessary to carry
11 out the provisions of this section.

12 7. Activities to collect state tax liabilities undertaken by the
13 department pursuant to this section shall not in any way limit, restrict
14 or impair the department from exercising any other authority to collect
15 or enforce past-due state tax liabilities under any other applicable
16 provision of law. [The amount by which a taxpayer's property tax liabil-
17 ity increases as a result of the loss of the STAR exemption pursuant to
18 paragraph (f) of subdivision three of section four hundred twenty-five
19 of the real property tax law and this section shall be applied as an
20 offset against the amount of the taxpayer's past-due state tax liabil-
21 ity.] IF A TAXPAYER LOSES THE STAR EXEMPTION PURSUANT TO PARAGRAPH (F)
22 OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL
23 PROPERTY TAX LAW AND THIS SECTION, THE TAXPAYER SHALL LOSE ANY ENTITLE-
24 MENT OR CLAIM OF RIGHT TO THE STAR EXEMPTION FOR THE APPLICABLE YEAR.

25 S 3. Section 3 of part B of chapter 59 of the laws of 2012, amending
26 the real property tax law and the tax law relating to suspension of STAR
27 exemptions of property owned by persons with outstanding tax liabil-
28 ities, is amended to read as follows:

29 S 3. This act shall take effect immediately [and shall apply to the
30 administration of the STAR exemption authorized by section 425 of the
31 real property tax law for the 2013-2014, 2014-2015 and 2015-2016 school
32 years].

33 S 4. This act shall take effect immediately.

34

PART D

35 Section 1. Paragraph (a) of subdivision 6 of section 425 of the real
36 property tax law, as amended by chapter 6 of the laws of 2010, and as
37 further amended by subdivision (b) of section 1 of part W of chapter 56
38 of the laws of 2010, is amended to read as follows:

39 (a) Generally. All owners of the property who primarily reside thereon
40 AND WHO ARE NOT SUBJECT TO THE PROVISIONS OF SUBDIVISION FIFTEEN OF THIS
41 SECTION must jointly file an application for exemption with the assessor
42 on or before the appropriate taxable status date. Such application may
43 be filed by mail if it is enclosed in a postpaid envelope properly
44 addressed to the appropriate assessor, deposited in a post office or
45 official depository under the exclusive care of the United States postal
46 service, and postmarked by the United States postal service on or before
47 the applicable taxable status date. Each such application shall be made
48 on a form prescribed by the commissioner, which shall require the appli-
49 cant or applicants to agree to notify the assessor if their primary
50 residence changes while their property is receiving the exemption. The
51 assessor may request that proof of residency be submitted with the
52 application. If the applicant requests a receipt from the assessor as
53 proof of submission of the application, the assessor shall provide such
54 receipt. If such request is made by other than personal request, the

1 applicant shall provide the assessor with a self-addressed postpaid
2 envelope in which to mail the receipt.

3 S 2. Section 425 of the real property tax law is amended by adding a
4 new subdivision 15 to read as follows:

5 15. TRANSITION TO PERSONAL INCOME TAX CREDIT. (A) BEGINNING WITH
6 ASSESSMENT ROLLS USED TO LEVY SCHOOL DISTRICT TAXES FOR THE TWO THOUSAND
7 FIFTEEN -- TWO THOUSAND SIXTEEN SCHOOL YEAR, NO APPLICATION FOR AN
8 EXEMPTION UNDER THIS SECTION MAY BE FILED OR APPROVED IF NONE OF THE
9 APPLICANTS HELD TITLE TO THE PROPERTY ON THE TAXABLE STATUS DATE OF THE
10 ASSESSMENT ROLL THAT WAS USED TO LEVY SCHOOL DISTRICT TAXES FOR THE TWO
11 THOUSAND FOURTEEN -- TWO THOUSAND FIFTEEN SCHOOL YEAR. IN THE EVENT THAT
12 AN APPLICATION IS SUBMITTED TO THE ASSESSOR THAT CANNOT BE APPROVED DUE
13 TO THIS RESTRICTION, THE ASSESSOR SHALL NOTIFY THE APPLICANT THAT HE OR
14 SHE IS REQUIRED BY LAW TO DENY THE APPLICATION, BUT THAT, IN LIEU OF A
15 STAR EXEMPTION, THE APPLICANT MAY CLAIM THE PERSONAL INCOME TAX CREDIT
16 AUTHORIZED BY SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX LAW
17 IF ELIGIBLE, AND THAT THE APPLICANT MAY CONTACT THE DEPARTMENT OF TAXA-
18 TION AND FINANCE FOR FURTHER INFORMATION. THE COMMISSIONER SHALL PROVIDE
19 A FORM FOR ASSESSORS TO USE, AT THEIR OPTION, WHEN MAKING THIS NOTIFICA-
20 TION. NO ASSESSOR, BOARD OF ASSESSMENT REVIEW OR SMALL CLAIMS HEARING
21 OFFICER MAY GRANT A STAR EXEMPTION ON THE BASIS OF AN APPLICATION THAT
22 IS NOT APPROVABLE DUE TO THIS RESTRICTION.

23 (B) IF THE OWNERS OF A PARCEL THAT IS RECEIVING THE STAR EXEMPTION
24 AUTHORIZED BY THIS SECTION WANT TO CLAIM THE PERSONAL INCOME TAX CREDIT
25 AUTHORIZED BY SUBSECTION (CCC) OF SECTION SIX HUNDRED SIX OF THE TAX LAW
26 IN LIEU OF SUCH EXEMPTION, THEY ALL MUST RENOUNCE THAT EXEMPTION IN THE
27 MANNER PROVIDED BY SECTION FOUR HUNDRED NINETY-SIX OF THIS CHAPTER, AND
28 MUST PAY ANY REQUIRED TAXES, INTEREST AND PENALTIES, ON OR BEFORE DECEM-
29 BER THIRTY-FIRST OF THE TAXABLE YEAR FOR WHICH THEY WANT TO CLAIM THE
30 CREDIT. ANY SUCH RENUNCIATION SHALL BE IRREVOCABLE.

31 S 3. Subdivision 2 of section 496 of the real property tax law, as
32 added by section 3 of part N of chapter 58 of the laws of 2011, is
33 amended to read as follows:

34 2. An application to renounce an exemption shall be made on a form
35 prescribed by the commissioner and shall be filed with the county direc-
36 tor of real property tax services no later than ten years after the levy
37 of taxes upon the assessment roll on which the renounced exemption
38 appears. The county director, after consulting with the assessor as
39 appropriate, shall compute the total amount owed on account of the
40 renounced exemption as follows:

41 (a) For each assessment roll on which the renounced exemption appears,
42 the assessed value that was exempted shall be multiplied by the tax rate
43 or rates that were applied to that assessment roll. Interest shall then
44 be added to each such product at the rate prescribed by section nine
45 hundred twenty-four-a of this chapter or such other law as may be appli-
46 cable for each month or portion thereon since the levy of taxes upon
47 such assessment roll.

48 (b) The sum of the calculations made pursuant to paragraph (a) of this
49 subdivision with respect to all of the assessment rolls in question
50 shall be determined.

51 (c) A processing fee of five hundred dollars shall be added to the sum
52 determined pursuant to paragraph (b) of this subdivision, UNLESS THE
53 PROVISIONS OF PARAGRAPH (D) OF THIS SUBDIVISION ARE APPLICABLE.

54 (D) IF THE APPLICANT IS RENOUNCING A STAR EXEMPTION IN ORDER TO QUALI-
55 FY FOR THE PERSONAL INCOME TAX CREDIT AUTHORIZED BY SUBSECTION (CCC) OF
56 SECTION SIX HUNDRED SIX OF THE TAX LAW, AND NO OTHER EXEMPTIONS ARE

1 BEING RENOUNCED ON THE SAME APPLICATION, NO PROCESSING FEE SHALL BE
2 APPLICABLE.

3 S 4. Subdivision 5 of section 520 of the real property tax law is
4 REPEALED.

5 S 5. Section 606 of the tax law is amended by adding a new subsection
6 (ccc) to read as follows:

7 (CCC) SCHOOL TAX RELIEF (STAR) CREDIT. (1) DEFINITIONS. FOR PURPOSES
8 OF THIS SUBSECTION:

9 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE, WHO
10 MAINTAINED HIS OR HER PRIMARY RESIDENCE IN THIS STATE ON DECEMBER THIR-
11 TY-FIRST OF THE TAXABLE YEAR, WHO WAS AN OWNER OF THAT PROPERTY ON THAT
12 DATE, WHO IS PRECLUDED FROM RECEIVING THE STAR EXEMPTION BY VIRTUE OF
13 THE PROVISIONS OF SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED
14 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, AND WHO IS REQUIRED OR CHOOSES
15 TO FILE A RETURN UNDER THIS ARTICLE.

16 (B) "AFFILIATED INCOME" SHALL MEAN THE COMBINED INCOME OF ALL OF THE
17 OWNERS OF THE PARCEL WHO RESIDED PRIMARILY THEREON AS OF DECEMBER THIR-
18 TY-FIRST OF THE TAXABLE YEAR, AND OF ANY OWNERS' SPOUSES RESIDING PRIMA-
19 RILY THEREON AS OF SUCH DATE; PROVIDED THAT THE INCOME TO BE SO COMBINED
20 SHALL BE THE "ADJUSTED GROSS INCOME" FOR THE TAXABLE YEAR AS REPORTED
21 FOR FEDERAL INCOME TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED
22 GROSS INCOME IF A FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED,
23 REDUCED BY DISTRIBUTIONS, TO THE EXTENT INCLUDED IN FEDERAL ADJUSTED
24 GROSS INCOME, RECEIVED FROM AN INDIVIDUAL RETIREMENT ACCOUNT AND AN
25 INDIVIDUAL RETIREMENT ANNUITY.

26 (C) "ASSOCIATED FISCAL YEAR" MEANS THE SCHOOL DISTRICT FISCAL YEAR
27 THAT BEGAN ON JULY FIRST OF THE TAXABLE YEAR, OR, IN THE CASE OF A CITY
28 SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION
29 LAW, THE CITY FISCAL YEAR THAT BEGAN ON JULY FIRST OF THE TAXABLE YEAR,

30 (D) "OWNER" MEANS:

31 (I) A PERSON WHO OWNS A PARCEL IN FEE SIMPLE ABSOLUTE OR AS A TENANT
32 IN COMMON, A JOINT TENANT OR A TENANT BY THE ENTIRETY,

33 (II) AN OWNER OF A PRESENT INTEREST IN A PARCEL UNDER A LIFE ESTATE,

34 (III) A VENDEE IN POSSESSION UNDER AN INSTALLMENT CONTRACT OF SALE,

35 (IV) A BENEFICIAL OWNER UNDER A TRUST,

36 (V) A TENANT-STOCKHOLDER OF A COOPERATIVE APARTMENT CORPORATION WHO
37 RESIDES IN A PORTION OF REAL PROPERTY OWNED BY SUCH COOPERATIVE APART-
38 MENT CORPORATION, TO THE EXTENT REPRESENTED BY HIS OR HER SHARE OR
39 SHARES OF STOCK IN SUCH CORPORATION AS DETERMINED BY ITS OR THEIR
40 PROPORTIONAL RELATIONSHIP TO THE TOTAL OUTSTANDING STOCK OF THE CORPO-
41 RATION, INCLUDING THAT OWNED BY THE CORPORATION,

42 (VI) A RESIDENT OF A FARM DWELLING WHICH IS OWNED EITHER BY A CORPO-
43 RATION OF WHICH THE RESIDENT IS A SHAREHOLDER, OR BY A PARTNERSHIP OF
44 WHICH THE RESIDENT IS A PARTNER, OR

45 (VII) A RESIDENT OF A DWELLING, OTHER THAN A FARM DWELLING, WHICH IS
46 OWNED BY A LIMITED PARTNERSHIP OF WHICH THE RESIDENT IS A PARTNER,
47 PROVIDED THAT THE LIMITED PARTNERSHIP WHICH HOLDS TITLE TO THE PROPERTY
48 DOES NOT ENGAGE IN ANY COMMERCIAL ACTIVITY, THAT THE LIMITED PARTNERSHIP
49 WAS LAWFULLY CREATED TO HOLD TITLE SOLELY FOR ESTATE PLANNING AND ASSET
50 PROTECTION PURPOSES, AND THAT THE PARTNER OR PARTNERS WHO PRIMARILY
51 RESIDE THEREON PERSONALLY PAY ALL OF THE REAL PROPERTY TAXES AND OTHER
52 COSTS ASSOCIATED WITH THE PROPERTY'S OWNERSHIP.

53 (E) "QUALIFYING TAXES" MEANS THE SCHOOL DISTRICT TAXES THAT WERE
54 LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL
55 YEAR THAT WERE ACTUALLY PAID BY THE TAXPAYER DURING THE TAXABLE YEAR;
56 OR, IN THE CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE

1 FIFTY-TWO OF THE EDUCATION LAW, THE COMBINED CITY AND SCHOOL DISTRICT
2 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE
3 ASSOCIATED FISCAL YEAR THAT WERE ACTUALLY PAID BY THE TAXPAYER DURING
4 THE TAXABLE YEAR. IN NO CASE SHALL THE TERM "QUALIFYING TAXES" BE
5 CONSTRUED TO INCLUDE PENALTIES OR INTEREST.

6 (F) "STAR EXEMPTION" MEANS THE SCHOOL TAX RELIEF (STAR) EXEMPTION
7 AUTHORIZED BY SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX
8 LAW.

9 (G) "STAR TAX SAVINGS" MEANS THE TAX SAVINGS ATTRIBUTABLE TO THE STAR
10 EXEMPTION WITHIN A PORTION OF A SCHOOL DISTRICT, AS DETERMINED BY THE
11 COMMISSIONER PURSUANT TO SUBDIVISION TWO OF SECTION THIRTEEN HUNDRED
12 SIX-A OF THE REAL PROPERTY TAX LAW.

13 (H) "STAR TAX SAVINGS FACTOR" MEANS THE AVERAGE OF THE STAR TAX
14 SAVINGS IN EACH PORTION OF A SCHOOL DISTRICT IN THE ASSOCIATED FISCAL
15 YEAR, AS DETERMINED BY THE COMMISSIONER. TWO STAR TAX SAVINGS FACTORS
16 SHALL BE DETERMINED FOR EACH SCHOOL DISTRICT, ONE RELATING TO THE BASIC
17 STAR EXEMPTION, AND THE OTHER RELATING TO THE ENHANCED STAR EXEMPTION.

18 (2) ALLOWANCE OF CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CRED-
19 IT AS PROVIDED IN PARAGRAPH THREE OR FOUR OF THIS SUBSECTION, WHICHEVER
20 IS APPLICABLE, AGAINST THE TAXES IMPOSED BY THIS ARTICLE REDUCED BY THE
21 CREDITS PERMITTED BY THIS ARTICLE, PROVIDED THAT THE REQUIREMENTS SET
22 FORTH IN THE APPLICABLE SUBSECTION ARE SATISFIED. IF THE CREDIT EXCEEDS
23 THE TAX AS SO REDUCED FOR SUCH YEAR UNDER THIS ARTICLE, THE EXCESS SHALL
24 BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED, WITHOUT INTER-
25 EST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT
26 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A QUALIFIED TAXPAYER
27 MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE CREDIT TO BE CREDITED OR
28 REPAYED AS AN OVERPAYMENT, WITHOUT INTEREST.

29 (3) DETERMINATION OF BASIC STAR CREDIT. (A) BEGINNING WITH TAXABLE
30 YEARS AFTER TWO THOUSAND FOURTEEN, A BASIC STAR CREDIT SHALL BE AVAIL-
31 ABLE TO A QUALIFIED TAXPAYER IF THE AFFILIATED INCOME OF THE PARCEL THAT
32 SERVES AS THE TAXPAYER'S PRIMARY RESIDENCE IS LESS THAN OR EQUAL TO FIVE
33 HUNDRED THOUSAND DOLLARS.

34 (B) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,
35 SUCH BASIC STAR CREDIT SHALL BE THE LESSER OF:

36 (I) THE BASIC STAR TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, OR

37 (II) THE TAXPAYER'S QUALIFYING TAXES.

38 (C) IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTITUTED ONLY A
39 PORTION OF THE TOTAL SCHOOL DISTRICT TAXES THAT WERE LEVIED UPON THE
40 TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL YEAR, OR IN THE
41 CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF
42 THE EDUCATION LAW, IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTI-
43 TUTED ONLY A PORTION OF THE TOTAL COMBINED CITY AND SCHOOL DISTRICT
44 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE
45 ASSOCIATED FISCAL YEAR, THE CREDIT ALLOWABLE TO SUCH TAXPAYER SHALL BE
46 EQUAL TO THE AMOUNT DETERMINED PURSUANT TO SUBPARAGRAPH (B) OF THIS
47 PARAGRAPH MULTIPLIED BY THE PERCENTAGE WHICH SUCH PORTION REPRESENTS.

48 (4) DETERMINATION OF ENHANCED STAR CREDIT. (A) BEGINNING WITH TAXABLE
49 YEARS AFTER TWO THOUSAND FOURTEEN, AN ENHANCED STAR CREDIT SHALL BE
50 AVAILABLE TO A QUALIFIED TAXPAYER WHERE BOTH OF THE FOLLOWING CONDITIONS
51 ARE SATISFIED:

52 (I) ALL OF THE OWNERS OF THE PARCEL THAT SERVES AS THE TAXPAYER'S
53 PRIMARY RESIDENCE ARE AT LEAST SIXTY-FIVE YEARS OF AGE AS OF DECEMBER
54 THIRTY-FIRST OF THE TAXABLE YEAR, OR IN THE CASE OF PROPERTY OWNED BY A
55 MARRIED COUPLE OR BY SIBLINGS, AT LEAST ONE OF THE OWNERS IS AT LEAST
56 SIXTY-FIVE YEARS OF AGE AS OF THAT DATE. THE TERM "SIBLINGS" AS USED

1 HEREIN SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION FOUR HUNDRED
2 SIXTY-SEVEN OF THE REAL PROPERTY TAX LAW. IN THE CASE OF PROPERTY OWNED
3 BY A MARRIED COUPLE, ONE OF WHOM IS SIXTY-FIVE YEARS OF AGE OR OVER, THE
4 CREDIT, ONCE ALLOWED, SHALL NOT BE DISALLOWED BECAUSE OF THE DEATH OF
5 THE OLDER SPOUSE SO LONG AS THE SURVIVING SPOUSE IS AT LEAST SIXTY-TWO
6 YEARS OF AGE AS OF DECEMBER THIRTY-FIRST OF THE TAXABLE YEAR.

7 (II) THE AFFILIATED INCOME OF THE PARCEL THAT SERVES AS THE TAXPAYER'S
8 PRIMARY RESIDENCE IS LESS THAN OR EQUAL TO THE INCOME STANDARD FOR THE
9 TAXABLE YEAR ESTABLISHED BY THE COMMISSIONER FOR THE CORRESPONDING
10 "INCOME TAX YEAR" PURSUANT TO CLAUSE (C) OF SUBPARAGRAPH (I) OF PARA-
11 GRAPH (B) OF SUBDIVISION FOUR OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE
12 REAL PROPERTY TAX LAW FOR PURPOSES OF THE ENHANCED STAR EXEMPTION.

13 (B) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (C) OF THIS PARAGRAPH,
14 SUCH CREDIT SHALL BE THE LESSER OF:

15 (I) THE ENHANCED STAR TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, OR

16 (II) THE TAXPAYER'S QUALIFYING TAXES.

17 (C) IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTITUTED ONLY A
18 PORTION OF THE TOTAL SCHOOL DISTRICT TAXES THAT WERE LEVIED UPON THE
19 TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL YEAR, OR IN THE
20 CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-TWO OF
21 THE EDUCATION LAW, IF THE QUALIFYING TAXES PAID BY THE TAXPAYER CONSTI-
22 TUTED ONLY A PORTION OF THE TOTAL COMBINED CITY AND SCHOOL DISTRICT
23 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE
24 ASSOCIATED FISCAL YEAR, THE CREDIT ALLOWABLE TO SUCH TAXPAYER SHALL BE
25 EQUAL TO THE AMOUNT DETERMINED PURSUANT TO SUBPARAGRAPH (B) OF THIS
26 PARAGRAPH MULTIPLIED BY THE PERCENTAGE WHICH SUCH PORTION REPRESENTS.

27 (5) DISQUALIFICATION. A TAXPAYER SHALL NOT QUALIFY FOR THE CREDIT
28 AUTHORIZED BY THIS SUBSECTION IF THE PARCEL THAT SERVES AS THE TAXPAY-
29 ER'S PRIMARY RESIDENCE RECEIVED THE STAR EXEMPTION ON THE ASSESSMENT
30 ROLL UPON WHICH SCHOOL DISTRICT TAXES FOR THE ASSOCIATED FISCAL YEAR
31 WERE LEVIED. PROVIDED, HOWEVER, THAT THE TAXPAYER MAY REMOVE THIS
32 DISQUALIFICATION BY RENOUNCING THE EXEMPTION AND MAKING ANY REQUIRED
33 PAYMENTS BY DECEMBER THIRTY-FIRST OF THE TAXABLE YEAR, AS PROVIDED BY
34 SUBDIVISION FIFTEEN OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL
35 PROPERTY TAX LAW.

36 (6) SPECIAL CASES. (A) IN THE CASE OF PROPERTY CONSISTING OF A COOPER-
37 ATIVE APARTMENT CORPORATION THAT IS DESCRIBED BY PARAGRAPH (K) OF SUBDI-
38 VISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX
39 LAW, THE AMOUNT OF THE CREDIT ALLOWABLE WITH RESPECT TO A COOPERATIVE
40 APARTMENT SHALL BE EQUAL TO SIXTY PERCENT OF THE BASIC STAR TAX SAVINGS
41 FACTOR FOR THE SCHOOL DISTRICT, OR SIXTY PERCENT OF THE ENHANCED STAR
42 TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, WHICHEVER IS APPLICABLE.
43 PROVIDED, HOWEVER, THAT IN THE CASE OF A COOPERATIVE APARTMENT CORPO-
44 RATION THAT IS DESCRIBED BY SUBPARAGRAPH (IV) OF PARAGRAPH (K) OF SUBDI-
45 VISION TWO OF SECTION FOUR HUNDRED TWENTY-FIVE OF THE REAL PROPERTY TAX
46 LAW, THE CREDIT ALLOWABLE WITH RESPECT TO A COOPERATIVE APARTMENT SHALL
47 BE EQUAL TO TWENTY PERCENT OF SUCH FACTOR.

48 (B) IN THE CASE OF PROPERTY CONSISTING OF A MOBILE HOME THAT IS
49 DESCRIBED BY PARAGRAPH (L) OF SUBDIVISION TWO OF SECTION FOUR HUNDRED
50 TWENTY-FIVE OF THE REAL PROPERTY TAX LAW, THE AMOUNT OF THE CREDIT
51 ALLOWABLE WITH RESPECT TO SUCH MOBILE HOME SHALL BE EQUAL TO TWENTY-FIVE
52 PERCENT OF THE BASIC STAR TAX SAVINGS FACTOR FOR THE SCHOOL DISTRICT, OR
53 TWENTY-FIVE PERCENT OF THE ENHANCED STAR TAX SAVINGS FACTOR FOR THE
54 SCHOOL DISTRICT, WHICHEVER IS APPLICABLE.

1 (C) IN THE CASE OF A PRIMARY RESIDENCE THAT IS LOCATED IN TWO OR MORE
2 SCHOOL DISTRICTS, THE APPLICABLE BASIC OR ENHANCED STAR TAX SAVINGS
3 FACTOR SHALL BE DETERMINED AS FOLLOWS:

4 (I) DETERMINE THE SUM OF THE TOTAL SCHOOL DISTRICT TAXES THAT WERE
5 LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE FOR THE ASSOCIATED FISCAL
6 YEAR BY EACH OF THE SCHOOL DISTRICTS IN WHICH THE RESIDENCE IS LOCATED;

7 (II) FOR EACH SUCH SCHOOL DISTRICT, DIVIDE THE TOTAL SCHOOL DISTRICT
8 TAXES THAT WERE LEVIED UPON THE TAXPAYER'S PRIMARY RESIDENCE BY THAT
9 SCHOOL DISTRICT FOR THE ASSOCIATED FISCAL YEAR BY THE SUM DETERMINED IN
10 CLAUSE (I) OF THIS SUBPARAGRAPH. EXPRESS THE RESULT AS A PERCENTAGE WITH
11 TWO DECIMAL PLACES;

12 (III) FOR EACH SUCH SCHOOL DISTRICT, MULTIPLY THE PERCENTAGE DETER-
13 MINED IN CLAUSE (II) OF THIS SUBPARAGRAPH BY THE BASIC OR ENHANCED STAR
14 TAX SAVINGS FACTOR, WHICHEVER IS APPLICABLE; AND

15 (IV) ADD THE PRODUCTS DETERMINED IN CLAUSE (III) OF THIS SUBPARAGRAPH.

16 (7) WAIVER OF SECRECY. WHERE THE COMMISSIONER HAS DENIED A TAXPAYER'S
17 CLAIM FOR THE CREDIT AUTHORIZED BY THIS SUBSECTION IN WHOLE OR IN PART
18 ON THE GROUNDS THAT THE AFFILIATED INCOME OF THE PARCEL IN QUESTION
19 EXCEEDS THE APPLICABLE LIMIT, THE COMMISSIONER SHALL HAVE THE AUTHORITY
20 TO REVEAL TO THAT TAXPAYER THE NAMES AND INCOMES OF THE OTHER TAXPAYERS
21 WHOSE INCOMES WERE INCLUDED IN THE COMPUTATION OF SUCH AFFILIATED
22 INCOME.

23 (8) PROOF OF CLAIM. THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER
24 TO FURNISH THE FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR
25 CREDIT UNDER THIS SUBSECTION: AFFILIATED INCOME, THE TOTAL SCHOOL
26 DISTRICT TAXES LEVIED ON THE PROPERTY FOR THE ASSOCIATED FISCAL YEAR, OR
27 IN THE CASE OF A CITY SCHOOL DISTRICT THAT IS SUBJECT TO ARTICLE FIFTY-
28 TWO OF THE EDUCATION LAW, THE TOTAL COMBINED CITY AND SCHOOL DISTRICT
29 TAXES LEVIED ON THE PROPERTY FOR THE ASSOCIATED FISCAL YEAR, THE QUALI-
30 FYING TAXES PAID BY THE TAXPAYER, THE NAMES AND TAXPAYER IDENTIFICATION
31 NUMBERS OF ALL OWNERS OF THE PROPERTY AND SPOUSES WHO PRIMARILY RESIDE
32 ON THE PROPERTY, THE PARCEL IDENTIFICATION NUMBER AND ALL OTHER INFORMA-
33 TION THAT MAY BE REQUIRED BY THE COMMISSIONER TO DETERMINE THE CREDIT.

34 (9) RETURNS. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN
35 PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A
36 CREDIT MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE
37 YEARS FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED
38 PURSUANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR
39 ENDING ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE
40 IN SUCH FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHICH SHALL
41 MAKE AVAILABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

42 (10) ADMINISTRATION. THE PROVISIONS OF THIS ARTICLE, INCLUDING THE
43 PROVISIONS OF SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT,
44 AND SIX HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE PROVISIONS OF PART
45 SIX OF THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING
46 THE JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH
47 OF SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A
48 CLAIM FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN
49 PARAGRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED
50 FIFTY-SEVEN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS
51 ARTICLE, SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME
52 MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE
53 PROVISIONS HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD
54 EXPRESSLY REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS
55 SUBSECTION, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER
56 INCONSISTENT WITH A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO

1 THIS SUBSECTION. AS USED IN SUCH SECTIONS AND SUCH PART, THE TERM
2 "TAXPAYER" SHALL INCLUDE A QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND,
3 NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED
4 NINETY-SEVEN OF THIS ARTICLE, WHERE A QUALIFIED TAXPAYER HAS PROTESTED
5 THE DENIAL OF A CLAIM FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO
6 FILE A PETITION FOR REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS
7 NOT EXPIRED, HE SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE
8 COMMISSIONER, RECEIVE SUCH INFORMATION (A) WHICH IS CONTAINED IN ANY
9 RETURN FILED UNDER THIS ARTICLE BY A MEMBER OF HIS OR HER HOUSEHOLD FOR
10 THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED, AND (B) WHICH THE
11 COMMISSIONER FINDS IS RELEVANT AND MATERIAL TO THE ISSUE OF WHETHER SUCH
12 CLAIM WAS PROPERLY DENIED.

13 S 6. Paragraph 3 of subsection (bbb) of section 606 of the tax law, as
14 added by section 1 of part FF of chapter 59 of the laws of 2014, is
15 amended to read as follows:

16 (3) To be eligible for such credit, the taxpayer (or taxpayers filing
17 joint returns) must meet the following criteria:

18 (A) For the two thousand fourteen taxable year, the taxpayer's primary
19 residence must have qualified for the STAR exemption for the two thou-
20 sand fourteen--two thousand fifteen school year, or would have so quali-
21 fied if an application for such exemption had been submitted in a timely
22 manner.

23 (B) For the two thousand fifteen taxable year, the taxpayer's primary
24 residence must have qualified for the STAR exemption for the two thou-
25 sand fifteen--two thousand sixteen school year, or would have so quali-
26 fied if an application for such exemption had been submitted in a timely
27 manner. ALTERNATIVELY, THE TAXPAYER MUST HAVE QUALIFIED FOR THE SCHOOL
28 TAX RELIEF CREDIT AUTHORIZED BY SUBSECTION (CCC) OF THIS SECTION FOR THE
29 TWO THOUSAND FIFTEEN TAXABLE YEAR.

30 (C) For the two thousand sixteen taxable year, the taxpayer's primary
31 residence must have qualified for the STAR exemption for the two thou-
32 sand sixteen--two thousand seventeen school year, or would have so qual-
33 ified if an application for such exemption had been submitted in a time-
34 ly manner. ALTERNATIVELY, THE TAXPAYER MUST HAVE QUALIFIED FOR THE
35 SCHOOL TAX RELIEF CREDIT AUTHORIZED BY SUBSECTION (CCC) OF THIS SECTION
36 FOR THE TWO THOUSAND SIXTEEN TAXABLE YEAR.

37 S 7. This act shall take effect immediately, provided that the
38 provisions of paragraph (b) of subdivision 15 of section 425 of the real
39 property tax law as added by section two of this act shall apply to all
40 applications for STAR exemptions beginning with assessment rolls used to
41 levy school district taxes for the 2015-2016 school year, including
42 those submitted prior to the effective date of this act; and provided
43 further that in the event that any such application shall have been
44 approved prior to the effective date of this act, such approval shall be
45 deemed void. In such cases, the assessor shall provide the applicant
46 with the notice required by paragraph (b) of subdivision 15 of section
47 425 of the real property tax law as added by section two of this act.

48

PART E

49 Section 1. Section 425 of the real property tax law is amended by
50 adding a new subdivision 15 to read as follows:

51 15. RECOUPMENT OF EXEMPTIONS BY COMMISSIONER. (A) GENERALLY. IF THE
52 COMMISSIONER SHOULD DETERMINE, BASED UPON DATA COLLECTED UNDER THE STAR
53 REGISTRATION PROGRAM, THAT PROPERTY IMPROPERLY RECEIVED THE BASIC STAR
54 EXEMPTION ON ONE OR MORE OF THE SIX PRECEDING ASSESSMENT ROLLS, THE

1 COMMISSIONER SHALL TREAT THE EXEMPTION AS AN IMPROPERLY GRANTED
2 EXEMPTION AND PROCEED IN THE MANNER PROVIDED BY THIS SUBDIVISION;
3 PROVIDED THAT FINAL ASSESSMENT ROLLS THAT WERE FILED PRIOR TO APRIL
4 FIRST, TWO THOUSAND ELEVEN SHALL NOT BE SUBJECT TO THE PROVISIONS OF
5 THIS SUBDIVISION.

6 (B) PROCEDURE. THE TAX SAVINGS ATTRIBUTABLE TO EACH SUCH IMPROPERLY
7 GRANTED EXEMPTION SHALL BE COLLECTED FROM THE OWNERS WHOSE PROPERTY
8 IMPROPERLY RECEIVED THE EXEMPTION FOR THE APPLICABLE YEAR, TOGETHER WITH
9 INTEREST AND A PENALTY AS SPECIFIED IN THIS SUBDIVISION, BY UTILIZING
10 ANY OF THE PROCEDURES FOR COLLECTION, LEVY, AND LIEN OF PERSONAL INCOME
11 TAX SET FORTH IN ARTICLE TWENTY-TWO OF THE TAX LAW, ANY OTHER RELEVANT
12 PROCEDURES REFERENCED WITHIN THE PROVISIONS OF THAT ARTICLE, AND ANY
13 OTHER LAW AS MAY BE APPLICABLE, SO FAR AS PRACTICABLE WHEN RECOUPING THE
14 EXEMPTION AMOUNT PURSUANT TO THIS SUBDIVISION, EXCEPT THAT:

15 (I) PRIOR TO DIRECTING THAT AN IMPROPERLY GRANTED EXEMPTION BE
16 RECOUPED PURSUANT TO THIS SUBDIVISION, THE COMMISSIONER SHALL PROVIDE
17 THE OWNERS WITH NOTICE AND AN OPPORTUNITY TO SHOW THE COMMISSIONER THAT
18 THE EXEMPTION WAS PROPERLY GRANTED. IF THE OWNERS FAIL TO RESPOND TO
19 SUCH NOTICE WITHIN FORTY-FIVE DAYS FROM THE MAILING THEREOF, OR IF THEIR
20 RESPONSE DOES NOT SHOW TO THE COMMISSIONER'S SATISFACTION THAT THE
21 ELIGIBILITY REQUIREMENTS WERE IN FACT SATISFIED, THE COMMISSIONER SHALL
22 PROCEED WITH THE RECOUPMENT OF THE IMPROPERLY GRANTED EXEMPTION IN
23 ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION; AND

24 (II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION
25 SIX OF THIS SECTION, NEITHER AN ASSESSOR NOR A BOARD OF ASSESSMENT
26 REVIEW HAS THE AUTHORITY TO CONSIDER AN OBJECTION TO THE RECOUPMENT OF
27 AN EXEMPTION PURSUANT TO THIS SUBDIVISION, NOR MAY SUCH AN ACTION BE
28 REVIEWED IN A PROCEEDING TO REVIEW AN ASSESSMENT PURSUANT TO TITLE ONE
29 OR ONE-A OF ARTICLE SEVEN OF THIS CHAPTER. SUCH AN ACTION MAY ONLY BE
30 CHALLENGED BEFORE THE DEPARTMENT. IF AN OWNER IS DISSATISFIED WITH THE
31 DEPARTMENT'S FINAL DETERMINATION, THE OWNER MAY APPEAL THAT DETERMI-
32 NATION TO THE BOARD IN A FORM AND MANNER TO BE PRESCRIBED BY THE COMMIS-
33 SIONER. SUCH APPEAL SHALL BE FILED WITHIN FORTY-FIVE DAYS FROM THE ISSU-
34 ANCE OF THE DEPARTMENT'S FINAL DETERMINATION. IF DISSATISFIED WITH THE
35 BOARD'S DETERMINATION, THE OWNER MAY SEEK JUDICIAL REVIEW THEREOF PURSU-
36 ANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. THE
37 OWNER SHALL OTHERWISE HAVE NO RIGHT TO CHALLENGE SUCH FINAL DETERMI-
38 NATION IN A COURT ACTION, ADMINISTRATIVE PROCEEDING, INCLUDING BUT NOT
39 LIMITED TO AN ADMINISTRATIVE PROCEEDING PURSUANT TO ARTICLE FORTY OF THE
40 TAX LAW, OR ANY OTHER FORM OF LEGAL RECOURSE AGAINST THE COMMISSIONER,
41 THE DEPARTMENT, THE BOARD, THE ASSESSOR, OR ANY OTHER PERSON, STATE
42 AGENCY, OR LOCAL GOVERNMENT.

43 (C) THE AMOUNT TO BE RECOUPED FOR EACH IMPROPERLY RECEIVED EXEMPTION
44 SHALL HAVE INTEREST ADDED AT THE RATE PRESCRIBED BY SECTION NINE HUNDRED
45 TWENTY-FOUR-A OF THIS CHAPTER OR SUCH OTHER LAW AS MAY BE APPLICABLE FOR
46 EACH MONTH OR PORTION THEREOF SINCE THE LEVY OF SCHOOL TAXES UPON SUCH
47 ASSESSMENT ROLL. IN ADDITION, A PENALTY SHALL BE IMPOSED IN THE AMOUNT
48 OF EITHER FIVE HUNDRED DOLLARS OR TWENTY PERCENT OF THE IMPROPERLY
49 RECEIVED TAX SAVINGS, WHICHEVER IS GREATER, NOT TO EXCEED TWO THOUSAND
50 FIVE HUNDRED DOLLARS, PROVIDED THAT THE COMMISSIONER MAY WAIVE SUCH
51 PENALTY FOR GOOD CAUSE SHOWN.

52 (D) IN THE EVENT THAT A REVOCATION OF PRIOR EXEMPTION PURSUANT TO
53 SUBDIVISION TWELVE OF THIS SECTION OR A VOLUNTARY RENUNCIATION OF THE
54 STAR EXEMPTION PURSUANT TO SECTION FOUR HUNDRED NINETY-SIX OF THIS CHAP-
55 TER HAS OCCURRED, THE PROVISIONS OF THIS SUBDIVISION SHALL NOT BE APPLI-
56 CABLE TO THE EXEMPTIONS SO REVOKED OR VOLUNTARILY RENOUNCED.

1 S 2. This act shall take effect immediately.

2 PART F

3 Section 1. Subdivision 3 of section 97-rrr of the state finance law,
4 as amended by section 8 of part F of chapter 109 of the laws of 2006, is
5 amended to read as follows:

6 3. The monies in such fund shall be appropriated for school property
7 tax exemptions [and local property tax rebates] granted pursuant to the
8 real property tax law [and the tax law] and payable pursuant to section
9 [thirty-six hundred nine] THIRTY-SIX HUNDRED NINE-E of the education
10 law, AND for payments to the city of New York pursuant to section
11 fifty-four-f of this chapter[, and pursuant to section one hundred
12 seventy-eight of the tax law].

13 S 2. One-time relief for unenrolled registrants. (1) As used in this
14 section, the term "unenrolled registrant" means a person who purchased
15 or otherwise acquired a primary residence after the taxable status date
16 for the 2013 assessment roll and who registered that property with the
17 commissioner of taxation and finance in accordance with subdivision 14
18 of section 425 of the real property tax law on or before the taxable
19 status date for the 2014 assessment roll, but who failed to file an
20 application for the STAR exemption for that property in accordance with
21 subdivision 6 of section 425 of the real property tax law on or before
22 the taxable status date for the 2014 assessment roll.

23 (2) If the commissioner of taxation and finance is informed on or
24 before October 1, 2015, that an owner of property is an unenrolled
25 registrant, and if such commissioner finds that the unenrolled regis-
26 trant's property would have qualified for the STAR exemption authorized
27 by section 425 of the real property tax law on the 2014 assessment roll
28 if a completed application had been filed with the appropriate assessor
29 in a timely manner, then the commissioner of taxation and finance is
30 authorized to remit directly to the property owner or owners the tax
31 savings that the STAR exemption would have yielded if the STAR exemption
32 had been granted on the 2014 assessment roll. When remitting such
33 amount, the commissioner of taxation and finance shall advise the prop-
34 erty owner or owners that such payment is subject to recovery by such
35 commissioner if the property owner or owners do not apply for and quali-
36 fy for the STAR exemption on the 2015 assessment roll, or if it should
37 otherwise be found to have been erroneously remitted to such property
38 owner or owners.

39 (3) The amounts payable under this act shall be paid from the account
40 established for the payment of STAR benefits to late registrants pursu-
41 ant to subparagraph (iii) of paragraph (a) of subdivision 14 of section
42 425 of the real property tax law.

43 (4) The provisions of part 6 of article 22 of the tax law relating to
44 the collection of a tax imposed by such article that has been assessed
45 and remains unpaid shall apply to the recovery authorized by subdivision
46 two of this section of a payment found to have been erroneously made
47 pursuant to this act to an ineligible property owner or owners in the
48 same manner and with the same force and effect as if the language of
49 such article had been incorporated in full into this act except to the
50 extent that any provision of such article is either inconsistent with a
51 provision of this act or is not relevant to this act as determined by
52 the commissioner of taxation and finance. Furthermore, for purposes of
53 applying the provisions of part 6 of article 22 of the tax law, where
54 the terms "tax" and "taxes" appear in such article, such terms shall be

1 construed to mean "a payment or payments erroneously made pursuant to
2 this act to an ineligible property owner or owners".

3 S 3. This act shall take effect immediately.

4 PART G

5 Section 1. Section 606 of the tax law is amended by adding a new
6 subsection (e-3) to read as follows:

7 (E-3) REAL PROPERTY TAX RELIEF CREDIT. (1) FOR PURPOSES OF THIS
8 SUBSECTION:

9 (A) "QUALIFIED TAXPAYER" MEANS A RESIDENT INDIVIDUAL OF THE STATE WHO
10 HAS OCCUPIED THE SAME RESIDENCE FOR SIX MONTHS OR MORE OF THE TAXABLE
11 YEAR AS HIS OR HER PRIMARY RESIDENCE, AND IS REQUIRED OR CHOOSES TO FILE
12 A RETURN UNDER THIS ARTICLE.

13 (B) "QUALIFIED GROSS INCOME" MEANS THE ADJUSTED GROSS INCOME OF THE
14 QUALIFIED TAXPAYER FOR THE TAXABLE YEAR AS REPORTED FOR FEDERAL INCOME
15 TAX PURPOSES, OR WHICH WOULD BE REPORTED AS ADJUSTED GROSS INCOME IF A
16 FEDERAL INCOME TAX RETURN WERE REQUIRED TO BE FILED. IN COMPUTING QUALI-
17 FIED GROSS INCOME, THE NET AMOUNT OF LOSS REPORTED ON FEDERAL SCHEDULE
18 C, D, E, OR F SHALL NOT EXCEED THREE THOUSAND DOLLARS PER SCHEDULE. IN
19 ADDITION, THE NET AMOUNT OF ANY OTHER SEPARATE CATEGORY OF LOSS SHALL
20 NOT EXCEED THREE THOUSAND DOLLARS. THE AGGREGATE AMOUNT OF ALL LOSSES
21 INCLUDED IN COMPUTING QUALIFIED GROSS INCOME SHALL NOT EXCEED FIFTEEN
22 THOUSAND DOLLARS.

23 (C) "RESIDENCE" MEANS A DWELLING IN THIS STATE OWNED OR RENTED BY THE
24 TAXPAYER AND USED BY THE TAXPAYER AS HIS OR HER PRIMARY RESIDENCE, AND
25 SO MUCH OF THE LAND ABUTTING IT, NOT EXCEEDING ONE ACRE, AS IS REASON-
26 ABLY NECESSARY FOR USE OF THE DWELLING AS A HOME, AND MAY CONSIST OF A
27 PART OF A MULTI-DWELLING OR MULTI-PURPOSE BUILDING INCLUDING A COOPER-
28 ATIVE OR CONDOMINIUM, AND RENTAL UNITS WITHIN A SINGLE DWELLING. RESI-
29 DENCE INCLUDES A TRAILER OR MOBILE HOME, USED EXCLUSIVELY FOR RESIDEN-
30 TIAL PURPOSES AND DEFINED AS REAL PROPERTY PURSUANT TO PARAGRAPH (G) OF
31 SUBDIVISION TWELVE OF SECTION ONE HUNDRED TWO OF THE REAL PROPERTY TAX
32 LAW.

33 (D) "QUALIFYING REAL PROPERTY TAXES" MEANS ALL REAL PROPERTY TAXES,
34 SPECIAL AD VALOREM LEVIES AND SPECIAL ASSESSMENTS, EXCLUSIVE OF PENAL-
35 TIES AND INTEREST, LEVIED BY A TAXING JURISDICTION WITH A CAP-COMPLIANT
36 BUDGET ON THE RESIDENCE OWNED AND OCCUPIED BY A QUALIFIED TAXPAYER AND
37 PAID BY THE QUALIFIED TAXPAYER DURING THE TAXABLE YEAR.

38 (I) FOR PURPOSES OF THIS SUBSECTION, A "CAP-COMPLIANT BUDGET" FOR A
39 SCHOOL DISTRICT SUBJECT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THE
40 EDUCATION LAW MEANS A BUDGET FOR WHICH THE CHIEF EXECUTIVE OFFICER OF
41 SUCH SCHOOL DISTRICT HAS CERTIFIED, NO LATER THAN THE TWENTY-FIRST DAY
42 OF THE FISCAL YEAR TO WHICH IT APPLIES, TO THE STATE COMPTROLLER, THE
43 COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF EDUCATION,
44 IN A FORM AND MANNER PRESCRIBED BY THE STATE COMPTROLLER IN CONSULTATION
45 WITH THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMMISSIONER OF
46 EDUCATION, THAT THE BUDGET SO ADOPTED DOES NOT EXCEED THE TAX LEVY LIMIT
47 PRESCRIBED BY SUCH SECTION. A "CAP-COMPLIANT BUDGET" FOR A LOCAL GOVERN-
48 MENT SUBJECT TO SECTION THREE-C OF THE GENERAL MUNICIPAL LAW SHALL MEAN
49 A BUDGET FOR WHICH THE CHIEF EXECUTIVE OFFICER OR BUDGET OFFICER OF SUCH
50 LOCAL GOVERNMENT UNIT HAS CERTIFIED, NO LATER THAN THE TWENTY-FIRST DAY
51 OF THE FISCAL YEAR TO WHICH IT APPLIES, TO THE STATE COMPTROLLER AND THE
52 COMMISSIONER OF TAXATION AND FINANCE, IN A FORM AND MANNER PRESCRIBED BY
53 THE STATE COMPTROLLER IN CONSULTATION WITH THE COMMISSIONER OF TAXATION
54 AND FINANCE, THAT THE ADOPTED BUDGET OF SUCH LOCAL GOVERNMENT DID NOT

1 REQUIRE, AND THE GOVERNING BODY OF SUCH LOCAL GOVERNMENT DID NOT ENACT
2 OR APPROVE, A LOCAL LAW OR RESOLUTION TO OVERRIDE THE TAX LEVY LIMIT
3 PRESCRIBED BY SUCH SECTION, OR, IF THE GOVERNING BODY OF THE LOCAL
4 GOVERNMENT DID ENACT A LOCAL LAW OR APPROVE A RESOLUTION TO OVERRIDE
5 SUCH TAX LEVY LIMIT, THAT SUCH LOCAL LAW OR RESOLUTION WAS SUBSEQUENTLY
6 REPEALED. IF A CERTIFICATION REQUIRED BY THIS PARAGRAPH HAS BEEN MADE
7 AND THE ACTUAL TAX LEVY OF THE TAXING JURISDICTION EXCEEDS THE APPLICA-
8 BLE TAX LEVY LIMIT, THE EXCESS AMOUNT SHALL BE PLACED IN RESERVE AND
9 USED IN THE MANNER PRESCRIBED BY SUBDIVISION FIVE OF SECTION TWENTY
10 THOUSAND TWENTY-THREE-A OF THE EDUCATION LAW OR SUBDIVISION SIX OF
11 SECTION THREE-C OF THE GENERAL MUNICIPAL LAW, WHICHEVER IS APPLICABLE,
12 EVEN IF A TAX LEVY IN EXCESS OF THE TAX LEVY LIMIT HAD BEEN DULY AUTHOR-
13 IZED FOR THE APPLICABLE FISCAL YEAR IN ACCORDANCE WITH SUCH SECTION.

14 (II) FOR TAX YEAR TWO THOUSAND FIFTEEN: (A) ONLY REAL PROPERTY TAXES
15 LEVIED BY SCHOOL DISTRICTS WITH CAP-COMPLIANT BUDGETS SHALL CONSTITUTE
16 QUALIFYING REAL PROPERTY TAXES; AND (B) FOR PROPERTY OWNERS WITH A QUAL-
17 IFYING RESIDENCE LOCATED IN A CITY CONTAINING A SCHOOL DISTRICT WHICH IS
18 SUBJECT TO ARTICLE FIFTY-TWO OF THE EDUCATION LAW TO ACCOUNT FOR THE
19 FACT THAT THE SCHOOL DISTRICT IS FISCALLY DEPENDENT UPON THE CITY, REAL
20 PROPERTY TAXES LEVIED BY SUCH SCHOOL DISTRICTS SHALL BE DETERMINED BY
21 MULTIPLYING TOTAL REAL PROPERTY TAXES LEVIED BY A TAXING JURISDICTION
22 WITH A CAP-COMPLIANT BUDGET AND PAID DURING THE TAXABLE YEAR BY
23 SIXTY-SIX PERCENT.

24 (III) IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE
25 RESTRICTION IN CLAUSE (I) OF THIS SUBPARAGRAPH THAT TAXES MUST BE LEVIED
26 BY A TAXING JURISDICTION WITH A CAP-COMPLIANT BUDGET DOES NOT APPLY.
27 HOWEVER, REAL PROPERTY TAXES, SPECIAL AD VALOREM LEVIES, AND SPECIAL
28 ASSESSMENTS LEVIED BY SUCH CITY SHALL CONSTITUTE QUALIFYING REAL PROPER-
29 TY TAXES ONLY IF TAXES LEVIED IN THE STATE OUTSIDE SUCH CITY ARE
30 REQUIRED FOR PURPOSES OF THIS CREDIT TO BE LEVIED BY TAXING JURISDIC-
31 TIONS WITH CAP-COMPLIANT BUDGETS.

32 (IV) A QUALIFIED TAXPAYER MAY ELECT TO INCLUDE ANY ADDITIONAL AMOUNT
33 THAT WOULD HAVE BEEN LEVIED BY A TAXING JURISDICTION AND PAID BY THE
34 QUALIFIED TAXPAYER IN THE ABSENCE OF AN EXEMPTION FROM REAL PROPERTY
35 TAXATION PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL PROP-
36 erty Tax Law. IF TENANT-STOCKHOLDERS IN A COOPERATIVE HOUSING CORPO-
37 RATION HAVE MET THE REQUIREMENTS OF SECTION TWO HUNDRED SIXTEEN OF THE
38 INTERNAL REVENUE CODE BY WHICH THEY ARE ALLOWED A DEDUCTION FOR REAL
39 ESTATE TAXES, THE AMOUNT OF TAXES SO ALLOWABLE, OR WHICH WOULD BE ALLOW-
40 ABLE IF THE TAXPAYER HAD FILED RETURNS ON A CASH BASIS, SHALL BE QUALI-
41 FYING REAL PROPERTY TAXES. IF A RESIDENCE IS AN INTEGRAL PART OF A LARG-
42 ER UNIT, QUALIFYING REAL PROPERTY TAXES SHALL BE LIMITED TO THAT AMOUNT
43 OF SUCH TAXES PAID AS MAY BE REASONABLY APPORTIONED TO SUCH RESIDENCE.
44 IF A TAXPAYER OWNS AND OCCUPIES TWO RESIDENCES DURING DIFFERENT PERIODS
45 IN THE SAME TAXABLE YEAR, QUALIFYING REAL PROPERTY TAXES SHALL BE THE
46 SUM OF THE PRORATED QUALIFYING REAL PROPERTY TAXES ATTRIBUTABLE TO THE
47 TAXPAYER DURING THE PERIODS SUCH TAXPAYER OCCUPIES EACH OF SUCH RESI-
48 DENCES. IF THE TAXPAYER OWNS AND OCCUPIES A RESIDENCE FOR PART OF THE
49 TAXABLE YEAR AND RENTS A RESIDENCE FOR PART OF THE SAME TAXABLE YEAR, IT
50 MAY INCLUDE THE PRORATION OF QUALIFYING REAL PROPERTY TAXES ON THE RESI-
51 DENCE OWNED. PROVIDED, HOWEVER, FOR PURPOSES OF THE CREDIT ALLOWED UNDER
52 THIS SUBSECTION, QUALIFYING REAL PROPERTY TAXES MAY BE INCLUDED BY A
53 QUALIFIED TAXPAYER ONLY TO THE EXTENT THAT SUCH TAXPAYER OR THE SPOUSE
54 OF SUCH TAXPAYER, OCCUPYING SUCH RESIDENCE FOR ONE HUNDRED EIGHTY-THREE
55 DAYS OR MORE OF THE TAXABLE YEAR, OWNS OR HAS OWNED THE RESIDENCE AND
56 PAID SUCH TAXES.

1 (E) "REAL PROPERTY TAX EQUIVALENT" MEANS THIRTEEN AND THREE-QUARTERS
 2 PERCENT OF THE ADJUSTED RENT ACTUALLY PAID IN THE TAXABLE YEAR BY A
 3 TAXPAYER SOLELY FOR THE RIGHT OF OCCUPANCY OF ITS NEW YORK RESIDENCE FOR
 4 THE TAXABLE YEAR. IF A RESIDENCE IS RENTED TO TWO OR MORE INDIVIDUALS AS
 5 COTENANTS, OR SUCH INDIVIDUALS SHARE IN THE PAYMENT OF A SINGLE RENT FOR
 6 THE RIGHT OF OCCUPANCY OF SUCH RESIDENCE, ONE OR MORE OF WHICH INDIVID-
 7 UALS SHARES SUCH RESIDENCE, REAL PROPERTY TAX EQUIVALENT IS THAT PORTION
 8 OF THIRTEEN AND THREE-QUARTERS PERCENT OF THE ADJUSTED RENT PAID IN THE
 9 TAXABLE YEAR THAT REFLECTS THAT PORTION OF THE RENT ATTRIBUTABLE TO THE
 10 QUALIFIED TAXPAYER. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY
 11 FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND
 12 SIXTEEN, THE REAL PROPERTY TAX EQUIVALENT SHALL BE EQUAL TO SIXTY-SIX
 13 PERCENT OF THE REAL PROPERTY TAX EQUIVALENT AS OTHERWISE DEFINED IN THIS
 14 PARAGRAPH.

15 (F) "ADJUSTED RENT" MEANS RENTAL PAID FOR THE RIGHT OF OCCUPANCY OF A
 16 RESIDENCE, EXCLUDING CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS AND
 17 BOARD. WHERE CHARGES FOR HEAT, GAS, ELECTRICITY, FURNISHINGS OR BOARD
 18 ARE INCLUDED IN RENTAL BUT WHERE SUCH CHARGES AND THE AMOUNT THEREOF ARE
 19 NOT SEPARATELY SET FORTH IN A WRITTEN RENTAL AGREEMENT, FOR PURPOSES OF
 20 DETERMINING ADJUSTED RENT THE QUALIFIED TAXPAYER SHALL REDUCE RENTAL
 21 PAID AS FOLLOWS:

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

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

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

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

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

33 (G) "EXCESS REAL PROPERTY TAX" MEANS THE EXCESS OF QUALIFYING REAL
 34 PROPERTY TAXES OR THE EXCESS OF REAL PROPERTY TAX EQUIVALENT OVER THE
 35 FOLLOWING PERCENTAGE OF QUALIFIED GROSS INCOME:

36 FOR THE YEARS BEGINNING IN:	PERCENTAGE:
37 2015	3.75%
38 2016 AND AFTER	6.0%

39 (2) A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT AS PROVIDED IN
 40 PARAGRAPH THREE OF THIS SUBSECTION AGAINST THE TAXES IMPOSED BY THIS
 41 ARTICLE. IF THE CREDIT EXCEEDS THE TAX FOR SUCH YEAR UNDER THIS ARTICLE,
 42 THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR
 43 REFUNDED, WITHOUT INTEREST. IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO
 44 FILE A RETURN PURSUANT TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE,
 45 A QUALIFIED TAXPAYER MAY NEVERTHELESS RECEIVE THE FULL AMOUNT OF THE
 46 CREDIT TO BE CREDITED OR REPAYED AS AN OVERPAYMENT, WITHOUT INTEREST.

47 (3) (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO
 48 THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE
 49 CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE
 50 PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

51 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS
 52 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL
 53 BE FOURTEEN PERCENT.

54 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
 55 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
 56 FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFER-

1 ENCE BETWEEN (A) FOURTEEN PERCENT AND (B) FIVE PERCENT MULTIPLIED BY A
2 FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED
3 TAXPAYER'S QUALIFIED GROSS INCOME AS DEFINED BY THIS SUBSECTION AND
4 SEVENTY-FIVE THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-
5 FIVE THOUSAND DOLLARS.

6 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
7 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
8 HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE
9 DIFFERENCE BETWEEN (A) NINE PERCENT AND (B) SIX PERCENT MULTIPLIED BY A
10 FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED
11 TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY THOUSAND
12 DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND DOLLARS.

13 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
14 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE CRED-
15 IT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE
16 PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

17 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME EQUALS SEVEN-
18 TY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL BE
19 TWENTY-THREE PERCENT.

20 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
21 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
22 FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFER-
23 ENCE BETWEEN (A) TWENTY-THREE PERCENT AND (B) TEN PERCENT MULTIPLIED BY
24 A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALI-
25 FIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE THOUSAND
26 DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

27 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
28 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
29 HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE
30 DIFFERENCE BETWEEN (A) THIRTEEN PERCENT AND (B) SIX PERCENT MULTIPLIED
31 BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE
32 QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY THOU-
33 SAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND
34 DOLLARS.

35 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
36 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE
37 CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL EQUAL THE APPLICABLE
38 PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCULATED AS FOLLOWS:

39 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS
40 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL
41 BE THIRTY-SIX PERCENT.

42 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
43 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
44 FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFER-
45 ENCE BETWEEN (A) THIRTY-SIX PERCENT AND (B) NINE PERCENT MULTIPLIED BY A
46 FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED
47 TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE THOUSAND DOLLARS, AND
48 THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

49 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
50 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
51 HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE
52 DIFFERENCE BETWEEN (A) TWENTY-SEVEN PERCENT AND (B) SEVENTEEN PERCENT
53 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE
54 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED
55 FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED
56 THOUSAND DOLLARS.

1 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
2 SAND EIGHTEEN, THE CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL
3 EQUAL THE APPLICABLE PERCENTAGE OF THE EXCESS REAL PROPERTY TAX, CALCU-
4 LATED AS FOLLOWS:

5 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS
6 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE APPLICABLE PERCENTAGE SHALL
7 BE FIFTY PERCENT.

8 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
9 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
10 FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE DIFFER-
11 ENCE BETWEEN (A) FIFTY PERCENT AND (B) TEN PERCENT MULTIPLIED BY A FRAC-
12 TION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN THE QUALIFIED
13 TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE THOUSAND DOLLARS, AND
14 THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND DOLLARS.

15 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
16 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
17 HUNDRED FIFTY THOUSAND DOLLARS, THE APPLICABLE PERCENTAGE SHALL BE THE
18 DIFFERENCE BETWEEN (A) FORTY PERCENT AND (B) TWENTY-FIVE PERCENT MULTI-
19 PLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE BETWEEN
20 THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND ONE HUNDRED FIFTY
21 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE HUNDRED THOUSAND
22 DOLLARS.

23 (4) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH THREE OF THIS
24 SUBSECTION, THE MAXIMUM CREDIT DETERMINED UNDER SUCH PARAGRAPH, AND
25 THEREBY ALLOWED UNDER THIS SUBSECTION, SHALL NOT EXCEED THE AMOUNT
26 CALCULATED UNDER THIS PARAGRAPH, FOR EACH RESPECTIVE YEAR AS INDICATED.

27 (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
28 SAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, THE MAXIMUM
29 CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL BE CALCULATED AS
30 FOLLOWS:

31 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS
32 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL
33 BE FIVE HUNDRED DOLLARS.

34 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
35 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
36 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-
37 ENCE BETWEEN (A) FIVE HUNDRED DOLLARS AND (B) ONE HUNDRED FIFTY DOLLARS
38 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE
39 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE
40 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND
41 DOLLARS.

42 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
43 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
44 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE
45 DIFFERENCE BETWEEN (A) THREE HUNDRED FIFTY DOLLARS AND (B) ONE HUNDRED
46 FIFTY DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE
47 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND
48 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE
49 HUNDRED THOUSAND DOLLARS.

50 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
51 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE MAXI-
52 MUM CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL BE CALCULATED AS
53 FOLLOWS:

54 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS
55 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL
56 BE ONE THOUSAND DOLLARS.

1 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
2 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
3 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-
4 ENCE BETWEEN (A) ONE THOUSAND DOLLARS AND (B) TWO HUNDRED FIFTY DOLLARS
5 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE
6 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE
7 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND
8 DOLLARS.

9 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
10 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
11 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE
12 DIFFERENCE BETWEEN (A) SEVEN HUNDRED FIFTY DOLLARS AND (B) TWO HUNDRED
13 FIFTY DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE
14 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND
15 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE
16 HUNDRED THOUSAND DOLLARS.

17 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
18 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE
19 MAXIMUM CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION SHALL BE CALCULATED
20 AS FOLLOWS:

21 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS
22 SEVENTY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL
23 BE ONE THOUSAND SIX HUNDRED DOLLARS.

24 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
25 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
26 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-
27 ENCE BETWEEN (A) ONE THOUSAND SIX HUNDRED DOLLARS AND (B) FOUR HUNDRED
28 DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFER-
29 ENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVEN-
30 TY-FIVE THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE
31 THOUSAND DOLLARS.

32 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
33 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
34 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE
35 DIFFERENCE BETWEEN (A) ONE THOUSAND TWO HUNDRED DOLLARS AND (B) FOUR
36 HUNDRED DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE
37 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND
38 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE
39 HUNDRED THOUSAND DOLLARS.

40 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
41 SAND EIGHTEEN, THE MAXIMUM CREDIT AMOUNT ALLOWED UNDER THIS SUBSECTION
42 SHALL BE CALCULATED AS FOLLOWS:

43 (I) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME EQUALS SEVEN-
44 TY-FIVE THOUSAND DOLLARS OR LESS, THE MAXIMUM CREDIT ALLOWED SHALL BE
45 TWO THOUSAND DOLLARS.

46 (II) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
47 THAN SEVENTY-FIVE THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO ONE HUNDRED
48 FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE DIFFER-
49 ENCE BETWEEN (A) TWO THOUSAND DOLLARS AND (B) FIVE HUNDRED DOLLARS
50 MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE DIFFERENCE
51 BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND SEVENTY-FIVE
52 THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS SEVENTY-FIVE THOUSAND
53 DOLLARS.

54 (III) FOR QUALIFIED TAXPAYERS WHOSE QUALIFIED GROSS INCOME IS GREATER
55 THAN ONE HUNDRED FIFTY THOUSAND DOLLARS BUT LESS THAN OR EQUAL TO TWO
56 HUNDRED FIFTY THOUSAND DOLLARS, THE MAXIMUM CREDIT ALLOWED SHALL BE THE

1 DIFFERENCE BETWEEN (A) ONE THOUSAND FIVE HUNDRED DOLLARS AND (B) FIVE
2 HUNDRED DOLLARS MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE
3 DIFFERENCE BETWEEN THE QUALIFIED TAXPAYER'S QUALIFIED GROSS INCOME AND
4 ONE HUNDRED FIFTY THOUSAND DOLLARS, AND THE DENOMINATOR OF WHICH IS ONE
5 HUNDRED THOUSAND DOLLARS.

6 (5) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH THREE OF THIS
7 SUBSECTION, FOR A QUALIFIED TAXPAYER WHO PAID RENT ON HIS OR HER QUALI-
8 FYING RESIDENCE THE MAXIMUM CREDIT DETERMINED UNDER PARAGRAPH THREE OF
9 THIS SUBSECTION, AND THEREBY ALLOWED UNDER THIS SUBSECTION, SHALL NOT
10 EXCEED THE AMOUNT CALCULATED UNDER THIS PARAGRAPH, FOR EACH RESPECTIVE
11 YEAR AS INDICATED.

12 (A) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
13 SAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN AND QUALIFY-
14 ING RESIDENCES LOCATED IN:

15 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-
16 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT
17 ALLOWED SHALL BE TWO HUNDRED DOLLARS;

18 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT ALLOWED SHALL
19 BE ONE HUNDRED FIFTY DOLLARS.

20 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
21 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN AND QUALI-
22 FYING RESIDENCES LOCATED IN:

23 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-
24 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT
25 ALLOWED SHALL BE FIVE HUNDRED DOLLARS;

26 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT ALLOWED SHALL
27 BE THREE HUNDRED SEVENTY-FIVE DOLLARS.

28 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
29 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN AND QUALI-
30 IFYING RESIDENCES LOCATED IN:

31 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-
32 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT
33 ALLOWED SHALL BE SIX HUNDRED FIFTY DOLLARS;

34 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT ALLOWED SHALL
35 BE FOUR HUNDRED FIFTY DOLLARS.

36 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
37 SAND EIGHTEEN AND QUALIFYING RESIDENCES LOCATED IN:

38 (I) THE CITY OF NEW YORK, AND THE COUNTIES OF NASSAU, SUFFOLK, ROCK-
39 LAND, WESTCHESTER, PUTNAM, ORANGE AND DUTCHESS, THE MAXIMUM CREDIT
40 ALLOWED SHALL BE SEVEN HUNDRED FIFTY DOLLARS;

41 (II) ALL OTHER COUNTIES IN THE STATE, THE MAXIMUM CREDIT SHALL BE FIVE
42 HUNDRED DOLLARS.

43 (6) IF A QUALIFIED TAXPAYER OCCUPIES A RESIDENCE FOR A PERIOD OF LESS
44 THAN TWELVE MONTHS DURING THE TAXABLE YEAR OR OCCUPIES TWO OR MORE RESI-
45 DENCES DURING DIFFERENT PERIODS IN SUCH TAXABLE YEAR, THE CREDIT ALLOWED
46 PURSUANT TO THIS SUBSECTION SHALL BE COMPUTED IN SUCH MANNER AS THE
47 COMMISSIONER MAY, BY REGULATION, PRESCRIBE IN ORDER TO PROPERLY REFLECT
48 THE CREDIT OR PORTION THEREOF ATTRIBUTABLE TO SUCH RESIDENCE OR RESI-
49 DENCES AND SUCH PERIOD OR PERIODS.

50 (7) THE COMMISSIONER MAY PRESCRIBE THAT THE CREDIT UNDER THIS
51 SUBSECTION SHALL BE DETERMINED IN WHOLE OR IN PART BY THE USE OF TABLES
52 PRESCRIBED BY SUCH COMMISSIONER. SUCH TABLES SHALL SET FORTH THE CREDIT
53 TO THE NEAREST DOLLAR.

54 (8) NO CREDIT SHALL BE GRANTED UNDER THIS SUBSECTION:

55 (A) TO A PROPERTY OWNER IF QUALIFIED GROSS INCOME FOR THE TAXABLE YEAR
56 EXCEEDS TWO HUNDRED FIFTY THOUSAND DOLLARS.

1 (B) TO A TENANT IF QUALIFIED GROSS INCOME FOR THE TAXABLE YEAR EXCEEDS
2 ONE HUNDRED FIFTY THOUSAND DOLLARS.

3 (C) TO A PROPERTY OWNER UNLESS: (I) THE PROPERTY IS USED FOR RESIDEN-
4 TIAL PURPOSES; (II) NOT MORE THAN TWENTY PERCENT OF THE RENTAL INCOME,
5 IF ANY, FROM THE PROPERTY IS FROM RENTAL FOR NONRESIDENTIAL PURPOSES;
6 AND (III) THE PROPERTY IS OCCUPIED AS A RESIDENCE IN WHOLE OR IN PART BY
7 ONE OR MORE OF THE OWNERS OF THE PROPERTY.

8 (D) TO AN INDIVIDUAL WITH RESPECT TO WHOM A DEDUCTION UNDER SUBSECTION
9 (C) OF SECTION ONE HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE IS
10 ALLOWABLE TO ANOTHER TAXPAYER FOR THE TAXABLE YEAR.

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

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

15 (9) THE RIGHT TO CLAIM A CREDIT OR THE PORTION OF A CREDIT, WHERE SUCH
16 CREDIT HAS BEEN DIVIDED UNDER THIS SUBSECTION, SHALL BE PERSONAL TO THE
17 QUALIFIED TAXPAYER AND SHALL NOT SURVIVE HIS OR HER DEATH, BUT SUCH
18 RIGHT MAY BE EXERCISED ON BEHALF OF A CLAIMANT BY HIS OR HER LEGAL GUAR-
19 DIAN OR ATTORNEY IN FACT DURING HIS OR HER LIFETIME.

20 (10) IF A QUALIFIED TAXPAYER IS NOT REQUIRED TO FILE A RETURN PURSUANT
21 TO SECTION SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, A CLAIM FOR A CREDIT
22 MAY BE TAKEN ON A RETURN FILED WITH THE COMMISSIONER WITHIN THREE YEARS
23 FROM THE TIME IT WOULD HAVE BEEN REQUIRED THAT A RETURN BE FILED PURSU-
24 ANT TO SUCH SECTION HAD THE QUALIFIED TAXPAYER HAD A TAXABLE YEAR ENDING
25 ON DECEMBER THIRTY-FIRST. RETURNS UNDER THIS PARAGRAPH SHALL BE IN SUCH
26 FORM AS SHALL BE PRESCRIBED BY THE COMMISSIONER, WHO SHALL MAKE AVAIL-
27 ABLE SUCH FORMS AND INSTRUCTIONS FOR FILING SUCH RETURNS.

28 (11) THE COMMISSIONER MAY REQUIRE A QUALIFIED TAXPAYER TO FURNISH THE
29 FOLLOWING INFORMATION IN SUPPORT OF HIS OR HER CLAIM FOR CREDIT UNDER
30 THIS SUBSECTION: QUALIFIED GROSS INCOME; REAL PROPERTY TAXES LEVIED OR
31 THAT WOULD HAVE BEEN LEVIED IN THE ABSENCE OF AN EXEMPTION FROM REAL
32 PROPERTY TAX PURSUANT TO SECTION FOUR HUNDRED SIXTY-SEVEN OF THE REAL
33 PROPERTY TAX LAW; AND ALL OTHER INFORMATION WHICH MAY BE REQUIRED BY THE
34 COMMISSIONER TO DETERMINE THE CREDIT.

35 (12) THE PROVISIONS OF THIS ARTICLE, INCLUDING THE PROVISIONS OF
36 SECTIONS SIX HUNDRED FIFTY-THREE, SIX HUNDRED FIFTY-EIGHT, AND SIX
37 HUNDRED FIFTY-NINE OF THIS ARTICLE AND THE PROVISIONS OF PART SIX OF
38 THIS ARTICLE RELATING TO PROCEDURE AND ADMINISTRATION, INCLUDING THE
39 JUDICIAL REVIEW OF THE DECISIONS OF THE COMMISSIONER, EXCEPT SO MUCH OF
40 SECTION SIX HUNDRED EIGHTY-SEVEN OF THIS ARTICLE WHICH PERMITS A CLAIM
41 FOR CREDIT OR REFUND TO BE FILED AFTER THE PERIOD PROVIDED FOR IN PARA-
42 GRAPH NINE OF THIS SUBSECTION AND EXCEPT SECTIONS SIX HUNDRED FIFTY-SEV-
43 EN, SIX HUNDRED EIGHTY-EIGHT AND SIX HUNDRED NINETY-SIX OF THIS ARTICLE,
44 SHALL APPLY TO THE PROVISIONS OF THIS SUBSECTION IN THE SAME MANNER AND
45 WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF THOSE PROVISIONS
46 HAD BEEN INCORPORATED IN FULL INTO THIS SUBSECTION AND HAD EXPRESSLY
47 REFERRED TO THE CREDIT ALLOWED OR RETURNS FILED UNDER THIS SUBSECTION,
48 EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH
49 A PROVISION OF THIS SUBSECTION OR IS NOT RELEVANT TO THIS SUBSECTION. AS
50 USED IN SUCH SECTIONS AND SUCH PART, THE TERM "TAXPAYER" SHALL INCLUDE A
51 QUALIFIED TAXPAYER UNDER THIS SUBSECTION AND, NOTWITHSTANDING THE
52 PROVISIONS OF SUBSECTION (E) OF SECTION SIX HUNDRED NINETY-SEVEN OF THIS
53 ARTICLE, WHERE A QUALIFIED TAXPAYER HAS PROTESTED THE DENIAL OF A CLAIM
54 FOR CREDIT UNDER THIS SUBSECTION AND THE TIME TO FILE A PETITION FOR
55 REDETERMINATION OF A DEFICIENCY OR FOR REFUND HAS NOT EXPIRED, HE OR SHE
56 SHALL, SUBJECT TO SUCH CONDITIONS AS MAY BE SET BY THE COMMISSIONER,

1 RECEIVE SUCH INFORMATION WHICH THE COMMISSIONER FINDS IS RELEVANT AND
2 MATERIAL TO THE ISSUE OF WHETHER SUCH CLAIM WAS PROPERLY DENIED.

3 (13) THE COMMISSIONER SHALL PREPARE A WRITTEN REPORT AFTER DECEMBER
4 THIRTY-FIRST OF EACH CALENDAR YEAR, WHICH SHALL CONTAIN STATISTICAL
5 INFORMATION REGARDING THE CREDITS GRANTED ON OR BEFORE SUCH DATES UNDER
6 THIS SUBSECTION DURING SUCH CALENDAR YEAR. COPIES OF THE REPORT SHALL BE
7 SUBMITTED BY THE COMMISSIONER TO THE GOVERNOR, THE TEMPORARY PRESIDENT
8 OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIRMAN OF THE SENATE
9 FINANCE COMMITTEE AND THE CHAIRMAN OF THE ASSEMBLY WAYS AND MEANS
10 COMMITTEE WITHIN FORTY-FIVE DAYS OF DECEMBER THIRTY-FIRST. SUCH REPORT
11 SHALL CONTAIN, BUT NEED NOT BE LIMITED TO, THE NUMBER OF CREDITS AND THE
12 AVERAGE AMOUNT OF SUCH CREDITS ALLOWED; AND OF THOSE, THE NUMBER OF
13 CREDITS AND THE AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED
14 TAXPAYERS IN EACH COUNTY; AND OF THOSE, THE NUMBER OF CREDITS AND THE
15 AVERAGE AMOUNT OF SUCH CREDITS ALLOWED TO QUALIFIED TAXPAYERS WHOSE
16 QUALIFIED GROSS INCOME FALLS WITHIN EACH OF THE QUALIFIED GROSS INCOME
17 RANGES SET FORTH IN THIS SUBSECTION.

18 S 2. This act shall take effect immediately and shall apply to taxable
19 years beginning on or after January 1, 2015.

20

PART H

21 Section 1. Subsection (g) of section 615 of the tax law, as amended by
22 section 1 of part D of chapter 59 of the laws of 2013, is amended to
23 read as follows:

24 (g)(1) With respect to an individual whose New York adjusted gross
25 income is over one million dollars and no more than ten million dollars,
26 the New York itemized deduction shall be an amount equal to fifty
27 percent of any charitable contribution deduction allowed under section
28 one hundred seventy of the internal revenue code for taxable years
29 beginning after two thousand nine [and before two thousand sixteen].
30 With respect to an individual whose New York adjusted gross income is
31 over one million dollars, the New York itemized deduction shall be an
32 amount equal to fifty percent of any charitable contribution deduction
33 allowed under section one hundred seventy of the internal revenue code
34 for taxable years beginning in two thousand nine [or after two thousand
35 fifteen].

36 (2) With respect to an individual whose New York adjusted gross income
37 is over ten million dollars, the New York itemized deduction shall be an
38 amount equal to twenty-five percent of any charitable contribution
39 deduction allowed under section one hundred seventy of the internal
40 revenue code for taxable years beginning after two thousand nine [and
41 ending before two thousand sixteen].

42 S 2. Subdivision (g) of section 11-1715 of the administrative code of
43 the city of New York, as added by section 2 of part D of chapter 59 of
44 the laws of 2013, is amended to read as follows:

45 (g) (1) With respect to an individual whose New York adjusted gross
46 income is over one million dollars but no more than ten million dollars,
47 the New York itemized deduction shall be an amount equal to fifty
48 percent of any charitable contribution deduction allowed under section
49 one hundred seventy of the internal revenue code for taxable years
50 beginning after two thousand nine [and before two thousand sixteen].
51 With respect to an individual whose New York adjusted gross income is
52 over one million dollars, the New York itemized deduction shall be an
53 amount equal to fifty percent of any charitable contribution deduction
54 allowed under section one hundred seventy of the internal revenue code

1 for taxable years beginning in two thousand nine [or after two thousand
2 fifteen].

3 (2) With respect to an individual whose New York adjusted gross income
4 is over ten million dollars, the New York itemized deduction shall be an
5 amount equal to twenty-five percent of any charitable contribution
6 deduction allowed under section one hundred seventy of the internal
7 revenue code for taxable years beginning after two thousand nine [and
8 ending before two thousand sixteen].

9 S 3. This act shall take effect immediately.

10

PART I

11 Section 1. Paragraph 41 of subsection (c) of section 612 of the tax
12 law, as added by section 1 of part KK of chapter 59 of the laws of 2014,
13 is amended to read as follows:

14 (41) The amount of any award paid to a volunteer firefighter or volun-
15 teer ambulance worker from a length of service defined contribution plan
16 or defined benefit plan as provided for in articles eleven-A, eleven-AA,
17 eleven-AAA and eleven-AAAA of the general municipal law, to the extent
18 that such award is includable in gross income for federal income tax
19 purposes; provided, however, that such award is not distributed in the
20 form of a lump sum distribution, as defined in subparagraph [(A)] (D) of
21 paragraph four of subsection (e) of section four hundred two of the
22 internal revenue code and taxed under section six hundred three of this
23 article; and provided, further, that such award is not distributed to a
24 taxpayer who has not attained the age of fifty-nine and one-half years.

25 S 2. Paragraph 37 of subdivision (c) of section 11-1712 of the admin-
26 istrative code of the city of New York, as added by section 2 of part KK
27 of chapter 59 of the laws of 2014, is amended to read as follows:

28 (37) The amount of any award paid to a volunteer firefighter or volun-
29 teer ambulance worker from a length of service defined contribution plan
30 or defined benefit plan as provided for in articles eleven-A, eleven-AA,
31 eleven-AAA and eleven-AAAA of the general municipal law, to the extent
32 that such award is includable in gross income for federal income tax
33 purposes; provided, however, that such award is not distributed in the
34 form of a lump sum distribution, as defined in subparagraph [(A)] (D) of
35 paragraph four of subsection (e) of section four hundred two of the
36 internal revenue code and taxed under section six hundred three of the
37 tax law; and provided, further, that such award is not distributed to a
38 taxpayer who has not attained the age of fifty-nine and one-half years.

39 S 3. Paragraph 3-a of subsection (c) of section 612 of the tax law, as
40 amended by chapter 760 of the laws of 1992, is amended to read as
41 follows:

42 (3-a) Pensions and annuities received by an individual who has
43 attained the age of fifty-nine and one-half, not otherwise excluded
44 pursuant to paragraph three of this subsection, to the extent includible
45 in gross income for federal income tax purposes, but not in excess of
46 twenty thousand dollars, which are periodic payments attributable to
47 personal services performed by such individual prior to his retirement
48 from employment, which arise (i) from an employer-employee relationship
49 or (ii) from contributions to a retirement plan which are deductible for
50 federal income tax purposes. However, the term "pensions and annuities"
51 shall also include distributions received by an individual who has
52 attained the age of fifty-nine and one-half from an individual retire-
53 ment account or an individual retirement annuity, as defined in section
54 four hundred eight of the internal revenue code, and distributions

1 received by an individual who has attained the age of fifty-nine and
2 one-half from self-employed individual and owner-employee retirement
3 plans which qualify under section four hundred one of the internal
4 revenue code, whether or not the payments are periodic in nature. Never-
5 theless, the term "pensions and annuities" shall not include any lump
6 sum distribution, as defined in subparagraph [(A)] (D) of paragraph four
7 of subsection (e) of section four hundred two of the internal revenue
8 code and taxed under section six hundred three of this article. Where a
9 husband and wife file a joint state personal income tax return, the
10 modification provided for in this paragraph shall be computed as if they
11 were filing separate state personal income tax returns. Where a payment
12 would otherwise come within the meaning of the term "pensions and annui-
13 ties" as set forth in this paragraph, except that such individual is
14 deceased, such payment shall, nevertheless, be treated as a pension or
15 annuity for purposes of this paragraph if such payment is received by
16 such individual's beneficiary.

17 S 4. Subparagraph (B) of paragraph (1) of subsection (e-1) of section
18 606 of the tax law, as added by section 2 of part K of chapter 59 of the
19 laws of 2014, is amended to read as follows:

20 (B) "Household" or "members of the household" means a qualified
21 taxpayer and all other persons, not necessarily related, who have the
22 same residence and share its furnishings, facilities and accommodations.
23 Such terms shall not include a tenant, subtenant, roomer or boarder who
24 is not related to the qualified taxpayer in any degree specified in
25 [paragraphs one through eight of subsection (a)] SUBPARAGRAPHS (A)
26 THROUGH (G) OF PARAGRAPH TWO OF SUBSECTION (D) of section one hundred
27 fifty-two of the internal revenue code. Provided, however, no person may
28 be a member of more than one household at one time.

29 S 5. Subparagraph (D) of paragraph (1) of subsection (e-1) of section
30 606 of the tax law, as added by section 2 of part K of chapter 59 of the
31 laws of 2014, is amended to read as follows:

32 (D) "Residence" means a dwelling in this state, IN A CITY WITH A POPU-
33 LATION OF OVER ONE MILLION, owned or rented by the taxpayer, and so much
34 of the land abutting it, not exceeding one acre, as is reasonably neces-
35 sary for use of the dwelling as a home, and may consist of a part of a
36 multi-dwelling or multi-purpose building including a cooperative or
37 condominium, and rental units within a single dwelling. Residence
38 includes a trailer or mobile home, used exclusively for residential
39 purposes and defined as real property pursuant to paragraph (g) of
40 subdivision twelve of section one hundred two of the real property tax
41 law.

42 S 6. Subparagraph (B) of paragraph 1 of subsection (e) of section 606
43 of the tax law, as amended by chapter 28 of the laws of 1987, is amended
44 to read as follows:

45 (B) "Household" or "members of the household" means a qualified
46 taxpayer and all other persons, not necessarily related, who have the
47 same residence and share its furnishings, facilities and accommodations.
48 Such terms shall not include a tenant, subtenant, roomer or boarder who
49 is not related to the qualified taxpayer in any degree specified in
50 [paragraphs one through eight of subsection (a)] SUBPARAGRAPHS (A)
51 THROUGH (G) OF PARAGRAPH TWO OF SUBSECTION (D) of section one hundred
52 fifty-two of the internal revenue code. Provided, however, no person may
53 be a member of more than one household at one time.

54 S 7. Paragraph 1 of subsection (b) of section 806 of the tax law, as
55 added by section 2 of part DD of chapter 59 of the laws of 2014, is
56 amended to read as follows:

1 (1) The commissioner may require the filing of a combined return
2 which, in addition to the return provided for in subsection (b) of
3 section eight hundred four of this article, may also include any of the
4 returns required to be filed by a [resident individual of New York
5 state] TAXPAYER pursuant to the provisions of section six hundred
6 fifty-one of this chapter and which may be required to be filed by such
7 [individual] TAXPAYER pursuant to any local law enacted pursuant to the
8 authority of article thirty, thirty-A or thirty-B of this chapter.

9 S 8. Paragraph 1 and clause (ii) of subparagraph (B) of paragraph 2 of
10 subsection (xx) of section 606 of the tax law, as added by section 4 of
11 part R of chapter 59 of the laws of 2014, are amended to read as
12 follows:

13 (1) A qualified New York manufacturer will be allowed a credit equal
14 to twenty percent of the real property tax it paid during the taxable
15 year for real property owned by such manufacturer in New York which was
16 principally used during the taxable year for manufacturing to the extent
17 not deducted in computing [federal] NEW YORK adjusted gross income. This
18 credit will not be allowed if the real property taxes that are the basis
19 for this credit are included in the calculation of another credit
20 claimed by the taxpayer.

21 (ii) In addition, the term real property tax includes taxes paid by
22 the taxpayer upon real property principally used during the taxable year
23 by the taxpayer in manufacturing where the taxpayer leases such real
24 property from an unrelated third party if the following conditions are
25 satisfied: (I) the tax must be paid by the taxpayer as lessee pursuant
26 to explicit requirements in a written lease, and (II) the taxpayer as
27 lessee has paid such taxes directly to the taxing authority and has
28 received a written receipt for payment of taxes from the taxing authori-
29 ty. [In the case of a combined group that constitutes a qualified New
30 York manufacturer, the conditions in the preceding sentence are satis-
31 fied if one corporation in the combined group is the lessee and another
32 corporation in the combined group makes the payments to the taxing
33 authority.]

34 S 9. Subsection (yy) of section 606 of the tax law, as added by
35 section 4 of part T of chapter 59 of the laws of 2014, is amended to
36 read as follows:

37 (yy) The tax-free NY area excise tax on telecommunication services
38 credit. A taxpayer that is a business or owner of a business that is
39 located in a tax-free NY area approved pursuant to article twenty-one of
40 the economic development law shall be allowed a credit equal to the
41 excise tax on telecommunication services imposed by section one hundred
42 eighty-six-e of this chapter and passed through to such business during
43 the taxable year to the extent not otherwise deducted in computing
44 [federal] NEW YORK adjusted gross income. This credit may be claimed
45 only where any tax imposed by such section one hundred eighty-six-e has
46 been separately stated on a bill from the provider of telecommunication
47 services and paid by such taxpayer with respect to such services
48 rendered within a tax-free NY area during the taxable year. If the
49 amount of the credit allowed under this subsection for any taxable year
50 exceeds the taxpayer's tax for such year, the excess will be treated as
51 an overpayment to be credited or refunded in accordance with the
52 provisions of section six hundred eighty-six of this article, provided,
53 however, that no interest will be paid thereon.

54 S 10. Subparagraph (i) of paragraph 2 of subdivision (b) and subdivi-
55 sion (d) of section 25-b of the labor law, as added by section 1 of part
56 MM of chapter 59 of the laws of 2014, are amended to read as follows:

1 (i) who is deemed to have a developmental disability, as that term is
2 defined in subdivision twenty-two of section 1.03 of the mental hygiene
3 law and who is certified by the education department or the office for
4 people with developmental disabilities[:

5 (A)] as a person with a disability which constitutes or results in a
6 substantial handicap to employment; and

7 [(B) as a person having completed or as receiving services under an
8 individualized written rehabilitation plan approved by the education
9 department or other state agency responsible for providing vocational
10 rehabilitation services to such individual; and]

11 (d) To participate in the [developmentally disabled works] WORKERS
12 WITH DISABILITIES tax credit program, an employer must submit an appli-
13 cation (in a form prescribed by the commissioner) to the commissioner
14 [no later than November thirtieth of the prior year]. The commissioner
15 shall establish guidelines that specify requirements for employers to
16 participate in the program including criteria for certifying qualified
17 employees. Any regulations that the commissioner determines are neces-
18 sary may be adopted on an emergency basis notwithstanding anything to
19 the contrary in section two hundred two of the state administrative
20 procedure act. Such requirements may include the types of industries
21 that the employers are engaged in.

22 S 11. This act shall take effect immediately, provided, however that:

23 (i) sections one and two of this act shall be deemed to have been in
24 full force and effect on and after the effective date of part KK of
25 chapter 59 of the laws of 2014;

26 (ii) sections four and five of this act shall be deemed to have been
27 in full force and effect on and after the effective date of part K of
28 chapter 59 of the laws of 2014, provided, however, that amendments to
29 subsection (e-1) of section 606 of the tax law made by sections four and
30 five of this act shall not affect the repeal of such subsection and
31 shall be deemed repealed therewith;

32 (iii) section seven of this act shall be deemed to have been in full
33 force and effect on and after the effective date of part DD of chapter
34 59 of the laws of 2014;

35 (iv) section eight of this act shall be deemed to have been in full
36 force and effect on and after the effective date of part R of chapter 59
37 of the laws of 2014;

38 (v) section nine of this act shall be deemed to have been in full
39 force and effect on and after the effective date of part T of chapter 59
40 of the laws of 2014;

41 (vi) section ten of this act shall be deemed to have been in full
42 force and effect on and after the effective date of part MM of chapter
43 59 of the laws of 2014; and

44 (vii) the amendments to section 25-b of the labor law made by section
45 ten of this act, shall not affect the repeal of such section and shall
46 be deemed repealed therewith.

47 PART J

48 Section 1. Section 9 of part V of chapter 62 of the laws of 2006 is
49 REPEALED.

50 S 2. Subdivision (c) of section 28 of the tax law, as amended by
51 section 45 of part A of chapter 59 of the laws of 2014, is relettered
52 subdivision (d) and a new subdivision (c) is added to read as follows:

53 (C) THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL SUBMIT, ON OR BEFORE
54 DECEMBER FIRST OF EACH YEAR, TO THE GOVERNOR, THE DIRECTOR OF THE DIVI-

1 SION OF THE BUDGET, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE
2 SPEAKER OF THE ASSEMBLY AN ANNUAL REPORT INCLUDING, BUT NOT LIMITED TO,
3 THE FOLLOWING INFORMATION REGARDING THE PREVIOUS CALENDAR YEAR:

4 (1) THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE NAME AND ADDRESS
5 OF EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY ALLOCATED CREDITS UNDER
6 THIS SECTION, THE TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED
7 COMMERCIAL PRODUCTION COMPANY, THE TOTAL AMOUNT OF QUALIFIED PRODUCTION
8 COSTS AND PRODUCTION COSTS FOR EACH QUALIFIED COMMERCIAL PRODUCTION
9 COMPANY, AND THE ESTIMATED NUMBER OF EMPLOYEES, CREDIT-ELIGIBLE MAN
10 HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCIATED WITH EACH QUALIFIED COMMER-
11 CIAL PRODUCTION COMPANY ALLOCATED CREDITS UNDER THIS SECTION;

12 (2) FOR QUALIFIED COMMERCIAL PRODUCTION COMPANIES THAT WERE ALLOCATED
13 CREDIT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH TWO OF SUBDIVISION (A)
14 OF THIS SECTION: THE NAME AND ADDRESS OF EACH QUALIFIED COMMERCIAL
15 PRODUCTION COMPANY, THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE
16 TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED COMMERCIAL
17 PRODUCTION COMPANY, TOTAL QUALIFIED PRODUCTION COSTS AND PRODUCTION
18 COSTS FOR EACH QUALIFIED PRODUCTION COMPANY, AND THE ESTIMATED NUMBER OF
19 EMPLOYEES, CREDIT-ELIGIBLE MAN HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCI-
20 ATED WITH EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY THAT FILMED OR
21 RECORDED A QUALIFIED COMMERCIAL WITHIN THE DISTRICT;

22 (3) FOR QUALIFIED COMMERCIAL PRODUCTION COMPANIES THAT WERE ALLOCATED
23 CREDIT PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH TWO OF SUBDIVISION
24 (A) OF THIS SECTION: THE NAME AND ADDRESS OF EACH QUALIFIED COMMERCIAL
25 PRODUCTION COMPANY, THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE
26 TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED COMMERCIAL
27 PRODUCTION COMPANY, TOTAL QUALIFIED PRODUCTION COSTS AND PRODUCTION
28 COSTS FOR EACH QUALIFIED PRODUCTION COMPANY, AND THE ESTIMATED NUMBER OF
29 EMPLOYEES, CREDIT-ELIGIBLE MAN HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCI-
30 ATED WITH EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY THAT FILMED OR
31 RECORDED A QUALIFIED COMMERCIAL OUTSIDE THE DISTRICT; AND

32 (4) THE AMOUNT OF CREDITS REALLOCATED TO ALL ELIGIBLE QUALIFIED
33 COMMERCIAL PRODUCTION COMPANIES PURSUANT TO SUBPARAGRAPH (III) OF PARA-
34 GRAPH TWO OF SUBDIVISION (A) OF THIS SECTION.

35 (5) THE REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS FOR CHANGES IN THE
36 CALCULATION OR ADMINISTRATION OF THE CREDIT, RECOMMENDATIONS REGARDING
37 CONTINUING MODIFICATION OR REPEAL OF THIS CREDIT, AND ANY OTHER INFORMA-
38 TION REGARDING THIS CREDIT AS MAY BE USEFUL AND APPROPRIATE.

39 S 3. This act shall take effect immediately with the first report
40 being due December 1, 2016, with regard to credits allocated in calendar
41 year 2015.

42 PART K

43 Section 1. Subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
44 and 19 of section 352 of the economic development law, as added by
45 section 1 of part MM of chapter 59 of the laws of 2010, subdivision 12
46 as amended by section 1 of part G of chapter 61 of the laws of 2011, are
47 amended to read as follows:

48 7. "ENTERTAINMENT COMPANY" MEANS A CORPORATION, PARTNERSHIP, LIMITED
49 PARTNERSHIP, OR OTHER ENTITY PRINCIPALLY ENGAGED IN THE PRODUCTION OR
50 POST PRODUCTION OF (I) MOTION PICTURES, WHICH SHALL INCLUDE
51 FEATURE-LENGTH FILMS AND TELEVISION FILMS, (II) INSTRUCTIONAL VIDEOS,
52 (III) TELEVISED COMMERCIAL ADVERTISEMENTS, (IV) ANIMATED FILMS OR
53 CARTOONS, (V) MUSIC VIDEOS, (VI) TELEVISION PROGRAMS, WHICH SHALL
54 INCLUDE, BUT NOT BE LIMITED TO, TELEVISION SERIES, TELEVISION PILOTS,

1 AND SINGLE TELEVISION EPISODES, (VII) VIDEO GAMES, OTHER THAN THOSE
2 EMBEDDED AND USED EXCLUSIVELY IN ADVERTISING, PROMOTIONAL WEBSITES OR
3 MICROSITES, OR (VIII) PROGRAMS PRIMARILY INTENDED FOR RADIO BROADCAST.
4 "ENTERTAINMENT COMPANY" SHALL NOT INCLUDE AN ENTITY (I) PRINCIPALLY
5 ENGAGED IN THE LIVE PERFORMANCE OF EVENTS, INCLUDING, BUT NOT LIMITED
6 TO, THEATRICAL PRODUCTIONS, CONCERTS, CIRCUSES, AND SPORTING EVENTS,
7 (II) PRINCIPALLY ENGAGED IN THE PRODUCTION OF CONTENT INTENDED PRIMARILY
8 FOR INDUSTRIAL, CORPORATE OR INSTITUTIONAL END-USERS, (III) PRINCIPALLY
9 ENGAGED IN THE PRODUCTION OF FUNDRAISING FILMS OR PROGRAMS, OR (IV)
10 ENGAGED IN THE PRODUCTION OF CONTENT FOR WHICH RECORDS ARE REQUIRED
11 UNDER SECTION 2257 OF TITLE 18, UNITED STATES CODE, TO BE MAINTAINED
12 WITH RESPECT TO ANY PERFORMER IN SUCH PRODUCTION.

13 8. "Financial services data centers or financial services customer
14 back office operations" means operations that manage the data or
15 accounts of existing customers or provide product or service information
16 and support to customers of financial services companies, including
17 banks, other lenders, securities and commodities brokers and dealers,
18 investment banks, portfolio managers, trust offices, and insurance
19 companies.

20 [8.] 9. "Investment zone" shall mean an area within the state that had
21 been designated under paragraph (i) of subdivision (a) and subdivision
22 (d) of section nine hundred fifty-eight of the general municipal law
23 that was wholly contained within up to four distinct and separate
24 contiguous areas as of the date immediately preceding the date the
25 designation of such area expired pursuant to section nine hundred
26 sixty-nine of the general municipal law.

27 [9.] 10. "Manufacturing" means the process of working raw materials
28 into products suitable for use or which gives new shapes, new quality or
29 new combinations to matter which has already gone through some artifi-
30 cial process by the use of machinery, tools, appliances, or other simi-
31 lar equipment. "Manufacturing" does not include an operation that
32 involves only the assembly of components, provided, however, the assem-
33 bly of motor vehicles or other high value-added products shall be
34 considered manufacturing.

35 [10.] 11. "Net new jobs" means [jobs created in this state that]:

36 (a) JOBS CREATED IN THIS STATE THAT (I) are new to the state[;],
37 [(b)] (II) have not been transferred from employment with another
38 business located in this state including from a related person in this
39 state[;],

40 [(c)] (III) are either full-time wage-paying jobs or equivalent to a
41 full-time wage-paying job requiring at least thirty-five hours per
42 week[;], and

43 [(d)] (IV) are filled for more than six months[.]; OR

44 (B) JOBS OBTAINED BY AN ENTERTAINMENT COMPANY IN THIS STATE (I) AS A
45 RESULT OF THE TERMINATION OF A LICENSING AGREEMENT WITH ANOTHER ENTER-
46 TAINMENT COMPANY, (II) THAT THE COMMISSIONER DETERMINES TO BE AT RISK OF
47 LEAVING THE STATE AS A DIRECT RESULT OF THE TERMINATION, (III) THAT ARE
48 EITHER FULL-TIME WAGE-PAYING JOBS OR EQUIVALENT TO A FULL-TIME WAGE-PAY-
49 ING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK, AND (IV) THAT ARE
50 FILLED FOR MORE THAN SIX MONTHS.

51 [11.] 12. "Participant" means a business entity that:

52 (a) has completed an application prescribed by the department to be
53 admitted into the program;

54 (b) has been issued a certificate of eligibility by the department;

1 (c) has demonstrated that it meets the eligibility criteria in section
2 three hundred fifty-three and subdivision two of section three hundred
3 fifty-four of this article; and

4 (d) has been certified as a participant by the commissioner.

5 [12.] 13. "Preliminary schedule of benefits" means the maximum aggre-
6 gate amount of each component of the tax credit that a participant in
7 the excelsior jobs program is eligible to receive pursuant to this arti-
8 cle. The schedule shall indicate the annual amount of each component of
9 the credit a participant may claim in each of its ten years of eligibil-
10 ity. The preliminary schedule of benefits shall be issued by the
11 department when the department approves the application for admission
12 into the program. The commissioner may amend that schedule, provided
13 that the commissioner complies with the credit caps in section three
14 hundred fifty-nine of this article.

15 [13.] 14. "Qualified investment" means an investment in tangible prop-
16 erty (including a building or a structural component of a building)
17 owned by a business enterprise which:

18 (a) is depreciable pursuant to section one hundred sixty-seven of the
19 internal revenue code;

20 (b) has a useful life of four years or more;

21 (c) is acquired by purchase as defined in section one hundred seven-
22 ty-nine (d) of the internal revenue code;

23 (d) has a situs in this state; and

24 (e) is placed in service in the state on or after the date the certif-
25 icate of eligibility is issued to the business enterprise.

26 [14.] 15. "Regionally significant project" means (a) a manufacturer
27 creating at least fifty net new jobs in the state and making significant
28 capital investment in the state; (b) a business creating at least twenty
29 net new jobs in agriculture in the state and making significant capital
30 investment in the state, (c) a financial services firm, distribution
31 center, or back office operation creating at least three hundred net new
32 jobs in the state and making significant capital investment in the
33 state, [or] (d) a scientific research and development firm creating at
34 least twenty net new jobs in the state, and making significant capital
35 investment in the state OR (E) AN ENTERTAINMENT COMPANY CREATING OR
36 OBTAINING AT LEAST TWO HUNDRED NET NEW JOBS IN THE STATE AND MAKING
37 SIGNIFICANT CAPITAL INVESTMENT IN THE STATE. Other businesses creating
38 three hundred or more net new jobs in the state and making significant
39 capital investment in the state may be considered eligible as a
40 regionally significant project by the commissioner as well. The commis-
41 sioner shall promulgate regulations pursuant to section three hundred
42 fifty-six of this article to determine what constitutes significant
43 capital investment for each of the project categories indicated in this
44 subdivision and what additional criteria a business must meet to be
45 eligible as a regionally significant project, including, but not limited
46 to, whether a business exports a substantial portion of its products or
47 services outside of the state or outside of a metropolitan statistical
48 area or county within the state.

49 [15.] 16. "Related person" means a "related person" pursuant to
50 subparagraph (c) of paragraph three of subsection (b) of section four
51 hundred sixty-five of the internal revenue code.

52 [16.] 17. "Remuneration" means wages and benefits paid to an employee
53 by a participant in the excelsior jobs program.

54 [17.] 18. "Research and development expenditures" mean the expenses of
55 the business enterprise that are qualified research expenses under the
56 federal research and development credit under section forty-one of the

1 internal revenue code and are attributable to activities conducted in
2 the state. If the federal research and development credit has expired,
3 then the research and development expenditures shall be calculated as if
4 the federal research and development credit structure and definition in
5 effect in federal tax year two thousand nine were still in effect.

6 [18.] 19. "Scientific research and development" means conducting
7 research and experimental development in the physical, engineering, and
8 life sciences, including but not limited to agriculture, electronics,
9 environmental, biology, botany, biotechnology, computers, chemistry,
10 food, fisheries, forests, geology, health, mathematics, medicine, ocean-
11 ography, pharmacy, physics, veterinary, and other allied subjects. For
12 the purposes of this article, scientific research and development does
13 not include medical or veterinary laboratory testing facilities.

14 [19.] 20. "Software development" means the creation of coded computer
15 instructions and includes new media as defined by the commissioner in
16 regulations.

17 S 2. Subdivisions 1, 3, and 5 of section 353 of the economic develop-
18 ment law, subdivisions 1 and 5 as amended by section 2 of part G of
19 chapter 61 of the laws of 2011 and subdivision 3 as amended by section 1
20 of part C of chapter 68 of the laws of 2013, are amended to read as
21 follows:

22 1. To be a participant in the excelsior jobs program, a business enti-
23 ty shall operate in New York state predominantly:

24 (a) as a financial services data center or a financial services back
25 office operation;

26 (b) in manufacturing;

27 (c) in software development and new media;

28 (d) in scientific research and development;

29 (e) in agriculture;

30 (f) in the creation or expansion of back office operations in the
31 state;

32 (g) in a distribution center; [or]

33 (h) in an industry with significant potential for private-sector
34 economic growth and development in this state as established by the
35 commissioner in regulations promulgated pursuant to this article. In
36 promulgating such regulations the commissioner shall include job and
37 investment criteria; OR

38 (I) AS AN ENTERTAINMENT COMPANY.

39 3. For the purposes of this article, in order to participate in the
40 excelsior jobs program, a business entity operating predominantly in
41 manufacturing must create at least ten net new jobs; a business entity
42 operating predominately in agriculture must create at least five net new
43 jobs; a business entity operating predominantly as a financial service
44 data center or financial services customer back office operation must
45 create at least fifty net new jobs; a business entity operating predomi-
46 nantly in scientific research and development must create at least five
47 net new jobs; a business entity operating predominantly in software
48 development must create at least five net new jobs; a business entity
49 creating or expanding back office operations must create at least fifty
50 net new jobs; A BUSINESS ENTITY OPERATING PREDOMINANTLY AS AN ENTER-
51 TAINMENT COMPANY MUST CREATE OR OBTAIN AT LEAST ONE HUNDRED NET NEW
52 JOBS; or a business entity operating predominantly as a distribution
53 center in the state must create at least seventy-five net new jobs,
54 notwithstanding subdivision five of this section; or a business entity
55 must be a regionally significant project as defined in this article; or

1 5. A not-for-profit business entity, a business entity whose primary
2 function is the provision of services including personal services, busi-
3 ness services, or the provision of utilities, and a business entity
4 engaged predominantly in the retail or entertainment industry, OTHER
5 THAN A BUSINESS OPERATING AS AN ENTERTAINMENT COMPANY AS DEFINED IN THIS
6 ARTICLE, and a company engaged in the generation or distribution of
7 electricity, the distribution of natural gas, or the production of steam
8 associated with the generation of electricity are not eligible to
9 receive the tax credit described in this article.

10 S 3. Subdivision 1 of section 354 of the economic development law, as
11 amended by section 3 of part G of chapter 61 of the laws of 2011, is
12 amended as follows:

13 1. A business enterprise must submit a completed application as
14 prescribed by the commissioner. AN APPLICATION MADE BY AN ENTERTAINMENT
15 COMPANY MUST BE SUBMITTED BY JUNE FIRST, TWO THOUSAND FIFTEEN. An appli-
16 cation may be recommended by entities, including but not limited to,
17 those created pursuant to subdivision (e) of section nine hundred
18 fifty-seven of the general municipal law.

19 S 4. Subdivision 6 of section 355 of the economic development law, as
20 amended by section 4 of part G of chapter 61 of the laws of 2011, is
21 amended to read as follows:

22 6. Claim of tax credit. The business enterprise shall be allowed to
23 claim the credit as prescribed in section thirty-one of the tax law. NO
24 COSTS USED BY AN ENTERTAINMENT COMPANY AS THE BASIS FOR THE ALLOWANCE OF
25 A TAX CREDIT DESCRIBED IN THIS SECTION SHALL BE USED BY SUCH ENTER-
26 TAINMENT COMPANY TO CLAIM ANY OTHER CREDIT ALLOWED PURSUANT TO THE TAX
27 LAW.

28 S 5. This act shall take effect immediately.

29 PART L

30 Section 1. Paragraph (a) of subdivision 1 of section 210-B of the tax
31 law, as added by section 17 of part A of chapter 59 of the laws of 2014,
32 is amended to read as follows:

33 (a) A taxpayer shall be allowed a credit, to be computed as hereinaft-
34 er provided, against the tax imposed by this article. The amount of the
35 credit shall be the percent provided for hereinbelow of the investment
36 credit base. The investment credit base is the cost or other basis for
37 federal income tax purposes of tangible personal property and other
38 tangible property, including buildings and structural components of
39 buildings, described in paragraph (b) of this subdivision, less the
40 amount of the nonqualified nonrecourse financing with respect to such
41 property to the extent such financing would be excludible from the cred-
42 it base pursuant to section 46(c)(8) of the internal revenue code
43 (treating such property as section thirty-eight property irrespective of
44 whether or not it in fact constitutes section thirty-eight property).
45 If, at the close of a taxable year following the taxable year in which
46 such property was placed in service, there is a net decrease in the
47 amount of nonqualified nonrecourse financing with respect to such prop-
48 erty, such net decrease shall be treated as if it were the cost or other
49 basis of property described in paragraph (b) of this subdivision
50 acquired, constructed, reconstructed or erected during the year of the
51 decrease in the amount of nonqualified nonrecourse financing. PROVIDED,
52 HOWEVER, THAT THE INVESTMENT CREDIT BASE OF A MASTER OF A FILM, TELE-
53 VISION SHOW OR COMMERCIAL SHALL ONLY INCLUDE THOSE COSTS ASSOCIATED WITH
54 THE CREATION, PRODUCTION OR REPRODUCTION OF SUCH FILM, TELEVISION SHOW

1 OR COMMERCIAL INCURRED WITHIN THE STATE; PROVIDED, FURTHER, THAT THE
2 INVESTMENT CREDIT BASE OF A MASTER SHALL NOT INCLUDE THOSE COSTS USED BY
3 THE TAXPAYER OR ANOTHER TAXPAYER IN THE CALCULATION OF ANY OTHER TAX
4 CREDIT ALLOWED UNDER THIS CHAPTER. In the case of a combined report the
5 term investment credit base shall mean the sum of the investment credit
6 base of each corporation included on such report. The percentage to be
7 used to compute the credit allowed pursuant to this subdivision shall be
8 five percent with respect to the first three hundred fifty million
9 dollars of the investment credit base, and four percent with respect to
10 the investment credit base in excess of three hundred fifty million
11 dollars, except that in the case of research and development property at
12 the option of the taxpayer the applicable percentage shall be nine.

13 S 2. Section 211 of the tax law is amended by adding a new subdivision
14 15 to read as follows:

15 15. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION EIGHT OF THIS
16 SECTION, IN ORDER TO ADMINISTER THE LIMITATION IN SUBDIVISION ONE OF
17 SECTION TWO HUNDRED TEN-B OF THIS ARTICLE REGARDING THE INVESTMENT CRED-
18 IT BASE OF A MASTER OF A FILM, TELEVISION SHOW OR COMMERCIAL, THE
19 COMMISSIONER MAY DISCLOSE TO A TAXPAYER CLAIMING THE INVESTMENT CREDIT
20 FOR COSTS ASSOCIATED WITH THE CREATION, PRODUCTION OR REPRODUCTION OF A
21 FILM, TELEVISION SHOW OR COMMERCIAL PURSUANT TO SUCH SECTION INFORMATION
22 INCLUDED IN A REPORT OR A RETURN OF ANOTHER TAXPAYER FILED PURSUANT TO
23 THIS CHAPTER CLAIMING A TAX CREDIT UNDER THIS CHAPTER RELATING TO COSTS
24 ASSOCIATED WITH THE CREATION, PRODUCTION OR REPRODUCTION OF SUCH FILM,
25 TELEVISION SHOW OR COMMERCIAL.

26 S 3. Paragraph 1 of subsection (a) of section 606 of the tax law, as
27 amended by chapter 170 of the laws of 1994, is amended to read as
28 follows:

29 (1) A taxpayer shall be allowed a credit, to be computed as hereinaft-
30 er provided, against the tax imposed by this article. The amount of the
31 credit shall be the per cent provided for hereinbelow of the investment
32 credit base. The investment credit base is the cost or other basis, for
33 federal income tax purposes, of tangible personal property and other
34 tangible property, including buildings and structural components of
35 buildings, described in paragraph two of this subsection, less the
36 amount of the nonqualified nonrecourse financing with respect to such
37 property to the extent such financing would be excludible from the cred-
38 it base pursuant to section 46(c)(8) of the internal revenue code
39 (treating such property as section thirty-eight property irrespective of
40 whether or not it in fact constitutes section thirty-eight property).
41 If, at the close of a taxable year following the taxable year in which
42 such property was placed in service, there is a net decrease in the
43 amount of nonqualified nonrecourse financing with respect to such prop-
44 erty, such net decrease shall be treated as if it were the cost or other
45 basis of property described in paragraph two of this subsection
46 acquired, constructed, reconstructed or erected during the year of the
47 decrease in the amount of nonqualified nonrecourse financing. PROVIDED,
48 HOWEVER, THAT THE INVESTMENT CREDIT BASE OF A MASTER OF A FILM, TELE-
49 VISION SHOW OR COMMERCIAL SHALL ONLY INCLUDE THOSE COSTS ASSOCIATED WITH
50 THE CREATION, PRODUCTION OR REPRODUCTION OF SUCH FILM, TELEVISION SHOW
51 OR COMMERCIAL INCURRED WITHIN THE STATE; PROVIDED, FURTHER, THAT THE
52 INVESTMENT CREDIT BASE OF A MASTER SHALL NOT INCLUDE THOSE COSTS USED BY
53 THE TAXPAYER OR ANOTHER TAXPAYER IN THE CALCULATION OF ANY OTHER TAX
54 CREDIT ALLOWED UNDER THIS CHAPTER. The percentage to be used to compute
55 the credit allowed pursuant to this subsection shall be that percentage
56 appearing in column two which is opposite the appropriate period in

1 column one in which the tangible personal property was acquired,
2 constructed, reconstructed or erected, as the case may be:

3 Column 1	Column 2
4 After December 31, 1968 and	
5 prior to January 1, 1974	one per cent
6 After December 31, 1973 and	
7 prior to January 1, 1978	two per cent
8 After December 31, 1977 and	
9 prior to January 1, 1979	three per cent
10 After December 31, 1978 and	
11 prior to June 1, 1981	four per cent
12 After May 31, 1981 and	
13 prior to July 1, 1982	five per cent
14 After June 30, 1982 and	
15 before January 1, 1987	six per cent
16 After December 31, 1986	four per cent, except that in the
17	case of research and development
18	property the applicable percentage
19	shall be seven

20 Provided, however, that in the case of an acquisition, construction,
21 reconstruction or erection which was commenced in any one period and
22 continued or completed in any subsequent period the credit shall be the
23 sum of the portions of the investment credit base attributable to each
24 such period, which portion with respect to each such period shall be
25 ascertained by multiplying such investment credit base by a fraction the
26 numerator of which shall be the expenditures paid or incurred during
27 such period for such purposes and the denominator of which shall be the
28 total of all expenditures paid or incurred for such acquisition,
29 construction, reconstruction or erection, multiplied by the allowable
30 percentage for each such period.

31 S 4. Subsection (e) of section 697 of the tax law is amended by adding
32 a new paragraph 3-b to read as follows:

33 (3-B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS
34 SUBSECTION, IN ORDER TO ADMINISTER THE LIMITATION IN PARAGRAPH ONE OF
35 SUBSECTION (A) OF SECTION SIX HUNDRED SIX OF THIS ARTICLE REGARDING THE
36 INVESTMENT CREDIT BASE OF A MASTER OF A FILM, TELEVISION SHOW OR COMMER-
37 CIAL, THE COMMISSIONER MAY DISCLOSE TO A TAXPAYER CLAIMING THE INVEST-
38 MENT CREDIT FOR COSTS ASSOCIATED WITH THE CREATION, PRODUCTION OR
39 REPRODUCTION OF A FILM, TELEVISION SHOW OR COMMERCIAL PURSUANT TO SUCH
40 SECTION INFORMATION INCLUDED IN A REPORT OR A RETURN OF ANOTHER TAXPAYER
41 FILED PURSUANT TO THIS CHAPTER CLAIMING A TAX CREDIT UNDER THIS CHAPTER
42 RELATING TO COSTS ASSOCIATED WITH THE CREATION, PRODUCTION OR REPROD-
43 UCTION OF SUCH FILM, TELEVISION SHOW OR COMMERCIAL.

44 S 5. Subparagraph (vi) of paragraph (a) of subdivision 1 of section
45 210 of the tax law, as amended by section 12 of part A of chapter 59 of
46 the laws of 2014, is amended to read as follows:

47 (vi) for taxable years beginning on or after January first, two thou-
48 sand fourteen, the amount prescribed by this paragraph for a taxpayer
49 which is a qualified New York manufacturer, shall be computed at the
50 rate of zero percent of the taxpayer's business income base. The term
51 "manufacturer" shall mean a taxpayer which during the taxable year is
52 principally engaged in the production of goods by manufacturing, proc-
53 essing, assembling, refining, mining, extracting, farming, agriculture,
54 horticulture, floriculture, viticulture or commercial fishing. However,

1 the generation and distribution of electricity, the distribution of
2 natural gas, and the production of steam associated with the generation
3 of electricity shall not be qualifying activities for a manufacturer
4 under this subparagraph. Moreover, the combined group shall be consid-
5 ered a "manufacturer" for purposes of this subparagraph only if the
6 combined group during the taxable year is principally engaged in the
7 activities set forth in this paragraph, or any combination thereof. A
8 taxpayer or a combined group shall be "principally engaged" in activ-
9 ities described above if, during the taxable year, more than fifty
10 percent of the gross receipts of the taxpayer or combined group, respec-
11 tively, are derived from receipts from the sale of goods produced by
12 such activities. HOWEVER, THE LICENSE OF A MASTER OF A FILM, TELEVISION
13 SHOW OR COMMERCIAL SHALL NOT CONSTITUTE THE SALE OF A GOOD UNDER THIS
14 SUBPARAGRAPH. In computing a combined group's gross receipts, intercor-
15 porate receipts shall be eliminated. A "qualified New York manufacturer"
16 is a manufacturer which has property in New York which is described in
17 subdivision one of section two hundred ten-B of this article and either
18 (I) the adjusted basis of such property for federal income tax purposes
19 at the close of the taxable year is at least one million dollars or (II)
20 all of its real and personal property is located in New York. A taxpayer
21 or, in the case of a combined report, a combined group, that does not
22 satisfy the principally engaged test may be a qualified New York
23 manufacturer if the taxpayer or the combined group employs during the
24 taxable year at least two thousand five hundred employees in manufactur-
25 ing in New York and the taxpayer or the combined group has property in
26 the state used in manufacturing, the adjusted basis of which for federal
27 income tax purposes at the close of the taxable year is at least one
28 hundred million dollars.

29 S 6. This act shall take effect immediately and shall apply to taxable
30 years beginning on or after January 1, 2016.

31

PART M

32 Section 1. Section 25-a of the labor law, as added by section 1 of
33 part D of chapter 56 of the laws of 2011, subdivision (a) as amended by
34 section 3, subdivision (c) as amended by section 4 and subdivision (f)
35 as amended by section 5 of part U of chapter 59 of the laws of 2014, and
36 subdivision (b) as amended by section 1 and subdivision (d) as amended
37 by section 2 of part DD of chapter 59 of the laws of 2013, is amended to
38 read as follows:

39 S 25-a. Power to administer the [New York] URBAN youth [works] JOBS
40 PROGRAM tax credit [program]. (a) The commissioner is authorized to
41 establish and administer the [New York youth works tax credit] program
42 ESTABLISHED UNDER THIS SECTION to provide tax incentives to employers
43 for employing at risk youth in part-time and full-time positions. There
44 will be five distinct pools of tax incentives. Program one will cover
45 tax incentives allocated for two thousand twelve and two thousand thir-
46 teen. Program two will cover tax incentives allocated in two thousand
47 fourteen [to be used in two thousand fourteen and fifteen]. Program
48 three will cover tax incentives allocated in two thousand fifteen [to be
49 used in two thousand fifteen and sixteen]. Program four will cover tax
50 incentives allocated in two thousand sixteen [to be used in two thousand
51 sixteen and seventeen]. Program five will cover tax incentives allocated
52 in two thousand seventeen [to be used in two thousand seventeen and
53 eighteen]. The commissioner is authorized to allocate up to twenty-five
54 million dollars of tax credits under program one, ten million dollars of

1 tax credits under program two, AND ten million dollars of tax credits
2 FOR A BASE CREDIT ALLOCATION AND AN ADDITIONAL TEN MILLION DOLLARS OF
3 TAX CREDITS FOR AN INCREMENTAL ALLOCATION under [program] EACH OF
4 PROGRAMS three, [ten million dollars of tax credits under program] four,
5 [ten million dollars of tax credits under program] AND FIVE.

6 (b) Definitions. (1) The term "qualified employer" means an employer
7 that has been certified by the commissioner to participate in the [New
8 York youth works tax credit] program ESTABLISHED UNDER THIS SECTION and
9 that employs one or more qualified employees.

10 (2) The term "qualified employee" means an individual:

11 (i) who is between the age of sixteen and twenty-four;

12 (ii) who resides in a [city with a population of fifty-five thousand
13 or more or a town with a population of four hundred eighty thousand or
14 more] TARGETED LOCALITY;

15 (iii) who is low-income or at-risk, as those terms are defined by the
16 commissioner;

17 (iv) who is unemployed prior to being hired by the qualified employer;
18 and

19 (v) who will be working for the qualified employer in a full-time or
20 part-time position that pays wages that are equivalent to the wages paid
21 for similar jobs, with appropriate adjustments for experience and train-
22 ing, and for which no other employee has been terminated, or where the
23 employer has not otherwise reduced its workforce by involuntary termi-
24 nations with the intention of filling the vacancy by creating a new
25 hire.

26 (3) THE TERM "LOCALITY" MEANS A CITY WITH A POPULATION OF FIFTY-FIVE
27 THOUSAND OR MORE OR A TOWN WITH A POPULATION OF FOUR HUNDRED EIGHTY
28 THOUSAND OR MORE.

29 (4) THE TERM "LOCALITY WITH HIGH UNEMPLOYMENT" MEANS A LOCALITY THAT
30 IS LOCATED IN ONE OR MORE COUNTIES THAT ARE RANKED AMONG THE TOP SIX
31 COUNTIES CONTAINING A LOCALITY FOR THE TWELVE-MONTH ANNUAL AVERAGE UNEM-
32 PLOYMENT RATE, AS DETERMINED BY THE COMMISSIONER USING THE MOST CURRENT
33 AVAILABLE DATA, PROVIDED, HOWEVER, THAT MULTIPLE COUNTIES THAT COMPRISE
34 A SINGLE LOCALITY SHALL NOT BE SEPARATELY RANKED AND SHALL BE CONSIDERED
35 AS ONE FOR PURPOSES OF DETERMINING THE TOP SIX.

36 (5) THE TERM "LOCALITY WITH HIGH YOUTH POVERTY" MEANS A LOCALITY THAT
37 IS RANKED AMONG THE TOP SIX IN NEW YORK STATE FOR INDIVIDUALS BETWEEN
38 THE AGES OF EIGHTEEN AND TWENTY-FOUR LIVING BELOW THE POVERTY LINE, AS
39 DETERMINED BY THE UNITED STATES CENSUS BUREAU 5-YEAR AMERICAN COMMUNITY
40 SURVEY, USING THE MOST CURRENT DATA AVAILABLE.

41 (6) THE TERM "TARGETED LOCALITY" MEANS A LOCALITY, PROVIDED, HOWEVER,
42 THAT FOR PURPOSES OF THE INCREMENTAL ALLOCATIONS IN PROGRAMS THREE,
43 FOUR, AND FIVE, SUCH TERM SHALL BE LIMITED TO A LOCALITY WITH HIGH UNEM-
44 PLOYMENT THAT IS ALSO A LOCALITY WITH HIGH YOUTH POVERTY.

45 (c) A qualified employer shall be entitled to a tax credit equal to
46 (1) five hundred dollars per month for up to six months for each quali-
47 fied employee the employer employs in a full-time job or two hundred
48 fifty dollars per month for up to six months for each qualified employee
49 the employer employs in a part-time job of at least twenty hours per
50 week or ten hours per week when the qualified employee is enrolled in
51 high school full-time, (2) one thousand dollars for each qualified
52 employee who is employed for at least an additional six months by the
53 qualified employer in a full-time job or five hundred dollars for each
54 qualified employee who is employed for at least an additional six months
55 by the qualified employer in a part-time job of at least twenty hours
56 per week or ten hours per week when the qualified employee is enrolled

1 in high school full-time, and (3) an additional one thousand dollars for
2 each qualified employee who is employed for at least an additional year
3 after the first year of the employee's employment by the qualified
4 employer in a full-time job or five hundred dollars for each qualified
5 employee who is employed for at least an additional year after the first
6 year of the employee's employment by the qualified employer in a part-
7 time job of at least twenty hours per week or ten hours per week when
8 the qualified employee is enrolled in high school full time. The tax
9 credits shall be claimed by the qualified employer as specified in
10 subdivision [forty-four] THIRTY-SIX of section two hundred [ten] TEN-B
11 and subsection (tt) of section six hundred six of the tax law.

12 (d) To participate in the [New York youth works tax credit] program
13 ESTABLISHED UNDER THIS SECTION, an employer must submit an application
14 (in a form prescribed by the commissioner) to the commissioner after
15 January first, two thousand twelve but no later than November thirtieth,
16 two thousand twelve for program one, after January first, two thousand
17 fourteen but no later than November thirtieth, two thousand fourteen for
18 program two, after January first, two thousand fifteen but no later than
19 November thirtieth, two thousand fifteen for program three, after Janu-
20 ary first, two thousand sixteen but no later than November thirtieth,
21 two thousand sixteen for program four, and after January first, two
22 thousand seventeen but no later than November thirtieth, two thousand
23 seventeen for program five. The qualified employees must start their
24 employment on or after January first, two thousand twelve but no later
25 than December thirty-first, two thousand twelve for program one, on or
26 after January first, two thousand fourteen but no later than December
27 thirty-first, two thousand fourteen for program two, on or after January
28 first, two thousand fifteen but no later than December thirty-first, two
29 thousand fifteen for program three, on or after January first, two thou-
30 sand sixteen but no later than December thirty-first, two thousand
31 sixteen for program four, and on or after January first, two thousand
32 seventeen but no later than December thirty-first, two thousand seven-
33 teen for program five. The commissioner shall establish guidelines and
34 criteria that specify requirements for employers to participate in the
35 program including criteria for certifying qualified employees. Any regu-
36 lations that the commissioner determines are necessary may be adopted on
37 an emergency basis notwithstanding anything to the contrary in section
38 two hundred two of the state administrative procedure act. Such require-
39 ments may include the types of industries that the employers are engaged
40 in. The commissioner may give preference to employers that are engaged
41 in demand occupations or industries, or in regional growth sectors,
42 including those identified by the regional economic development coun-
43 cils, such as clean energy, healthcare, advanced manufacturing and
44 conservation. In addition, the commissioner shall give preference to
45 employers who offer advancement and employee benefit packages to the
46 qualified individuals.

47 (e) If, after reviewing the application submitted by an employer, the
48 commissioner determines that such employer is eligible to participate in
49 the [New York youth works tax credit] program ESTABLISHED UNDER THIS
50 SECTION, the commissioner shall issue the employer a certificate of
51 eligibility that establishes the employer as a qualified employer. The
52 certificate of eligibility shall specify the maximum amount of [New York
53 youth works] tax credit that the employer will be allowed to claim.

54 (f) The commissioner shall annually publish a report. Such report must
55 contain the names and addresses of any employer issued a certificate of
56 eligibility under this section, and the maximum amount of New York youth

1 works tax credit allowed to the employer as specified on such certifi-
2 cate of eligibility.

3 S 2. The subdivision heading and paragraph (a) of subdivision 36 of
4 section 210-B of the tax law, as added by section 17 of part A of chap-
5 ter 59 of the laws of 2014, is amended to read as follows:

6 [New York] URBAN youth [works] JOBS PROGRAM tax credit. (a) A taxpayer
7 that has been certified by the commissioner of labor as a qualified
8 employer pursuant to section twenty-five-a of the labor law shall be
9 allowed a credit against the tax imposed by this article equal to (i)
10 five hundred dollars per month for up to six months for each qualified
11 employee the employer employs in a full-time job or two hundred fifty
12 dollars per month for up to six months for each qualified employee the
13 employer employs in a part-time job of at least twenty hours per week or
14 ten hours per week when the qualified employee is enrolled in high
15 school full-time, (ii) one thousand dollars for each qualified employee
16 who is employed for at least an additional six months by the qualified
17 employer in a full-time job or five hundred dollars for each qualified
18 employee who is employed for at least an additional six months by the
19 qualified employer in a part-time job of at least twenty hours per week
20 or ten hours per week when the qualified employee is enrolled in high
21 school full-time, and (iii) an additional one thousand dollars for each
22 qualified employee who is employed for at least an additional year after
23 the first year of the employee's employment by the qualified employer in
24 a full-time job or five hundred dollars for each qualified employee who
25 is employed for at least an additional year after the first year of the
26 employee's employment by the qualified employer in a part-time job of at
27 least twenty hours per week or ten hours per week when the qualified
28 employee is enrolled in high school full-time. For purposes of this
29 subdivision, the term "qualified employee" shall have the same meaning
30 as set forth in subdivision (b) of section twenty-five-a of the labor
31 law. The portion of the credit described in subparagraph (i) of this
32 paragraph shall be allowed for the taxable year in which the wages are
33 paid to the qualified employee, [and] the portion of the credit
34 described in subparagraph (ii) of this paragraph shall be allowed in the
35 taxable year in which the additional six month period ends, AND THE
36 PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH
37 SHALL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ADDITIONAL YEAR AFTER
38 THE FIRST YEAR OF EMPLOYMENT ENDS.

39 S 3. The subdivision heading and paragraph 1 of subsection (tt) of
40 section 606 of the tax law, the subdivision heading as added by section
41 3 of part D of chapter 56 of the laws of 2011 and paragraph 1 as amended
42 by section 2 of part U of chapter 59 of the laws of 2014, are amended to
43 read as follows:

44 [New York] URBAN youth [works] JOBS PROGRAM tax credit. (1) A taxpay-
45 er that has been certified by the commissioner of labor as a qualified
46 employer pursuant to section twenty-five-a of the labor law shall be
47 allowed a credit against the tax imposed by this article equal to (A)
48 five hundred dollars per month for up to six months for each qualified
49 employee the employer employs in a full-time job or two hundred fifty
50 dollars per month for up to six months for each qualified employee the
51 employer employs in a part-time job of at least twenty hours per week or
52 ten hours per week when the qualified employee is enrolled in high
53 school full-time, and (B) one thousand dollars for each qualified
54 employee who is employed for at least an additional six months by the
55 qualified employer in a full-time job or five hundred dollars for each
56 qualified employee who is employed for at least an additional six months

1 by the qualified employer in a part-time job of at least twenty hours
 2 per week or ten hours per week when the qualified employee is enrolled
 3 in high school full-time, and (C) an additional one thousand dollars for
 4 each qualified employee who is employed for at least an additional year
 5 after the first year of the employee's employment by the qualified
 6 employer in a full-time job or five hundred dollars for each qualified
 7 employee who is employed for at least an additional year after the first
 8 year of the employee's employment by the qualified employer in a part-
 9 time job of at least twenty hours per week or ten hours per week when
 10 the qualified employee is enrolled in high school full-time. A taxpayer
 11 that is a partner in a partnership, member of a limited liability compa-
 12 ny or shareholder in an S corporation that has been certified by the
 13 commissioner of labor as a qualified employer pursuant to section twen-
 14 ty-five-a of the labor law shall be allowed its pro rata share of the
 15 credit earned by the partnership, limited liability company or S corpo-
 16 ration. For purposes of this subsection, the term "qualified employee"
 17 shall have the same meaning as set forth in subdivision (b) of section
 18 twenty-five-a of the labor law. The portion of the credit described in
 19 subparagraph (A) of this paragraph shall be allowed for the taxable year
 20 in which the wages are paid to the qualified employee, [and] the portion
 21 of the credit described in subparagraph (B) of this paragraph shall be
 22 allowed in the taxable year in which the additional six month period
 23 ends, AND THE PORTION OF THE CREDIT DESCRIBED IN SUBPARAGRAPH (C) OF
 24 THIS PARAGRAPH SHALL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ADDI-
 25 TIONAL YEAR AFTER THE FIRST YEAR OF EMPLOYMENT ENDS.

26 S 4. Clause (xxxiii) of subparagraph (B) of paragraph 1 of subsection
 27 (i) of section 606 of the tax law, as amended by section 68 of part A of
 28 chapter 59 of the laws of 2014, is amended to read as follows:

29 (xxxiii) [New York] URBAN youth	Amount of credit under
30 [works] JOBS PROGRAM	subdivision thirty-six
31 tax credit	of section two hundred ten-B

32 S 5. This act shall take effect immediately.

33 PART N

34 Section 1. Subparagraph (iv) of paragraph (a) of subdivision 1 of
 35 section 210 of the tax law, as amended by section 12 of part A of chap-
 36 ter 59 of the laws of 2014, is amended to read as follows:

37 (iv) (A) for taxable years beginning before January first, two thou-
 38 sand sixteen, if the business income base is not more than two hundred
 39 ninety thousand dollars the amount shall be six and one-half percent of
 40 the business income base; if the business income base is more than two
 41 hundred ninety thousand dollars but not over three hundred ninety thou-
 42 sand dollars the amount shall be the sum of (1) eighteen thousand eight
 43 hundred fifty dollars, (2) seven and one-tenth percent of the excess of
 44 the business income base over two hundred ninety thousand dollars but
 45 not over three hundred ninety thousand dollars and (3) four and thirty-
 46 five hundredths percent of the excess of the business income base over
 47 three hundred fifty thousand dollars but not over three hundred ninety
 48 thousand dollars;

49 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
 50 SAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, IF THE
 51 BUSINESS INCOME BASE IS NOT MORE THAN TWO HUNDRED NINETY THOUSAND
 52 DOLLARS THE AMOUNT SHALL BE THREE AND ONE-QUARTER PERCENT OF THE BUSI-

1 NESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN TWO HUNDRED
2 NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND
3 DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) NINE THOUSAND FOUR HUNDRED
4 TWENTY FIVE DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE
5 BUSINESS INCOME BASE OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT
6 OVER THREE HUNDRED NINETY THOUSAND DOLLARS AND (3) TWENTY-THREE AND
7 FIFTY-SIX HUNDREDTHS PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE
8 OVER THREE HUNDRED FIFTY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED
9 NINETY THOUSAND DOLLARS;

10 (C) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
11 SAND SEVENTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, IF THE
12 BUSINESS INCOME BASE IS NOT MORE THAN TWO HUNDRED NINETY THOUSAND
13 DOLLARS THE AMOUNT SHALL BE TWO AND NINE-TENTHS PERCENT OF THE BUSINESS
14 INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN TWO HUNDRED NINETY
15 THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS THE
16 AMOUNT SHALL BE THE SUM OF (1) EIGHT THOUSAND FOUR HUNDRED TEN DOLLARS,
17 (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE BUSINESS INCOME BASE
18 OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED
19 NINETY THOUSAND DOLLARS AND (3) TWENTY-SIX AND ONE-TENTH PERCENT OF THE
20 EXCESS OF THE BUSINESS INCOME BASE OVER THREE HUNDRED FIFTY THOUSAND
21 DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS;

22 (D) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
23 SAND EIGHTEEN, IF THE BUSINESS INCOME BASE IS NOT MORE THAN TWO HUNDRED
24 NINETY THOUSAND DOLLARS THE AMOUNT SHALL BE TWO AND ONE-HALF PERCENT OF
25 THE BUSINESS INCOME BASE; IF THE BUSINESS INCOME BASE IS MORE THAN TWO
26 HUNDRED NINETY THOUSAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOU-
27 SAND DOLLARS THE AMOUNT SHALL BE THE SUM OF (1) SEVEN THOUSAND TWO
28 HUNDRED FIFTY DOLLARS, (2) SIX AND ONE-HALF PERCENT OF THE EXCESS OF THE
29 BUSINESS INCOME BASE OVER TWO HUNDRED NINETY THOUSAND DOLLARS BUT NOT
30 OVER THREE HUNDRED NINETY THOUSAND DOLLARS AND (3) TWENTY-NINE PERCENT
31 OF THE EXCESS OF THE BUSINESS INCOME BASE OVER THREE HUNDRED FIFTY THOU-
32 SAND DOLLARS BUT NOT OVER THREE HUNDRED NINETY THOUSAND DOLLARS;

33 S 2. This act shall take effect immediately.

34 PART O

35 Section 1. The economic development law is amended by adding a new
36 article 22 to read as follows:

37 ARTICLE 22
38 EMPLOYEE TRAINING INCENTIVE PROGRAM

- 39 SECTION 441. DEFINITIONS.
40 442. ELIGIBILITY CRITERIA.
41 443. APPLICATION AND APPROVAL PROCESS.
42 444. POWERS AND DUTIES OF THE COMMISSIONER.
43 445. RECORDKEEPING REQUIREMENTS.
44 446. CAP ON TAX CREDIT.

45 S 441. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL
46 HAVE THE FOLLOWING MEANINGS:

47 1. "APPROVED PROVIDER" MEANS AN ENTITY MEETING SUCH CRITERIA AS SHALL
48 BE ESTABLISHED BY THE COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT
49 TO THIS ARTICLE, THAT MAY PROVIDE ELIGIBLE TRAINING TO EMPLOYEES OF A
50 BUSINESS ENTITY PARTICIPATING IN THE EMPLOYEE TRAINING INCENTIVE
51 PROGRAM. SUCH CRITERIA SHALL ENSURE THAT ANY APPROVED PROVIDER POSSESS

1 ADEQUATE CREDENTIALS TO PROVIDE THE TRAINING DESCRIBED IN AN APPLICATION
2 BY A BUSINESS ENTITY TO THE COMMISSIONER TO PARTICIPATE IN THE EMPLOYEE
3 TRAINING INCENTIVE PROGRAM.

4 2. "COMMISSIONER" MEANS THE COMMISSIONER OF ECONOMIC DEVELOPMENT.

5 3. "ELIGIBLE TRAINING" MEANS TRAINING PROVIDED BY AN APPROVED PROVIDER
6 THAT IS:

7 (A) TO UPGRADE, RETRAIN OR IMPROVE THE PRODUCTIVITY OF EMPLOYEES;

8 (B) PROVIDED TO EMPLOYEES FILLING NET NEW JOBS, OR TO EXISTING EMPLOY-
9 EES IN CONNECTION WITH A SIGNIFICANT CAPITAL INVESTMENT BY A PARTICIPAT-
10 ING BUSINESS ENTITY;

11 (C) DETERMINED BY THE COMMISSIONER TO SATISFY A BUSINESS NEED ON THE
12 PART OF A PARTICIPATING BUSINESS ENTITY;

13 (D) NOT DESIGNED TO TRAIN OR UPGRADE SKILLS AS REQUIRED BY A FEDERAL
14 OR STATE ENTITY;

15 (E) NOT TRAINING THE COMPLETION OF WHICH MAY RESULT IN THE AWARDING OF
16 A LICENSE OR CERTIFICATE REQUIRED BY LAW IN ORDER TO PERFORM A JOB FUNC-
17 TION; AND

18 (F) NOT CULTURALLY FOCUSED TRAINING.

19 4. "NET NEW JOB" MEANS A JOB CREATED IN THIS STATE THAT:

20 (A) IS NEW TO THE STATE;

21 (B) HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER BUSINESS
22 LOCATED IN THIS STATE THROUGH AN ACQUISITION, MERGER, CONSOLIDATION OR
23 OTHER REORGANIZATION OF BUSINESSES OR THE ACQUISITION OF ASSETS OF
24 ANOTHER BUSINESS, AND HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH A
25 RELATED PERSON IN THIS STATE;

26 (C) IS EITHER A FULL-TIME WAGE-PAYING JOB OR EQUIVALENT TO A FULL-TIME
27 WAGE-PAYING JOB REQUIRING AT LEAST THIRTY-FIVE HOURS PER WEEK;

28 (D) IS FILLED FOR MORE THAN SIX MONTHS;

29 (E) IS FILLED BY A PERSON WHO HAS RECEIVED ELIGIBLE TRAINING; AND

30 (F) IS COMPRISED OF TASKS THE PERFORMANCE OF WHICH REQUIRED THE PERSON
31 FILLING THE JOB TO UNDERGO ELIGIBLE TRAINING.

32 5. "SIGNIFICANT CAPITAL INVESTMENT" MEANS A CAPITAL INVESTMENT OF AT
33 LEAST ONE MILLION DOLLARS IN NEW BUSINESS PROCESSES OR EQUIPMENT.

34 6. "STRATEGIC INDUSTRY" MEANS AN INDUSTRY IN THIS STATE, AS ESTAB-
35 LISHED BY THE COMMISSIONER IN REGULATIONS PROMULGATED PURSUANT TO THIS
36 ARTICLE, BASED UPON THE FOLLOWING CRITERIA:

37 (A) SHORTAGES OF WORKERS TRAINED TO WORK WITHIN THE INDUSTRY;

38 (B) TECHNOLOGICAL DISRUPTION IN THE INDUSTRY, REQUIRING SIGNIFICANT
39 CAPITAL INVESTMENT FOR EXISTING BUSINESSES TO REMAIN COMPETITIVE;

40 (C) THE ABILITY OF BUSINESSES IN THE INDUSTRY TO RELOCATE OUTSIDE OF
41 THE STATE IN ORDER TO ATTRACT TALENT;

42 (D) THE POTENTIAL FOR MINORITIES OR WOMEN TO BE TRAINED TO WORK IN THE
43 INDUSTRY; AND

44 (E) SUCH OTHER CRITERIA AS SHALL BE DEVELOPED BY THE COMMISSIONER IN
45 CONSULTATION WITH THE COMMISSIONER OF LABOR.

46 S 442. ELIGIBILITY CRITERIA. 1. IN ORDER TO PARTICIPATE IN THE EMPLOY-
47 EE TRAINING INCENTIVE PROGRAM, A BUSINESS ENTITY MUST SATISFY ALL OF THE
48 FOLLOWING CRITERIA:

49 (A) THE BUSINESS ENTITY MUST OPERATE IN THE STATE PREDOMINANTLY IN A
50 STRATEGIC INDUSTRY;

51 (B) THE BUSINESS ENTITY MUST DEMONSTRATE THAT IT IS OBTAINING ELIGIBLE
52 TRAINING FROM AN APPROVED PROVIDER;

53 (C) THE BUSINESS ENTITY MUST CREATE AT LEAST TEN NET NEW JOBS OR MAKE
54 A SIGNIFICANT CAPITAL INVESTMENT IN CONNECTION WITH THE ELIGIBLE TRAIN-
55 ING; AND

1 (D) THE BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER
2 PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, THE
3 BUSINESS ENTITY MAY NOT OWE PAST DUE STATE TAXES OR LOCAL PROPERTY
4 TAXES.

5 S 443. APPLICATION AND APPROVAL PROCESS. 1. A BUSINESS ENTITY MUST
6 SUBMIT A COMPLETED APPLICATION IN SUCH FORM AND WITH SUCH INFORMATION AS
7 PRESCRIBED BY THE COMMISSIONER.

8 2. AS PART OF SUCH APPLICATION, EACH BUSINESS ENTITY MUST:

9 (A) PROVIDE SUCH DOCUMENTATION AS THE COMMISSIONER MAY REQUIRE IN
10 ORDER FOR THE COMMISSIONER TO DETERMINE THAT THE BUSINESS ENTITY INTENDS
11 TO PROCURE ELIGIBLE TRAINING FOR ITS EMPLOYEES FROM AN APPROVED PROVID-
12 ER;

13 (B) AGREE TO ALLOW THE DEPARTMENT OF TAXATION AND FINANCE TO SHARE ITS
14 TAX INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION SHARED AS
15 A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLOSURE OR
16 INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW;

17 (C) AGREE TO ALLOW THE DEPARTMENT OF LABOR TO SHARE ITS TAX AND
18 EMPLOYER INFORMATION WITH THE DEPARTMENT. HOWEVER, ANY INFORMATION
19 SHARED AS A RESULT OF THIS AGREEMENT SHALL NOT BE AVAILABLE FOR DISCLO-
20 SURE OR INSPECTION UNDER THE STATE FREEDOM OF INFORMATION LAW;

21 (D) ALLOW THE DEPARTMENT AND ITS AGENTS ACCESS TO ANY AND ALL BOOKS
22 AND RECORDS THE DEPARTMENT MAY REQUIRE TO MONITOR COMPLIANCE;

23 (E) PROVIDE A CLEAR AND DETAILED PRESENTATION OF ALL RELATED PERSONS
24 TO THE APPLICANT TO ASSURE THE DEPARTMENT THAT JOBS ARE NOT BEING SHIFT-
25 ED WITHIN THE STATE; AND

26 (F) CERTIFY, UNDER PENALTY OF PERJURY, THAT IT IS IN SUBSTANTIAL
27 COMPLIANCE WITH ALL ENVIRONMENTAL, WORKER PROTECTION, AND LOCAL, STATE,
28 AND FEDERAL TAX LAWS.

29 3. THE COMMISSIONER MAY APPROVE AN APPLICATION FROM A BUSINESS ENTITY
30 UPON DETERMINING THAT SUCH BUSINESS ENTITY MEETS THE ELIGIBILITY CRITE-
31 RIA ESTABLISHED IN SECTION FOUR HUNDRED FORTY-TWO OF THIS ARTICLE.
32 FOLLOWING APPROVAL BY THE COMMISSIONER OF AN APPLICATION BY A BUSINESS
33 ENTITY TO PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM, THE
34 COMMISSIONER SHALL ISSUE A CERTIFICATE OF TAX CREDIT TO THE BUSINESS
35 ENTITY UPON ITS DEMONSTRATING SUCCESSFUL COMPLETION OF SUCH ELIGIBLE
36 TRAINING TO THE SATISFACTION OF THE COMMISSIONER. THE AMOUNT OF THE
37 CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF ELIGIBLE TRAINING COSTS, UP TO
38 TEN THOUSAND DOLLARS PER EMPLOYEE RECEIVING ELIGIBLE TRAINING. THE TAX
39 CREDITS SHALL BE CLAIMED BY THE QUALIFIED EMPLOYER AS SPECIFIED IN
40 SUBDIVISION FIFTY OF SECTION TWO HUNDRED TEN-B AND SUBSECTION (DDD) OF
41 SECTION SIX HUNDRED SIX OF THE TAX LAW.

42 S 444. POWERS AND DUTIES OF THE COMMISSIONER. 1. THE COMMISSIONER
43 SHALL, IN CONSULTATION WITH THE COMMISSIONER OF LABOR, PROMULGATE REGU-
44 LATIONS CONSISTENT WITH THE PURPOSES OF THIS ARTICLE THAT, NOTWITHSTAND-
45 ING ANY PROVISIONS TO THE CONTRARY IN THE STATE ADMINISTRATIVE PROCEDURE
46 ACT, MAY BE ADOPTED ON AN EMERGENCY BASIS. SUCH REGULATIONS SHALL
47 INCLUDE, BUT NOT BE LIMITED TO, ELIGIBILITY CRITERIA FOR BUSINESS ENTI-
48 TIES DESIRING TO PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM,
49 PROCEDURES FOR THE RECEIPT AND EVALUATION OF APPLICATIONS FROM BUSINESS
50 ENTITIES TO PARTICIPATE IN THE PROGRAM, AND SUCH OTHER PROVISIONS AS THE
51 COMMISSIONER DEEMS TO BE APPROPRIATE IN ORDER TO IMPLEMENT THE
52 PROVISIONS OF THIS ARTICLE.

53 2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE DEPARTMENT OF
54 TAXATION AND FINANCE, DEVELOP A CERTIFICATE OF TAX CREDIT THAT SHALL BE
55 ISSUED BY THE COMMISSIONER TO PARTICIPATING BUSINESS ENTITIES. PARTIC-
56 IPANTS MAY BE REQUIRED BY THE COMMISSIONER OF TAXATION AND FINANCE TO

1 INCLUDE THE CERTIFICATE OF TAX CREDIT WITH THEIR TAX RETURN TO RECEIVE
2 ANY TAX BENEFITS UNDER THIS ARTICLE.

3 3. THE COMMISSIONER SHALL SOLELY DETERMINE THE ELIGIBILITY OF ANY
4 APPLICANT APPLYING FOR ENTRY INTO THE PROGRAM AND SHALL REMOVE ANY
5 PARTICIPANT FROM THE PROGRAM FOR FAILING TO MEET ANY OF THE REQUIREMENTS
6 SET FORTH IN SUBDIVISION ONE OF SECTION FOUR HUNDRED FORTY-TWO OF THIS
7 ARTICLE OR FOR MAKING A MATERIAL MISREPRESENTATION WITH RESPECT TO ITS
8 PARTICIPATION IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM.

9 S 445. RECORDKEEPING REQUIREMENTS. EACH BUSINESS ENTITY PARTICIPATING
10 IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM SHALL MAINTAIN ALL RELEVANT
11 RECORDS FOR THE DURATION OF ITS PROGRAM PARTICIPATION PLUS THREE YEARS.

12 S 446. CAP ON TAX CREDIT. THE TOTAL AMOUNT OF TAX CREDITS LISTED ON
13 CERTIFICATES OF TAX CREDIT ISSUED BY THE COMMISSIONER FOR ANY TAXABLE
14 YEAR MAY NOT EXCEED FIVE MILLION DOLLARS, AND SHALL BE ALLOTTED FROM THE
15 FUNDS AVAILABLE FOR TAX CREDITS UNDER THE EXCELSIOR JOBS PROGRAM ACT
16 PURSUANT TO SECTION THREE HUNDRED FIFTY-NINE OF THIS CHAPTER.

17 S 2. Section 210-B of the tax law is amended by adding a new subdivi-
18 sion 50 to read as follows:

19 50. EMPLOYEE TRAINING INCENTIVE PROGRAM TAX CREDIT. (A) A TAXPAYER
20 THAT HAS BEEN APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO
21 PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM AND HAS BEEN
22 ISSUED A CERTIFICATE OF TAX CREDIT PURSUANT TO SECTION FOUR HUNDRED
23 FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED TO CLAIM A
24 CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT SHALL EQUAL
25 FIFTY PERCENT OF A TAXPAYER'S ELIGIBLE TRAINING COSTS, UP TO TEN THOU-
26 SAND DOLLARS PER EMPLOYEE RECEIVING ELIGIBLE TRAINING. IN NO EVENT SHALL
27 A TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF CREDIT LISTED
28 ON THE CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC
29 DEVELOPMENT. THE CREDIT WILL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE
30 ELIGIBLE TRAINING FOR ALL EMPLOYEES IS COMPLETED.

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

43 (C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS
44 CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVEL-
45 OPMENT PURSUANT TO SECTION FOUR HUNDRED FORTY-THREE OF THE ECONOMIC
46 DEVELOPMENT LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT
47 GREATER THAN THE AMOUNT OF THE CREDIT LISTED IN THE CERTIFICATE OF TAX
48 CREDIT, OR IN THE CASE OF A TAXPAYER WHO IS A PARTNER IN A PARTNERSHIP
49 OR A MEMBER OF A LIMITED LIABILITY COMPANY, ITS PRO RATA SHARE OF THE
50 AMOUNT OF CREDIT LISTED IN THE CERTIFICATE OF TAX CREDIT ISSUED TO THE
51 PARTNERSHIP OR LIMITED LIABILITY COMPANY.

52 S 3. Section 606 of the tax law is amended to add a new subsection
53 (ddd) to read as follows:

54 (DDD) EMPLOYEE TRAINING INCENTIVE PROGRAM TAX CREDIT. (1) A TAXPAYER
55 THAT HAS BEEN APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO
56 PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM AND HAS BEEN

1 ISSUED A CERTIFICATE OF TAX CREDIT PURSUANT TO SECTION FOUR HUNDRED
 2 FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED TO CLAIM A
 3 CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT SHALL EQUAL
 4 FIFTY PERCENT OF A TAXPAYER'S ELIGIBLE TRAINING COSTS, UP TO TEN THOU-
 5 SAND DOLLARS PER EMPLOYEE RECEIVING ELIGIBLE TRAINING. IN NO EVENT SHALL
 6 A TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT LISTED ON THE
 7 CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVEL-
 8 OPMENT. IN THE CASE OF A TAXPAYER WHO IS A PARTNER IN A PARTNERSHIP,
 9 MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPO-
 10 RATION, THE TAXPAYER SHALL BE ALLOWED ITS PRO RATA SHARE OF THE CREDIT
 11 EARNED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY OR S CORPORATION.
 12 THE CREDIT WILL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ELIGIBLE
 13 TRAINING FOR ALL EMPLOYEES IS COMPLETED.

14 (2) IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY
 15 TAXABLE YEAR EXCEEDS THE TAXPAYER'S TAX FOR THE TAXABLE YEAR, THE EXCESS
 16 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
 17 ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS
 18 ARTICLE, PROVIDED, HOWEVER, NO INTEREST WILL BE PAID THEREON.

19 S 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
 20 of the tax law is amended by adding a new clause (xlII) to read as
 21 follows:

22 (XLII) EMPLOYEE TRAINING INCENTIVE	AMOUNT OF CREDIT UNDER
23 PROGRAM CREDIT UNDER	SUBDIVISION FIFTY OF
24 SUBSECTION (DDD)	SECTION TWO HUNDRED TEN-B

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

27 PART P

28 Section 1. Subdivision 1 of section 184 of the tax law, as amended by
 29 section 62 of part A of chapter 59 of the laws of 2014, is amended to
 30 read as follows:

31 1. The term "corporation" as used in this section shall include an
 32 association, within the meaning of paragraph three of subsection (a) of
 33 section seventy-seven hundred one of the internal revenue code (includ-
 34 ing a limited liability company), a publicly traded partnership treated
 35 as a corporation for purposes of the internal revenue code pursuant to
 36 section seventy-seven hundred four thereof.

37 Every corporation, joint-stock company or association formed for or
 38 principally engaged in the conduct of canal, steamboat, ferry (except a
 39 ferry company operating between any of the boroughs of the city of New
 40 York under a lease granted by the city), express, navigation, pipe line,
 41 transfer, baggage express, omnibus, taxicab, telegraph, MOBILE TELECOM-
 42 MUNICATIONS or local telephone business, or formed for or principally
 43 engaged in the conduct of two or more of such businesses, and every
 44 corporation, joint-stock company or association formed for or principal-
 45 ly engaged in the conduct of surface railroad, whether or not operated
 46 by steam, subway railroad, elevated railroad, palace car, sleeping car
 47 or trucking business or formed for or principally engaged in the conduct
 48 of two or more such businesses and which has made an election pursuant
 49 to subdivision ten of section one hundred eighty-three of this article,
 50 and every other corporation, joint-stock company or association formed
 51 for or principally engaged in the conduct of a transportation or trans-
 52 mission business (other than a telephone business), except a corpo-
 53 ration, joint-stock company or association formed for or principally
 54 engaged in the conduct of a surface railroad, whether or not operated by

1 steam, subway railroad, elevated railroad, palace car, sleeping car or
2 trucking business or formed for or principally engaged in the conduct of
3 two or more of such businesses and which has not made the election
4 provided for in subdivision ten of section one hundred eighty-three of
5 this article, and, except a corporation, joint-stock company or associ-
6 ation principally engaged in the conduct of aviation (including air
7 freight forwarders acting as principal and like indirect air carriers)
8 and except a corporation principally engaged in providing telecommuni-
9 cation services between aircraft and dispatcher, aircraft and air traf-
10 fic control or ground station and ground station (or any combination of
11 the foregoing), at least ninety percent of the voting stock of which
12 corporation is owned, directly or indirectly, by air carriers and which
13 corporation's principal function is to fulfill the requirements of (i)
14 the federal aviation administration (or the successor thereto) or (ii)
15 the international civil aviation organization (or the successor there-
16 to), relating to the existence of a communication system between
17 aircraft and dispatcher, aircraft and air traffic control or ground
18 station and ground station (or any combination of the foregoing) for the
19 purposes of air safety and navigation and for the privilege of exercis-
20 ing its corporate franchise, or of doing business, or of employing capi-
21 tal, or of owning or leasing property in this state in a corporate or
22 organized capacity, or maintaining an office in this state, shall pay a
23 franchise tax which shall be equal to three-eighths of one percent for
24 taxable years commencing after two thousand, upon its gross earnings
25 from all sources within this state; except that, for taxable years
26 commencing on or after January first, nineteen hundred ninety, every
27 corporation, joint-stock company or association formed for or principal-
28 ly engaged in the conduct of A MOBILE TELECOMMUNICATIONS BUSINESS, local
29 telephone business, or telegraph business shall pay a franchise tax
30 which shall be equal to three-eighths of one percent for taxable years
31 commencing after two thousand, upon its gross earnings from all sources
32 within this state, except that a corporation, joint-stock company or
33 association formed for or principally engaged in the conduct of a local
34 telephone business shall exclude the following earnings (but not in any
35 event earnings derived by such taxpayer from the provision of carrier
36 access services) derived by such taxpayer from sales for ultimate
37 consumption of telecommunications service to its customers (i) thirty
38 percent of separately charged intra-LATA toll service (which shall also
39 include interregion regional calling plan service) and (ii) one hundred
40 percent of separately charged inter-LATA, interstate or international
41 telecommunications service; and except that corporations, joint-stock
42 companies or associations formed for or principally engaged in the
43 conduct of canal, steamboat, ferry (except a ferry company operating
44 between any of the boroughs of the city of New York under a lease grant-
45 ed by the city), navigation or any corporation formed for or principally
46 engaged in the operation of vessels, shall pay a franchise tax which
47 shall be equal to three-quarters of one per centum upon its gross earn-
48 ings from all sources within this state, excluding earnings derived from
49 business of an interstate or foreign character; except that for taxable
50 years beginning in nineteen hundred ninety-seven or thereafter, in the
51 case of a corporation, joint-stock company or association which, with
52 respect to taxable years beginning after nineteen hundred ninety-seven,
53 has made an election pursuant to subdivision ten of section one hundred
54 eighty-three of this article and which is formed for or principally
55 engaged in the conduct of surface railroad, whether or not operated by
56 steam, subway railroad, elevated railroad, palace car, sleeping car or

1 trucking business or formed for or principally engaged in the conduct of
2 two or more of such businesses, such corporation, joint-stock company or
3 association shall pay a franchise tax which shall be equal to three-
4 eighths of one percent for taxable years commencing after two thousand,
5 upon its gross earnings from all sources within this state, provided
6 that in the case of a corporation, joint-stock company or association
7 formed for or principally engaged in the conduct of surface railroad,
8 whether or not operated by steam, subway railroad, elevated railroad,
9 palace car or sleeping car business, or formed for or principally
10 engaged in the conduct of two or more of such businesses, such gross
11 earnings shall not include earnings derived from business of an inter-
12 state or foreign character.

13 Provided, however, with respect to railroad, elevated railroad, palace
14 car or sleeping car business or any other corporation formed for or
15 principally engaged in the conduct of a railroad business and canal,
16 steamboat, ferry (except a ferry company operating between any of the
17 boroughs of the city of New York under a lease granted by the city),
18 navigation or any corporation formed for or principally engaged in the
19 operation of vessels where the gross earnings from such transportation
20 business both originating and terminating within this state and travers-
21 ing both this state and another state or states or country shall be
22 subject to the franchise tax imposed by this section (except where such
23 corporation, joint-stock company or association is formed for or princi-
24 pally engaged in the conduct of a railroad (including surface railroad,
25 whether or not operated by steam, subway railroad or elevated railroad),
26 palace car or sleeping car business or formed for or principally engaged
27 in the conduct of two or more of such businesses, and has not made the
28 election provided for under subdivision ten of section one hundred
29 eighty-three of this article) and such earnings shall be allocated to
30 this state in the same ratio that the mileage within the state bears to
31 the total mileage of such business. Provided, further, a corporation,
32 joint-stock company or association formed for or principally engaged in
33 the transportation, transmission or distribution of gas, electricity or
34 steam shall not be subject to tax under this section or section one
35 hundred eighty-three of this article.

36 The term "local telephone business" means the provision or furnishing
37 of telecommunication services for hire wherein the service furnished by
38 the provider thereof consists of carrier access service or the service
39 originates and terminates within the same local access and transport
40 area ("LATA"), a local access and transport area being that geographic
41 area as established and approved, and as so set and in existence on July
42 first, nineteen hundred ninety-four, pursuant to the modification of
43 final judgment in United States v. Western Electric Company (civil
44 action no. 82-0192) in the United States district court for the District
45 of Columbia or within the LATA-like Rochester non-associated independent
46 area.

47 THE TERM "MOBILE TELECOMMUNICATIONS BUSINESS" MEANS THE PROVISION OR
48 FURNISHING OF "MOBILE TELECOMMUNICATIONS SERVICE" AS SUCH TERM IS
49 DEFINED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (B) OF SECTION ELEVEN
50 HUNDRED ONE OF THIS CHAPTER.

51 The term "telecommunication services" shall have the meaning ascribed
52 to such term in section one hundred eighty-six-e of this article.

53 S 2. Subdivision 1 of section 184-a of the tax law, as amended by
54 section 2 of part C of chapter 60 of the laws of 2004, the opening para-
55 graph as amended by section 63 of part A of chapter 59 of the laws of
56 2014, is amended to read as follows:

1 1. The term "corporation" as used in this section shall include an
2 association, within the meaning of paragraph three of subsection (a) of
3 section seventy-seven hundred one of the internal revenue code (includ-
4 ing a limited liability company), and a publicly traded partnership
5 treated as a corporation for purposes of the internal revenue code
6 pursuant to section seventy-seven hundred four thereof. Every corpo-
7 ration, joint-stock company or association formed for or principally
8 engaged in the conduct of canal, steamboat, ferry (except a ferry compa-
9 ny operating between any of the boroughs of the city of New York under a
10 lease granted by the city), express, navigation, pipe line, transfer,
11 baggage express, omnibus, taxicab, telegraph, MOBILE TELECOMMUNICATIONS
12 or local telephone business, or formed for or principally engaged in the
13 conduct of two or more such businesses, and every corporation, joint-
14 stock company or association formed for or principally engaged in the
15 conduct of a surface railroad, whether or not operated by steam, subway
16 railroad, elevated railroad, palace car, sleeping car or trucking busi-
17 ness or principally engaged in the conduct of two or more such busi-
18 nesses and which has made an election pursuant to subdivision ten of
19 section one hundred eighty-three of this article, and every other corpo-
20 ration, joint-stock company or association formed for or principally
21 engaged in the conduct of a transportation or transmission business
22 (other than a telephone business) except a corporation, joint-stock
23 company or association formed for or principally engaged in the conduct
24 of a surface railroad, whether or not operated by steam, subway rail-
25 road, elevated railroad, palace car, sleeping car or trucking business
26 or principally engaged in the conduct of two or more such businesses and
27 which has not made the election provided for in subdivision ten of
28 section one hundred eighty-three of this article, and except a corpo-
29 ration, joint-stock company or association principally engaged in the
30 conduct of aviation (including air freight forwarders acting as princi-
31 pal and like indirect air carriers) and except a corporation principally
32 engaged in providing telecommunication services between aircraft and
33 dispatcher, aircraft and air traffic control or ground station and
34 ground station (or any combination of the foregoing), at least ninety
35 percent of the voting stock of which corporation is owned, directly or
36 indirectly, by air carriers and which corporation's principal function
37 is to fulfill the requirements of (i) the federal aviation adminis-
38 tration (or the successor thereto) or (ii) the international civil
39 aviation organization (or the successor thereto), relating to the exist-
40 ence of a communication system between aircraft and dispatcher, aircraft
41 and air traffic control or ground station and ground station (or any
42 combination of the foregoing) for the purposes of air safety and naviga-
43 tion, shall pay for the privilege of exercising its corporate franchise,
44 or of doing business, or of employing capital, or of owning or leasing
45 property in the metropolitan commuter transportation district in such
46 corporate or organized capacity, or of maintaining an office in such
47 district, a tax surcharge, which tax surcharge, in addition to the tax
48 imposed by section one hundred eighty-four of this article, shall be
49 computed at the rate of seventeen percent of the tax imposed under such
50 section for such taxable years or any part of such taxable years after
51 the deduction of any credits otherwise allowable under this article;
52 provided, however, that such rates of tax surcharge shall be applied
53 only to that portion of the tax imposed under section one hundred eight-
54 y-four of this article after the deduction of any credits otherwise
55 allowable under this article which is attributable to the taxpayer's
56 business activity carried on within the metropolitan commuter transpor-

1 tation district. Provided, however, that for taxable years beginning in
2 two thousand and thereafter, for purposes of this subdivision the tax
3 imposed under section one hundred eighty-four of this article shall be
4 deemed to have been imposed at the rate of three-quarters of one
5 percent, except that in the case of a corporation, joint-stock company
6 or association which has made an election pursuant to subdivision ten of
7 section one hundred eighty-three of this article, for purposes of this
8 subdivision the tax imposed under section one hundred eighty-four of
9 this article shall be deemed to have been imposed at the rate of six-
10 tenths of one percent.

11 The term "local telephone business" shall have the same meaning as
12 such term is used in section one hundred eighty-four of this article.
13 The term "telecommunication services" shall have the meaning ascribed to
14 such term in section one hundred eighty-six-e of this article.

15 THE TERM "MOBILE TELECOMMUNICATIONS BUSINESS" MEANS THE PROVISION OR
16 FURNISHING OF "MOBILE TELECOMMUNICATIONS SERVICE" AS SUCH TERM IS
17 DEFINED IN PARAGRAPH TWENTY-FOUR OF SUBDIVISION (B) OF SECTION ELEVEN
18 HUNDRED ONE OF THIS CHAPTER.

19 S 3. This act shall take effect immediately and shall apply to taxable
20 years beginning on and after January 1, 2015.

21

PART Q

22 Section 1. The tax law is amended by adding a new section 195 to read
23 as follows:

24 S 195. LIMITATION ON REFUNDS OR CREDITS. WHERE ANY PERSON SUBJECT TO
25 TAX UNDER THIS ARTICLE PASSES THROUGH THE ECONOMIC INCIDENCE OF ANY TAX
26 IMPOSED BY THIS ARTICLE AS A SEPARATELY STATED AMOUNT ON A BILL OR
27 INVOICE FURNISHED TO ITS CUSTOMER, NO REFUND OR CREDIT SHALL BE MADE TO
28 SUCH PERSON OF ANY SUCH AMOUNT UNLESS SUCH PERSON SHALL FIRST ESTABLISH
29 TO THE SATISFACTION OF THE COMMISSIONER THAT SUCH AMOUNT HAD BEEN REPAID
30 TO SUCH CUSTOMER. FOR PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL
31 HAVE THE SAME MEANING THAT IS ASCRIBED TO IT IN PARAGRAPH (C) OF SUBDI-
32 VISION ONE OF SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS ARTICLE.

33 S 2. This act shall take effect immediately and shall apply to any
34 amended return or claim for refund submitted on and after January 1,
35 2015.

36

PART R

37 Section 1. Subdivision (b) of section 27-1318 of the environmental
38 conservation law, as amended by section 2 of part E of chapter 577 of
39 the laws of 2004, is amended to read as follows:

40 (b) Within [sixty] ONE HUNDRED EIGHTY days of commencement of the
41 remedial design, the owner of an inactive hazardous waste disposal site,
42 and/or any person responsible for implementing a remedial program at
43 such site, where institutional or engineering controls are employed
44 pursuant to this title, shall execute an environmental easement pursuant
45 to title thirty-six of article seventy-one of this chapter.

46 S 2. Subdivision 2 of section 27-1405 of the environmental conserva-
47 tion law, as amended by section 2 of part A of chapter 577 of the laws
48 of 2004, is amended and a new subdivision 29 is added to read as
49 follows:

50 2. "Brownfield site" or "site" shall mean any real property[, the
51 redevelopment or reuse of which may be complicated by the presence or
52 potential presence of] WHERE a contaminant IS PRESENT AT LEVELS EXCEED-

1 ING THE SOIL CLEANUP OBJECTIVES OR OTHER HEALTH-BASED OR ENVIRONMENTAL
2 STANDARDS, CRITERIA OR GUIDANCE ADOPTED BY THE DEPARTMENT THAT ARE
3 APPLICABLE BASED ON THE REASONABLY ANTICIPATED USE OF THE PROPERTY, AS
4 DETERMINED BY THE DEPARTMENT IN ACCORDANCE WITH APPLICABLE REGULATIONS.
5 Such term shall not include real property:

6 (a) listed in the registry of inactive hazardous waste disposal sites
7 under section 27-1305 of this article at the time of application to this
8 program and given a classification as described in subparagraph one or
9 two of paragraph b of subdivision two of section 27-1305 of this arti-
10 cle; provided, however [except until July first, two thousand five],
11 real property listed in the registry of inactive hazardous waste
12 disposal sites under subparagraph two of paragraph b of subdivision two
13 of section 27-1305 of this article [prior to the effective date of this
14 article], where such real property is owned by a volunteer OR UNDER
15 CONTRACT TO BE TRANSFERRED TO A VOLUNTEER, shall not be deemed ineligi-
16 ble to participate, PROVIDED THAT, PRIOR TO THE SITE BEING ACCEPTED INTO
17 THE BROWNFIELD CLEANUP PROGRAM, THE DEPARTMENT HAS NOT IDENTIFIED ANY
18 RESPONSIBLE PARTY FOR THAT PROPERTY HAVING THE ABILITY TO PAY FOR THE
19 INVESTIGATION OR CLEANUP OF THE PROPERTY and further provided that the
20 status of any such site as listed in the registry shall not be altered
21 prior to the issuance of a certificate of completion pursuant to section
22 27-1419 of this title. THE DEPARTMENT'S ASSESSMENT OF ELIGIBILITY UNDER
23 THIS PARAGRAPH SHALL NOT CONSTITUTE A FINDING CONCERNING LIABILITY WITH
24 RESPECT TO THE PROPERTY;

25 (b) listed on the national priorities list established under authority
26 of 42 U.S.C. section 9605;

27 (c) subject to an enforcement action under title seven or nine of this
28 article, [except] OR PERMITTED OR REQUIRED TO BE PERMITTED AS a treat-
29 ment, storage or disposal facility [subject to a permit]; provided, that
30 nothing herein contained shall be deemed otherwise to exclude from the
31 scope of the term "brownfield site" a hazardous waste treatment, storage
32 or disposal facility having interim status according to regulations
33 promulgated by the commissioner;

34 (d) subject to an order for cleanup pursuant to article twelve of the
35 navigation law or pursuant to title ten of article seventeen of this
36 chapter except such property shall not be deemed ineligible if it is
37 subject to a stipulation agreement; or

38 (e) subject to any other on-going state or federal environmental
39 enforcement action related to the contamination which is at or emanating
40 from the site subject to the present application.

41 29. "AFFORDABLE HOUSING PROJECT" MEANS A PROJECT SUBJECT TO A REGULA-
42 TORY AGREEMENT WITH A FEDERAL, STATE OR LOCAL GOVERNMENT HOUSING AGENCY
43 THAT IS (A) A RENTAL BUILDING IN WHICH AT LEAST TWENTY PERCENT OF THE
44 DWELLING UNITS ARE RESTRICTED BY THE REGULATORY AGREEMENT FOR OCCUPANCY
45 BY TENANTS WHOSE ANNUAL INCOMES UPON INITIAL OCCUPANCY DO NOT EXCEED
46 NINETY PERCENT OF THE AREA MEDIAN INCOME AND IN WHICH AT LEAST AN ADDI-
47 TIONAL THIRTY PERCENT OF THE DWELLING UNITS ARE RESTRICTED BY THE REGU-
48 LATORY AGREEMENT FOR OCCUPANCY BY TENANTS WHOSE ANNUAL INCOMES UPON
49 INITIAL OCCUPANCY DO NOT EXCEED ONE HUNDRED THIRTY PERCENT OF THE AREA
50 MEDIAN INCOME; (B) A COOPERATIVE OR CONDOMINIUM PROJECT WITH AT LEAST
51 TEN DWELLING UNITS WHERE AT LEAST FIFTY PERCENT OF THE DWELLING UNITS
52 ARE INTENDED FOR BUYERS WHOSE AVERAGE ANNUAL INCOMES UPON INITIAL OCCU-
53 PANCY DO NOT EXCEED ONE HUNDRED THIRTY PERCENT OF THE AREA MEDIAN
54 INCOME; OR (C) A SINGLE-FAMILY HOME-OWNERSHIP PROJECT WITH ONE TO THREE
55 UNITS, CONSISTING OF NOT LESS THAN TWENTY FEE-SIMPLE PROPERTIES WHERE AT
56 LEAST FIFTY PERCENT OF THE HOMES ARE INTENDED FOR BUYERS WHOSE ANNUAL

1 INCOMES UPON INITIAL OCCUPANCY DO NOT EXCEED ONE HUNDRED THIRTY PERCENT
2 OF THE AREA MEDIAN INCOME. AREA MEDIAN INCOME MEANS THE AREA MEDIAN
3 INCOME FOR THE PRIMARY METROPOLITAN STATISTICAL AREA, OR FOR THE COUNTY
4 IF LOCATED OUTSIDE A METROPOLITAN STATISTICAL AREA, AS DETERMINED BY THE
5 UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OR ITS
6 SUCCESSOR, FOR A FAMILY OF FOUR, AS ADJUSTED FOR FAMILY SIZE.

7 S 3. Subdivision 1 of section 27-1407 of the environmental conserva-
8 tion law, as amended by section 3 of part A of chapter 577 of the laws
9 of 2004, is amended and two new subdivisions 1-a and 1-b are added to
10 read as follows:

11 1. A person who seeks to participate in this program shall submit a
12 request to the department on a form provided by the department. Such
13 form shall include information to be determined by the department suffi-
14 cient to allow the department to determine eligibility and the current,
15 intended and reasonably anticipated future land use of the site pursuant
16 to section 27-1415 of this title. ANY SUCH PERSON SHALL SUBMIT AN
17 INVESTIGATION REPORT SUFFICIENT TO DEMONSTRATE THAT THE SITE REQUIRES
18 REMEDIATION IN ORDER TO MEET THE REMEDIAL REQUIREMENTS OF THIS TITLE.

19 1-A. IF THE PERSON IS ALSO SEEKING TO RECEIVE THE TANGIBLE PROPERTY
20 CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO
21 PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW
22 SUCH PERSON SHALL SUBMIT INFORMATION SUFFICIENT TO DEMONSTRATE THAT: (A)
23 AT LEAST HALF OF THE SITE AREA IS LOCATED IN AN ENVIRONMENTAL ZONE AS
24 DEFINED IN SECTION TWENTY-ONE OF THE TAX LAW; (B) THE PROJECTED COST OF
25 THE INVESTIGATION AND REMEDIATION WHICH IS PROTECTIVE FOR THE ANTIC-
26 IPATED USE OF THE SITE EXCEEDS THE CERTIFIED APPRAISED VALUE OF THE
27 PROPERTY ABSENT CONTAMINATION; OR (C) THE PROJECT IS AN AFFORDABLE HOUS-
28 ING PROJECT. FOR ANY SITE LOCATED WITHIN A BROWNFIELD OPPORTUNITY AREA
29 DESIGNATED BY THE SECRETARY OF STATE PURSUANT TO SECTION NINE HUNDRED
30 SEVENTY-R OF THE GENERAL MUNICIPAL LAW SUCH PERSONS MUST ALSO CERTIFY
31 THAT THE DEVELOPMENT OF THE SITE WILL BE IN CONFORMANCE WITH SUCH BROWN-
32 FIELD OPPORTUNITY AREA PLAN. AN APPLICANT MAY REQUEST AN ELIGIBILITY
33 DETERMINATION FOR TANGIBLE PROPERTY CREDITS AT ANY TIME FROM APPLICATION
34 UNTIL THE SITE RECEIVES A CERTIFICATE OF COMPLETION PURSUANT TO SECTION
35 27-1419 OF THIS TITLE.

36 SITES ARE NOT ELIGIBLE FOR TANGIBLE PROPERTY TAX CREDITS IF: (A) THE
37 CONTAMINATION IS SOLELY EMANATING FROM PROPERTY OTHER THAN THE SITE
38 SUBJECT TO THE PRESENT APPLICATION; OR (B) THE DEPARTMENT HAS DETERMINED
39 THAT THE PROPERTY HAS PREVIOUSLY BEEN REMEDIATED SUCH THAT IT MAY BE
40 DEVELOPED FOR ITS THEN INTENDED USE.

41 1-B. THE DEPARTMENT IS AUTHORIZED TO ACCEPT THE REQUEST OF AN APPLI-
42 CANT WHICH IS CURRENTLY ACTIVE IN ITS ADMINISTRATIVE VOLUNTARY CLEANUP
43 PROGRAM FOR PARTICIPATION IN THIS PROGRAM, PROVIDED, HOWEVER, THAT:

44 (A) THE APPLICANT SHALL NOT BE ELIGIBLE FOR TAX CREDITS PURSUANT TO
45 SECTION TWENTY-ONE OF THE TAX LAW; AND

46 (B) THE APPLICANT COMMITS TO PROMPT AND DILIGENT IMPLEMENTATION OF ALL
47 REMAINING INVESTIGATION AND/OR REMEDIATION OF THE CONTAMINATION.

48 S 4. Subdivision 3 of section 27-1407 of the environmental conserva-
49 tion law, as amended by section 3 of part A of chapter 577 of the laws
50 of 2004, is amended to read as follows:

51 3. The department shall notify the person requesting participation in
52 this program within [ten] THIRTY days after receiving such request that
53 such request is either complete or incomplete. In the event the applica-
54 tion is determined to be incomplete the department shall specify in
55 writing the missing necessary information required pursuant to this
56 article to complete the application and shall have ten days after

1 receipt of the missing information to issue a written determination if
2 the application is complete.

3 S 5. Subdivision 6 of section 27-1407 of the environmental conserva-
4 tion law, as added by section 1 of part A of chapter 1 of the laws of
5 2003, is amended to read as follows:

6 6. The department shall use all best efforts to expeditiously notify
7 the applicant within forty-five days after receiving [their request] A
8 COMPLETE APPLICATION for participation that such request is either
9 accepted or rejected, AND, FOR ANY APPLICANT SEEKING TO RECEIVE THE
10 TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX
11 CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF SECTION TWEN-
12 TY-ONE OF THE TAX LAW, SHALL CONCURRENTLY NOTIFY THE APPLICANT WHETHER
13 THE CRITERIA FOR RECEIVING SUCH COMPONENT AS SET FORTH IN SUBDIVISION
14 ONE OF THIS SECTION HAVE BEEN MET.

15 S 6. Subdivision 9 of section 27-1407 of the environmental conserva-
16 tion law is amended by adding a new paragraph (g) to read as follows:

17 (G) THE PERSON'S PARTICIPATION IN ANY REMEDIAL PROGRAM UNDER THE
18 DEPARTMENT'S OVERSIGHT WAS TERMINATED BY THE DEPARTMENT OR BY A COURT
19 FOR FAILURE TO SUBSTANTIALLY COMPLY WITH AN AGREEMENT OR ORDER.

20 S 7. Subdivision 2 of section 27-1409 of the environmental conserva-
21 tion law, as amended by section 4 of part A of chapter 577 of the laws
22 of 2004, is amended to read as follows:

23 2. One requiring: (A) the [applicant] PARTICIPANT to pay for state
24 costs, INCLUDING THE RECOVERY OF STATE COSTS INCURRED BEFORE THE EFFEC-
25 TIVE DATE OF SUCH AGREEMENT; provided, however, that SUCH COSTS MAY BE
26 BASED ON A REASONABLE FLAT-FEE FOR OVERSIGHT, WHICH SHALL REFLECT THE
27 PROJECTED FUTURE STATE COSTS INCURRED IN NEGOTIATING AND OVERSEEING
28 IMPLEMENTATION OF SUCH AGREEMENT; AND

29 (B) with respect to a brownfield site which the department has deter-
30 mined constitutes a significant threat to the public health or environ-
31 ment the department may include a provision requiring the applicant to
32 provide a technical assistance grant, as described in subdivision four
33 of section 27-1417 of this title and under the conditions described
34 therein, to an eligible party in accordance with procedures established
35 under such program, with the cost of such a grant incurred by a volun-
36 teer serving as an offset against such state costs[. Where the appli-
37 cant is a participant, the department shall include provisions relating
38 to recovery of state costs incurred before the effective date of such
39 agreement];

40 S 8. Section 27-1411 of the environmental conservation law is amended
41 by adding a new subdivision 6 to read as follows:

42 6. AN APPLICANT SHALL COMMENCE IMPLEMENTATION OF ANY WORK PLAN WITHIN
43 NINETY DAYS OF APPROVAL OF THE PLAN BY THE DEPARTMENT AND COMPLETE THE
44 ACTIVITIES PROVIDED FOR IN SUCH WORK PLAN IN ACCORDANCE WITH THE SCHED-
45 ULE SET FORTH THEREIN, OR AS OTHERWISE APPROVED BY THE DEPARTMENT IN
46 WRITING.

47 S 9. Subdivision 2 of section 27-1413 of the environmental conserva-
48 tion law, as amended by section 6 of part A of chapter 577 of the laws
49 of 2004, is amended to read as follows:

50 2. For all [other] sites SEEKING TO RECEIVE THE TANGIBLE PROPERTY
51 CREDIT COMPONENT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF
52 SECTION TWENTY-ONE OF THE TAX LAW AND ALL SITES ACCEPTED PURSUANT TO
53 SUBDIVISION ONE-B OF SECTION 27-1407 OF THIS TITLE, the applicant shall
54 develop and evaluate at least two remedial alternatives, one of which
55 would achieve a Track 1 cleanup. The department shall have the
56 discretion to require the evaluation of additional alternatives at a

1 site that has been determined to pose a significant threat. The appli-
2 cant shall submit the alternatives analysis [as a part of the remedial
3 work plan to the department] WITHIN SIXTY DAYS OF THE ACCEPTANCE OF THE
4 REMEDIAL INVESTIGATION BY THE DEPARTMENT for review, approval, modifica-
5 tion or rejection BY THE DEPARTMENT.

6 S 10. Subdivision 4 of section 27-1415 of the environmental conserva-
7 tion law, as amended by section 7 of part A of chapter 577 of the laws
8 of 2004, is amended to read as follows:

9 4. Tracks. The commissioner, in consultation with the commissioner of
10 health, shall propose within twelve months and thereafter timely promul-
11 gate regulations which create a multi-track approach for the remediation
12 of contamination, and, commencing on the effective date of such regu-
13 lations, utilize such multi-track approach. Such regulations shall
14 provide that groundwater use in Tracks 2, 3 or 4 can be either
15 restricted or unrestricted. The tracks shall be as follows:

16 Track 1: The remedial program shall achieve a cleanup level that will
17 allow the site to be used for any purpose without restriction and with-
18 out reliance on the long-term employment of institutional or engineering
19 controls, and shall achieve contaminant-specific remedial action objec-
20 tives for soil which conform with those contained in the generic table
21 of contaminant-specific remedial action objectives for unrestricted use
22 developed pursuant to subdivision six of this section. Provided, howev-
23 er, that volunteers whose proposed remedial program [for the remediation
24 of groundwater] (A) (I) may require the long-term employment of institu-
25 tional or engineering controls FOR THE REMEDIATION OF GROUNDWATER after
26 the bulk reduction of groundwater contamination to asymptotic levels has
27 been achieved OR (II) MAY REQUIRE AN INSTITUTIONAL OR ENGINEERING
28 CONTROL FOR MORE THAN FIVE YEARS SOLELY TO ADDRESS SOIL VAPOR INTRUSION
29 but (B) whose program would otherwise conform with the requirements
30 necessary to qualify for Track 1, shall qualify for Track 1.

31 Track 2: The remedial program may include restrictions on the use of
32 the site or reliance on the long-term employment of engineering and/or
33 institutional controls, but shall achieve contaminant-specific remedial
34 action objectives for soil which conform with those contained in one of
35 the generic tables developed pursuant to subdivision six of this section
36 without the use of institutional or engineering controls to reach such
37 objectives.

38 Track 3: The remedial program shall achieve contaminant-specific reme-
39 dial action objectives for soil which conform with the criteria used to
40 develop the generic tables for such objectives developed pursuant to
41 subdivision six of this section but may use site specific data to deter-
42 mine such objectives.

43 Track 4: The remedial program shall achieve a cleanup level that will
44 be protective for the site's current, intended or reasonably anticipated
45 residential, commercial, or industrial use with restrictions and with
46 reliance on the long-term employment of institutional or engineering
47 controls to achieve such level. The regulations shall include a
48 provision requiring that a cleanup level which poses a risk in excee-
49 dence of an excess cancer risk of one in one million for carcinogenic
50 end points and a hazard index of one for non-cancer end points for a
51 specific contaminant at a specific site may be approved by the depart-
52 ment without requiring the use of institutional or engineering controls
53 to eliminate exposure only upon a site specific finding by the commis-
54 sioner, in consultation with the commissioner of health, that such level
55 shall be protective of public health and environment. Such finding shall

1 be included in the draft remedial work plan for the site and fully
2 described in the notice and fact sheet provided for such work plan.

3 S 11. Paragraphs (b), (c) and (d) of subdivision 7 of section 27-1415
4 of the environmental conservation law are relettered paragraphs (c), (d)
5 and (e) and a new paragraph (b) is added to read as follows:

6 (B) WITHIN ONE HUNDRED EIGHTY DAYS OF COMMENCEMENT OF THE REMEDIAL
7 DESIGN OR AT LEAST THREE MONTHS PRIOR TO THE DATE OF THE ANTICIPATED
8 ISSUANCE OF THE CERTIFICATE OF COMPLETION, THE OWNER OF A BROWNFIELD
9 SITE, AND/OR ANY PERSON RESPONSIBLE FOR IMPLEMENTING A REMEDIAL PROGRAM
10 AT SUCH SITE, WHERE INSTITUTIONAL OR ENGINEERING CONTROLS ARE EMPLOYED
11 PURSUANT TO THIS TITLE, SHALL EXECUTE AN ENVIRONMENTAL EASEMENT PURSUANT
12 TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER.

13 S 12. Paragraph (h) of subdivision 3 of section 27-1417 of the envi-
14 ronmental conservation law is REPEALED, paragraph (i) is relettered
15 paragraph (h) and paragraph (f), as amended by section 8 of part A of
16 chapter 577 of the laws of 2004, is amended to read as follows:

17 (f) Before the department [finalizes] SELECTS a proposed [remedial
18 work plan] REMEDY FROM THE ALTERNATIVES SET FORTH IN THE ALTERNATIVES
19 ANALYSIS AS PRESCRIBED BY SECTION 27-1413 OF THIS TITLE or makes a
20 determination that site conditions meet the requirements of this title
21 without the necessity for remediation pursuant to section 27-1411 of
22 this title, the department, in consultation with the applicant, must
23 notify individuals on the brownfield site contact list. Such notice
24 shall include a fact sheet describing such plan and provide for a
25 forty-five day public comment period. The commissioner shall hold a
26 public meeting if requested by the affected community and the commis-
27 sioner has found that the site constitutes a significant threat to the
28 public health or the environment. Further, the affected community may
29 request a public meeting at sites that do not constitute a significant
30 threat. (1) To the extent that the department has determined that site
31 conditions do not pose a significant threat and the site is being
32 addressed by a volunteer, the notice shall state that the department has
33 determined that no remediation is required for the off-site areas and
34 that the department's determination of a significant threat is subject
35 to this forty-five day comment period. (2) If the [remedial work plan]
36 REMEDY includes a Track 2, Track 3 or Track 4 remedy at a non-signifi-
37 cant threat site, such comment period shall apply both to the approval
38 of the alternatives analysis by the department, IF APPLICABLE, and the
39 proposed remedy selected by the applicant.

40 S 13. Paragraph (a) of subdivision 2 and subdivision 3 of section
41 27-1419 of the environmental conservation law, paragraph (a) of subdivi-
42 sion 2 as added by section 1 of part A of chapter 1 of the laws of 2003,
43 subdivision 3 as amended by chapter 390 of the laws of 2008, are amended
44 to read as follows:

45 (a) a description of the remediation activities completed pursuant to
46 the remedial work plan AND ANY INTERIM REMEDIAL MEASURES for the brown-
47 field site AND THE COSTS PAID FOR THOSE ACTIVITIES;

48 3. Upon receipt of the final engineering report, the department shall
49 review such report and the data submitted pursuant to the brownfield
50 site cleanup agreement as well as any other relevant information regard-
51 ing the brownfield site. Upon satisfaction of the commissioner that the
52 remediation requirements set forth in this title have been or will be
53 achieved in accordance with the timeframes, if any, established in the
54 remedial work plan, the commissioner shall issue a written certificate
55 of completion[, such]. THE certificate shall include such information as
56 determined by the department of taxation and finance, including but not

1 limited to the brownfield site boundaries included in the final engi-
2 neering report, the date of the brownfield site CLEANUP agreement
3 [pursuant to section 27-1409 of this title], IDENTIFICATION OF THE ENTI-
4 TY OR ENTITIES ELIGIBLE FOR CREDITS PURSUANT TO SECTIONS TWENTY-ONE,
5 TWENTY-TWO OR TWENTY-THREE OF THE TAX LAW, and the applicable percent-
6 ages available AS OF THE DATE OF THE CERTIFICATE OF COMPLETION for that
7 site for purposes of section twenty-one of the tax law[, with such
8 percentages to be determined as follows with respect to such qualified
9 site]. FOR THOSE SITES FOR WHICH THE DEPARTMENT HAS ISSUED A NOTICE TO
10 THE APPLICANT ON OR AFTER APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS
11 REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF
12 SECTION 27-1407 OF THIS TITLE, THE TANGIBLE PROPERTY CREDIT COMPONENT OF
13 THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH THREE OF
14 SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW SHALL ONLY BE
15 AVAILABLE TO THE TAXPAYER IF THE CRITERIA FOR RECEIVING SUCH TAX COMPO-
16 NENT HAVE BEEN MET. FOR THOSE SITES for which the department has issued
17 a notice to the taxpayer after June twenty-third, two thousand eight
18 that its request for participation has been accepted under subdivision
19 six of section 27-1407 of this title[:

20 For the purposes of calculating], THE APPLICABLE PERCENTAGE FOR the
21 site preparation credit component pursuant to paragraph two of subdivi-
22 sion (a) of section twenty-one of the tax law, and the on-site groundwa-
23 ter remediation credit component pursuant to paragraph four of subdivi-
24 sion (a) of section twenty-one of the tax law[, the applicable
25 percentage] shall be based on the level of cleanup achieved pursuant to
26 subdivision four of section 27-1415 of this title and the level of
27 cleanup of soils to contaminant-specific soil cleanup objectives promul-
28 gated pursuant to subdivision six of section 27-1415 of this title, up
29 to a maximum of fifty percent, as follows:

30 (a) soil cleanup for unrestricted use, the protection of groundwater
31 or the protection of ecological resources, the applicable percentage
32 shall be fifty percent;

33 (b) soil cleanup for residential use, the applicable percentage shall
34 be forty percent, except for Track 4 which shall be twenty-eight
35 percent;

36 (c) soil cleanup for commercial use, the applicable percentage shall
37 be thirty-three percent, except for Track 4 which shall be twenty-five
38 percent;

39 (d) soil cleanup for industrial use, the applicable percentage shall
40 be twenty-seven percent, except for Track 4 which shall be twenty-two
41 percent.

42 S 14. Subdivision 5 of section 27-1419 of the environmental conserva-
43 tion law, as amended by section 9 of part A of chapter 577 of the laws
44 of 2004, is amended to read as follows:

45 5. A certificate of completion issued pursuant to this section may be
46 transferred [to the applicant's successors or assigns upon transfer or
47 sale of the brownfield site] BY THE APPLICANT OR SUBSEQUENT HOLDER OF
48 THE CERTIFICATE OF COMPLETION TO A SUCCESSOR TO A REAL PROPERTY INTER-
49 EST, INCLUDING LEGAL TITLE, EQUITABLE TITLE OR LEASEHOLD, IN ALL OR A
50 PART OF THE BROWNFIELD SITE FOR WHICH THE CERTIFICATE OF COMPLETION WAS
51 ISSUED. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER TO THE CONTRARY, A
52 CERTIFICATE OF COMPLETION SHALL NOT BE TRANSFERRED TO A RESPONSIBLE
53 PARTY. Further, a certificate of completion may be modified or revoked
54 by the commissioner upon a finding that:

1 (a) Either the applicant, or the applicant's successors or assigns,
2 has failed to comply with the terms and conditions of the brownfield
3 site cleanup agreement;

4 (b) The applicant made a misrepresentation of a material fact tending
5 to demonstrate that: (I) it was qualified as a volunteer; OR (II) MET
6 THE CRITERIA SET FORTH IN SUBDIVISION ONE-A OF SECTION 27-1407 OF THIS
7 TITLE FOR THE PURPOSE OF RECEIVING THE TANGIBLE PROPERTY CREDIT COMPO-
8 NENT OF THE BROWNFIELD REDEVELOPMENT TAX CREDIT PURSUANT TO PARAGRAPH
9 THREE OF SUBDIVISION (A) OF SECTION TWENTY-ONE OF THE TAX LAW;

10 (c) Either the applicant, or the applicant's successors or assigns,
11 made a misrepresentation of a material fact tending to demonstrate that
12 the cleanup levels identified in the brownfield site cleanup agreement
13 were reached; [or]

14 (d) THE ENVIRONMENTAL EASEMENT CREATED AND RECORDED PURSUANT TO TITLE
15 THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THIS CHAPTER NO LONGER PROVIDES AN
16 EFFECTIVE OR ENFORCEABLE MEANS OF ENSURING THE PERFORMANCE OF MAINTE-
17 NANCE, MONITORING OR OPERATING REQUIREMENTS, OR THE RESTRICTIONS ON
18 FUTURE USES, INCLUDING RESTRICTIONS ON DRILLING FOR OR WITHDRAWING
19 GROUNDWATER; OR

20 (E) There is good cause for such modification or revocation.

21 S 15. Section 27-1423 of the environmental conservation law is
22 REPEALED.

23 S 16. Section 27-1429 of the environmental conservation law, as
24 amended by section 13 of part A of chapter 577 of the laws of 2004, is
25 amended to read as follows:

26 S 27-1429. Permit waivers.

27 The department[, by and through the commissioner,] shall be EXEMPT,
28 AND SHALL BE authorized to exempt a person from the requirement to
29 obtain any state or local permit or other authorization for any activity
30 needed to implement a program for the investigation and/or remediation
31 of contamination AT OR EMANATING FROM A BROWNFIELD SITE; provided that
32 the activity is conducted in a manner which satisfies all substantive
33 technical requirements applicable to like activity conducted pursuant to
34 a permit.

35 S 17. Subdivision 1 of section 27-1431 of the environmental conserva-
36 tion law is amended by adding a new paragraph c to read as follows:

37 C. TO INSPECT FOR COMPLIANCE WITH THE SITE MANAGEMENT PLAN APPROVED BY
38 THE DEPARTMENT, INCLUDING (I) INSPECTION OF THE PERFORMANCE OF MAINTE-
39 NANCE, MONITORING AND OPERATIONAL ACTIVITIES REQUIRED AS PART OF THE
40 REMEDIAL PROGRAM FOR THE SITE, (II) INSPECTION FOR THE PURPOSE OF ASCER-
41 TAINING CURRENT USES OF THE SITE, AND (III) TAKING SAMPLES IN ACCORDANCE
42 WITH PARAGRAPH (A) OF THIS SUBDIVISION.

43 S 17-a. Section 27-1435 of the environmental conservation law is
44 REPEALED.

45 S 18. The environmental conservation law is amended by adding a new
46 section 27-1437 to read as follows:

47 S 27-1437. BCP-EZ PROGRAM.

48 1. NOTWITHSTANDING THE PROVISIONS OF THIS TITLE OR ANY OTHER PROVISION
49 OF LAW, THE DEPARTMENT SHALL PROMULGATE REGULATIONS WHICH AUTHORIZE THE
50 DEPARTMENT TO EXEMPT AN APPLICANT FROM PROCEDURAL REQUIREMENTS OF THIS
51 TITLE AS THE DEPARTMENT MAY SPECIFY WHICH ARE OTHERWISE APPLICABLE TO
52 IMPLEMENTATION OF AN INVESTIGATION AND/OR REMEDIATION OF CONTAMINATION,
53 PROVIDED THAT:

54 (A) AT THE TIME OF THE APPLICATION, THE DEPARTMENT HAS NOT DETERMINED
55 THAT THE BROWNFIELD SITE POSES A SIGNIFICANT THREAT PURSUANT TO SECTION
56 27-1411 OF THIS TITLE;

1 (B) THE APPLICANT HAS WAIVED IN WRITING ANY CLAIM FOR TAX CREDITS
2 PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW ON A FORM PRESCRIBED BY
3 THE DEPARTMENT; AND

4 (C) THE ACTIVITY IS CONDUCTED IN A MANNER WHICH SATISFIES ALL SUBSTAN-
5 TIVE TECHNICAL REQUIREMENTS APPLICABLE TO LIKE ACTIVITY CONDUCTED PURSU-
6 ANT TO THIS TITLE, INCLUDING MEETING APPLICABLE SOIL CLEANUP OBJECTIVES
7 ESTABLISHED PURSUANT TO SUBDIVISION SIX OF SECTION 27-1417 OF THIS TITLE
8 EXCEPT AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

9 2. WHERE AN EXEMPTION HAS BEEN GRANTED PURSUANT TO SUBDIVISION ONE OF
10 THIS SECTION, THE APPROVED WORK PLAN FOR A BROWNFIELD SITE SHALL INCLUDE
11 THE PROCEDURAL REQUIREMENTS THE DEPARTMENT DETERMINES APPROPRIATE BASED
12 ON SITE SPECIFIC CONSIDERATIONS AND CONSIDERATION OF SECTION 27-1417 OF
13 THIS TITLE.

14 3. FOR ANY SITE ACCEPTED INTO THE BCP-EZ PROGRAM PURSUANT TO THIS
15 SECTION WHICH IS PURSUING A TRACK 4 REMEDIATION, IF A CONTAMINANT IS
16 IDENTIFIED IN SOIL IN EXCESS OF THE REMEDIAL ACTION OBJECTIVES CONTAINED
17 IN AN APPLICABLE GENERIC TABLE DEVELOPED PURSUANT TO SUBDIVISION SIX OF
18 SECTION 27-1415 OF THIS TITLE, THE APPLICANT MAY USE SITE-SPECIFIC DATA
19 TO DEMONSTRATE TO THE DEPARTMENT THAT THE CONCENTRATION OF THE CONTAM-
20 INANT IN THE SOILS REFLECTS BACKGROUND CONDITIONS AND, IN THAT CASE, A
21 CONTAMINANT-SPECIFIC ACTION OBJECTIVE FOR SUCH CONTAMINANT EQUAL TO SUCH
22 BACKGROUND CONCENTRATION MAY BE ESTABLISHED PROVIDED THAT SUCH OBJECTIVE
23 IS PROTECTIVE OF THE PUBLIC HEALTH AND THE ENVIRONMENT AND IS DETERMINED
24 IN A MANNER ACCEPTABLE TO THE DEPARTMENT.

25 4. UPON THE DEPARTMENT'S ACCEPTANCE OF THE CERTIFICATION BY THE APPLI-
26 CANT THAT THE REMEDIATION REQUIREMENTS OF THIS TITLE HAVE BEEN ACHIEVED
27 FOR THE BROWNFIELD SITE AND AN ENVIRONMENTAL EASEMENT, IF NECESSARY, HAS
28 BEEN CREATED AND FILED PURSUANT TO TITLE THIRTY-SIX OF ARTICLE SEVENTY-
29 ONE OF THIS CHAPTER, A SITE IN THE BCP-EZ SHALL BE ELIGIBLE TO RECEIVE A
30 CERTIFICATE OF COMPLETION IN ACCORDANCE WITH SECTION 27-1419 OF THIS
31 TITLE; PROVIDED, HOWEVER, THAT SUCH CERTIFICATE OF COMPLETION SHALL NOT
32 ENTITLE THE HOLDER TO ANY TAX CREDITS PROVIDED BY SECTION TWENTY-ONE OF
33 THE TAX LAW.

34 S 19. The opening paragraph of subdivision 10 of section 71-3605 of
35 the environmental conservation law, as added by section 2 of part A of
36 chapter 1 of the laws of 2003, is amended to read as follows:

37 An environmental easement may be enforced in law or equity by its
38 grantor, by the state, or any affected local government as defined in
39 section 71-3603 of this title. Such easement is enforceable against the
40 owner of the burdened property, any lessees, and any person using the
41 land. Enforcement shall not be defeated because of any subsequent
42 adverse possession, laches, estoppel, REVERSION or waiver. No general
43 law of the state which operates to defeat the enforcement of any inter-
44 est in real property shall operate to defeat the enforcement of any
45 environmental easement unless such general law expressly states the
46 intent to defeat the enforcement of such easement or provides for the
47 exercise of the power of eminent domain. It is not a defense in any
48 action to enforce an environmental easement that:

49 S 20. Paragraph 2 of subdivision (a) of section 21 of the tax law, as
50 amended by section 1 of part H of chapter 577 of the laws of 2004, is
51 amended to read as follows:

52 (2) Site preparation credit component. The site preparation credit
53 component shall be equal to the applicable percentage of the site prepa-
54 ration costs paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS
55 incurred by the taxpayer with respect to a qualified site. The credit
56 component amount so determined with respect to a site's qualification

1 for a certificate of completion shall be allowed for the taxable year in
2 which the effective date of the certificate of completion occurs. The
3 credit component amount determined other than with respect to such qual-
4 ification shall be allowed for the taxable year in which the improvement
5 to which the applicable costs apply is placed in service for up to five
6 taxable years after the issuance of such certificate of completion.

7 S 21. Paragraph 3 of subdivision (a) of section 21 of the tax law, as
8 amended by chapter 390 of the laws of 2008, is amended to read as
9 follows:

10 (3) Tangible property credit component.

11 (I) The tangible property credit component shall be equal to the
12 applicable percentage of the cost or other basis for federal income tax
13 purposes of tangible personal property and other tangible property,
14 including buildings and structural components of buildings, which
15 constitute qualified tangible property; provided[, however,] that in
16 determining the cost or other basis of such property, the taxpayer shall
17 exclude the acquisition cost of any item of property with respect to
18 which a credit under this section was allowable to another taxpayer. The
19 credit component amount so determined shall be allowed for the taxable
20 year in which such qualified tangible property is FIRST placed in
21 service on a qualified site with respect to which a certificate of
22 completion has been issued to the taxpayer, OR FOR THE TAXABLE YEAR IN
23 WHICH THE CERTIFICATE OF COMPLETION IS ISSUED IF THE QUALIFIED TANGIBLE
24 PROPERTY IS PLACED IN SERVICE PRIOR TO THE ISSUANCE OF THE CERTIFICATE
25 OF COMPLETION. THIS CREDIT COMPONENT SHALL ONLY BE ALLOWED for up to
26 [ten] FIVE CONSECUTIVE taxable years [after] FROM THE START OF THE REDE-
27 VELOPMENT OF THE SITE PROVIDED THAT ALL CREDITS MUST BE CLAIMED WITHIN
28 TEN YEARS OF the date of the issuance of such certificate of completion.

29 (II) The tangible property credit component shall be allowed with
30 respect to property leased to a second party only if such second party
31 is either [(i)] (A) not a party responsible for the disposal of hazard-
32 ous waste or the discharge of petroleum at the site according to appli-
33 cable principles of statutory or common law liability, or [(ii)] (B) a
34 party responsible according to applicable principles of statutory or
35 common law liability if such party's liability arises solely from opera-
36 tion of the site subsequent to the disposal of hazardous waste or the
37 discharge of petroleum, and is so certified by the commissioner of envi-
38 ronmental conservation at the request of the taxpayer, pursuant to
39 section 27-1419 of the environmental conservation law. Notwithstanding
40 any other provision of law to the contrary, in the case of allowance of
41 credit under this section to such a lessor, the commissioner shall have
42 the authority to reveal to such lessor any information, with respect to
43 the issue of qualified use of property by the lessee, which is the basis
44 for the denial in whole or in part, or for the recapture, of the credit
45 claimed by such lessor. For purposes of the tangible property credit
46 component allowed under this section the taxpayer to whom the certif-
47 icate of completion is issued, as provided for under subdivision five of
48 section 27-1419 of the environmental conservation law, may transfer the
49 benefits and burdens of the certificate of completion, which run with
50 the land and to the applicant's successors or assigns upon transfer or
51 sale of all or any portion of an interest or estate in the qualified
52 site. However, the taxpayer to whom certificate's benefits and burdens
53 are transferred shall not include the cost of acquiring all or any
54 portion of an interest or estate in the site and the amounts included in
55 the cost or other basis for federal income tax purposes of qualified

1 tangible property already claimed by the previous taxpayer pursuant to
2 this section.

3 (III) THE TANGIBLE PROPERTY CREDIT COMPONENT SHALL NOT INCLUDE COSTS
4 PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM "RELATED PERSON" IS
5 DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBDIVISION (B) OF
6 SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL REVENUE CODE.

7 (IV) ELIGIBLE COSTS FOR THE TANGIBLE PROPERTY CREDIT COMPONENT ARE
8 LIMITED TO COSTS ASSOCIATED WITH ACTUAL CONSTRUCTION OF TANGIBLE PROPER-
9 TY INCORPORATED AS PART OF THE PHYSICAL STRUCTURE, AND COSTS ASSOCIATED
10 WITH THE FOUNDATION OF ANY BUILDINGS CONSTRUCTED AS PART OF THE SITE
11 COVER THAT ARE NOT PROPERLY INCLUDED IN THE SITE PREPARATION COMPONENT.

12 (V) WITH RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT OF
13 ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER ON OR
14 AFTER APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS REQUEST FOR PARTIC-
15 IPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF
16 THE ENVIRONMENTAL CONSERVATION LAW, AND THE SITE IS ELIGIBLE FOR THE
17 TANGIBLE PROPERTY CREDIT COMPONENT BECAUSE IT IS AN AFFORDABLE HOUSING
18 PROJECT PURSUANT TO SUBDIVISION ONE-A OF SECTION 27-1407 OF THE ENVIRON-
19 MENTAL CONSERVATION LAW, THE PORTION OF ELIGIBLE COSTS TO BE INCLUDED IN
20 THE CALCULATION OF THE TANGIBLE PROPERTY CREDIT COMPONENT WILL BE DETER-
21 MINED BY MULTIPLYING THE TOTAL COSTS QUALIFIED FOR THE TANGIBLE PROPERTY
22 CREDIT COMPONENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE
23 SQUARE FOOTAGE OF SPACE OF THE AFFORDABLE HOUSING UNITS DEDICATED TO
24 RESIDENTIAL OCCUPANCY AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL
25 SQUARE FOOTAGE OF THE BUILDING TOGETHER WITH THE TOTAL SQUARE FOOTAGE OF
26 ANY OTHER IMPROVEMENTS ON THE SITE.

27 S 22. Subparagraph (A) of paragraph 3-a of subdivision (a) of section
28 21 of the tax law, as added by chapter 390 of the laws of 2008, is
29 amended to read as follows:

30 (A) Notwithstanding any other provision of law to the contrary, the
31 tangible property credit component available for any qualified site
32 pursuant to paragraph three of this subdivision shall not exceed thir-
33 ty-five million dollars or three times the SUM OF THE costs included in
34 the calculation of the site preparation credit component and the on-site
35 groundwater remediation credit component under paragraphs two and four,
36 respectively, of this subdivision, AND THE COSTS THAT WOULD HAVE BEEN
37 INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT TREATED AS AN
38 EXPENSE AND DEDUCTED PURSUANT TO SECTION ONE HUNDRED NINETY-EIGHT OF THE
39 INTERNAL REVENUE CODE, whichever is less; provided, however, that: (1)
40 in the case of a qualified site to be used primarily for manufacturing
41 activities, the tangible property credit component available for any
42 qualified site pursuant to paragraph three of this subdivision shall not
43 exceed forty-five million dollars or six times the SUM OF THE costs
44 included in the calculation of the site preparation credit component and
45 the on-site groundwater remediation credit component under paragraphs
46 two and four, respectively, of this subdivision, AND THE COSTS THAT
47 WOULD HAVE BEEN INCLUDED IN THE CALCULATION OF SUCH COMPONENTS IF NOT
48 TREATED AS AN EXPENSE AND DEDUCTED PURSUANT TO SECTION ONE HUNDRED NINE-
49 TY-EIGHT OF THE INTERNAL REVENUE CODE, whichever is less; and (2) the
50 provisions of this paragraph shall not apply to any qualified site for
51 which the department of environmental conservation has issued a notice
52 to the taxpayer before June twenty-third, two thousand eight that its
53 request for participation has been accepted under subdivision six of
54 section 27-1407 of the environmental conservation law.

1 S 22-a. Subparagraph (C) of paragraph 3-a of subdivision (a) of
2 section 21 of the tax law, as added by chapter 390 of the laws of 2008,
3 is amended to read as follows:

4 (C) In order to properly administer the [credit] CREDITS set forth in
5 [paragraph three of] this subdivision, the department may disclose
6 information about the calculation and the amounts of the credits claimed
7 under [paragraph three of] this subdivision on a taxpayer's return to
8 the department of environmental conservation and other taxpayers claim-
9 ing tax credits under this section with respect to the same qualifying
10 site.

11 S 23. Subparagraph (D) of paragraph 3-a of subdivision (a) of section
12 21 of the tax law, as added by chapter 390 of the laws of 2008, is
13 amended to read as follows:

14 (D) [If] WITH RESPECT TO ANY QUALIFIED SITE FOR WHICH THE DEPARTMENT
15 OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE
16 APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS REQUEST FOR PARTICIPATION HAS
17 BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRON-
18 MENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR
19 RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION
20 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW BEFORE APRIL FIRST, TWO
21 THOUSAND FIFTEEN, IF the qualifying site is located in a brownfield
22 opportunity area and is developed in conformance with the goals and
23 priorities established for that applicable brownfield opportunity area
24 as designated pursuant to section nine hundred seventy-r of the general
25 municipal law, the applicable percentage of the tangible property credit
26 component will be increased by two percent.

27 S 24. Paragraph 4 of subdivision (a) of section 21 of the tax law, as
28 amended by section 1 of part H of chapter 577 of the laws of 2004, is
29 amended to read as follows:

30 (4) On-site groundwater remediation credit component. The on-site
31 groundwater remediation credit component shall be equal to the applica-
32 ble percentage of the on-site groundwater remediation costs paid [or]
33 WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred by the taxpayer
34 with respect to a qualified site (to the extent that such groundwater
35 remediation costs are not included in the determination of the site
36 preparation credit or the cost or other basis included in the determi-
37 nation of the tangible property credit). The credit component so deter-
38 mined for costs [incurred and] paid with respect to and prior to the
39 issuance of a certificate of completion shall be allowed for the taxable
40 year in which the effective date of the issuance of a certificate of
41 completion occurs. The credit component amount determined in taxable
42 years after the effective date of the issuance of a certificate of
43 completion shall be allowed in the taxable year such qualified costs are
44 [incurred and] paid for up to five taxable years after the issuance of
45 such certificate of completion.

46 S 25. Paragraph 5 of subdivision (a) of section 21 of the tax law, as
47 amended by section 39 of part A of chapter 59 of the laws of 2014, is
48 amended to read as follows:

49 (5) Applicable percentage. (A) For purposes of COMPUTING THE SITE
50 PREPARATION AND ON-SITE GROUNDWATER REMEDIATION CREDIT COMPONENTS PURSU-
51 ANT TO paragraphs two[, three] and four of this subdivision, WITH
52 RESPECT TO SUCH QUALIFIED SITES FOR WHICH THE DEPARTMENT OF ENVIRON-
53 MENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER BEFORE JUNE
54 TWENTY-THIRD, TWO THOUSAND EIGHT THAT ITS REQUEST FOR PARTICIPATION HAS
55 BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF THE ENVIRON-
56 MENTAL CONSERVATION LAW, OR WHERE THE TAXPAYER HAS EITHER BEEN ISSUED OR

1 RECEIVED A CERTIFICATE OF COMPLETION FROM ANOTHER TAXPAYER UNDER SECTION
2 27-1419 OF THE ENVIRONMENTAL CONSERVATION LAW FOR SUCH A SITE, AND, FOR
3 PURPOSES OF COMPUTING THE TANGIBLE PROPERTY COMPONENT PURSUANT TO PARA-
4 GRAPH THREE OF THIS SUBDIVISION WITH RESPECT TO SUCH QUALIFIED SITES FOR
5 WHICH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE
6 TO THE TAXPAYER BEFORE APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS
7 REQUEST FOR PARTICIPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF
8 SECTION 27-1407 OF THE ENVIRONMENTAL CONSERVATION LAW, OR WHERE THE
9 TAXPAYER HAS EITHER BEEN ISSUED OR RECEIVED A CERTIFICATE OF COMPLETION
10 FROM ANOTHER TAXPAYER UNDER SECTION 27-1419 OF THE ENVIRONMENTAL CONSER-
11 VATION LAW FOR SUCH A SITE, the applicable percentage shall be twelve
12 percent in the case of credits claimed under article nine, nine-A or
13 thirty-three of this chapter, and ten percent in the case of credits
14 claimed under article twenty-two of this chapter, except that where at
15 least fifty percent of the area of the qualified site relating to the
16 credit provided for in this section is located in an environmental zone
17 as defined in paragraph six of subdivision (b) of this section, the
18 applicable percentage shall be increased by an additional eight percent.
19 Provided, however, as afforded in section 27-1419 of the environmental
20 conservation law, if the certificate of completion indicates that the
21 qualified site has been remediated to Track 1 as that term is described
22 in subdivision four of section 27-1415 of the environmental conservation
23 law, the applicable percentage set forth in the first sentence of this
24 paragraph shall be increased by an additional two percent.

25 (B) WITH RESPECT TO SUCH QUALIFIED SITE FOR WHICH THE DEPARTMENT OF
26 ENVIRONMENTAL CONSERVATION HAS ISSUED A NOTICE TO THE TAXPAYER ON OR
27 AFTER APRIL FIRST, TWO THOUSAND FIFTEEN THAT ITS REQUEST FOR PARTIC-
28 IPATION HAS BEEN ACCEPTED UNDER SUBDIVISION SIX OF SECTION 27-1407 OF
29 THE ENVIRONMENTAL CONSERVATION LAW, THE APPLICABLE PERCENTAGE FOR THE
30 TANGIBLE PROPERTY CREDIT COMPONENT OF THE BROWNFIELD REDEVELOPMENT TAX
31 CREDIT PURSUANT TO PARAGRAPH THREE OF SUBDIVISION (A) OF THIS SECTION
32 SHALL BE THE SUM OF TEN PERCENT AND THE FOLLOWING ADDITIONAL PERCENT-
33 AGES, PROVIDED THAT THE TOTAL PERCENTAGE OF THE TANGIBLE PROPERTY CREDIT
34 COMPONENT SHALL NOT EXCEED TWENTY-FOUR PERCENT AND IS OTHERWISE SUBJECT
35 TO THE LIMITATIONS SET FORTH IN PARAGRAPHS THREE AND THREE-A OF SUBDIVI-
36 SION (A) OF THIS SECTION:

37 (I) FIVE PERCENT FOR A SITE WITHIN AN ENVIRONMENTAL ZONE;

38 (II) FIVE PERCENT FOR A SITE LOCATED WITHIN A DESIGNATED BROWNFIELD
39 OPPORTUNITY AREA;

40 (III) FIVE PERCENT FOR A SITE DEVELOPED AS AFFORDABLE HOUSING, AS
41 DEFINED IN SECTION 27-1405 OF THE ENVIRONMENTAL CONSERVATION LAW; AND

42 (IV) FIVE PERCENT FOR A SITE TO BE USED PRIMARILY FOR MANUFACTURING
43 ACTIVITIES AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH
44 THREE-A OF THIS SUBDIVISION.

45 (C) THE TAXPAYER SHALL SUBMIT, IN THE MANNER PRESCRIBED BY THE COMMIS-
46 SIONER, INFORMATION SUFFICIENT TO DEMONSTRATE THAT THE SITE QUALIFIES
47 FOR ANY CREDIT COMPONENTS AVAILABLE UNDER SUBPARAGRAPH (B) OF THIS PARA-
48 GRAPH. IF THE SITE IS LOCATED WITHIN A DESIGNATED BROWNFIELD OPPORTUNITY
49 AREA, THE TAXPAYER SHALL SUBMIT A CERTIFICATION FROM THE SECRETARY OF
50 STATE THAT THE DEVELOPMENT IS IN CONFORMANCE WITH SUCH BROWNFIELD OPPOR-
51 TUNITY AREA PLAN PURSUANT TO SECTION NINE HUNDRED SEVENTY-R OF THE
52 GENERAL MUNICIPAL LAW.

53 S 26. Paragraph 6 of subdivision (a) of section 21 of the tax law, as
54 amended by section 1 of part H of chapter 577 of the laws of 2004, is
55 amended to read as follows:

1 (6) Site preparation costs and on-site groundwater remediation costs
2 paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred by the
3 taxpayer with respect to a qualified site and the cost or other basis
4 for federal income tax purposes of tangible personal property and other
5 tangible property, including buildings and structural components of
6 buildings, which constitute qualified tangible property shall only
7 include costs paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS
8 incurred by the taxpayer on or after the date of the brownfield site
9 cleanup agreement executed by the taxpayer and the department of envi-
10 ronmental conservation pursuant to section 27-1409 of the environmental
11 conservation law.

12 S 27. Paragraphs 2, 4 and 6 of subdivision (b) of section 21 of the
13 tax law, as amended by section 1 of part H of chapter 577 of the laws of
14 2004 and subparagraph (B) and the closing paragraph of paragraph 6 as
15 amended by section 1 of part G of chapter 62 of the laws of 2006, are
16 amended to read as follows:

17 (2) Site preparation costs. The term "site preparation costs" shall
18 mean all amounts properly [chargeable] CHARGED to a capital account, (i)
19 which are paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS
20 incurred in connection with a site's qualification for a certificate of
21 completion, and (ii) all other site preparation costs paid [or] WITHIN
22 SIX MONTHS OF THE DATE THE EXPENSE IS incurred in connection with
23 preparing a site for the erection of a building or a component of a
24 building, or otherwise to establish a site as usable for its industrial,
25 commercial (including the commercial development of residential hous-
26 ing), recreational or conservation purposes. Site preparation costs
27 shall include, but not be limited to, the costs of excavation, temporary
28 electric wiring, scaffolding, demolition costs, and the costs of fencing
29 and security facilities AND SHALL INCLUDE COSTS ATTRIBUTABLE TO ACTIV-
30 ITIES UNDERTAKEN UNDER THE OVERSIGHT OF THE DEPARTMENT OF LABOR OR IN
31 ACCORDANCE WITH STANDARDS ESTABLISHED BY THE DEPARTMENT OF HEALTH TO
32 REMEDIATE REGULATED MATERIALS INCLUDING ASBESTOS, LEAD OR POLYCHLORINAT-
33 ED BIPHENYLS IN BUILDINGS WHICH WILL REMAIN ON THE SITE. FOR A BUILDING
34 FOUNDATION, ONLY COSTS EQUIVALENT TO THE COST OF A SITE COVER FOR THE
35 AREA COVERED BY THE FOUNDATION SHALL BE INCLUDED IN SITE PREPARATION
36 COSTS. Site preparation costs shall not include the cost of acquiring
37 the site and shall not include amounts included in the cost or other
38 basis for federal income tax purposes of qualified tangible property, as
39 described in paragraph three of this subdivision. "SITE PREPARATION
40 COSTS" SHALL NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS
41 SUCH TERM "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH
42 THREE OF SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE
43 INTERNAL REVENUE CODE. ELIGIBLE SITE PREPARATION COSTS ARE LIMITED TO
44 COSTS DIRECTLY ASSOCIATED WITH ACTUAL SITE PREPARATION-RELATED
45 CONSTRUCTION, INCLUDING COSTS ASSOCIATED WITH ALL REQUIREMENTS OF SITE
46 REMEDIATION AND EASEMENTS REQUIRED PURSUANT TO TITLE FOURTEEN OF ARTICLE
47 TWENTY-SEVEN AND TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THE ENVIRON-
48 MENTAL CONSERVATION LAW SUCH AS ARCHITECTURAL AND ENGINEERING FEES,
49 APPRAISAL, SURVEYS, SOIL BORINGS/OTHER INVESTIGATIONS, LEGAL FEES ASSO-
50 CIATED WITH ANY ENVIRONMENTAL EASEMENT REQUIRED, OPERATION, MAINTENANCE
51 AND MONITORING OF TREATMENT SYSTEMS, TESTING FOR ASBESTOS OR LEAD PAINT,
52 LEGAL FEES ASSOCIATED WITH CONSTRUCTION LOAN CLOSING, COST CERTIFICATION
53 AND INSURANCE.

54 (4) On-site groundwater remediation costs. The term "on-site groundwa-
55 ter remediation costs" shall mean all amounts properly [chargeable]
56 CHARGED to a capital account, (i) which are paid [or] WITHIN SIX MONTHS

1 OF THE DATE THE EXPENSE IS incurred in connection with a site's quali-
2 fication for a certificate of completion, and (ii) include costs which
3 are paid [or] WITHIN SIX MONTHS OF THE DATE THE EXPENSE IS incurred in
4 connection with the remediation of on-site groundwater contamination and
5 [incurred] PAID to implement a requirement of the remedial work plan or
6 an interim remedial measure work plan for a qualified site which are
7 imposed pursuant to subdivisions two and three of section 27-1411 of the
8 environmental conservation law. "ON-SITE GROUNDWATER REMEDIATION COSTS"
9 SHALL NOT INCLUDE COSTS PAID TO A RELATED PARTY OR PARTIES, AS SUCH TERM
10 "RELATED PERSON" IS DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH THREE OF
11 SUBDIVISION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF THE INTERNAL
12 REVENUE CODE. ON SITE GROUNDWATER REMEDIATION COSTS ARE LIMITED TO
13 COSTS DIRECTLY ASSOCIATED WITH ACTUAL GROUNDWATER REMEDIATION ACTIV-
14 ITIES, INCLUDING COSTS ASSOCIATED WITH ALL REQUIREMENTS OF SITE REMEDI-
15 ATION AND EASEMENTS REQUIRED PURSUANT TO TITLE FOURTEEN OF ARTICLE TWEN-
16 TY-SEVEN AND TITLE THIRTY-SIX OF ARTICLE SEVENTY-ONE OF THE
17 ENVIRONMENTAL CONSERVATION LAW SUCH AS ARCHITECTURAL AND ENGINEERING
18 FEES, APPRAISAL, SURVEYS, SOIL BORING/OTHER INVESTIGATIONS, LEGAL FEES
19 ASSOCIATED WITH ANY ENVIRONMENTAL EASEMENT REQUIRED, OPERATION, MAINTEN-
20 NANCE AND MONITORING OF TREATMENT SYSTEMS, TESTING FOR ASBESTOS OR LEAD
21 PAINT, LEGAL FEES ASSOCIATED WITH CONSTRUCTION LOAN CLOSING, COST
22 CERTIFICATION AND INSURANCE.

23 (6) Environmental zones (EN-Zones). An "environmental zone" shall mean
24 an area designated as such by the commissioner of [economic development]
25 LABOR. Such areas [so designated are areas which are] SHALL BE census
26 tracts [and block numbering areas which, as of the two thousand census,]
27 THAT satisfy either of the following criteria:

28 (A) areas that have both:

29 (i) a poverty rate of at least twenty percent [for the year to which
30 the data relate] BASED ON THE MOST RECENT FIVE YEAR AMERICAN COMMUNITY
31 SURVEY; and

32 (ii) an unemployment rate of at least one and one-quarter times the
33 statewide unemployment rate [for the year to which the data relate]
34 BASED ON THE MOST RECENT FIVE YEAR AMERICAN COMMUNITY SURVEY, or;

35 (B) areas that have a poverty rate of at least two times the poverty
36 rate for the county in which the areas are located [for the year to
37 which the data relate provided, however, that a qualified site shall
38 only be deemed to be located in an environmental zone under this subpar-
39 agraph (B) if such site was the subject of a brownfield site cleanup
40 agreement pursuant to section 27-1409 of the environmental conservation
41 law that was entered into prior to September first, two thousand ten]
42 BASED ON THE MOST RECENT FIVE YEAR AMERICAN COMMUNITY SURVEY.

43 Such designation shall be made and a list of all such environmental
44 zones shall be established by the commissioner of [economic development
45 no later than December thirty-first, two thousand four provided, howev-
46 er, that a qualified site shall only be deemed to be located in an envi-
47 ronmental zone under subparagraph (B) of this paragraph if such site was
48 the subject of a brownfield site cleanup agreement pursuant to section
49 27-1409 of the environmental conservation law that was entered into
50 prior to September first, two thousand ten] LABOR BASED ON THE TWO THOU-
51 SAND NINE THROUGH TWO THOUSAND THIRTEEN AMERICAN COMMUNITY SURVEY ESTI-
52 MATE. UPON REQUEST OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION,
53 THE COMMISSIONER OF LABOR SHALL UPDATE SUCH DESIGNATION BASED ON THE
54 MOST RECENT AMERICAN COMMUNITY SURVEY, OR ITS SUCCESSOR.

55 THE DETERMINATION OF WHETHER A SITE IS LOCATED IN AN ENVIRONMENTAL
56 ZONE SHALL BE BASED ON THE DATE THE DEPARTMENT OF ENVIRONMENTAL CONSER-

1 VATION ISSUED A NOTICE TO THE TAXPAYER THAT ITS REQUEST FOR PARTIC-
2 IPATION IN THE BROWNFIELD CLEANUP PROGRAM HAS BEEN DEEMED COMPLETE
3 PURSUANT TO SUBDIVISION THREE OF SECTION 27-1407 OF THE ENVIRONMENTAL
4 CONSERVATION LAW.

5 S 28. Section 171-r of the tax law is amended by adding a new subdivi-
6 sion (e) to read as follows:

7 (E) THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF ENVI-
8 RONMENTAL CONSERVATION, SHALL PUBLISH BY JANUARY THIRTY-FIRST, TWO THOU-
9 SAND SIXTEEN A SUPPLEMENTAL BROWNFIELD CREDIT REPORT CONTAINING THE
10 INFORMATION REQUIRED BY THIS SECTION ABOUT THE CREDITS CLAIMED FOR THE
11 YEARS TWO THOUSAND FIVE, TWO THOUSAND SIX, AND TWO THOUSAND SEVEN.

12 S 29. Section 171-s of the tax law is REPEALED.

13 S 30. Paragraph b of subdivision 2 of section 970-r of the general
14 municipal law, as added by section 1 of part F of chapter 1 of the laws
15 of 2003, is amended to read as follows:

16 b. Activities eligible to receive such assistance shall include, but
17 are not limited to, the assembly and development of basic information
18 about:

19 (1) the borders of the [proposed] brownfield opportunity area;

20 (2) the number and size of KNOWN OR SUSPECTED brownfield sites;

21 (3) current and anticipated uses of the properties in the [proposed]
22 BROWNFIELD OPPORTUNITY area;

23 (4) current and anticipated future conditions of groundwater in the
24 [proposed] BROWNFIELD OPPORTUNITY area;

25 (5) known data about the environmental conditions of the properties in
26 the [proposed] BROWNFIELD OPPORTUNITY area;

27 (6) ownership of the properties in the [proposed] BROWNFIELD OPPORTU-
28 NITY area AND WHETHER THE OWNERS WOULD LIKE TO PARTICIPATE DIRECTLY IN
29 THE BROWNFIELD OPPORTUNITY PLANNING PROCESS; and

30 (7) preliminary descriptions of possible remediation strategies, reuse
31 opportunities, necessary infrastructure improvements and other public or
32 private measures needed to stimulate investment, promote revitalization,
33 and enhance community health and environmental conditions.

34 S 31. Subparagraphs 2 and 5 of paragraph c of subdivision 2 of section
35 970-r of the general municipal law, as added by section 1 of part F of
36 chapter 1 of the laws of 2003, are amended to read as follows:

37 (2) areas with concentrations of KNOWN OR SUSPECTED brownfield sites;

38 (5) areas with KNOWN OR SUSPECTED brownfield sites presenting strate-
39 gic opportunities to stimulate economic development, community revitali-
40 zation or the siting of public amenities.

41 S 32. Paragraph a of subdivision 3 of section 970-r of the general
42 municipal law, as amended by chapter 390 of the laws of 2008, is amended
43 to read as follows:

44 a. Within the limits of appropriations therefor, the secretary is
45 authorized to provide, on a competitive basis, financial assistance to
46 municipalities, to community based organizations, to community boards,
47 or to municipalities and community based organizations acting in cooper-
48 ation to prepare a pre-nomination study for a brownfield opportunity
49 area designation. Such financial assistance shall not exceed ninety
50 percent of the costs of such pre-nomination study for any such area. A
51 NOMINATION STUDY MUST INCLUDE SUFFICIENT INFORMATION TO DESIGNATE THE
52 BROWNFIELD OPPORTUNITY AREA. THE CONTENTS OF THE NOMINATION STUDY SHALL
53 BE DEVELOPED BASED ON PRE-NOMINATION STUDY INFORMATION, WHICH SHALL
54 PRINCIPALLY CONSIST OF AN AREA-WIDE STUDY, DOCUMENTING THE HISTORIC
55 BROWNFIELD USES IN THE AREA PROPOSED FOR DESIGNATION. A NOMINATION STUDY
56 IS NOT INTENDED TO BE EQUIVALENT TO OR TO SERVE AS A MASTER PLAN,

1 COMPREHENSIVE PLAN, OR OTHER EQUIVALENT LAND USE STUDY, BUT RATHER IS
2 INTENDED TO BE A BASIC PLAN FOR DESIGNATION OF THE BROWNFIELD OPPORTU-
3 NITY AREA BASED ON HISTORIC BROWNFIELD USE INFORMATION AND THE COMMUNITY
4 PARTICIPATION REQUIRED IN THIS SECTION. A MASTER PLAN, COMPREHENSIVE
5 PLAN OR EQUIVALENT LAND USE STUDY MAY BE SEPARATELY DEVELOPED UNDER THIS
6 PROGRAM AS AN IMPLEMENTATION STRATEGY FOR THE FINAL BROWNFIELD OPPORTU-
7 NITY AREA PLAN. SINCE A NOMINATION STUDY IS NOT EQUIVALENT TO A FINAL
8 LAND USE PLAN, THE PREPARATION OF THE NOMINATION STUDY DOES NOT REQUIRE
9 REVIEW UNDER THE ENVIRONMENTAL QUALITY REVIEW ACT PURSUANT TO ARTICLE
10 EIGHT OF THE ENVIRONMENTAL CONSERVATION LAW, AND A BROWNFIELD OPPORTU-
11 NITY AREA CAN BE DESIGNATED BASED EXCLUSIVELY ON A NOMINATION STUDY. IN
12 THE EVENT THE MUNICIPALITY AND/OR COMMUNITY BASED ORGANIZATION ELECT TO
13 DEVELOP IMPLEMENTATION STRATEGIES, INCLUDING BUT NOT LIMITED TO A MASTER
14 PLAN, COMPREHENSIVE PLAN OR URBAN RENEWAL PLAN, REVIEW UNDER THE ENVI-
15 RONMENTAL QUALITY REVIEW ACT UNDER ARTICLE EIGHT OF THE ENVIRONMENTAL
16 CONSERVATION LAW IS REQUIRED. NO SUCH NOMINATION STUDY SHALL SUPERSEDE
17 AN EXISTING MASTER PLAN OR EQUIVALENT LAND AND USE STUDY.

18 S 33. Subparagraphs 2 and 5 of paragraph e of subdivision 3 and subdi-
19 vision 4 of section 970-r of the general municipal law, subparagraphs 2
20 and 5 of paragraph e of subdivision 3 as added by section 1 of part F of
21 chapter 1 of the laws of 2003 and subdivision 4 as amended by chapter
22 390 of the laws of 2008, are amended to read as follows:

23 (2) areas with concentrations of KNOWN OR SUSPECTED brownfield sites;
24 (5) areas with KNOWN OR SUSPECTED brownfield sites presenting strate-
25 gic opportunities to stimulate economic development, community revitali-
26 zation or the siting of public amenities.

27 4. Designation of brownfield opportunity area. Upon completion of a
28 nomination for designation of a brownfield opportunity area, it shall be
29 forwarded by the applicant to the secretary, who shall determine whether
30 it is consistent with the provisions of this section. THE SECRETARY MAY
31 REVIEW AND APPROVE A NOMINATION FOR DESIGNATION OF A BROWNFIELD OPPORTU-
32 NITY AREA AT ANY TIME. If the secretary determines that the nomination
33 is consistent with the provisions of this section, the brownfield oppor-
34 tunity area shall be designated. If the secretary determines that the
35 nomination is not consistent with the provisions of this section, the
36 secretary shall make recommendations in writing to the applicant of the
37 manner and nature in which the nomination should be amended.

38 S 34. The subdivision heading, paragraph a and subparagraphs 2 and 5
39 of paragraph e of subdivision 6 of section 970-r of the general municip-
40 al law, the subdivision heading and subparagraphs 2 and 5 of paragraph
41 e as added by section 1 of part F of chapter 1 of the laws of 2003, and
42 paragraph a as amended by chapter 386 of the laws of 2007, are amended
43 to read as follows:

44 State assistance for brownfield site assessments in PROPOSED OR DESIG-
45 NATED brownfield opportunity areas. a. Within the limits of appropri-
46 ations therefor, [the commissioner, in consultation with] the secretary
47 of state, is authorized to provide, on a competitive basis, financial
48 assistance to municipalities, to community based organizations, to
49 community boards, or to municipalities and community based organizations
50 acting in cooperation to conduct brownfield site assessments [in a
51 brownfield opportunity area designated pursuant to this section]. Such
52 financial assistance shall not exceed ninety percent of the costs of
53 such brownfield site assessment.

54 (2) areas with concentrations of KNOWN OR SUSPECTED brownfield sites;

1 (5) areas with KNOWN OR SUSPECTED brownfield sites presenting strate-
2 gic opportunities to stimulate economic development, community revitali-
3 zation or the siting of public amenities.

4 S 35. Section 970-r of the general municipal law is amended by adding
5 a new subdivision 10 to read as follows:

6 10. THE SECRETARY SHALL ESTABLISH CRITERIA FOR BROWNFIELD OPPORTUNITY
7 AREA CONFORMANCE DETERMINATIONS FOR PURPOSES OF THE BROWNFIELD CLEANUP
8 PROGRAM PURSUANT TO TITLE FOURTEEN OF ARTICLE TWENTY-SEVEN OF THE ENVI-
9 RONMENTAL CONSERVATION LAW AND THE BROWNFIELD REDEVELOPMENT TAX CREDITS
10 PURSUANT TO SECTION TWENTY-ONE OF THE TAX LAW. IN ESTABLISHING CRITERIA,
11 THE SECRETARY SHALL BE GUIDED BY, BUT NOT LIMITED TO, THE FOLLOWING
12 CONSIDERATIONS: HOW THE PROPOSED USE AND DEVELOPMENT ADVANCES THE DESIG-
13 NATED BROWNFIELD OPPORTUNITY AREA PLAN'S VISION STATEMENT, GOALS AND
14 OBJECTIVES FOR REVITALIZATION; HOW THE DENSITY OF DEVELOPMENT AND ASSO-
15 CIATED BUILDINGS AND STRUCTURES ADVANCES THE PLAN'S OBJECTIVES, DESIRED
16 REDEVELOPMENT AND PRIORITIES FOR INVESTMENT; AND HOW THE PROJECT
17 COMPLIES WITH ZONING AND OTHER LOCAL LAWS AND STANDARDS TO GUIDE AND
18 ENSURE APPROPRIATE USE OF THE PROJECT SITE.

19 S 36. Section 31 of part H of chapter 1 of the laws of 2003, amending
20 the tax law relating to brownfield redevelopment tax credits, remediated
21 brownfield credit for real property taxes for qualified sites and envi-
22 ronmental remediation insurance credits, as amended by chapter 474 of
23 the laws of 2012, is amended to read as follows:

24 S 31. The tax credits allowed under section [21,] 22 or 23 of the tax
25 law and the corresponding provisions in articles 9, 9-A, 22[, 32] and 33
26 of the tax law, as added by the provisions of sections one through twen-
27 ty-nine of this act, shall not be applicable [if] TO ANY SITE ACCEPTED
28 INTO THE BROWNFIELD CLEANUP PROGRAM ON AND AFTER APRIL 1, 2015. THE TAX
29 CREDITS ALLOWED UNDER SECTION 21 OF THE TAX LAW AND THE CORRESPONDING
30 PROVISIONS IN ARTICLES 9, 9-A, 22 AND 33 OF THE TAX LAW, AS ADDED BY THE
31 PROVISIONS OF SECTIONS ONE THROUGH TWENTY-NINE OF THIS ACT, SHALL NOT BE
32 APPLICABLE TO ANY SITE ACCEPTED INTO THE BROWNFIELD CLEANUP PROGRAM
33 AFTER DECEMBER 31, 2022, PROVIDED, HOWEVER THAT ANY SITES ACCEPTED ON OR
34 BEFORE DECEMBER 31, 2022 MUST HAVE RECEIVED the [remediation] certif-
35 icate OF COMPLETION required to qualify for any of such credits [is
36 issued after] BY December 31, [2015] 2025.

37 S 37. Any site for which a brownfield cleanup agreement with the
38 department of environmental conservation was entered into prior to April
39 1, 2015 which has not received a certificate of completion by December
40 31, 2017, shall only be eligible for brownfield remediation tax credits
41 available pursuant to section 21 of the tax law as if the site was
42 accepted into the brownfield cleanup program on and after April 1, 2015
43 and shall be subject to the eligibility requirements for the tangible
44 property credit component set forth in subdivision 1-a of section
45 27-1407 of the environmental conservation law.

46 S 38. Paragraph c of subdivision 3 of section 27-0923 of the environ-
47 mental conservation law, as amended by section 5 of part I of chapter
48 577 of the laws of 2004, is amended to read as follows:

49 c. For the purpose of this section, generation of hazardous waste
50 shall not include retrieval or creation of hazardous waste which must be
51 disposed of under an order of or agreement with the department pursuant
52 to title thirteen or title fourteen of this article or under a contract
53 with the department pursuant to title five of article fifty-six of this
54 chapter OR UNDER AN ORDER OF OR AGREEMENT WITH THE UNITED STATES ENVI-
55 RONMENTAL PROTECTION AGENCY OR AN ORDER OF A COURT OF COMPETENT JURIS-
56 DICTION, RELATED TO A FACILITY ADDRESSED PURSUANT TO THE COMPREHENSIVE

1 ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (42 U.S.C. 9601
2 ET SEQ.) OR UNDER A WRITTEN AGREEMENT WITH A MUNICIPALITY WHICH IS
3 SUBJECT TO A MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT RELATED TO THE
4 REMEDIATION OF BROWNFIELD SITES.

5 S 39. Subparagraphs (i) and (vi) of paragraph d of subdivision 1 of
6 section 72-0402 of the environmental conservation law, as amended by
7 chapter 99 of the laws of 2010, are amended to read as follows:

8 (i) under a contract with the department, or with the department's
9 written approval and in compliance with department regulations, or
10 pursuant to an order of the department, the United States environmental
11 protection agency or a court OF COMPETENT JURISDICTION, related to the
12 cleanup or remediation of a hazardous materials or hazardous waste
13 spill, discharge, or surficial cleanup, pursuant to this chapter; or

14 (vi) under a brownfield site cleanup agreement with the department
15 pursuant to section 27-1409 of this chapter OR UNDER AN AGREEMENT WITH A
16 MUNICIPALITY WHICH IS SUBJECT TO A MEMORANDUM OF AGREEMENT WITH THE
17 DEPARTMENT RELATED TO THE REMEDIATION OF BROWNFIELD SITES; or

18 S 40. Section 56-0501 of the environmental conservation law, as added
19 by chapter 413 of the laws of 1996, is amended to read as follows:

20 S 56-0501. Allocation of moneys.

21 1. Of the moneys received by the state from the sale of bonds pursuant
22 to the Clean Water/Clean Air Bond Act of 1996, two hundred million
23 dollars (\$200,000,000) shall be available for disbursements for environ-
24 mental restoration projects.

25 2. ENVIRONMENTAL RESTORATION PROJECTS MAY BE FUNDED USING THE PROCEEDS
26 OF BONDS ISSUED PURSUANT TO SECTION TWELVE HUNDRED EIGHTY-FIVE-Q OF THE
27 PUBLIC AUTHORITIES LAW.

28 S 41. Subdivision 6 of section 56-0502 of the environmental conserva-
29 tion law, as amended by section 2 of part D of chapter 577 of the laws
30 of 2004, is amended to read as follows:

31 6. "State assistance", for purposes of this title, shall mean in the
32 case of a contract authorized by subdivision one of section 56-0503 of
33 this title, payments made to a municipality to reimburse the municipi-
34 pality for the state share of the costs incurred by the municipality to
35 undertake an environmental restoration project OR IN THE CASE OF AN
36 AGREEMENT AUTHORIZED BY SUBDIVISION THREE OF SECTION 56-0503 OF THIS
37 TITLE, COSTS INCURRED BY THE STATE TO UNDERTAKE AN ENVIRONMENTAL RESTO-
38 RATION PROJECT BUT NOT REIMBURSED BY A MUNICIPALITY.

39 S 42. Paragraph (c) of subdivision 2 of section 56-0503 of the envi-
40 ronmental conservation law, as amended by section 4 of part D of chapter
41 1 of the laws of 2003, is amended and a new subdivision 3 is added to
42 read as follows:

43 (c) A provision that THE MUNICIPALITY SHALL ASSIST IN IDENTIFYING A
44 RESPONSIBLE PARTY BY SEARCHING LOCAL RECORDS, INCLUDING PROPERTY TAX
45 ROLLS, OR DOCUMENT REVIEWS, AND if, in accordance with the required
46 departmental approval of any settlement with a responsible party, any
47 responsible party payments become available to the municipality, before,
48 during or after the completion of an environmental restoration project,
49 which were not included when the state share was calculated pursuant to
50 this section, the state assistance share shall be recalculated, and the
51 municipality shall pay to the state, for deposit into the environmental
52 restoration project account of the hazardous waste remedial fund estab-
53 lished under section ninety-seven-b of the state finance law, the
54 difference between the original state assistance payment and the recal-
55 culated state share. Recalculation of the state share shall be done each
56 time a payment from a responsible party is received by the municipality;

1 3. THE DEPARTMENT MAY UNDERTAKE AN ENVIRONMENTAL RESTORATION PROJECT
2 ON BEHALF OF A MUNICIPALITY UPON REQUEST. IF THE DEPARTMENT UNDERTAKES
3 THE PROJECT ON BEHALF OF THE MUNICIPALITY, THE STATE SHALL ENTER INTO AN
4 AGREEMENT WITH THE MUNICIPALITY AND THE AGREEMENT SHALL REQUIRE THE
5 MUNICIPALITY TO PERIODICALLY PROVIDE ITS SHARE TO THE STATE FOR COSTS
6 INCURRED DURING THE PROGRESS OF SUCH PROJECT. THE MUNICIPALITY'S SHARE
7 SHALL BE THE SAME AS WOULD BE REQUIRED UNDER SUBDIVISION ONE OF THIS
8 SECTION. THE AGREEMENT SHALL INCLUDE ALL PROVISIONS SPECIFIED IN SUBDI-
9 VISION TWO OF THIS SECTION AS APPROPRIATE. FOR PURPOSES OF PROJECTS
10 SUBJECT TO AGREEMENTS UNDER THIS SUBDIVISION, ALL REFERENCES TO
11 CONTRACTS IN THIS TITLE SHALL ALSO APPLY TO AGREEMENTS UNDER THIS SUBDI-
12 VISION AS APPROPRIATE.

13 S 43. Subdivision 4 of section 56-0505 of the environmental conserva-
14 tion law, as amended by section 5 part of part D of chapter 1 of the
15 laws of 2003, is amended to read as follows:

16 4. After completion of such project, the municipality may use the
17 property for public purposes or may dispose of it. If the municipality
18 shall dispose of such property by sale to a responsible party, such
19 party shall pay to such municipality, in addition to such other consid-
20 eration, an amount of money constituting the amount of state assistance
21 provided [to the municipality] under this title plus accrued interest
22 and transaction costs and the municipality shall deposit that money into
23 the environmental restoration project account of the hazardous waste
24 remedial fund established under section ninety-seven-b of the state
25 finance law.

26 S 44. Subdivisions 3 and 4 of section 56-0508 of the environmental
27 conservation law, as added by section 7 of part D of chapter 1 of the
28 laws of 2003, are amended to read as follows:

29 3. such temporary incidents of ownership by such taxing district shall
30 also qualify it as being the owner of such property [for the purposes of
31 obtaining] TO BE ELIGIBLE FOR funding from the state of New York for
32 such environmental restoration investigation project under this article
33 or for such funding from any source pursuant to any other state, feder-
34 al, or local law, but such incidents of ownership shall not be suffi-
35 cient to qualify it as the owner of such property for the purposes of
36 holding it wholly or partially liable for any damages, past, present, or
37 future from any release of any hazardous material, substance, or contam-
38 inant into the air, ground, or water, unless such release was caused by
39 such taxing district.

40 4. within thirty days of the completion of the environmental restora-
41 tion investigation project and the receipt by the taxing jurisdiction of
42 the final report of such investigation, such taxing jurisdiction shall
43 file such report with the court on notice to the court and all other
44 parties of record, and the stay of the foreclosure shall be lifted
45 (unless lifted earlier by a prior court order), and all incidents of
46 temporary ownership of the taxing jurisdiction that was awarded such
47 taxing district, except any right [to receive funding] for the environ-
48 mental restoration investigation project TO BE FUNDED, shall cease to
49 exist, and nothing in this subdivision shall preclude the taxing juris-
50 diction that conducted the environmental restoration investigation
51 project or the taxing jurisdiction that commenced the foreclosure
52 action, if it is a different taxing jurisdiction than the taxing juris-
53 diction which conducted the investigation, from withdrawing the parcel
54 from foreclosure pursuant to section eleven hundred thirty-eight of the
55 real property tax law.

1 S 45. Subdivision 2 and paragraph (f) of subdivision 3 of section 97-b
2 of the state finance law, as amended by section 4 of part I of chapter 1
3 of the laws of 2003, are amended to read as follows:

4 2. Such fund shall consist of all of the following:

5 (a) moneys appropriated for transfer to the fund's site investigation
6 and construction account; (b) all fines and other sums accumulated in
7 the fund prior to April first, nineteen hundred eighty-eight pursuant to
8 section 71-2725 of the environmental conservation law for deposit in the
9 fund's site investigation and construction account; (c) all moneys
10 collected or received by the department of taxation and finance pursuant
11 to section 27-0923 of the environmental conservation law for deposit in
12 the fund's industry fee transfer account; (d) all moneys paid into the
13 fund pursuant to section 72-0201 of the environmental conservation law
14 which shall be deposited in the fund's industry fee transfer account;
15 (e) all moneys paid into the fund pursuant to section one hundred eight-
16 y-six of the navigation law which shall be deposited in the fund's
17 industry fee transfer account; (f) [all moneys paid into the fund by
18 municipalities for repayment of landfill closure loans made pursuant to
19 title five of article fifty-two of the environmental conservation law
20 for deposit in the fund's site investigation and construction account;
21 (g)] all monies recovered under sections 56-0503, 56-0505 and 56-0507 of
22 the environmental conservation law into the fund's environmental resto-
23 ration project account; [(h) all] (G) fees paid into the fund pursuant
24 to section [72-0403] 72-0402 of the environmental conservation law which
25 shall be deposited in the fund's industry fee transfer account; [(i)]
26 (H) payments received for all state costs incurred in negotiating and
27 overseeing the implementation of brownfield site cleanup agreements
28 pursuant to title fourteen OF ARTICLE TWENTY-SEVEN of the environmental
29 conservation law shall be deposited in the hazardous waste remediation
30 oversight and assistance account; and [(j)] (I) other moneys credited or
31 transferred thereto from any other fund or source for deposit in the
32 fund's site investigation and construction account.

33 (f) to undertake such remedial measures as the department of environ-
34 mental conservation may determine necessary due to environmental condi-
35 tions related to the property subject to an agreement [to provide state
36 assistance] OR CONTRACT under title five of article fifty-six of the
37 environmental conservation law [that were unknown to such department at
38 the time of its approval of such agreement which indicates that condi-
39 tions on such property are not sufficiently protective of human health
40 for its reasonably anticipated uses or due to information received, in
41 whole or in part, after such department's approval of such agreement's
42 final engineering report and certification], which indicates that such
43 agreement's remedial activities are not sufficiently protective of human
44 health for such property's reasonably anticipated uses; and, [respecting
45 the monies in the environmental restoration project account in excess of
46 ten million dollars,] shall provide state assistance under title five of
47 article fifty-six of the environmental conservation law;

48 S 46. Severability. If any clause, sentence, paragraph, subdivision,
49 section or part of this act shall be adjudged by any court of competent
50 jurisdiction to be invalid, such judgment shall not affect, impair or
51 invalidate the remainder thereof, but shall be confined in its operation
52 to the clause, sentence, paragraph, subdivision, section or part thereof
53 directly involved in the controversy in which such judgment shall have
54 been rendered. It is hereby declared to be the intent of the legislature
55 that this act would have been enacted even if such invalid provisions
56 had not been included herein.

1 S 47. This act shall take affect April 1, 2015; provided, however,
2 that the department of environmental conservation shall not charge
3 volunteers in the brownfield cleanup program for oversight costs for any
4 sites in the program incurred on or after April 1, 2015; provided,
5 however, that the amendments made by section two of this act relating to
6 the definition of brownfield site, section twenty-one of this act relat-
7 ing to the length of time a taxpayer may claim the tangible property
8 credit component, and all amendments to the brownfield redevelopment tax
9 credits made by sections twenty, twenty-one, twenty-two, twenty-three,
10 twenty-four, twenty-five, twenty-six and twenty-seven of this act shall
11 apply only to sites for which the department of environmental conserva-
12 tion has issued a notice to the applicant on or after April 1, 2015 that
13 its request for participation has been accepted under subdivision six of
14 section 27-1407 of the environmental conservation law; provided,
15 further, that the department of labor shall update the environmental
16 zones as required by section twenty-seven of this act within ninety days
17 of this act becoming law.

18 PART S

19 Section 1. Paragraph (r) of section 104-A of the business corporation
20 law, as amended by chapter 172 of the laws of 2000, is amended to read
21 as follows:

22 (r) For filing a statement or amendment pursuant to section four
23 hundred eight of this chapter WITH THE DEPARTMENT OF STATE, nine
24 dollars.

25 S 2. Paragraphs (b) and (c) of section 306-A of the business corpo-
26 ration law, as added by chapter 469 of the laws of 1997, are amended to
27 read as follows:

28 (b) Upon the failure of the designating corporation to file a certifi-
29 cate of amendment or change providing for the designation by the corpo-
30 ration of the new address after the filing of a certificate of resigna-
31 tion for receipt of process with the secretary of state, its authority
32 to do business in this state shall be suspended unless the corporation
33 has previously filed a statement [of addresses and directors] under
34 section four hundred eight of this chapter, IN WHICH CASE the address of
35 the principal executive office stated in the last filed statement [of
36 addresses and directors], shall constitute the new address for process
37 of the corporation PROVIDED SUCH ADDRESS IS DIFFERENT FROM THE PREVIOUS
38 ADDRESS FOR PROCESS, and the corporation shall not be deemed suspended.

39 (c) The filing by the department of state of a certificate of amend-
40 ment or change OR STATEMENT UNDER SECTION FOUR HUNDRED EIGHT OF THIS
41 CHAPTER providing for a new address by a designating corporation shall
42 annul the suspension and its authority to do business in this state
43 shall be restored and continue as if no suspension had occurred.

44 S 3. Section 408 of the business corporation law, as added by chapter
45 55 of the laws of 1992, the section heading as amended by chapter 375 of
46 the laws of 1998, subparagraph (a) of paragraph 1 and paragraph 2 as
47 amended by chapter 172 of the laws of 1999, subparagraph (b) of para-
48 graph 3 as amended by chapter 170 of the laws of 1994, paragraph 6 as
49 added by chapter 469 of the laws of 1997, and paragraph 7 as added by
50 chapter 172 of the laws of 2000, is amended to read as follows:

51 S 408. [Biennial statement] STATEMENT; filing.

52 1. [Each] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, EACH
53 domestic corporation, and each foreign corporation authorized to do
54 business in this state, shall, during the applicable filing period as

1 determined by subdivision three of this section, file a statement
2 setting forth:

3 (a) The name and business address of its chief executive officer.

4 (b) The street address of its principal executive office.

5 (c) The post office address within or without this state to which the
6 secretary of state shall mail a copy of any process against it served
7 upon him or her. Such address shall supersede any previous address on
8 file with the department of state for this purpose.

9 2. [Such] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, SUCH
10 statement shall be made on forms prescribed by the secretary of state,
11 and the information therein contained shall be given as of the date of
12 the execution of the statement. Such statement shall only request
13 reporting of information required under paragraph one of this section.
14 It shall be signed and delivered to the department of state.

15 3. [For] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, FOR
16 the purpose of this section the applicable filing period for a corpo-
17 ration shall be the calendar month during which its original certificate
18 of incorporation or application for authority were filed or the effec-
19 tive date thereof if stated. The applicable filing period shall only
20 occur: (a) annually, during the period starting on April 1, 1992 and
21 ending on March 31, 1994; and (b) biennially, during a period starting
22 on April 1 and ending on March 31 thereafter. Those corporations that
23 filed between April 1, 1992 and June 30, 1994 shall not be required to
24 file such statements again until such time as they would have filed, had
25 this subdivision not been amended.

26 4. The provisions of [subdivision eleven of section ninety-six of the
27 executive law and] paragraph (g) of section one hundred four of this
28 chapter shall not be applicable to filings pursuant to this section.

29 5. The provisions of this section and section 409 of this article
30 shall not apply to a farm corporation. For the purposes of this subdivi-
31 sion, the term "farm corporation" shall mean any domestic corporation or
32 foreign corporation authorized to do business in this state under this
33 chapter engaged in the production of crops, livestock and livestock
34 products on land used in agricultural production, as defined in section
35 301 of the agriculture and markets law. HOWEVER, THIS EXCEPTION FOR FARM
36 CORPORATIONS SHALL NOT BE APPLICABLE IF AN AGREEMENT IS MADE PURSUANT TO
37 PARAGRAPH EIGHT OF THIS SECTION SO THAT THESE STATEMENTS WILL BE FILED
38 WITH THE DEPARTMENT OF TAXATION AND FINANCE.

39 6. No such statement shall be accepted for filing when a certificate
40 of resignation for receipt of process has been filed under section three
41 hundred six-A of this chapter unless the corporation has stated a
42 different address for process which does not include the name of the
43 party previously designated in the address for process in such certifi-
44 cate.

45 7. A domestic corporation or foreign corporation may amend its state-
46 ment to change the information required by [subdivisions] SUBPARAGRAPHS
47 (a) and (b) of paragraph one of this section. Such amendment shall be
48 made on forms prescribed by the secretary of state. It shall be signed
49 and delivered to the department of state.

50 8. (A) THE COMMISSIONER OF TAXATION AND FINANCE AND THE SECRETARY OF
51 STATE MAY AGREE TO ALLOW CORPORATIONS TO PROVIDE THE STATEMENT SPECIFIED
52 IN PARAGRAPH ONE OF THIS SECTION ON TAX REPORTS FILED WITH THE DEPART-
53 MENT OF TAXATION AND FINANCE IN LIEU OF BIENNIAL REPORTS. THIS AGREEMENT
54 MAY APPLY TO TAX REPORTS DUE FOR TAX YEARS STARTING ON OR AFTER JANUARY
55 FIRST, TWO THOUSAND SIXTEEN.

1 (B) IF THE AGREEMENT DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH
2 IS MADE, EACH CORPORATION REQUIRED TO FILE THE STATEMENT SPECIFIED IN
3 PARAGRAPH ONE OF THIS SECTION THAT IS ALSO SUBJECT TO TAX UNDER ARTICLE
4 NINE OR NINE-A OF THE TAX LAW SHALL INCLUDE SUCH STATEMENT ANNUALLY ON
5 ITS TAX REPORT FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU
6 OF FILING A STATEMENT UNDER THIS SECTION WITH THE DEPARTMENT OF STATE
7 AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE.
8 HOWEVER, EACH CORPORATION REQUIRED TO FILE A STATEMENT UNDER THIS
9 SECTION MUST CONTINUE TO FILE THE BIENNIAL STATEMENT REQUIRED BY THIS
10 SECTION WITH THE DEPARTMENT OF STATE UNTIL THE CORPORATION IN FACT HAS
11 FILED A TAX REPORT WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT
12 INCLUDES ALL REQUIRED INFORMATION. AFTER THAT TIME, THE CORPORATION
13 SHALL CONTINUE TO DELIVER ANNUALLY THE STATEMENT SPECIFIED IN PARAGRAPH
14 ONE OF THIS SECTION ON ITS TAX REPORT IN LIEU OF THE BIENNIAL STATEMENT
15 REQUIRED BY THIS SECTION.

16 (C) IF THE AGREEMENT DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH
17 IS MADE, THE DEPARTMENT OF TAXATION AND FINANCE SHALL DELIVER TO THE
18 DEPARTMENT OF STATE FOR FILING THE STATEMENT SPECIFIED IN PARAGRAPH ONE
19 OF THIS SECTION FOR EACH CORPORATION THAT FILES A TAX REPORT CONTAINING
20 SUCH STATEMENT. THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE
21 EXTENT FEASIBLE, ALSO INCLUDE THE CURRENT NAME OF THE CORPORATION,
22 DEPARTMENT OF STATE IDENTIFICATION NUMBER FOR SUCH CORPORATION, THE
23 NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE STATEMENT, NAME AND
24 STREET ADDRESS OF THE FILER OF THE STATEMENT, AND THE EMAIL ADDRESS, IF
25 ANY, OF THE FILER OF THE STATEMENT.

26 S 4. Section 409 of the business corporation law is amended by adding
27 a new paragraph 4 to read as follows:

28 4. THIS SECTION SHALL NOT APPLY TO A FAILURE TO FILE A STATEMENT FOR
29 ANY SITUATION FOR WHICH A PENALTY UNDER SUBDIVISION (V) OF SECTION ONE
30 THOUSAND EIGHTY-FIVE OF THE TAX LAW IS APPLICABLE.

31 S 5. Subdivision (e) of section 301 of the limited liability company
32 law, as amended by chapter 643 of the laws of 1995, is amended to read
33 as follows:

34 (e) [Every] (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,
35 EVERY limited liability company to which this chapter applies, shall
36 biennially in the calendar month during which its articles of organiza-
37 tion or application for authority were filed, or effective date thereof
38 if stated, file on forms prescribed by the secretary of state, a state-
39 ment setting forth the post office address within or without this state
40 to which the secretary of state shall mail a copy of any process
41 accepted against it served upon him or her. Such address shall supersede
42 any previous address on file with the department of state for this
43 purpose.

44 (2) THE COMMISSIONER OF TAXATION AND FINANCE AND THE SECRETARY OF
45 STATE MAY AGREE TO ALLOW LIMITED LIABILITY COMPANIES TO INCLUDE THE
46 STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION ON TAX REPORTS
47 FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU OF BIENNIAL
48 REPORTS AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND
49 FINANCE. IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE YEARS BEGIN-
50 NING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH LIMITED
51 LIABILITY COMPANY REQUIRED TO FILE THE STATEMENT SPECIFIED IN PARAGRAPH
52 ONE OF THIS SUBDIVISION THAT IS SUBJECT TO THE FILING FEE IMPOSED BY
53 PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF
54 THE TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE
55 PAYMENT FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU
56 OF FILING A STATEMENT UNDER THIS SECTION WITH THE DEPARTMENT OF STATE.

1 HOWEVER, EACH LIMITED LIABILITY COMPANY REQUIRED TO FILE A STATEMENT
2 UNDER THIS SECTION MUST CONTINUE TO FILE THE BIENNIAL STATEMENT REQUIRED
3 BY THIS SECTION WITH THE DEPARTMENT OF STATE UNTIL THE LIMITED LIABILITY
4 COMPANY IN FACT HAS FILED A FILING FEE PAYMENT FORM WITH THE DEPARTMENT
5 OF TAXATION AND FINANCE THAT INCLUDES ALL REQUIRED INFORMATION. AFTER
6 THAT TIME, THE LIMITED LIABILITY COMPANY SHALL CONTINUE TO PROVIDE ANNU-
7 ALLY THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION ON ITS
8 FILING FEE PAYMENT FORM IN LIEU OF THE BIENNIAL STATEMENT REQUIRED BY
9 THIS SUBDIVISION.

10 (3) IF THE AGREEMENT DESCRIBED IN PARAGRAPH TWO OF THIS SUBDIVISION IS
11 MADE, THE DEPARTMENT OF TAXATION AND FINANCE SHALL DELIVER TO THE
12 DEPARTMENT OF STATE THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS
13 SUBDIVISION CONTAINED ON FILING FEE PAYMENT FORMS. THE DEPARTMENT OF
14 TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE THE
15 CURRENT NAME OF THE LIMITED LIABILITY COMPANY, DEPARTMENT OF STATE IDEN-
16 TIFICATION NUMBER FOR SUCH LIMITED LIABILITY COMPANY, THE NAME, SIGNA-
17 TURE AND CAPACITY OF THE SIGNER OF THE STATEMENT, NAME AND STREET
18 ADDRESS OF THE FILER OF THE STATEMENT, AND THE EMAIL ADDRESS, IF ANY, OF
19 THE FILER OF THE STATEMENT.

20 S 6. Subdivision (c) of section 301-A of the limited liability company
21 law, as added by chapter 448 of the laws of 1998, is amended to read as
22 follows:

23 (c) The filing by the department of state of a certificate of amend-
24 ment or certificate of change OR THE FILING OF A STATEMENT UNDER SECTION
25 THREE HUNDRED ONE OF THIS ARTICLE providing for a new address by a
26 designating limited liability company shall annul the suspension and its
27 authority to do business in this state shall be restored and continued
28 as if no suspension had occurred.

29 S 7. Subdivision (c) of section 1101 of the limited liability company
30 law is amended to read as follows:

31 (c) For the statement of address of the post office address to which
32 the secretary of state shall mail a copy of any process against the
33 limited liability company served upon him or her pursuant to section
34 three hundred one of this chapter, nine dollars. THIS FEE SHALL NOT
35 APPLY IF THIS STATEMENT IS FILED DIRECTLY WITH THE DEPARTMENT OF TAXA-
36 TION AND FINANCE.

37 S 8. Subdivision (g) of section 121-1500 of the partnership law, as
38 amended by chapter 643 of the laws of 1995, is amended to read as
39 follows:

40 (g) Each registered limited liability partnership shall, within sixty
41 days prior to the fifth anniversary of the effective date of its regis-
42 tration and every five years thereafter, furnish a statement to the
43 department of state setting forth: (i) the name of the registered limit-
44 ed liability partnership, (ii) the address of the principal office of
45 the registered limited liability partnership, (iii) the post office
46 address within or without this state to which the secretary of state
47 shall mail a copy of any process accepted against it served upon him or
48 her, which address shall supersede any previous address on file with the
49 department of state for this purpose, and (iv) a statement that it is
50 eligible to register as a registered limited liability partnership
51 pursuant to subdivision (a) of this section. The statement shall be
52 executed by one or more partners of the registered limited liability
53 partnership. The statement shall be accompanied by a fee of twenty
54 dollars IF SUBMITTED DIRECTLY TO THE DEPARTMENT OF STATE. THE COMMIS-
55 SIONER OF TAXATION AND FINANCE AND THE SECRETARY OF STATE MAY AGREE TO
56 ALLOW REGISTERED LIMITED LIABILITY PARTNERSHIPS TO PROVIDE THE STATEMENT

1 SPECIFIED IN THIS SUBDIVISION ON TAX REPORTS FILED WITH THE DEPARTMENT
2 OF TAXATION AND FINANCE IN LIEU OF STATEMENTS FILED DIRECTLY WITH THE
3 SECRETARY OF STATE AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF
4 TAXATION AND FINANCE. IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE
5 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH
6 LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE THE STATEMENT SPECIFIED
7 IN THIS SUBDIVISION THAT IS SUBJECT TO THE FILING FEE IMPOSED BY PARA-
8 GRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF THE
9 TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE PAYMENT
10 FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU OF FILING
11 A STATEMENT UNDER THIS SUBDIVISION WITH THE DEPARTMENT OF STATE. HOWEV-
12 ER, EACH REGISTERED LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE A
13 STATEMENT UNDER THIS SECTION MUST CONTINUE TO FILE A STATEMENT WITH THE
14 DEPARTMENT OF STATE AS REQUIRED BY THIS SECTION UNTIL THE REGISTERED
15 LIMITED LIABILITY PARTNERSHIP IN FACT HAS FILED A FILING FEE PAYMENT
16 FORM WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT INCLUDES ALL
17 REQUIRED INFORMATION. AFTER THAT TIME, THE LIMITED LIABILITY PARTNERSHIP
18 SHALL CONTINUE TO PROVIDE ANNUALLY THE STATEMENT SPECIFIED IN THIS
19 SUBDIVISION ON ITS FILING FEE PAYMENT FORM IN LIEU OF THE STATEMENT
20 REQUIRED BY THIS SUBDIVISION. THE COMMISSIONER OF TAXATION AND FINANCE
21 SHALL DELIVER THE COMPLETED STATEMENT SPECIFIED IN THIS SUBDIVISION TO
22 THE DEPARTMENT OF STATE FOR FILING. THE DEPARTMENT OF TAXATION AND
23 FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE IN SUCH DELIVERY THE
24 CURRENT NAME OF THE REGISTERED LIMITED LIABILITY PARTNERSHIP, DEPARTMENT
25 OF STATE IDENTIFICATION NUMBER FOR SUCH REGISTERED LIMITED LIABILITY
26 PARTNERSHIP, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE
27 STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE STATEMENT, AND
28 THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT. If a regis-
29 tered limited liability partnership shall not timely file the statement
30 required by this subdivision, the department of state may, upon sixty
31 days' notice mailed to the address of such registered limited liability
32 partnership as shown in the last registration or statement or certifi-
33 cate of amendment filed by such registered limited liability partner-
34 ship, make a proclamation declaring the registration of such registered
35 limited liability partnership to be revoked pursuant to this subdivi-
36 sion. The department of state shall file the original proclamation in
37 its office and shall publish a copy thereof in the state register no
38 later than three months following the date of such proclamation. Upon
39 the publication of such proclamation in the manner aforesaid, the regis-
40 tration of each registered limited liability partnership named in such
41 proclamation shall be deemed revoked without further legal proceedings.
42 Any registered limited liability partnership whose registration was so
43 revoked may file in the department of state a [certificate of consent
44 certifying that either a] statement required by this subdivision [has
45 been filed or accompanies the certificate of consent and all fees
46 imposed under this chapter on the registered limited liability partner-
47 ship have been paid]. The filing of such [certificate of consent] STATE-
48 MENT shall have the effect of annulling all of the proceedings thereto-
49 fore taken for the revocation of the registration of such registered
50 limited liability partnership under this subdivision and (1) the regis-
51 tered limited liability partnership shall thereupon have such powers,
52 rights, duties and obligations as it had on the date of the publication
53 of the proclamation, with the same force and effect as if such proclama-
54 tion had not been made or published and (2) such publication shall not
55 affect the applicability of the provisions of subdivision (b) of section
56 twenty-six of this chapter to any debt, obligation or liability

1 incurred, created or assumed from the date of publication of the procla-
2 mation through the date of the filing of the [certificate of consent.
3 The filing of a certificate of consent shall be accompanied by a fee of
4 fifty dollars and if accompanied by a statement, the fee required by
5 this subdivision] STATEMENT WITH THE DEPARTMENT OF STATE. If, after the
6 publication of such proclamation, it shall be determined by the depart-
7 ment of state that the name of any registered limited liability partner-
8 ship was erroneously included in such proclamation, the department of
9 state shall make appropriate entry on its records, which entry shall
10 have the effect of annulling all of the proceedings theretofore taken
11 for the revocation of the registration of such registered limited
12 liability partnership under this subdivision and (A) such registered
13 limited liability partnership shall have such powers, rights, duties and
14 obligations as it had on the date of the publication of the proclama-
15 tion, with the same force and effect as if such proclamation had not
16 been made or published and (B) such publication shall not affect the
17 applicability of the provisions of subdivision (b) of section twenty-six
18 of this chapter to any debt, obligation or liability incurred, created
19 or assumed from the date of publication of the proclamation through the
20 date of the making of the entry on the records of the department of
21 state. Whenever a registered limited liability partnership WHOSE REGIS-
22 TRATION WAS REVOKED shall have filed a [certificate of consent] STATE-
23 MENT pursuant to this subdivision or if the name of a registered limited
24 liability partnership was erroneously included in a proclamation and
25 such proclamation was annulled, the department of state shall publish a
26 notice thereof in the state register.

27 S 9. Paragraph (I) of subdivision (f) of section 121-1502 of the part-
28 nership law, as amended by chapter 643 of the laws of 1995 and as desig-
29 nated by chapter 767 of the laws of 2005, is amended to read as follows:

30 (I) Each New York registered foreign limited liability partnership
31 shall, within sixty days prior to the fifth anniversary of the effective
32 date of its notice and every five years thereafter, furnish a statement
33 to the department of state setting forth:

34 (i) the name under which the New York registered foreign limited
35 liability partnership is carrying on or conducting or transacting busi-
36 ness or activities in this state, (ii) the address of the principal
37 office of the New York registered foreign limited liability partnership,
38 (iii) the post office address within or without this state to which the
39 secretary of state shall mail a copy of any process accepted against it
40 served upon him or her, which address shall supersede any previous
41 address on file with the department of state for this purpose, and (iv)
42 a statement that it is a foreign limited liability partnership. The
43 statement shall be executed by one or more partners of the New York
44 registered foreign limited liability partnership. The statement shall be
45 accompanied by a fee of fifty dollars IF SUBMITTED DIRECTLY TO THE
46 DEPARTMENT OF STATE. THE COMMISSIONER OF TAXATION AND FINANCE AND THE
47 SECRETARY OF STATE MAY AGREE TO ALLOW NEW YORK REGISTERED FOREIGN LIMIT-
48 ED LIABILITY PARTNERSHIPS TO PROVIDE THE STATEMENT SPECIFIED IN THIS
49 PARAGRAPH ON TAX REPORTS FILED WITH THE DEPARTMENT OF TAXATION AND
50 FINANCE IN LIEU OF STATEMENTS FILED DIRECTLY WITH THE SECRETARY OF STATE
51 AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE.
52 IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE YEARS BEGINNING ON OR
53 AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH NEW YORK REGISTERED
54 FOREIGN LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE THE STATEMENT
55 SPECIFIED IN THIS PARAGRAPH THAT IS SUBJECT TO THE FILING FEE IMPOSED BY
56 PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF

1 THE TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE
2 PAYMENT FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU
3 OF FILING A STATEMENT UNDER THIS PARAGRAPH DIRECTLY WITH THE DEPARTMENT
4 OF STATE. HOWEVER, EACH NEW YORK REGISTERED FOREIGN LIMITED LIABILITY
5 PARTNERSHIP REQUIRED TO FILE A STATEMENT UNDER THIS SECTION MUST CONTIN-
6 UE TO FILE A STATEMENT WITH THE DEPARTMENT OF STATE AS REQUIRED BY THIS
7 SECTION UNTIL THE NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNER-
8 SHIP IN FACT HAS FILED A FILING FEE PAYMENT FORM WITH THE DEPARTMENT OF
9 TAXATION AND FINANCE THAT INCLUDES ALL REQUIRED INFORMATION. AFTER THAT
10 TIME, THE NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP
11 SHALL CONTINUE TO PROVIDE ANNUALLY THE STATEMENT SPECIFIED IN THIS PARA-
12 GRAPH ON ITS FILING FEE PAYMENT FORM IN LIEU OF FILING THE STATEMENT
13 REQUIRED BY THIS PARAGRAPH DIRECTLY WITH THE DEPARTMENT OF STATE. THE
14 COMMISSIONER OF TAXATION AND FINANCE SHALL DELIVER THE COMPLETED STATE-
15 MENT SPECIFIED IN THIS PARAGRAPH TO THE DEPARTMENT OF STATE FOR FILING.
16 THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE,
17 ALSO INCLUDE IN SUCH DELIVERY THE CURRENT NAME OF THE NEW YORK REGIS-
18 TERED FOREIGN LIMITED LIABILITY PARTNERSHIP, DEPARTMENT OF STATE IDEN-
19 TIFICATION NUMBER FOR SUCH NEW YORK REGISTERED FOREIGN LIMITED LIABILITY
20 PARTNERSHIP, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE
21 STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE STATEMENT, AND
22 THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT. If a New York
23 registered foreign limited liability partnership shall not timely file
24 the statement required by this subdivision, the department of state may,
25 upon sixty days' notice mailed to the address of such New York regis-
26 tered foreign limited liability partnership as shown in the last notice
27 or statement or certificate of amendment filed by such New York regis-
28 tered foreign limited liability partnership, make a proclamation declar-
29 ing the status of such New York registered foreign limited liability
30 partnership to be revoked pursuant to this subdivision. The department
31 of state shall file the original proclamation in its office and shall
32 publish a copy thereof in the state register no later than three months
33 following the date of such proclamation. Upon the publication of such
34 proclamation in the manner aforesaid, the status of each New York regis-
35 tered foreign limited liability partnership named in such proclamation
36 shall be deemed revoked without further legal proceedings. Any New York
37 registered foreign limited liability partnership whose status was so
38 revoked may file in the department of state a [certificate of consent
39 certifying that either a] statement required by this subdivision [has
40 been filed or accompanies the certificate of consent and all fees
41 imposed under this chapter on the New York registered foreign limited
42 liability partnership have been paid]. The filing of such [certificate
43 of consent] STATEMENT shall have the effect of annulling all of the
44 proceedings theretofore taken for the revocation of the status of such
45 New York registered foreign limited liability partnership under this
46 subdivision and (1) the New York registered foreign limited liability
47 partnership shall thereupon have such powers, rights, duties and obli-
48 gations as it had on the date of the publication of the proclamation,
49 with the same force and effect as if such proclamation had not been made
50 or published and (2) such publication shall not affect the applicability
51 of the laws of the jurisdiction governing the agreement under which such
52 New York registered foreign limited liability partnership is operating
53 (including laws governing the liability of partners) to any debt, obli-
54 gation or liability incurred, created or assumed from the date of publi-
55 cation of the proclamation through the date of the filing of the
56 [certificate of consent. The filing of a certificate of consent shall be

1 accompanied by a fee of fifty dollars and if accompanied by a statement,
2 the fee required by this subdivision] STATEMENT WITH THE DEPARTMENT OF
3 STATE. If, after the publication of such proclamation, it shall be
4 determined by the department of state that the name of any New York
5 registered foreign limited liability partnership was erroneously
6 included in such proclamation, the department of state shall make appro-
7 priate entry on its records, which entry shall have the effect of
8 annulling all of the proceedings theretofore taken for the revocation of
9 the status of such New York registered foreign limited liability part-
10 nership under this subdivision and (1) such New York registered foreign
11 limited liability partnership shall have such powers, rights, duties and
12 obligations as it had on the date of the publication of the proclama-
13 tion, with the same force and effect as if such proclamation had not
14 been made or published and (2) such publication shall not affect the
15 applicability of the laws of the jurisdiction governing the agreement
16 under which such New York registered foreign limited liability partner-
17 ship is operating (including laws governing the liability of partners)
18 to any debt, obligation or liability incurred, created or assumed from
19 the date of publication of the proclamation through the date of the
20 making of the entry on the records of the department of state. Whenever
21 a New York registered foreign limited liability partnership WHOSE STATUS
22 WAS REVOKED shall have filed a [certificate of consent] STATEMENT pursu-
23 ant to this subdivision or if the name of a New York registered foreign
24 limited liability partnership was erroneously included in a proclamation
25 and such proclamation was annulled, the department of state shall
26 publish a notice thereof in the state register.

27 S 10. Subdivision (d) of section 121-1506 of the partnership law, as
28 amended by chapter 172 of the laws of 1999, is amended to read as
29 follows:

30 (d) The filing by the department of state of a certificate of amend-
31 ment OR THE FILING OF A STATEMENT providing for a new address by a
32 designating limited liability partnership shall annul the suspension and
33 its authority to do business in this state shall be restored and contin-
34 ued as if no suspension had occurred.

35 S 11. Section 192 of the tax law is amended by adding a new subdivi-
36 sion 5 to read as follows:

37 5. NOTWITHSTANDING THE PROVISIONS OF SECTION TWO HUNDRED TWO OF THIS
38 ARTICLE, THE COMMISSIONER SHALL PROVIDE THE STATEMENTS AND OTHER
39 REQUIRED INFORMATION REQUESTED ON TAX REPORTS UNDER SECTION FOUR HUNDRED
40 EIGHT OF THE BUSINESS CORPORATION LAW TO THE SECRETARY OF STATE FOR
41 FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY OR IMAGE OF THAT PORTION
42 OF THE REPORT SOLELY PERTINENT TO SUCH INFORMATION TO THE EXTENT FEASI-
43 BLE. THE COMMISSIONER MAY ALSO PROVIDE INFORMATION ON NONCOMPLIANCE.

44 S 12. Section 211 of the tax law is amended by adding a new subdivi-
45 sion 15 to read as follows:

46 15. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION EIGHT OF THIS
47 SECTION, THE COMMISSIONER SHALL PROVIDE THE STATEMENTS AND OTHER
48 REQUIRED INFORMATION REQUESTED ON TAX REPORTS UNDER SECTION FOUR HUNDRED
49 EIGHT OF THE BUSINESS CORPORATION LAW TO THE SECRETARY OF STATE FOR
50 FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY OR IMAGE OF THAT PORTION
51 OF THE REPORT SOLELY PERTINENT TO SUCH INFORMATION TO THE EXTENT FEASI-
52 BLE. THE COMMISSIONER ANY ALSO PROVIDE INFORMATION ON NONCOMPLIANCE.

53 S 13. Paragraph 3 of subsection (c) of section 658 of the tax law is
54 amended by adding a new subparagraph (E) to read as follows:

55 (E) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX
56 HUNDRED NINETY-SEVEN OF THIS ARTICLE, THE COMMISSIONER SHALL PROVIDE THE

1 STATEMENTS AND OTHER REQUIRED INFORMATION INCLUDED ON THE FILING FEE
2 PAYMENT FORM UNDER SECTION THREE HUNDRED ONE OF THE LIMITED LIABILITY
3 COMPANY LAW, SUBDIVISION (F) OF SECTION 121-1502 OF THE PARTNERSHIP LAW,
4 AND SUBDIVISION (D) OF SECTION 121-1506 OF THE PARTNERSHIP LAW TO THE
5 SECRETARY OF STATE FOR FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY
6 OR IMAGE OF THAT PORTION OF THE REPORT SOLELY PERTINENT TO SUCH INFORMA-
7 TION TO THE EXTENT FEASIBLE. THE COMMISSIONER MAY ALSO PROVIDE INFORMA-
8 TION ON NONCOMPLIANCE.

9 S 14. Section 1085 of the tax law is amended by adding a new
10 subsection (v) to read as follows:

11 (V) FAILURE TO SUPPLY ALL THE INFORMATION REQUIRED OR TO PROVIDE
12 CORRECT INFORMATION IN SECRETARY OF STATE STATEMENTS. UNLESS IT IS SHOWN
13 THAT SUCH FAILURE TO PROVIDE THE STATEMENT AND INFORMATION REQUIRED BY
14 SECTION FOUR HUNDRED EIGHT OF THE BUSINESS CORPORATION LAW IS DUE TO
15 REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THERE SHALL, UPON NOTICE
16 AND DEMAND BY THE COMMISSIONER AND IN THE SAME MANNER AS TAX, BE PAID BY
17 THE TAXPAYER FAILING TO SUPPLY COMPLETE AND CORRECT INFORMATION, A
18 PENALTY OF TWO HUNDRED FIFTY DOLLARS PER TAXPAYER REQUIRED TO PROVIDE
19 SUCH INFORMATION.

20 S 15. Section 685 of the tax law is amended by adding a new subsection
21 (dd) to read as follows:

22 (DD) FAILURE TO SUPPLY ALL THE INFORMATION REQUIRED OR TO PROVIDE
23 CORRECT INFORMATION IN SECRETARY OF STATE STATEMENTS. UNLESS IT IS SHOWN
24 THAT SUCH FAILURE TO PROVIDE THE STATEMENT AND INFORMATION REQUIRED BY
25 SUBDIVISION (E) OF SECTION THREE HUNDRED ONE OF THE LIMITED LIABILITY
26 COMPANY LAW, SUBDIVISION (F) OF SECTION 121-1502 OF THE PARTNERSHIP LAW,
27 OR SUBDIVISION (D) OF SECTION 121-1506 OF THE PARTNERSHIP LAW IS DUE TO
28 REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THERE SHALL, UPON NOTICE
29 AND DEMAND BY THE COMMISSIONER AND IN THE SAME MANNER AS TAX, BE PAID BY
30 THE TAXPAYER FAILING TO SUPPLY COMPLETE AND CORRECT INFORMATION, A
31 PENALTY OF TWO HUNDRED AND FIFTY DOLLARS PER LIMITED LIABILITY COMPANY
32 REQUIRED TO PROVIDE SUCH INFORMATION ON ITS FILING FEE PAYMENT FORM.

33 S 16. This act shall take effect immediately.

34

PART T

35 Section 1. Paragraph (a) of subdivision 5 of section 208 of the tax
36 law, as amended by section 4 of part A of chapter 59 of the laws of
37 2014, is amended to read as follows:

38 (a) The term "investment capital" means investments in stocks that are
39 held by the taxpayer for more than six consecutive months but are not
40 [held for sale to customers] AND HAVE NEVER BEEN USED BY THE TAXPAYER in
41 the regular course of business, or, if the taxpayer makes the election
42 provided for in subparagraph one of paragraph (a) of subdivision five of
43 section two hundred ten-A of this article, are not qualified financial
44 instruments as described in subdivision five of section two hundred
45 ten-A of this article. Stock in a corporation that is conducting a
46 unitary business with the taxpayer, stock in a corporation that is
47 included in a combined report with the taxpayer pursuant to the commonly
48 owned group election in subdivision three of section two hundred ten-C
49 of this article, and stock issued by the taxpayer shall not constitute
50 investment capital. For purposes of this subdivision, if the taxpayer
51 owns or controls, directly or indirectly, less than twenty percent of
52 the voting power of the stock of a corporation, that corporation will be
53 presumed to be conducting a business that is not unitary with the busi-
54 ness of the taxpayer.

1 S 2. Paragraph (d) of subdivision 5 of section 208 of the tax law, as
2 added by section 4 of part A of chapter 59 of the laws of 2014, is
3 amended to read as follows:

4 (d) If a taxpayer acquires stock during the second half of its taxable
5 year and owns that stock on the last day of the taxable year, it will be
6 presumed, SOLELY FOR PURPOSES OF DETERMINING WHETHER THAT STOCK SHOULD
7 BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, that the
8 taxpayer held that stock for more than six consecutive months during the
9 taxable year. THIS PRESUMPTION SHALL APPLY ONLY IF THE TAXPAYER IN FACT
10 OWNS THE STOCK AT THE TIME IT FILES ITS ORIGINAL REPORT FOR THE TAXABLE
11 YEAR IN WHICH IT ACQUIRES THE STOCK. However, if the taxpayer does not
12 in fact hold that stock AS INVESTMENT CAPITAL for more than six consec-
13 utive months, the taxpayer must increase its total business capital in
14 the immediately succeeding taxable year by the amount included in
15 investment capital for that stock, net of any liabilities attributable
16 to that stock computed as provided in paragraph (b) of this subdivision
17 and must increase its business income in the immediately succeeding
18 taxable year by the amount of income and net gains (but not less than
19 zero) from that stock included in investment income, less any interest
20 deductions directly or indirectly attributable to that stock, as
21 provided in subdivision six of this section.

22 S 3. Paragraph (e) of subdivision 5 of section 208 of the tax law, as
23 added by section 4 of part A of chapter 59 of the laws of 2014, is
24 amended to read as follows:

25 (e) When income or gain from a debt obligation or other security
26 cannot be apportioned to the state using the [business allocation
27 percentage] APPORTIONMENT FACTOR DETERMINED UNDER SECTION TWO HUNDRED
28 TEN-A OF THIS ARTICLE as a result of United States constitutional prin-
29 ciples, the debt obligation or other security will be included in
30 investment capital.

31 S 4. Paragraph (f) of subdivision 5 of section 208 of the tax law is
32 REPEALED.

33 S 5. Paragraph (a) of subdivision 6 of section 208 of the tax law, as
34 amended by section 4 of part A of chapter 59 of the laws of 2014, is
35 amended to read as follows:

36 (a) The term "investment income" means income, including capital gains
37 in excess of capital losses, from investment capital, to the extent
38 included in computing entire net income, less, (i) in the discretion of
39 the commissioner, any interest deductions allowable in computing entire
40 net income which are directly or indirectly attributable to investment
41 capital or investment income, [and (ii) the taxpayer's loss, deduction
42 and/or expense attributable to any transaction, or series of trans-
43 actions, entered into to manage the risk of price changes or currency
44 fluctuations with respect to any item of investment capital that is held
45 or to be held by the taxpayer, or the aggregate investment capital that
46 is held or to be held by the taxpayer, if all of the risk, or all but a
47 de minimis amount of the risk, is with respect to investment capital,]
48 provided, however, that in no case shall investment income exceed entire
49 net income. (II) If the amount OF INTEREST DEDUCTIONS subtracted under
50 [subparagraph (i) or subparagraph (ii) of this paragraph or under both
51 of those subparagraphs] SUBPARAGRAPH (I) OF THIS PARAGRAPH exceeds
52 investment income, the excess of such amount over investment income must
53 be added back to entire net income.

54 S 6. Subclause (ii) of clause (B) of subparagraph 1 of paragraph (r)
55 of subdivision 9 of section 208 of the tax law, as added by section 4 of
56 part A of chapter 59 of the laws of 2014, is amended to read as follows:

1 (ii) Measurement of assets. FOR PURPOSES OF THIS PARAGRAPH: (I) Total
2 assets are those assets that are properly reflected on a balance sheet,
3 computed in the same manner as is required by the banking regulator of
4 the taxpayers included in the combined return.

5 (II) Assets will only be included if the income or expenses of which
6 are properly reflected (or would have been properly reflected if not
7 fully depreciated or expensed, or depreciated or expensed to a nominal
8 amount) in the computation of the combined group's entire net income for
9 the taxable year. Assets will not include deferred tax assets and intan-
10 gible assets identified as "goodwill".

11 (III) Tangible real and personal property, such as buildings, land,
12 machinery, and equipment shall be valued at cost. Leased assets will be
13 valued at the annual lease payment multiplied by eight. Intangible prop-
14 erty, such as loans and investments, shall be valued at book value
15 exclusive of reserves.

16 (IV) Intercorporate stockholdings and bills, notes and accounts
17 receivable, and other intercorporate indebtedness between the corpo-
18 rations included in the combined report shall be eliminated.

19 (V) Average assets are computed using the assets measured on the first
20 day of the taxable year, and on the last day of each subsequent quarter
21 of the taxable year or month or day during the taxable year.

22 S 7. Clause (B) of subparagraph 2 and clause (B) of subparagraph 2-a
23 of paragraph (s) of subdivision 9 of section 208 of the tax law, as
24 added by section 4 of part A of chapter 59 of the laws of 2014, are
25 amended to read as follows:

26 (B) The average value during the taxable year of the assets of the
27 taxpayer, or, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, the
28 assets of the combined reporting group of the taxpayer under section two
29 hundred ten-C of this article, must not exceed eight billion dollars.

30 (B) The average value during the taxable year of the assets of the
31 taxpayer, or, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, the
32 assets of the combined reporting group of the taxpayer under section two
33 hundred ten-C of this article, must not exceed eight billion dollars.

34 S 8. Paragraph (d) of subdivision 1 of section 209 of the tax law, as
35 added by section 5 of part A of chapter 59 of the laws of 2014, is
36 amended to read as follows:

37 (d)(i) A corporation with less than one million dollars but at least
38 ten thousand dollars of receipts within this state in a taxable year
39 that is part of a [combined reporting] UNITARY group THAT MEETS THE
40 OWNERSHIP TEST under section two hundred ten-C of this article is deriv-
41 ing receipts from activity in this state if the receipts within this
42 state of the members of the [combined reporting] UNITARY group that have
43 at least ten thousand dollars of receipts within this state in the
44 aggregate meet the threshold set forth in paragraph (b) of this subdivi-
45 sion.

46 (ii) A corporation that does not meet any of the thresholds set forth
47 in paragraph (c) of this subdivision but has at least ten customers, or
48 locations, or customers and locations, as described in paragraph (c) of
49 this subdivision, and is part of a [combined reporting] UNITARY group
50 THAT MEETS THE OWNERSHIP TEST under section two hundred ten-C of this
51 article [that] is doing business in this state if the number of custom-
52 ers, locations, or customers and locations, within this state of the
53 members of the [combined reporting] UNITARY group that have at least ten
54 customers, locations, or customers and locations, within this state in
55 the aggregate meets any of the thresholds set forth in paragraph (c) of
56 this subdivision.

1 S 9. Paragraph (d) of subdivision 1 of section 209-B of the tax law,
2 as added by section 7 of part A of chapter 59 of the laws of 2014, is
3 amended to read as follows:

4 (d)(i) A corporation with less than one million dollars but at least
5 ten thousand dollars of receipts within the metropolitan commuter trans-
6 portation district in a taxable year that is part of a [combined report-
7 ing] UNITARY group THAT MEETS THE OWNERSHIP TEST under section two
8 hundred ten-C of this article is deriving receipts from activity in the
9 metropolitan commuter transportation district if the receipts within the
10 metropolitan commuter transportation district of the members of the
11 [combined reporting] UNITARY group that have at least ten thousand
12 dollars of receipts within the metropolitan commuter transportation
13 district in the aggregate meet the threshold set forth in paragraph (b)
14 of this subdivision.

15 (ii) A corporation that does not meet any of the thresholds set forth
16 in paragraph (c) of this subdivision but has at least ten customers, or
17 locations, or customers and locations, as described in paragraph (c),
18 and is part of a [combined reporting] UNITARY group THAT MEETS THE
19 OWNERSHIP TEST under section two hundred ten-C of this article [that] is
20 doing business in the metropolitan commuter transportation district if
21 the number of customers, locations, or customers and locations, within
22 the metropolitan commuter transportation district of the members of the
23 [combined reporting] UNITARY group that have at least ten customers,
24 locations, or customers and locations, within the metropolitan commuter
25 transportation district in the aggregate meets any of the thresholds set
26 forth in paragraph (c) of this subdivision.

27 S 10. The opening paragraph of paragraph (a) of subdivision 1 of
28 section 210 of the tax law, as amended by section 12 of part A of chap-
29 ter 59 of the laws of 2014, is amended to read as follows:

30 For taxable years beginning before January first, two thousand
31 sixteen, the amount prescribed by this paragraph shall be computed at
32 the rate of seven and one-tenth percent of the taxpayer's business
33 income base. For taxable years beginning on or after January first, two
34 thousand sixteen, the amount prescribed by this paragraph shall be six
35 and one-half percent of the taxpayer's business income base. The taxpay-
36 er's business income base shall mean the portion of the taxpayer's busi-
37 ness income allocated within the state as hereinafter provided. However,
38 in the case of a small business taxpayer, as defined in paragraph (f) of
39 this subdivision, the amount prescribed by this paragraph shall be
40 computed pursuant to subparagraph (iv) of this paragraph and in the case
41 of a manufacturer, as defined in subparagraph (vi) of this paragraph,
42 the amount prescribed by this paragraph shall be computed pursuant to
43 subparagraph (vi) of this paragraph, AND, IN THE CASE OF A QUALIFIED
44 EMERGING TECHNOLOGY COMPANY, AS DEFINED IN SUBPARAGRAPH (VII) OF THIS
45 PARAGRAPH, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED
46 PURSUANT TO SUBPARAGRAPH (VII) OF THIS PARAGRAPH.

47 S 11. Subparagraph (vi) of paragraph (a) of subdivision 1 of section
48 210 of the tax law, as amended by section 12 of part A of chapter 59 of
49 the laws of 2014, is amended to read as follows:

50 (vi) for taxable years beginning on or after January first, two thou-
51 sand fourteen, the amount prescribed by this paragraph for a taxpayer
52 which is a qualified New York manufacturer, shall be computed at the
53 rate of zero percent of the taxpayer's business income base. The term
54 "manufacturer" shall mean a taxpayer which during the taxable year is
55 principally engaged in the production of goods by manufacturing, proc-
56 essing, assembling, refining, mining, extracting, farming, agriculture,

1 horticulture, floriculture, viticulture or commercial fishing. However,
2 the generation and distribution of electricity, the distribution of
3 natural gas, and the production of steam associated with the generation
4 of electricity shall not be qualifying activities for a manufacturer
5 under this subparagraph. Moreover, IN THE CASE OF A COMBINED REPORT, the
6 combined group shall be considered a "manufacturer" for purposes of this
7 subparagraph only if the combined group during the taxable year is prin-
8 cipally engaged in the activities set forth in this paragraph, or any
9 combination thereof. A taxpayer or, IN THE CASE OF A COMBINED REPORT, a
10 combined group shall be "principally engaged" in activities described
11 above if, during the taxable year, more than fifty percent of the gross
12 receipts of the taxpayer or combined group, respectively, are derived
13 from receipts from the sale of goods produced by such activities. In
14 computing a combined group's gross receipts, intercorporate receipts
15 shall be eliminated. A "qualified New York manufacturer" is a manufac-
16 turer which has property in New York which is described in CLAUSE (A) OF
17 SUBPARAGRAPH (I) OF PARAGRAPH (B) OF subdivision one of section two
18 hundred ten-B of this article and either (I) the adjusted basis of such
19 property for federal income tax purposes at the close of the taxable
20 year is at least one million dollars or (II) all of its real and
21 personal property is located in New York. A taxpayer or, in the case of
22 a combined report, a combined group, that does not satisfy the princi-
23 pally engaged test may be a qualified New York manufacturer if the
24 taxpayer or the combined group employs during the taxable year at least
25 two thousand five hundred employees in manufacturing in New York and the
26 taxpayer or the combined group has property in the state used in manu-
27 facturing, the adjusted basis of which for federal income tax purposes
28 at the close of the taxable year is at least one hundred million
29 dollars.

30 S 12. Subparagraph (vii) of paragraph (a) of subdivision 1 of section
31 210 of the tax law, as amended by section 12 of part A of chapter 59 of
32 the laws of 2014, is amended to read as follows:

33 (vii) For a taxpayer that is defined as a qualified emerging technolo-
34 gy company under paragraph (c) of subdivision one of section thirty-one
35 hundred two-e of the public authorities law regardless of the ten
36 million dollar limitation expressed in subparagraph one of such para-
37 graph (c) the AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED AT
38 THE rate [at which the tax is computed in effect for taxable years
39 beginning on or after January first, two thousand thirteen and before
40 January first, two thousand fourteen for such qualified emerging tech-
41 nology companies shall be reduced by nine and two-tenths percent for
42 taxable years commencing on or after January first, two thousand four-
43 teen and before January first, two thousand fifteen, twelve and three-
44 tenths percent for taxable years commencing on or after January first,
45 two thousand fifteen and before January first, two thousand sixteen,
46 fifteen and four-tenths percent for taxable years commencing on or after
47 January first, two thousand sixteen and before January first, two thou-
48 sand eighteen, and twenty-five percent for taxable years beginning on or
49 after January first, two thousand eighteen] OF 5.7 PERCENT FOR TAXABLE
50 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND
51 BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, 5.5 PERCENT FOR TAXABLE
52 YEARS BEGINNING ON OR AFTER JANUARY FIRST TWO THOUSAND SIXTEEN AND
53 BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND 4.875 PERCENT FOR TAXA-
54 BLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN. IN
55 THE CASE OF A COMBINED REPORT, EACH CORPORATION INCLUDED IN THE COMBINED

1 REPORT MUST QUALIFY AS A QUALIFIED EMERGING TECHNOLOGY COMPANY IN ORDER
2 FOR THE TAX RATES PROVIDED BY THIS SUBPARAGRAPH TO APPLY.

3 S 13. Item (IV) of subclause 2 of clause (B) of subparagraph (viii) of
4 paragraph (a) of subdivision 1 of section 210 of the tax law, as added
5 by section 12 of part A of chapter 59 of the laws of 2014, is amended to
6 read as follows:

7 (IV) In lieu of the subtraction described in item (III) of this
8 subclause, if the taxpayer so elects, the taxpayer's prior net operating
9 loss conversion subtraction for the tax years beginning on or after
10 January first, two thousand fifteen and before January first, two thou-
11 sand seventeen shall equal in each year, not more than one-half of its
12 net operating loss conversion subtraction pool UNTIL THE POOL IS
13 EXHAUSTED. IF THE POOL IS NOT EXHAUSTED AT THE END OF SUCH TIME PERIOD,
14 THE REMAINDER OF THE POOL SHALL BE FORFEITED. The taxpayer shall make
15 such election on its FIRST return for the tax year beginning on or after
16 January first, two thousand fifteen and before January first, two thou-
17 sand sixteen by the due date for such return (determined with regard to
18 extensions).

19 S 14. Subclause 4 of clause (B) of subparagraph (viii) of paragraph
20 (a) of subdivision 1 of section 210 of the tax law, as added by section
21 12 of part A of chapter 59 of the laws of 2014, is amended to read as
22 follows:

23 (4) The prior net operating loss conversion subtraction may be used to
24 reduce the taxpayer's tax on allocated business income to the higher of
25 the tax on the capital base under paragraph (b) of this subdivision or
26 the fixed dollar minimum under paragraph (d) of this subdivision. [Any]
27 UNLESS THE TAXPAYER HAS MADE THE ELECTION PROVIDED FOR IN ITEM (IV) OF
28 SUBCLAUSE TWO OF THIS CLAUSE, ANY amount of unused subtraction shall be
29 carried forward to subsequent tax year or years until [tax] THE PRIOR
30 NET OPERATING LOSS CONVERSION SUBTRACTION POOL IS EXHAUSTED, BUT FOR NO
31 LONGER THAN TWENTY TAXABLE years OR THE TAXABLE YEAR beginning on or
32 after January first, TWO THOUSAND THIRTY-FIVE BUT BEFORE JANUARY FIRST,
33 two thousand thirty-six, WHICHEVER COMES FIRST. Such amount carried
34 forward shall not be subject to the one-tenth limitation for the subse-
35 quent tax year or years. However, if the taxpayer elects to compute its
36 prior net operating loss conversion subtraction pursuant to item (IV) of
37 subclause two of this clause, the taxpayer shall not carry forward any
38 UNUSED amount of such subtraction [beyond its] TO ANY tax year beginning
39 on or after [January first, two thousand sixteen and before] January
40 first, two thousand seventeen.

41 S 15. The opening paragraph of subparagraph (ix) of paragraph (a) of
42 subdivision 1 of section 210 of the tax law, as added by section 12 of
43 part A of chapter 59 of the laws of 2014, is amended to read as follows:

44 In computing the business income base, a net operating loss deduction
45 shall be allowed. A net operating loss deduction is the amount of net
46 operating loss or losses from one or more taxable years that are carried
47 forward OR CARRIED BACK to a particular [income] TAXABLE year. A net
48 operating loss is the amount of a business loss incurred in a particular
49 tax year multiplied by the apportionment factor for that year as deter-
50 mined under section two hundred ten-A of this article. The maximum net
51 operating LOSS deduction that is allowed in a taxable year is the amount
52 that reduces the taxpayer's tax on [allocated] APPORTIONED business
53 income to the higher of the tax on the capital base or the fixed dollar
54 minimum. Such deduction and loss are determined in accordance with the
55 following:

1 S 16. Clauses 4 and 6 of subparagraph (ix) of paragraph (a) of subdi-
2 vision 1 or section 210 of the tax law, as added by section 12 of part A
3 of chapter 59 of the laws of 2014, are amended to read as follows:

4 (4) [A net operating loss may be carried forward to each of the twenty
5 taxable years following the taxable year of the loss. A net operating
6 loss may be carried back to each of the three taxable years preceding
7 the taxable year of the loss; provided, however no loss can be carried
8 back to a tax year prior to a tax year beginning on or after January,
9 first, two thousand fifteen. A taxpayer must apply both of these limita-
10 tions in computing such net operating loss deduction.] A NET OPERATING
11 LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR
12 OF THE LOSS. HOWEVER NO LOSS CAN BE CARRIED BACK TO A TAXABLE YEAR
13 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN. THE LOSS IS FIRST
14 CARRIED TO THE EARLIEST OF THE THREE TAXABLE YEARS. IF IT IS NOT ENTIRE-
15 LY USED IN THAT YEAR, IT IS CARRIED TO THE SECOND TAXABLE YEAR PRECEDING
16 THE LOSS YEAR, AND ANY REMAINING AMOUNT IS CARRIED TO THE TAXABLE YEAR
17 IMMEDIATELY PRECEDING THE LOSS YEAR. ANY UNUSED AMOUNT OF LOSS THEN
18 REMAINING MAY BE CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS
19 FOLLOWING THE LOSS YEAR. LOSSES CARRIED FORWARD ARE CARRIED FORWARD
20 FIRST TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE LOSS YEAR, THEN TO
21 THE SECOND TAXABLE YEAR FOLLOWING THE LOSS YEAR, AND THEN TO THE NEXT
22 IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL THE LOSS IS USED UP
23 OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE LOSS YEAR, WHICHEVER COMES
24 FIRST.

25 (6) Where there are two or more allocated net operating losses, or
26 portions thereof, carried BACK OR CARRIED forward to be deducted in one
27 particular tax year from allocated business income, the earliest allo-
28 cated loss incurred must be applied first.

29 S 17. Subparagraph (ix) of paragraph (a) of subdivision 1 of section
30 210 of the tax law is amended by adding a new clause 7 to read as
31 follows:

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

40 S 18. Paragraph (b) of subdivision 1 of section 210 of the tax law, as
41 amended by section 12 of part A of chapter 59 of the laws of 2014, is
42 amended to read as follows:

43 (b) Capital base. (1) The amount prescribed by this paragraph shall be
44 computed at .15 percent for each dollar of the taxpayer's total business
45 capital, or the portion thereof allocated within the state as hereinaft-
46 er provided for taxable years beginning before January first, two thou-
47 sand sixteen. However, in the case of a cooperative housing corporation
48 as defined in the internal revenue code, the applicable rate shall be
49 .04 percent until taxable years beginning on or after January first, two
50 thousand twenty. The rate of tax for subsequent tax years shall be as
51 follows: .125 percent for taxable years beginning on or after January
52 first, two thousand sixteen and before January first, two thousand
53 seventeen; .100 percent for taxable years beginning on or after January
54 first, two thousand seventeen and before January first, two thousand
55 eighteen; .075 percent for taxable years beginning on or after January
56 first, two thousand eighteen and before January first, two thousand

1 nineteen; .050 percent for taxable years beginning on or after January
2 first, two thousand nineteen and before January first, two thousand
3 twenty; .025 percent for taxable years beginning on or after January
4 first, two thousand twenty and before January first, two thousand twen-
5 ty-one; and zero percent for years beginning on or after January first,
6 two thousand twenty-one. The rate of tax for a qualified New York
7 manufacturer [for tax years subsequent to taxable years beginning on or
8 after January first, two thousand fifteen and before January first, two
9 thousand sixteen] shall be .132 PERCENT FOR TAXABLE YEARS BEGINNING ON
10 OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST,
11 TWO THOUSAND SIXTEEN, .106 percent for taxable years beginning on or
12 after January first, two thousand sixteen and before January first, two
13 thousand seventeen, .085 percent for taxable years beginning on or after
14 January first, two thousand seventeen and before January first, two
15 thousand eighteen; .056 percent for taxable years beginning on or after
16 January first, two thousand eighteen and before January first, two thou-
17 sand nineteen; .038 percent for taxable years beginning on or after
18 January first, two thousand nineteen and before January first, thousand
19 twenty; .019 percent for taxable years beginning on or after January
20 first, two thousand twenty and before January first, two thousand twen-
21 ty-one; and zero percent for years beginning on or after January first,
22 two thousand twenty-one. In no event shall the amount prescribed by this
23 paragraph exceed three hundred fifty thousand dollars for qualified New
24 York manufacturers and for all other taxpayers five million dollars.

25 (2) For purposes of subparagraph one of this paragraph, the term
26 "manufacturer" shall mean a taxpayer which during the taxable year is
27 principally engaged in the production of goods by manufacturing, proc-
28 essing, assembling, refining, mining, extracting, farming, agriculture,
29 horticulture, floriculture, viticulture or commercial fishing. Moreover,
30 for purposes of computing the capital base in a combined report, the
31 combined group shall be considered a "manufacturer" for purposes of this
32 subparagraph only if the combined group during the taxable year is prin-
33 cipally engaged in the activities set forth in this subparagraph, or any
34 combination thereof. A taxpayer or, IN THE CASE OF A COMBINED REPORT, a
35 combined group shall be "principally engaged" in activities described
36 above if, during the taxable year, more than fifty percent of the gross
37 receipts of the taxpayer or combined group, respectively, are derived
38 from receipts from the sale of goods produced by such activities. In
39 computing a combined group's gross receipts, intercorporate receipts
40 shall be eliminated. A "qualified New York manufacturer" is a manufac-
41 turer that has property in New York that is described in subdivision one
42 of section [210-B] TWO HUNDRED TEN-B of this article and either (i) the
43 adjusted basis of that property for federal income tax purposes at the
44 close of the taxable year is at least one million dollars or (ii) all of
45 its real and personal property is located in New York. In addition, a
46 "qualified New York manufacturer" means a taxpayer that is defined as a
47 qualified emerging technology company under paragraph (c) of subdivision
48 one of section thirty-one hundred two-e of the public authorities law
49 regardless of the ten million dollar limitation expressed in subpara-
50 graph one of such paragraph. IN THE CASE OF A COMBINED REPORT, EACH
51 CORPORATION INCLUDED IN THE COMBINED REPORT MUST QUALIFY AS A QUALIFIED
52 EMERGING TECHNOLOGY COMPANY IN ORDER FOR THE PREFERENTIAL TAX RATES
53 PROVIDED BY THIS PARAGRAPH TO APPLY. A taxpayer or, in the case of a
54 combined report, a combined group, that does not satisfy the principally
55 engaged test may be a qualified New York manufacturer if the taxpayer or
56 the combined group employs during the taxable year at least two thousand

1 five hundred employees in manufacturing in New York and the taxpayer or
 2 the combined group has property in the state used in manufacturing, the
 3 adjusted basis of which for federal income tax purposes at the close of
 4 the taxable year is at least one hundred million dollars.

5 S 19. Subparagraph 1 of paragraph (d) of subdivision 1 of section 210
 6 of the tax law, as amended by section 12 of part A of chapter 59 of the
 7 laws of 2014, is amended to read as follows:

8 (1) (A) The amount prescribed by this paragraph for New York S corpo-
 9 rations, OTHER THAN NEW YORK S CORPORATIONS THAT ARE QUALIFIED NEW YORK
 10 MANUFACTURERS OR QUALIFIED EMERGING TECHNOLOGY COMPANIES, will be deter-
 11 mined in accordance with the following table:

12 If New York receipts are:	The fixed dollar minimum tax is:
13 not more than \$100,000	\$ 25
14 more than \$100,000 but not over \$250,000	\$ 50
15 more than \$250,000 but not over \$500,000	\$ 175
16 more than \$500,000 but not over \$1,000,000	\$ 300
17 more than \$1,000,000 but not over \$5,000,000	\$1,000
18 more than \$5,000,000 but not over \$25,000,000	\$3,000
19 Over \$25,000,000	\$4,500

20 (B) PROVIDED FURTHER, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR NEW
 21 YORK S CORPORATIONS THAT ARE QUALIFIED NEW YORK MANUFACTURES, AS DEFINED
 22 IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION, AND FOR NEW
 23 YORK S CORPORATIONS THAT ARE QUALIFIED EMERGING TECHNOLOGY COMPANIES
 24 UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED
 25 TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE TEN MILLION DOLLAR
 26 LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH PARAGRAPH (C), WILL BE
 27 DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES.
 28 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2015 AND BEFORE JANU-
 29 ARY 1, 2016:

30 IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
31 NOT MORE THAN \$100,000	\$ 22
32 MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 44
33 MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 153
34 MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 263
35 MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 877
36 MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,631
37 OVER \$25,000,000	\$3,947

38 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2016 AND BEFORE JANU-
 39 ARY 1, 2018:

40 IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
41 NOT MORE THAN \$100,000	\$ 21
42 MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 42
43 MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 148
44 MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 254
45 MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 846
46 MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,538
47 OVER \$25,000,000	\$3,807

48 FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2018:

IF NEW YORK RECEIPTS ARE:	THE FIXED DOLLAR MINIMUM TAX IS:
NOT MORE THAN \$100,000	\$ 19
MORE THAN \$100,000 BUT NOT OVER \$250,000	\$ 38
MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 131
MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 225
MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 750
MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,250
OVER \$25,000,000	\$3,375

9 (C) Provided further, the amount prescribed by this paragraph for a
10 qualified New York manufacturer, as defined in subparagraph (vi) of
11 paragraph (a) of this subdivision, and a qualified emerging technology
12 company under paragraph (c) of subdivision one of section thirty-one
13 hundred two-e of the public authorities law regardless of the ten
14 million dollar limitation expressed in subparagraph one of such para-
15 graph (c), THAT IS NOT A NEW YORK S CORPORATION, will be determined in
16 accordance with the following tables[:]. HOWEVER, WITH RESPECT TO QUALI-
17 FIED NEW YORK MANUFACTURERS, THE AMOUNTS IN THESE TABLES WILL APPLY IN
18 THE CASE OF A COMBINED REPORT ONLY IF THE COMBINED GROUP SATISFIES THE
19 REQUIREMENTS TO BE A QUALIFIED NEW YORK MANUFACTURER AS SET FORTH IN
20 SUCH SUBPARAGRAPH (VI). WITH RESPECT TO QUALIFIED EMERGING TECHNOLOGY
21 COMPANIES, THE AMOUNTS IN THESE TABLES WILL APPLY IN THE CASE OF A
22 COMBINED REPORT ONLY IF EACH CORPORATION INCLUDED IN THE COMBINED REPORT
23 QUALIFIES AS A QUALIFIED EMERGING TECHNOLOGY COMPANY.
24 [For tax years beginning on or after January 1, 2014 and before January
25 1, 2015:

If New York receipts are:	The fixed dollar minimum tax is:
not more than \$100,000	\$ 23
more than \$100,000 but not over \$250,000	\$ 68
more than \$250,000 but not over \$500,000	\$ 159
more than \$500,000 but not over \$1,000,000	\$ 454
more than \$1,000,000 but not over \$5,000,000	\$1,362
more than \$5,000,000 but not over \$25,000,000	\$3,178
Over \$25,000,000	\$4,500]

34 For tax years beginning on or after January 1, 2015 and before January
35 1, 2016:

If New York receipts are:	The fixed dollar minimum tax is:
not more than \$100,000	\$ 22
more than \$100,000 but not over \$250,000	\$ 66
more than \$250,000 but not over \$500,000	\$ 153
more than \$500,000 but not over \$1,000,000	\$ 439
more than \$1,000,000 but not over \$5,000,000	\$1,316
more than \$5,000,000 but not over \$25,000,000	\$3,070
Over \$25,000,000	\$4,385

44 For tax years beginning on or after January 1, 2016 and before January
45 1, 2018:

If New York receipts are:	The fixed dollar minimum tax is:
not more than \$100,000	\$ 21
more than \$100,000 but not over \$250,000	\$ 63
more than \$250,000 but not over \$500,000	\$ 148
more than \$500,000 but not over \$1,000,000	\$ 423

1	more than \$1,000,000 but not over \$5,000,000	\$1,269
2	more than \$5,000,000 but not over \$25,000,000	\$2,961
3	Over \$25,000,000	\$4,230

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

5	If New York receipts are:	The fixed dollar minimum tax is:
6	not more than \$100,000	\$ 19
7	more than \$100,000 but not over \$250,000	\$ 56
8	more than \$250,000 but not over \$500,000	\$ 131
9	more than \$500,000 but not over \$1,000,000	\$ 375
10	more than \$1,000,000 but not over \$5,000,000	\$1,125
11	more than \$5,000,000 but not over \$25,000,000	\$2,625
12	Over \$25,000,000	\$3,750

13 (D) Otherwise, FOR ALL OTHER TAXPAYERS NOT COVERED BY CLAUSES (A), (B)
 14 AND (C) OF THIS SUBPARAGRAPH, the amount prescribed by this paragraph
 15 will be determined in accordance with the following table:

16	If New York receipts are:	The fixed dollar minimum tax is:
17	not more than \$100,000	\$ 25
18	more than \$100,000 but not over \$250,000	\$ 75
19	more than \$250,000 but not over \$500,000	\$ 175
20	more than \$500,000 but not over \$1,000,000	\$ 500
21	more than \$1,000,000 but not over \$5,000,000	\$1,500
22	more than \$5,000,000 but not over \$25,000,000	\$3,500
23	more than \$25,000,000 but not over \$50,000,000	\$5,000
24	more than \$50,000,000 but not over \$100,000,000	\$10,000
25	more than \$100,000,000 but not over \$250,000,000	\$20,000
26	more than \$250,000,000 but not over \$500,000,000	\$50,000
27	more than \$500,000,000 but not over \$1,000,000,000	\$100,000
28	Over \$1,000,000,000	\$200,000

29 (E) For purposes of this paragraph, New York receipts are the receipts
 30 included in the numerator of the apportionment factor determined under
 31 section two hundred ten-A for the taxable year.

32 S 20. Paragraph (f) of subdivision 1 of section 210 of the tax law, as
 33 amended by section 12 of part A of chapter 59 of the laws of 2014, is
 34 amended to read as follows:

35 (f) For purposes of this section, the term "small business taxpayer"
 36 shall mean a taxpayer (i) which has an entire net income of not more
 37 than three hundred ninety thousand dollars for the taxable year; (ii)
 38 the aggregate amount of money and other property received by the corpo-
 39 ration for stock, as a contribution to capital, and as paid-in surplus,
 40 does not exceed one million dollars; (iii) which is not part of an
 41 affiliated group, as defined in section 1504 of the internal revenue
 42 code, unless such group, if it had filed a report under this article on
 43 a combined basis, would have itself qualified as a "small business
 44 taxpayer" pursuant to this subdivision; and (iv) which has an average
 45 number of individuals, excluding general executive officers, employed
 46 full-time in the state during the taxable year of one hundred or fewer.
 47 If the taxable period to which subparagraph (i) of this paragraph
 48 applies is less than twelve months, entire net income under such subpar-
 49 agraph shall be placed on an annual basis by multiplying the entire net
 50 income by twelve and dividing the result by the number of months in the
 51 period. For purposes of subparagraph (ii) of this paragraph, the amount

1 taken into account with respect to any property other than money shall
2 be the amount equal to the adjusted basis to the corporation of such
3 property for determining gain, reduced by any liability to which the
4 property was subject or which was assumed by the corporation. The deter-
5 mination under the preceding sentence shall be made as of the time the
6 property was received by the corporation. For purposes of subparagraph
7 [(iii)] (IV) of this [section] PARAGRAPH, "average number of individ-
8 uals, excluding general executive officers, employed full-time" shall be
9 computed by ascertaining the number of such individuals employed by the
10 taxpayer on the thirty-first day of March, the thirtieth day of June,
11 the thirtieth day of September and the thirty-first day of December
12 during each taxable year or other applicable period, by adding together
13 the number of such individuals ascertained on each of such dates and
14 dividing the sum so obtained by the number of such dates occurring with-
15 in such taxable year or other applicable period. An individual employed
16 full-time means an employee in a job consisting of at least thirty-five
17 hours per week, or two or more employees who are in jobs that together
18 constitute the equivalent of a job at least thirty-five hours per week
19 (full-time equivalent). Full-time equivalent employees in the state
20 [includes] INCLUDE all employees regularly connected with or working out
21 of an office or place of business of the taxpayer within the state.

22 S 21. Subdivision 1 of section 210-A of the tax law, as added by
23 section 16 of part A of chapter 59 of the laws of 2014, is amended to
24 read as follows:

25 1. General. Business income and capital shall be apportioned to the
26 state by the apportionment factor determined pursuant to this section.
27 The apportionment factor is a fraction, determined by including only
28 those receipts, net income, net gains, and other items described in this
29 section that are included in the computation of the taxpayer's business
30 income (DETERMINED WITHOUT REGARD TO THE MODIFICATION PROVIDED IN
31 SUBPARAGRAPH NINETEEN OF PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION
32 TWO HUNDRED EIGHT OF THIS ARTICLE) for the taxable year. The numerator
33 of the apportionment fraction shall be equal to the sum of all the
34 amounts required to be included in the numerator pursuant to the
35 provisions of this section and the denominator of the apportionment
36 fraction shall be equal to the sum of all the amounts required to be
37 included in the denominator pursuant to the provisions of this section.

38 S 22. Paragraph (c) of subdivision 2 of section 210-A of the tax law,
39 as added by section 16 of part A of chapter 59 of the laws of 2014, is
40 amended to read as follows:

41 (c) Receipts from sales of tangible personal property and electricity
42 that are traded as commodities, as [described] THE TERM "COMMODITY" IS
43 DEFINED in section 475 of the internal revenue code, are included in the
44 apportionment fraction in accordance with clause (I) of subparagraph two
45 of paragraph (a) of subdivision five of this section.

46 S 23. The opening paragraph and paragraph 1 of paragraph (a) of subdi-
47 vision 5 of section 210-A of the tax law, as added by section 16 of part
48 A of chapter 59 of the laws of 2014, are amended to read as follows:

49 A financial instrument is a "qualified financial instrument" if it is
50 ELIGIBLE OR REQUIRED TO BE marked to market under section 475 or section
51 1256 of the internal revenue code, provided that loans secured by real
52 property shall not be qualified financial instruments. A financial
53 instrument is a "nonqualified financial instrument" if it is not a qual-
54 ified financial instrument.

55 (1) Fixed percentage method for qualified financial instruments. In
56 determining the inclusion of receipts and net gains from qualified

1 financial instruments in the apportionment fraction, taxpayers may elect
2 to use the fixed percentage method described in this subparagraph for
3 qualified financial instruments. The election is irrevocable, applies to
4 all qualified financial instruments, and must be made on an annual basis
5 on the taxpayer's original, timely filed return. If the taxpayer elects
6 the fixed percentage method, then all income, gain or loss, INCLUDING
7 MARKED TO MARKET NET GAINS AS DEFINED IN CLAUSE (J) OF SUBPARAGRAPH TWO
8 OF THIS PARAGRAPH, from qualified financial instruments constitutes
9 business income, gain or loss. If the taxpayer does not elect to use the
10 fixed percentage method, then receipts and net gains are included in the
11 apportionment fraction in accordance with the customer sourcing method
12 described in subparagraph two of this paragraph. Under the fixed
13 percentage method, eight percent of all net income (not less than zero)
14 from qualified financial instruments is included in the numerator of the
15 apportionment fraction. All net income (not less than zero) from quali-
16 fied financial instruments is included in the denominator of the appor-
17 tionment fraction.

18 S 24. Subclause (iv) of clause (A) of subparagraph 2 of paragraph (a)
19 of subdivision 5 of section 210-A of the tax law, as added by section 16
20 of part A of chapter 59 of the laws of 2014, is amended to read as
21 follows:

22 (iv) Net gains (not less than zero) from sales of loans not secured by
23 real property are included in the numerator of the apportionment frac-
24 tion as provided in this subclause. The amount of net gains from the
25 sale of loans not secured by real property included in the numerator of
26 the apportionment fraction is determined by multiplying the net gains by
27 a fraction, the numerator of which is the amount of gross proceeds from
28 sales of loans not secured by real property to purchasers located within
29 the state and the denominator of which is the amount of gross [receipts]
30 PROCEEDS from sales of loans not secured by real property to purchasers
31 located within and without the state. Gross proceeds shall be determined
32 after the deduction of any cost incurred to acquire the loans but shall
33 not be less than zero. Net gains (not less than zero) from sales of
34 loans not secured by real property are included in the denominator of
35 the apportionment fraction.

36 S 25. Clause (A) of subparagraph 2 of paragraph (a) of subdivision 5
37 of section 210-A of the tax law is amended by adding a new subclause (v)
38 to read as follows:

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

43 S 26. Subparagraph 2 of paragraph (a) of subdivision 5 of section
44 210-A of the tax law is amended by adding a new clause (J) to read as
45 follows:

46 (J) MARKED TO MARKET NET GAINS. (I) FOR PURPOSES OF THIS CLAUSE,
47 "MARKED TO MARKET" MEAN THAT A FINANCIAL INSTRUMENT IS, UNDER SECTION
48 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE, TREATED BY THE TAXPAY-
49 ER AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE
50 TAXPAYER'S TAXABLE YEAR. "MARKED TO MARKET GAIN OR LOSS" MEANS THE GAIN
51 OR LOSS RECOGNIZED BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF
52 THE INTERNAL REVENUE CODE BECAUSE THE FINANCIAL INSTRUMENT IS TREATED AS
53 SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXABLE
54 YEAR.

55 (II) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO)
56 FROM EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED

1 IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY MULTI-
2 PLYING THE MARKED TO MARKET NET GAINS (BUT NOT LESS THAN ZERO) FROM SUCH
3 TYPE OF THE FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH
4 IS THE NUMERATOR OF THE APPORTIONMENT FRACTION FOR THE NET GAINS FROM
5 THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE
6 OF THIS SUBPARAGRAPH AND THE DENOMINATOR OF WHICH IS THE DENOMINATOR OF
7 THE APPORTIONMENT FRACTION FOR THE NET GAINS FOR THAT TYPE OF FINANCIAL
8 INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH.
9 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRU-
10 MENTS FOR WHICH THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETER-
11 MINED UNDER THE IMMEDIATELY PRECEDING SENTENCE ARE INCLUDED IN THE
12 DENOMINATOR OF THE APPORTIONMENT FRACTION.

13 (III) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS
14 NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE
15 TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRU-
16 MENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF
17 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINAN-
18 CIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION
19 IS DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT
20 LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION,
21 THE NUMERATOR OF WHICH IS THE SUM OF THE AMOUNT OF RECEIPTS INCLUDED IN
22 THE NUMERATOR OF THE APPORTIONMENT FRACTION UNDER CLAUSES (A), (B), (C),
23 (D), (E), (F), (G), (H) OR (I) OF THIS SUBPARAGRAPH AND SUBCLAUSE (II)
24 OF THIS CLAUSE, AND THE DENOMINATOR OF WHICH IS THE SUM OF THE AMOUNT OF
25 RECIEPTS INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION UNDER
26 CLAUSES (A), (B), (C), (D), (E), (F), (G), (H) OR (I) AND SUBCLAUSE (II)
27 OF THIS CLAUSE. MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR
28 WHICH THE AMOUNT TO BE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT
29 FRACTION IS DETERMINED UNDER THE IMMEDIATELY PRECEDING SENTENCE ARE
30 INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

31 S 27. Paragraph (e) of subdivision 5 of section 210-A of the tax law,
32 as added by section 16 of part A of chapter 59 of the laws of 2014, is
33 amended to read as follows:

34 (e) For purposes of this subdivision, a taxpayer shall use the follow-
35 ing hierarchy to determine the commercial domicile of a business entity,
36 based on the information known to the taxpayer or information that would
37 be known upon reasonable inquiry: (i) [the location of the treasury
38 function of the business entity; (ii)] the seat of management and
39 control of the business entity; and [(iii)] (II) the billing address of
40 the business entity in the taxpayer's records. The taxpayer must exer-
41 cise due diligence before rejecting [a] THE FIRST method in this hierar-
42 chy and proceeding to the next method.

43 S 28. Section 210-A of the tax law is amended by adding a new subdivi-
44 sion 6-a to read as follows:

45 6-A. RECEIPTS FROM THE OPERATION OF VESSELS. RECEIPTS FROM THE OPERA-
46 TION OF VESSELS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-
47 TION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE OPERATION OF VESSELS
48 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY
49 MULTIPLYING THE AMOUNT OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF
50 WHICH IS THE AGGREGATE NUMBER OF WORKING DAYS OF THE VESSELS OWNED OR
51 LEASED BY THE TAXPAYER IN TERRITORIAL WATERS OF THE STATE DURING THE
52 PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH IS
53 THE AGGREGATE NUMBER OF WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY
54 THE TAXPAYER DURING SUCH PERIOD.

55 S 29. The opening paragraph of clause (A) of subparagraph 1 of para-
56 graph (b) of subdivision 7 of section 210-A of the tax law, as added by

1 section 16 of part A of chapter 59 of the laws of 2014, is amended to
2 read as follows:

3 The portion of receipts of a taxpayer from aviation services (other
4 than services described in paragraph (a) of this subdivision, BUT
5 INCLUDING THE RECEIPTS OF A QUALIFIED AIR FREIGHT FORWARDER) to be
6 included in the numerator of the apportionment fraction shall be deter-
7 mined by multiplying its receipts from such aviation services by a
8 percentage which is equal to the arithmetic average of the following
9 three percentages:

10 S 30. Paragraph (b) of subdivision 7 of section 210-A of the tax law
11 is amended by adding a new subparagraph 3 to read as follows:

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

14 (A) IF IT OWNS OR CONTROLS EITHER DIRECTLY OR INDIRECTLY ALL OF THE
15 CAPITAL STOCK OF SUCH OTHER CORPORATION, OR IF ALL OF ITS CAPITAL STOCK
16 IS OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY SUCH OTHER
17 CORPORATION, OR IF ALL OF THE CAPITAL STOCK OF BOTH CORPORATIONS IS
18 OWNED OR CONTROLLED EITHER DIRECTLY OR INDIRECTLY BY THE SAME INTERESTS,

19 (B) IF IT IS PRINCIPALLY ENGAGED IN THE BUSINESS OF AIR FREIGHT
20 FORWARDING, AND

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

23 S 31. Subparagraph (i) of paragraph (b) and paragraph (d) of subdivi-
24 sion 1 of section 210-B of the tax law, as added by section 17 of part A
25 of chapter 59 of the laws of 2014, are amended to read as follows:

26 (i) A credit shall be allowed under this subdivision with respect to
27 tangible personal property and other tangible property, including build-
28 ings and structural components of buildings, which are: depreciable
29 pursuant to section one hundred sixty-seven of the internal revenue
30 code, have a useful life of four years or more, are acquired by purchase
31 as defined in section one hundred seventy-nine (d) of the internal
32 revenue code, have a situs in this state and are (A) principally used by
33 the taxpayer in the production of goods by manufacturing, processing,
34 assembling, refining, mining, extracting, farming, agriculture, horti-
35 culture, floriculture, viticulture or commercial fishing, (B) industrial
36 waste treatment facilities or air pollution control facilities, used in
37 the taxpayer's trade or business, (C) research and development property,
38 or (D) principally used in the ordinary course of the taxpayer's trade
39 or business as a broker or dealer in connection with the purchase or
40 sale (which shall include but not be limited to the issuance, entering
41 into, assumption, offset, assignment, termination, or transfer) of
42 stocks, bonds or other securities as defined in section four hundred
43 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
44 defined in section four hundred seventy-five (e) of the Internal Revenue
45 Code, (E) principally used in the ordinary course of the taxpayer's
46 trade or business of providing investment advisory services for a regu-
47 lated investment company as defined in section eight hundred fifty-one
48 of the Internal Revenue Code, or lending, loan arrangement or loan orig-
49 ination services to customers in connection with the purchase or sale
50 (which shall include but not be limited to the issuance, entering into,
51 assumption, offset, assignment, termination, or transfer) of securities
52 as defined in section four hundred seventy-five (c)(2) of the Internal
53 Revenue Code, (F) [originally] PRINCIPALLY used in the ordinary course
54 of the taxpayer's business as an exchange registered as a national secu-
55 rities exchange within the meaning of sections 3(a)(1) and 6(a) of the
56 Securities Exchange Act of 1934 or a board of trade as defined in

1 [section 1410(a)(1) of the New York Not-for-Profit Corporation Law]
2 SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SECTION FOURTEEN HUNDRED TEN OF THE
3 NOT-FOR-PROFIT CORPORATION LAW or as an entity that is wholly owned by
4 one or more such national securities exchanges or boards of trade and
5 that provides automation or technical services thereto, or (G) princi-
6 pally used as a qualified film production facility including qualified
7 film production facilities having a situs in an empire zone designated
8 as such pursuant to article eighteen-B of the general municipal law,
9 where the taxpayer is providing three or more services to any qualified
10 film production company using the facility, including such services as a
11 studio lighting grid, lighting and grip equipment, multi-line phone
12 service, broadband information technology access, industrial scale elec-
13 trical capacity, food services, security services, and heating, venti-
14 lation and air conditioning. FOR PURPOSES OF CLAUSES (D), (E) AND (F) OF
15 THIS SUBPARAGRAPH, PROPERTY PURCHASED BY A TAXPAYER AFFILIATED WITH A
16 REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISOR, NATIONAL SECU-
17 RITIES EXCHANGE OR BOARD OF TRADE, IS ALLOWED A CREDIT UNDER THIS SUBDI-
18 VISION IF THE PROPERTY IS USED BY ITS AFFILIATED REGULATED BROKER, DEAL-
19 ER, REGISTERED INVESTMENT ADVISOR, NATIONAL SECURITIES EXCHANGE OR BOARD
20 OF TRADE IN ACCORDANCE WITH THIS SUBDIVISION. FOR PURPOSES OF DETERMIN-
21 ING IF THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THE USES BY
22 THE TAXPAYER DESCRIBED IN CLAUSES (D) AND (E) OF THIS SUBPARAGRAPH MAY
23 BE AGGREGATED. IN ADDITION, THE USES BY THE TAXPAYER, ITS AFFILIATED
24 REGULATED BROKER, DEALER AND REGISTERED INVESTMENT ADVISOR UNDER EITHER
25 OR BOTH OF THOSE CLAUSES MAY BE AGGREGATED. Provided, however, a taxpay-
26 er shall not be allowed the credit provided by clauses (D), (E) and (F)
27 of this subparagraph unless THE PROPERTY IS FIRST PLACED IN SERVICE
28 BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN AND (i) eighty percent or
29 more of the employees performing the administrative and support func-
30 tions resulting from or related to the qualifying uses of such equipment
31 are located in this state or (ii) the average number of employees that
32 perform the administrative and support functions resulting from or
33 related to the qualifying uses of such equipment and are located in this
34 state during the taxable year for which the credit is claimed is equal
35 to or greater than ninety-five percent of the average number of employ-
36 ees that perform these functions and are located in this state during
37 the thirty-six months immediately preceding the year for which the cred-
38 it is claimed, or (iii) the number of employees located in this state
39 during the taxable year for which the credit is claimed is equal to or
40 greater than ninety percent of the number of employees located in this
41 state on December thirty-first, nineteen hundred ninety-eight or, if the
42 taxpayer was not a calendar year taxpayer in nineteen hundred ninety-
43 eight, the last day of its first taxable year ending after December
44 thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes
45 subject to tax in this state after the taxable year beginning in nine-
46 teen hundred ninety-eight, then the taxpayer is not required to satisfy
47 the employment test provided in the preceding sentence of this subpara-
48 graph for its first taxable year. For purposes of clause (iii) of this
49 subparagraph the employment test will be based on the number of employ-
50 ees located in this state on the last day of the first taxable year the
51 taxpayer is subject to tax in this state. If the uses of the property
52 must be aggregated to determine whether the property is principally used
53 in qualifying uses, then either each affiliate using the property must
54 satisfy this employment test or this employment test must be satisfied
55 through the aggregation of the employees of the taxpayer, its affiliated
56 regulated broker, dealer, and registered investment adviser using the

1 property. For purposes of this subdivision, the term "goods" shall not
2 include electricity.

3 (d) Except as otherwise provided in this paragraph, the credit allowed
4 under this subdivision for any taxable year shall not reduce the tax due
5 for such year to less than the [higher of the amounts prescribed in
6 paragraphs (c) and] FIXED DOLLAR MINIMUM AMOUNT PRESCRIBED IN PARAGRAPH
7 (d) of subdivision one of [this] section TWO HUNDRED TEN OF THIS
8 ARTICLE. However, if the amount of credit allowable under this subdivi-
9 sion for any taxable year reduces the tax to such amount OR IF THE
10 TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT,
11 any amount of credit allowed for a taxable year commencing prior to
12 January first, nineteen hundred eighty-seven and not deductible in such
13 taxable year may be carried over to the following year or years and may
14 be deducted from the taxpayer's tax for such year or years but in no
15 event shall such credit be carried over to taxable years commencing on
16 or after January first, two thousand two, and any amount of credit
17 allowed for a taxable year commencing on or after January first, nine-
18 teen hundred eighty-seven and not deductible in such year may be carried
19 over to the fifteen taxable years next following such taxable year and
20 may be deducted from the taxpayer's tax for such year or years. In lieu
21 of such carryover, any such taxpayer which qualifies as a new business
22 under paragraph [(j)] (F) of this subdivision may elect to treat the
23 amount of such carryover as an overpayment of tax to be credited or
24 refunded in accordance with the provisions of section ten hundred eight-
25 y-six of this chapter, provided, however, the provisions of subsection
26 (c) of section ten hundred eighty-eight of this chapter notwithstanding,
27 no interest shall be paid thereon.

28 S 32. Subdivision 27 of section 210-B of the tax law, as added by
29 section 17 of part A of chapter 59 of the laws of 2014, is amended to
30 read as follows:

31 27. Credits of New York S corporations. (a) General. Notwithstanding
32 the provisions of this section, no carryover of credit allowable in a
33 New York C year shall be deducted from the tax otherwise due under this
34 article in a New York S year, and no credit allowable in a New York S
35 year, or carryover of such credit, shall be deducted from the tax
36 imposed by this article. However, a New York S year shall be treated as
37 a taxable year for purposes of determining the number of taxable years
38 to which a credit may be carried over under this section. Notwithstand-
39 ing the first sentence of this subdivision, however, the credit for the
40 special additional mortgage recording tax shall be allowed as provided
41 in subdivision [fifteen] NINE of this section, and the carryover of any
42 such credit shall be determined without regard to whether the credit is
43 carried from a New York C year to a New York S year or vice-versa.

44 S 33. Subdivision 1, subparagraphs (i) and (ii) of paragraph (d) and
45 paragraphs (d-1) and (e) of subdivision 4, and subdivision 7 of section
46 210-C of the tax law, as added by section 18 of part A of chapter 59 of
47 the laws of 2014, are amended to read as follows:

48 1. Tax. (A) The tax on a combined report shall be the highest of (i)
49 the combined business income base multiplied by the tax rate specified
50 in paragraph (a) of subdivision one of section two hundred ten of this
51 article; (ii) the combined capital base multiplied by the tax rate spec-
52 ified in paragraph (b) of subdivision one of section two hundred ten of
53 this article, but not exceeding the limitation provided for in that
54 paragraph (b); or (iii) the fixed dollar minimum that is attributable to
55 the designated agent of the combined group. In addition, the tax on a
56 combined report shall include the fixed dollar minimum tax specified in

1 paragraph (d) of subdivision one of section two hundred ten of this
2 article for each member of the combined group, other than the designated
3 agent, that is a taxpayer.

4 (b) The combined business income base is the amount of the combined
5 business income of the combined group that is apportioned to the state,
6 reduced by any PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY
7 net operating loss deduction for the combined group. The combined capi-
8 tal base is the amount of the combined capital of the combined group
9 that is apportioned to the state.

10 (i) A net operating loss deduction is allowed in computing the
11 combined business income base. Such deduction may reduce the tax on the
12 combined business income base to the higher of the tax on the combined
13 capital base or the fixed dollar minimum amount that is attributable to
14 the designated agent of the combined group. A combined net operating
15 loss deduction is equal to the amount of combined net operating loss or
16 losses from one or more taxable years that are carried forward OR
17 CARRIED BACK to a particular [income] TAXABLE year. A combined net oper-
18 ating loss is the combined business loss incurred in a particular taxa-
19 ble year multiplied by the combined apportionment factor for that year
20 determined as provided in subdivision five of this section.

21 (ii) The combined net operating loss deduction and combined net oper-
22 ating loss are also subject to the provisions contained in clauses one
23 through [six] SEVEN of subparagraph (ix) of paragraph (a) of subdivision
24 one of section two hundred ten of this article.

25 (d-1) A PRIOR net operating loss conversion subtraction is allowed in
26 computing the combined business income base, as provided in subparagraph
27 (viii) of paragraph (a) of subdivision one of section two hundred ten of
28 this article. Such subtraction may reduce the tax on the combined busi-
29 ness income base to the higher of the tax on the combined capital base
30 or the fixed dollar minimum amount that is attributable to the desig-
31 nated agent of the combined group.

32 (e) Any election made pursuant to paragraph (b) of subdivision six,
33 [and] paragraphs (b) and (c) of subdivision six-a of section two hundred
34 eight, AND ITEM (IV) OF SUBCLAUSE TWO OF CLAUSE (B) OF SUBPARAGRAPH
35 (VIII) AND CLAUSE SEVEN OF SUBPARAGRAPH (IX) OF PARAGRAPH (A) OF SUBDI-
36 VISION ONE OF SECTION TWO HUNDRED TEN of this article shall apply to all
37 members of the combined group.

38 7. Designated agent. Each combined group shall have one designated
39 agent FOR THE COMBINED GROUP, which shall be a taxpayer. [The designated
40 agent is the parent corporation of the combined group. If there is no
41 such parent corporation, or the parent corporation is not a taxpayer,
42 then another member of the combined group that is a taxpayer may be
43 appointed as the designated agent.] Only the designated agent may act on
44 behalf of the members of the combined group for matters relating to the
45 combined report.

46 S 34. Paragraph 1 of subdivision (c) of section 40 of the tax law, as
47 added by section 4 of part A of chapter 68 of the laws of 2013, is
48 amended to read as follows:

49 (1) ascertaining the percentage that the average value of the busi-
50 ness's real and tangible personal property, whether owned or rented to
51 it, in the tax-free NY area in which the business was located during the
52 period covered by the taxpayer's report or return bears to the average
53 value of the business's real and tangible personal property, whether
54 owned or rented to it, within the state during such period; provided
55 that the term "value of the business's real and tangible personal prop-
56 erty" shall have the same meaning as such term has in [subparagraph one

1 of] paragraph (a) of subdivision [three] TWO of section [two hundred
2 ten] TWO HUNDRED NINE-B of this chapter; and

3 S 35. Clause (ii) of subparagraph (B) of paragraph 2 of subdivision
4 (d) of section 40 of the tax law, as added by section 4 of part A of
5 chapter 68 of the laws of 2013, is amended to read as follows:

6 (ii) For purposes of article nine-A of this chapter, the term "part-
7 ner's income from the partnership" means partnership items of income,
8 gain, loss and deduction, and New York modifications thereto, entering
9 into [entire net] BUSINESS income [or minimum taxable income] and the
10 term "partner's entire income" means [entire net] BUSINESS income [or
11 minimum taxable income], allocated within the state. For purposes of
12 article twenty-two of this chapter, the term "partner's income from the
13 partnership" means partnership items of income, gain, loss and
14 deduction, and New York modifications thereto, entering into New York
15 adjusted gross income, and the term "partner's entire income" means New
16 York adjusted gross income.

17 S 36. Subparagraph (C) of paragraph 2 of subdivision (d) of section 40
18 of the tax law, as added by section 4 of part A of chapter 68 of the
19 laws of 2013, is amended to read as follows:

20 (C) (I) Where the taxpayer is a shareholder of a New York S corpo-
21 ration that is a business located in a tax-free NY area, the sharehold-
22 er's tax factor shall be that portion of the amount determined in para-
23 graph one of this subdivision that is attributable to the income of the
24 S corporation. Such attribution shall be made in accordance with the
25 ratio of the shareholder's income from the S corporation allocated with-
26 in the state, entering into New York adjusted gross income, to the
27 shareholder's New York adjusted gross income, or in accordance with such
28 other methods as the commissioner may prescribe as providing an appor-
29 tionment that reasonably reflects the portion of the shareholder's tax
30 attributable to the income of such business. The income of the S corpo-
31 ration allocated within the state shall be determined by multiplying the
32 income of the S corporation by [the] A business allocation factor
33 [computed under paragraph (a) of subdivision three of section two
34 hundred ten of this article without regard to subparagraph ten of such
35 paragraph (a)] THAT SHALL BE DETERMINED IN CLAUSE (II) OF THIS SUBPARA-
36 GRAPH. In no event may the ratio so determined exceed 1.0.

37 (II) THE BUSINESS ALLOCATION FACTOR FOR PURPOSES OF THIS SUBPARAGRAPH
38 SHALL BE COMPUTED BY ADDING TOGETHER THE PROPERTY FACTOR SPECIFIED IN
39 SUBCLAUSE (I) OF THIS CLAUSE, THE WAGE FACTOR SPECIFIED IN SUBCLAUSE
40 (II) OF THIS CLAUSE AND THE APPORTIONMENT FACTOR DETERMINED UNDER
41 SECTION TWO HUNDRED TEN-A OF THIS CHAPTER AND DIVIDING BY THREE.

42 (I) THE PROPERTY FACTOR SHALL BE DETERMINED BY ASCERTAINING THE
43 PERCENTAGE THAT THE AVERAGE VALUE OF THE BUSINESS'S REAL AND TANGIBLE
44 PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN THE STATE
45 DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT OR RETURN BEARS TO
46 THE AVERAGE VALUE OF THE BUSINESS'S REAL AND TANGIBLE PERSONAL PROPERTY,
47 WHETHER OWNED OR RENTED TO IT, WITHIN AND WITHOUT THE STATE DURING SUCH
48 PERIOD; PROVIDED THAT THE TERM "VALUE OF THE BUSINESS'S REAL AND TANGI-
49 BLE PERSONAL PROPERTY" SHALL HAVE THE SAME MEANING AS SUCH TERM HAS IN
50 PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWO HUNDRED NINE-B OF THIS
51 CHAPTER.

52 (II) THE WAGE FACTOR SHALL BE DETERMINED BY ASCERTAINING THE PERCENT-
53 AGE THAT THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPEN-
54 SATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT
55 GENERAL EXECUTIVE OFFICERS, EMPLOYED AT THE BUSINESS'S LOCATION OR
56 LOCATIONS WITHIN THE STATE, BEARS TO THE TOTAL WAGES, SALARIES AND OTHER

1 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD,
2 OF ALL THE BUSINESS'S EMPLOYEES WITHIN AND WITHOUT THE STATE, EXCEPT
3 GENERAL EXECUTIVE OFFICERS.

4 S 37. Subparagraph (B) of paragraph 3 of subdivision (d) of section 40
5 of the tax law, as added by section 4 of part A of chapter 68 of the
6 laws of 2013, is amended to read as follows:

7 (B) The term "income of the business located in a tax-free NY area"
8 means [entire net] BUSINESS income [or minimum taxable income] calcu-
9 lated as if the taxpayer was filing separately and the term "combined
10 group's income" means [entire net] BUSINESS income [or minimum taxable
11 income] as shown on the combined report, allocated within the state.

12 S 38. Paragraph 1 of subdivision (e) of section 40 of the tax law, as
13 added by section 4 of part A of chapter 68 of the laws of 2013, is
14 amended to read as follows:

15 (1) Article 9-A: section [210] 210-B, subdivision [47] 41.

16 S 39. Paragraph 1 of subsection (i) of section 660 of the tax law, as
17 amended by section 74 of part A of chapter 59 of the laws of 2014, is
18 amended to read as follows:

19 (1) Notwithstanding the provisions in subsection (a) of this section,
20 in the case of an eligible S corporation for which the election under
21 subsection (a) of this section is not in effect for the current taxable
22 year, the shareholders of an eligible S corporation are deemed to have
23 made that election effective for the eligible S corporation's entire
24 current taxable year, if the eligible S corporation's investment income
25 for the current taxable year is more than fifty percent of its federal
26 gross income for such year. In determining WHETHER an eligible S [corpo-
27 ration's investment income] CORPORATION IS DEEMED TO HAVE MADE THAT
28 ELECTION, the [investment] income of a qualified subchapter S subsidiary
29 owned directly or indirectly by the eligible S corporation shall be
30 included WITH THE INCOME OF THE ELIGIBLE S CORPORATION.

31 S 40. This act shall take effect immediately and shall be deemed to be
32 in full force and effect on the same date as part A of chapter 59 of the
33 laws of 2014.

34 PART U

35 Section 1. Paragraph 33 of subdivision (a) of section 1115 of the tax
36 law, as added by section 99 of part A of chapter 389 of the laws of
37 1997, is amended to read as follows:

38 (33) Wine or wine product, AND THE BOTTLES, CORKS, CAPS, AND LABELS
39 USED TO PACKAGE SUCH WINE OR WINE PRODUCT, furnished by the official
40 agent of a farm winery, winery, wholesaler, or importer at a wine tast-
41 ing held in accordance with [section eighty of] the alcoholic beverage
42 control law to a customer or prospective customer who consumes such wine
43 at such wine tasting.

44 S 2. Section 1118 of the tax law is amended by adding a new subdivi-
45 sion (13) to read as follows:

46 (13) IN RESPECT TO THE USE OF THE FOLLOWING ITEMS AT A TASTING HELD BY
47 A LICENSED BREWERY, FARM BREWERY, CIDER PRODUCER, FARM CIDERY, DISTIL-
48 LERY OR FARM DISTILLERY IN ACCORDANCE WITH THE ALCOHOLIC BEVERAGE
49 CONTROL LAW: (I) THE ALCOHOLIC BEVERAGE OR BEVERAGES AUTHORIZED BY THE
50 ALCOHOLIC BEVERAGE CONTROL LAW TO BE FURNISHED AT NO CHARGE TO A CUSTOM-
51 ER OR PROSPECTIVE CUSTOMER AT SUCH TASTING FOR CONSUMPTION AT SUCH TAST-
52 ING; AND (II) BOTTLES, CORKS, CAPS AND LABELS USED TO PACKAGE SUCH ALCO-
53 HOLIC BEVERAGES.

1 S 3. This act shall take effect immediately, provided, however,
2 section two of this act shall take effect June 1, 2015 and shall apply
3 in accordance with the transition provisions of section 1106 and 1217 of
4 the tax law.

5 PART V

6 Section 1. Paragraph 22 of subdivision (b) of section 1101 of the tax
7 law, as amended by chapter 651 of the laws of 1999, is amended to read
8 as follows:

9 (22) (A) "Prepaid telephone calling service" means the right to exclu-
10 sively purchase telecommunication services, that must be paid for in
11 advance and enable the origination of one or more intrastate, interstate
12 or international telephone calls using an access number (such as a toll
13 free network access number) and/or authorization code, whether manually
14 or electronically dialed, for which payment to a vendor must be made in
15 advance, whether or not that right is represented by the transfer by the
16 vendor to the purchaser of an item of tangible personal property. SUCH
17 TERM INCLUDES A PREPAID MOBILE CALLING SERVICE. In no event shall a
18 credit card constitute a prepaid telephone calling service. If the sale
19 or recharge of a prepaid telephone calling service does not take place
20 at the vendor's place of business, it shall be conclusively determined
21 to take place at the purchaser's shipping address or, if there is no
22 item shipped, at the purchaser's billing address or the location associ-
23 ated with the purchaser's mobile telephone number, OR, IF THE VENDOR
24 DOES NOT HAVE THE ADDRESS OR THE LOCATION ASSOCIATED WITH THE CUSTOMER'S
25 MOBILE TELEPHONE NUMBER, AT SUCH ADDRESS, AS APPROVED BY THE COMMISSION-
26 ER, THAT REASONABLY REFLECTS THE CUSTOMER'S LOCATION AT THE TIME OF THE
27 SALE OR RECHARGE.

28 (B) "PREPAID MOBILE CALLING SERVICE" MEANS THE RIGHT TO USE A COMMER-
29 CIAL MOBILE RADIO SERVICE, WHETHER OR NOT SOLD WITH OTHER PROPERTY OR
30 SERVICES, THAT MUST BE PAID FOR IN ADVANCE AND IS SOLD IN PREDETERMINED
31 UNITS OR DOLLARS THAT DECLINE WITH USE IN A KNOWN AMOUNT, WHETHER OR NOT
32 THAT RIGHT IS REPRESENTED BY OR INCLUDES THE TRANSFER TO THE PURCHASER
33 OF AN ITEM OF TANGIBLE PERSONAL PROPERTY.

34 S 2. This act shall take effect immediately.

35 PART W

36 Section 1. The section heading and subdivisions 1, 2, 3, 4, 6, 7 and 9
37 of section 875 of the general municipal law, as added by section 2 of
38 part J of chapter 59 of the laws of 2013, are amended to read as
39 follows:

40 Special provisions applicable to state [sales and compensating use]
41 taxes and certain types of facilities. 1. For purposes of this section:
42 "state sales and use taxes" means sales and compensating use taxes and
43 fees imposed by article twenty-eight or twenty-eight-A of the tax law
44 but excluding such taxes imposed in a city by section eleven hundred
45 seven or eleven hundred eight of such article twenty-eight. "STATE
46 TAXES" MEANS ANY OR ALL OF THE FOLLOWING: STATE SALES AND USE TAXES, ANY
47 MORTGAGE RECORDING TAX IMPOSED UNDER SECTION TWO HUNDRED FIFTY-THREE OF
48 THE TAX LAW, ANY STATE REAL ESTATE TRANSFER TAX IMPOSED BY ARTICLE THIR-
49 TY-ONE OF THE TAX LAW. "IDA" means an industrial development agency
50 established by this article or an industrial development authority
51 created by the public authorities law. "Commissioner" means the commis-

1 sioner of taxation and finance. "ABO" MEANS THE AUTHORITIES BUDGET
2 OFFICE ESTABLISHED BY SECTION FOUR OF THE PUBLIC AUTHORITIES LAW.

3 2. An IDA shall keep records of the amount of state and local sales
4 and use tax exemption benefits AND ANY OTHER STATE TAX EXEMPTION BENE-
5 FITS provided to each project and each agent or project operator and
6 shall make such records available to the commissioner upon request. Such
7 IDA shall also, within thirty days of providing financial assistance to
8 a project that includes any amount of state [sales and use] tax
9 exemption benefits, report to the commissioner the amount of such bene-
10 fits for such project, the project to which they are being provided,
11 together with such other information and such specificity and detail as
12 the commissioner may prescribe. This report may be made in conjunction
13 with the statement required by subdivision nine of section eight hundred
14 seventy-four of this title or it may be made as a separate report, at
15 the discretion of the commissioner. An IDA that fails to make such
16 records available to the commissioner or to file such reports shall be
17 prohibited from providing ANY state [sales and use] tax exemption bene-
18 fits for any project unless and until such IDA comes into compliance
19 with all such requirements.

20 3. (a) An IDA shall include within its resolutions and project docu-
21 ments establishing any project or appointing an agent or project opera-
22 tor for any project the terms and conditions in this subdivision, and
23 every agent, project operator or other person or entity that shall enjoy
24 ANY state [sales and use] tax exemption benefits provided by an IDA
25 shall agree to such terms as a condition precedent to receiving or bene-
26 fitting from ANY such state [sales and use exemptions] TAX EXEMPTION
27 benefits.

28 (b) The IDA shall recover, recapture, receive, or otherwise obtain
29 from an agent, project operator or other person or entity ANY state
30 [sales and use exemptions] TAX EXEMPTION benefits taken or purported to
31 be taken by any such person to which the person is not entitled or which
32 are in excess of the amounts authorized or, AS TO STATE SALES AND USE
33 TAXES, which are for property or services not authorized or taken in
34 cases where such agent or project operator, or other person or entity
35 failed to comply with a material term or condition to use property or
36 services in the manner required by the person's agreement with the IDA.
37 Such agent or project operator, or other person or entity shall cooper-
38 ate with the IDA in its efforts to recover, recapture, receive, or
39 otherwise obtain ANY such state [sales and use] TAX exemptions benefits
40 and shall promptly pay over any such amounts to the IDA that it
41 requests. The failure to pay over such amounts to the IDA shall be
42 grounds for the commissioner to assess and determine state [sales and
43 use] taxes due from the person under [article twenty-eight of] the tax
44 law, together with any relevant penalties and interest due on such
45 amounts.

46 (c) If an IDA recovers, recaptures, receives, or otherwise obtains,
47 any amount of state [sales and use] tax exemption benefits from an
48 agent, project operator or other person or entity, the IDA shall, within
49 thirty days of coming into possession of such amount, remit it to the
50 commissioner, together with such information and report that the commis-
51 sioner deems necessary to administer payment over of such amount. An
52 IDA shall join the commissioner as a party in any action or proceeding
53 that the IDA commences to recover, recapture, obtain, or otherwise seek
54 the return of, ANY state [sales and use] tax exemption benefits from an
55 agent, project operator or other person or entity.

1 (d) An IDA shall prepare an annual compliance report detailing its
2 terms and conditions described in paragraph (a) of this subdivision and
3 its activities and efforts to recover, recapture, receive, or otherwise
4 obtain ANY state [sales and use exemptions] TAX EXEMPTION benefits
5 described in paragraph (b) of this subdivision, together with such other
6 information as the commissioner and the commissioner of economic devel-
7 opment may require. The report required by this subdivision shall be
8 filed with the commissioner, the director of the division of the budget,
9 the commissioner of economic development, the state comptroller, the
10 governing body of the municipality for whose benefit the agency was
11 created, and may be included with the annual financial statement
12 required by paragraph (b) of subdivision one of section eight hundred
13 fifty-nine of this title. Such report required by this subdivision shall
14 be filed regardless of whether the IDA is required to file such finan-
15 cial statement described by such paragraph (b) of subdivision one of
16 section eight hundred fifty-nine. The failure to file or substantially
17 complete the report required by this subdivision shall be deemed to be
18 the failure to file or substantially complete the statement required by
19 such paragraph (b) of subdivision one of such section eight hundred
20 fifty-nine, and the consequences shall be the same as provided in para-
21 graph (e) of subdivision one of such section eight hundred fifty-nine.

22 (e) This subdivision shall apply to any amounts of state [sales and
23 use] tax exemption benefits that an IDA recovers, recaptures, receives,
24 or otherwise obtains, regardless of whether the IDA or the agent,
25 project operator or other person or entity characterizes such benefits
26 recovered, recaptured, received, or otherwise obtained, as a penalty or
27 liquidated or contract damages or otherwise. The provisions of this
28 subdivision shall also apply to any interest or penalty that the IDA
29 imposes on any such amounts or that are imposed on such amounts by oper-
30 ation of law or by judicial order or otherwise. Any such amounts or
31 payments that an IDA recovers, recaptures, receives, or otherwise
32 obtains, together with any interest or penalties thereon, shall be
33 deemed to be state sales and use taxes, MORTGAGE RECORDING TAX, OR REAL
34 ESTATE TRANSFER TAX, AS THE CASE MAY BE, and the IDA shall receive any
35 such amounts or payments, whether as a result of court action or other-
36 wise, as trustee for and on account of the state.

37 4. The commissioner shall deposit and dispose of any amount of any
38 payments or moneys received from or paid over by an IDA or from or by
39 any person or entity, or received pursuant to an action or proceeding
40 commenced by an IDA, together with any interest or penalties thereon,
41 pursuant to subdivision three of this section, as state sales and use
42 taxes in accord with the provisions of article twenty-eight of the tax
43 law, OR AS MORTGAGE RECORDING TAX IMPOSED UNDER SECTION TWO HUNDRED
44 FIFTY-THREE OF THE TAX LAW OR REAL ESTATE TRANSFER TAX IMPOSED UNDER
45 ARTICLE THIRTY-ONE OF THE TAX LAW, AS THE CASE MAY BE. The amount of
46 any such payments or moneys IN RESPECT OF SALES OR USE TAXES, together
47 with any interest or penalties thereon, shall be attributed to the taxes
48 imposed by sections eleven hundred five and eleven hundred ten, on the
49 one hand, and section eleven hundred nine of the tax law, on the other
50 hand, or to any like taxes or fees imposed by such article, based on the
51 proportion that the rates of such taxes or fees bear to each other,
52 unless there is evidence to show that only one or the other of such
53 taxes or fees was imposed or received or paid over.

54 6. The commissioner is hereby authorized to audit the records,
55 actions, and proceedings of an IDA and of its agents and project opera-
56 tors to ensure that the IDA and its agents and project operators comply

1 with all the requirements of this section. IN ADDITION, THE COMMISSION-
2 ER IS HEREBY AUTHORIZED TO AUDIT IDA PROJECTS AND IDA AGENTS AND PROJECT
3 OPERATORS WITH REGARD TO THE REQUIREMENTS AND RESTRICTIONS OF THIS TITLE
4 AND TITLE ELEVEN OR FIFTEEN OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES
5 LAW TO ENSURE THAT JOB TARGETS, INVESTMENT TARGETS, CONSTRUCTION, AND
6 EXPENDITURES DESCRIBED IN SUBDIVISION FIVE-A OF THIS SECTION, AND ANY
7 EXEMPTIONS FROM ANY STATE TAXES OR FROM LOCAL SALES AND COMPENSATING USE
8 TAXES ADMINISTERED BY THE COMMISSIONER COMPLY WITH THE DETAILS OF THE
9 PROJECT AND THE APPLICATION AS APPROVED BY THE DEPARTMENT OF ECONOMIC
10 DEVELOPMENT UNDER SUCH SUBDIVISION FIVE-A. IN ADDITION, THE DEPARTMENT
11 OF ECONOMIC DEVELOPMENT, THE ABO, OR ANOTHER PERSON OR ENTITY MAY REPORT
12 TO THE COMMISSIONER THAT AN AGENT OR PROJECT OPERATOR HAS NOT MET ANY
13 SUCH TARGETS OR GOALS OR OTHERWISE COMPLIED WITH ANY SUCH PROVISIONS. IF
14 THE COMMISSIONER FINDS THAT ANY SUCH JOB TARGETS, INVESTMENT TARGETS,
15 CONSTRUCTION, EXPENDITURES, OR TAX EXEMPTION PROVISIONS OR OTHER CONDI-
16 TIONS OR PROVISIONS HAVE NOT BEEN MET OR COMPLIED WITH, THE COMMISSIONER
17 SHALL DETERMINE THE AMOUNT OF ANY EXEMPTION FROM STATE TAXES THAT THE
18 AGENT OR PROJECT OPERATOR CLAIMED AND SUCH AGENT OR PROJECT OPERATOR
19 SHALL PAY SUCH AMOUNTS AS TAX. IF THE COMMISSIONER FINDS THAT THE AGENT
20 OR PROJECT OPERATOR HAS PARTIALLY MET SUCH TARGETS, GOALS, OR CONDI-
21 TIONS, THE COMMISSIONER MAY DETERMINE THE DEGREE OF COMPLIANCE TO DETER-
22 MINE THE AMOUNT OF SUCH TAX EXEMPTIONS CLAIMED THAT THE AGENT OR PROJECT
23 OPERATOR MUST PAY AS TAX. IN MAKING SUCH COMPLIANCE DETERMINATION, THE
24 COMMISSIONER MAY CONSIDER THE NUMBER OF YEARS OR OTHER PERIOD OF TIME IN
25 WHICH SUCH AGENT OR PROJECT OPERATOR MET THE TARGETS, GOALS, OR CONDI-
26 TIONS, AS COMPARED TO THE TOTAL YEARS OR OTHER PERIOD OF TIME OF THE
27 PROJECT, THE PERCENTAGE OF COMPLIANCE WITH REGARD TO THE NUMBER OF JOBS
28 CREATED AS COMPARED TO THE JOB TARGETS, THE SEVERITY OF FAILURE TO
29 COMPLY WITH TAX EXEMPTION LIMITATIONS BASED ON THE NUMBER OF DOLLARS BY
30 WHICH THE AGENT OR PROJECT OPERATOR EXCEEDED THE ALLOWED AMOUNT OF TAX
31 EXEMPTIONS APPROVED, AND SUCH OTHER FACTORS AS THE COMMISSIONER DEEMS
32 REASONABLE AND PERTINENT. THE COMMISSIONER SHALL BE AUTHORIZED TO
33 ASSESS OR OTHERWISE BILL THE AGENT OR PROJECT OPERATOR FOR ANY SUCH
34 AMOUNTS THAT THE COMMISSIONER DETERMINED THE AGENT OR PROJECT OPERATOR
35 MUST PAY AS TAX, IN THE MANNER THAT THE COMMISSIONER WOULD ASSESS OR
36 BILL FOR THE TAX FROM WHICH SUCH EXEMPTIONS WERE CLAIMED. Any informa-
37 tion the commissioner finds in the course of ANY such audit may be used
38 by the commissioner to assess and determine state and local taxes of the
39 IDA's agent or project operator.

40 7. In addition to any other reporting or filing requirements an IDA
41 has under this article or other law, an IDA shall [also] MAINTAIN A
42 PUBLIC INTERNET WEB SITE AND report and make available on [the internet]
43 SUCH WEB SITE, without charge, copies of its resolutions and agreements
44 appointing an agent or project operator or otherwise related to any
45 project it establishes. IN ADDITION, EVERY IDA SHALL POST ON SUCH WEB
46 SITE THE FOLLOWING INFORMATION AND SHALL TIMELY UPDATE ALL SUCH INFORMA-
47 TION SO THAT IT REMAINS CURRENT AND ACCURATE WITHIN THIRTY DAYS OF ANY
48 CHANGE:

- 49 (A) THE NAME AND TITLE OF EACH MEMBER AND OFFICER OF THE IDA,
- 50 (B) PUBLIC NOTICE OF EVERY MEETING TO BE HELD BY THE IDA, AS REQUIRED
51 BY SUBDIVISION FIVE-C OF THIS SECTION;
- 52 (C) THE AGENDA OF EVERY SUCH MEETING TO BE HELD, AT LEAST TEN DAYS
53 PRIOR TO THE COMMENCEMENT OF THE MEETING;
- 54 (D) MINUTES OF EVERY MEETING THE IDA HOLDS, TOGETHER WITH THE DETAILS
55 OF EVERY VOTE EACH MEMBER OF THE IDA CASTS AT ANY MEETING; AND

1 (E) A DESCRIPTION OF EVERY PROJECT ESTABLISHED BY THE IDA, TOGETHER
2 WITH A DESCRIPTION OF ANY STATE OR LOCAL TAX EXEMPTION BENEFITS THE IDA
3 INTENDS TO PROVIDE OR EXTEND IN DURATION, OR HAS PROVIDED OR EXTENDED,
4 WITH RESPECT TO THE PROJECT, INCLUDING WHAT THE EXEMPTION APPLIES TO,
5 THE TYPE OF TAX EXEMPTED OR TO BE EXEMPTED AND THE DURATION AND ANNUAL
6 AND TOTAL DOLLAR VALUE OF EACH SUCH EXEMPTION.

7 It shall also provide, without charge, copies of all such reports and
8 information to a person who asks for [it] ANY OF THEM in writing or in
9 person. The IDA may, at the request of its agent or project operator
10 delete from any such copies posted on the internet or provided to a
11 person described in the prior sentence portions of its records that are
12 specifically exempted from disclosure under article six of the public
13 officers law. IF THE ABO FINDS, ON ITS OWN, OR AFTER RECOMMENDATION BY
14 THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE COMMISSIONER, OR ANY OTHER
15 PERSON OR ENTITY, THAT AN IDA HAS FAILED TO COMPLY WITH THE REQUIREMENTS
16 OF THIS SECTION, THE ABO SHALL ADVISE THE IDA OF ITS FINDINGS, AND THE
17 IDA SHALL HAVE THIRTY DAYS TO COME INTO COMPLIANCE. IF THE IDA FAILS TO
18 DO SO, THE IDA SHALL NOT BE ABLE TO ESTABLISH ANY PROJECT OR PROVIDE ANY
19 FINANCIAL ASSISTANCE IN THE NATURE OF EXEMPTIONS FROM ANY STATE TAXES;
20 AND THE ABO SHALL NOTIFY THE DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE
21 COMMISSIONER, AND THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL NOT
22 APPROVE ANY APPLICATION FROM THE IDA FOR ANY STATE TAX EXEMPTIONS.

23 9. To the extent that a provision of this section conflicts with a
24 provision of any other section of this article OR WITH A PROVISION OF
25 TITLE ELEVEN OR FIFTEEN OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW,
26 the provisions of this section shall control.

27 S 2. Section 875 of the general municipal law is amended by adding
28 three new subdivisions 5-a, 5-b, and 5-c, to read as follows:

29 5-A. IN ADDITION TO ANY OTHER REQUIREMENT OF THIS ARTICLE OR OTHER
30 LAW: EVERY IDA AND ITS MEMBERS AND OFFICERS SHALL COMPLY WITH THE
31 APPLICABLE PROVISIONS OF THE PUBLIC OFFICERS LAW, INCLUDING AMONG OTHER
32 THINGS THE OPEN MEETINGS LAW AND THE FREEDOM OF INFORMATION LAW, THE
33 APPLICABLE PROVISIONS OF THE PUBLIC AUTHORITIES LAW, AND THIS TITLE. IF
34 THE ABO OR ANY OTHER PERSON OR ENTITY FINDS THAT AN IDA OR ITS MEMBER OR
35 OFFICER HAS FAILED TO COMPLY WITH AN APPLICABLE PROVISION OF THE PUBLIC
36 OFFICERS LAW OR OF THE PUBLIC AUTHORITIES LAW, OR WITH THIS TITLE, THE
37 ABO OR SUCH OTHER PERSON OR ENTITY SHALL NOTIFY THE DEPARTMENT OF
38 ECONOMIC DEVELOPMENT OF SUCH NON-COMPLIANCE. THE DEPARTMENT OF ECONOMIC
39 DEVELOPMENT SHALL NOT APPROVE ANY PROJECT OR BENEFITS FOR A PROJECT
40 UNLESS AND UNTIL THE IDA AND ITS MEMBER OR OFFICER CORRECTS OR CAUSES TO
41 BE CORRECTED SUCH NON-COMPLIANCE AND THE ABO HAS CERTIFIED THAT SUCH
42 COMPLIANCE HAS BEEN ACHIEVED; AND SUCH IDA SHALL, AMONG OTHER THINGS,
43 NOT PROVIDE OR EXTEND IN DURATION ANY FINANCIAL ASSISTANCE CONSISTING OF
44 EXEMPTION FROM ANY STATE TAX TO ANY PROJECT. SUCH AN IDA THAT HAS BEEN
45 FOUND NOT TO BE IN COMPLIANCE SHALL BE REQUIRED TO CORRECT ANY SUCH
46 NON-COMPLIANCE AND DEMONSTRATE ITS COMPLIANCE TO THE SATISFACTION OF THE
47 ABO, BEFORE ANY SUCH STATE TAX EXEMPTION BENEFIT SHALL BE VALID.

48 5-B. IN ADDITION TO ANY OTHER REQUIREMENT OF THIS ARTICLE OR OTHER
49 LAW: (A) AN IDA SHALL BE REQUIRED TO APPLY FOR AND OBTAIN PRIOR
50 APPROVAL FROM THE DEPARTMENT OF ECONOMIC DEVELOPMENT BEFORE THE IDA CAN
51 PROVIDE FINANCIAL ASSISTANCE CONSISTING OF ANY EXEMPTION FROM STATE
52 TAXES WITH RESPECT TO A PROJECT, OR BEFORE IT CAN INCREASE OR EXTEND IN
53 DURATION ANY SUCH FINANCIAL ASSISTANCE. THE IDA SHALL SUBMIT ITS APPLI-
54 CATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT USING A FORM PRESCRIBED
55 BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT IN CONSULTATION WITH THE ABO.
56 SUCH APPLICATION SHALL INCLUDE THE TYPES AND AMOUNTS OF FINANCIAL

1 ASSISTANCE PROPOSED TO BE OFFERED; IDA'S TARGET FOR THE NUMBER OF FULL-
2 TIME EQUIVALENT JOBS TO BE CREATED IN EACH YEAR OF SUCH PROJECT; THE
3 IDA'S TARGET FOR INVESTMENTS IN EACH YEAR OF SUCH PROJECT; A SCHEDULE OF
4 CONSTRUCTION, IF ANY; AND A PLAN OF EXPENDITURES BY THE AGENT OR PROJECT
5 OPERATOR. SUCH APPLICATION SHALL ALSO INCLUDE COPIES OF THE IDA'S NOTICE
6 OF PUBLIC MEETING REGARDING THE PROJECT, MINUTES OF THE MEETING'S
7 PROCEEDINGS, DETAILS OF VOTES TAKEN AT THE MEETING, AND SUCH OTHER DOCU-
8 MENTS AND OTHER INFORMATION AS THE DEPARTMENT OF ECONOMIC DEVELOPMENT OR
9 THE ABO MAY REQUIRE.

10 (B) IF THE IDA SUBMITS A COMPLETE APPLICATION IN PROCESSIBLE FORM,
11 TOGETHER WITH ANY SUCH REQUIRED DOCUMENTS AND OTHER INFORMATION, THE
12 DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL APPROVE OR DENY SUCH APPLICA-
13 TION WITHIN FORTY-FIVE DAYS. IF THE DEPARTMENT OF ECONOMIC DEVELOPMENT
14 DOES NOT ACT ON SUCH APPLICATION WITHIN FORTY-FIVE DAYS OF RECEIVING IT,
15 SUCH APPLICATION SHALL BE DEEMED APPROVED. AN APPLICATION SHALL NOT BE
16 COMPLETE AND IN PROCESSIBLE FORM UNLESS IT INCLUDES, AMONG OTHER THINGS,
17 A CONSTRUCTION SCHEDULE, AND SPECIFIC JOB CREATION AND INVESTMENT
18 TARGETS FOR EACH YEAR THAT THE IDA'S PROPOSED PROJECT WOULD BE IN
19 EFFECT. NOTWITHSTANDING THE FOREGOING OR OTHER LAW, THE DEPARTMENT OF
20 ECONOMIC DEVELOPMENT SHALL NOT APPROVE ANY PROJECT THAT PROVIDES FINAN-
21 CIAL ASSISTANCE CONSISTING SUBSTANTIALLY ONLY OF EXEMPTIONS FROM STATE
22 TAXES.

23 (C) IN CONSIDERING SUCH AN IDA APPLICATION, THE DEPARTMENT OF ECONOMIC
24 DEVELOPMENT SHALL NOT APPROVE FINANCIAL ASSISTANCE CONSISTING OF ANY
25 EXEMPTION FROM STATE TAXES UNLESS THE DEPARTMENT OF ECONOMIC DEVELOPMENT
26 CONCLUDES THAT SUCH ASSISTANCE SHALL NOT PROVIDE THE PROJECT OR THE
27 IDA'S AGENT OR PROJECT OPERATOR WITH A COMPETITIVE ADVANTAGE OVER AN
28 EXISTING BUSINESS IN A SIMILAR INDUSTRY IN THAT AREA.

29 (D) NO FINANCIAL ASSISTANCE CONSISTING OF AN EXEMPTION FROM ANY STATE
30 TAXES SHALL BE INCREASED OR EXTENDED IN DURATION WITH RESPECT TO A
31 PROJECT OR TO AN AGENT OR PROJECT OPERATOR THAT HAS BENEFITTED FROM ANY
32 SUCH ASSISTANCE IN THE PAST UNLESS THE IDA RECEIVES THE PRIOR APPROVAL
33 OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT IN THE MANNER DESCRIBED IN
34 THIS SUBDIVISION.

35 5-C. IN ADDITION TO ANY OTHER REQUIREMENT OF THIS ARTICLE OR OTHER
36 LAW, AND NOTWITHSTANDING ANY OTHER LAW, AN IDA SHALL NOT ESTABLISH A
37 PROJECT OR PROVIDE FINANCIAL ASSISTANCE WITH RESPECT TO A PROJECT, OR
38 PROVIDE ADDITIONAL FINANCIAL ASSISTANCE WITH RESPECT TO AN EXISTING
39 PROJECT, WITHOUT FIRST HAVING RECEIVED FROM EVERY APPLICANT, AGENT, AND
40 PROJECT OPERATOR RELATED TO THE PROJECT AND FROM EVERY PERSON REQUIRED
41 TO COLLECT TAX, AS DEFINED IN SUBDIVISION ONE OF SECTION ELEVEN HUNDRED
42 THIRTY-ONE OF THE TAX LAW, WITH RESPECT TO EVERY SUCH APPLICANT, AGENT
43 OR PROJECT OPERATOR, A TAX CLEARANCE UNDER SECTION ONE HUNDRED SEVENTY-
44 ONE-W OF THE TAX LAW.

45 S 3. Section 862 of the general municipal law is amended by adding a
46 new subdivision 3 to read as follows:

47 (3) THE PROVISIONS OF THIS SECTION SHALL ALSO APPLY TO THE INDUSTRIAL
48 DEVELOPMENT AUTHORITY CREATED BY TITLE ELEVEN OF ARTICLE EIGHT OF THE
49 PUBLIC AUTHORITIES LAW WITH THE SAME FORCE AND EFFECT AS IF THE
50 PROVISIONS OF THIS SECTION HAD BEEN INCORPORATED IN FULL INTO SUCH TITLE
51 ELEVEN AND EXPRESSLY REFERRED TO THE PROVISIONS OF SUCH TITLE AND TO
52 SUCH AUTHORITY, WITH SUCH CHANGES TO THIS SECTION AS ARE NECESSARY TO
53 REFER TO THE PROVISIONS OF SUCH TITLE ELEVEN AND TO SUCH AUTHORITY
54 CREATED BY SUCH TITLE.

55 S 4. Section 4 of the public authorities law, as added by chapter 506
56 of the laws of 2009, is amended to read as follows:

1 S 4. Establishment of the independent authorities budget office. There
2 is hereby established the independent authorities budget office as an
3 independent entity within the department of state, which shall have and
4 exercise the powers and duties provided by this title AND BY SECTION
5 EIGHT HUNDRED SEVENTY-FIVE AND RELATED SECTIONS OF THE GENERAL MUNICIPAL
6 LAW.

7 S 5. The tax law is amended by adding a new section 171-w to read as
8 follows:

9 S 171-w. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-
10 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"
11 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,
12 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM
13 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE
14 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO
15 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS
16 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,
17 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION
18 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),
19 OR COMBINATION THEREOF.

20 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY
21 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX
22 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE
23 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-
24 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE
25 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-
26 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT
27 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-
28 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO
29 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A
30 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR
31 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER
32 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-
33 MENT.

34 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL
35 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-
36 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE
37 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO
38 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN
39 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO
40 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (A) THE SUBJECT OF
41 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS
42 FOR EACH OF THE PAST THREE YEARS; AND/OR (B) WHETHER A SUBJECT OF SUCH
43 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO
44 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF
45 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT
46 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX
47 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF
48 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,
49 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION
50 REQUIREMENTS.

51 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED
52 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE
53 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-
54 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE
55 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT
56 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-

1 ANCE AND SHALL ALSO INFORM THE APPLICANT (A) THAT A TAX CLEARANCE DENIED
2 DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER FULLY
3 SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS SATIS-
4 FACTORY TO THE COMMISSIONER; (B) THAT A TAX CLEARANCE DENIED DUE TO
5 FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS SATIS-
6 FIED THE APPLICABLE RETURN FILING REQUIREMENTS; (C) THAT A TAX CLEARANCE
7 DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE
8 HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE APPLICANT HAS
9 REGISTERED PURSUANT TO SUCH SECTION; AND (D) THE GROUNDS FOR CHALLENGING
10 THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS
11 SECTION.

12 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS
13 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL
14 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER
15 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED
16 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

17 (B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE
18 MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER
19 THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT
20 THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT
21 FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT (I) THE
22 INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR
23 ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX
24 LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING
25 GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL
26 SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE
27 THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF
28 THE CIVIL PRACTICE LAWS AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING
29 ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY
30 COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE
31 PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD
32 SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT
33 TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B
34 OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE
35 MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY
36 OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING
37 OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE
38 GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE
39 PAST THREE YEARS.

40 (C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT
41 FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION
42 SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS
43 ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT
44 THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED
45 BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978
46 (TITLE ELEVEN OF THE UNITED STATES CODE).

47 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY
48 EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE
49 DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A
50 TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE
51 THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE
52 PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS
53 BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

54 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO
55 COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT
56 TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE

1 DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX
2 LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

3 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF
4 THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION
5 ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

6 S 6. This act shall take effect immediately and shall apply to (a) any
7 project established or any agent or project operator appointed, on or
8 after the date this act shall have become a law and any financial
9 assistance provided thereto, (b) any amendment or revision involving
10 additional financial assistance, funds or benefits made on or after the
11 date this act shall have become a law to any project established, agent
12 or project operator appointed, or financial assistance provided, prior
13 to that date, and (c) any state sales and compensating use tax or other
14 state tax exemption benefits and any state sales and compensating use
15 taxes or other taxes recovered, recaptured, received, or otherwise
16 obtained by an industrial development agency established by the general
17 municipal law or an industrial development authority created by title 11
18 or title 15 of article 8 of the public authorities law on or after such
19 date.

20

PART X

21 Section 1. Section 1101 of the tax law is amended by adding a new
22 subdivision (e) to read as follows:

23 (E) WHEN USED IN THIS ARTICLE FOR THE PURPOSES OF THE TAXES IMPOSED
24 UNDER SUBDIVISIONS (A) THROUGH (F) OF SECTION ELEVEN HUNDRED FIVE OF
25 THIS ARTICLE AND BY SECTION ELEVEN HUNDRED TEN OF THIS ARTICLE, THE
26 FOLLOWING TERMS SHALL MEAN:

27 (1) MARKETPLACE PROVIDER. A PERSON WHO, PURSUANT TO AN AGREEMENT WITH
28 A MARKETPLACE SELLER, FACILITATES A SALE, OCCUPANCY, OR ADMISSION BY
29 SUCH MARKETPLACE SELLER. A PERSON "FACILITATES A SALE, OCCUPANCY, OR
30 ADMISSION" FOR PURPOSES OF THIS PARAGRAPH WHEN THE PERSON MEETS BOTH OF
31 THE FOLLOWING CONDITIONS: (I) SUCH PERSON, OR AN AFFILIATED PERSON,
32 COLLECTS THE RECEIPTS, RENT, OR AMUSEMENT CHARGE PAID BY A CUSTOMER,
33 OCCUPANT OR PATRON TO A MARKETPLACE SELLER; AND (II) SUCH PERSON
34 PERFORMS EITHER OF THE FOLLOWING ACTIVITIES: (A) PROVIDES THE FORUM IN
35 WHICH, OR BY MEANS OF WHICH, THE SALE TAKES PLACE OR THE OFFER OF OCCU-
36 PANCY OR ADMISSION IS ACCEPTED, INCLUDING A SHOP, STORE, OR BOOTH, OR AN
37 INTERNET WEBSITE, CATALOG, OR A SIMILAR FORUM; OR (B) ARRANGES FOR THE
38 EXCHANGE OF INFORMATION OR MESSAGES BETWEEN THE CUSTOMER, OCCUPANT, OR
39 PATRON, AS THE CASE MAY BE, AND THE MARKETPLACE SELLER. A PERSON WHO
40 VOLUNTARILY REGISTERS TO COLLECT TAX AS A MARKETPLACE PROVIDER UNDER
41 SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS ARTICLE SHALL ALSO QUALIFY AS
42 A MARKETPLACE PROVIDER. FOR PURPOSES OF THIS PARAGRAPH, TWO PERSONS ARE
43 AFFILIATED IF ONE PERSON HAS AN OWNERSHIP INTEREST OF MORE THAN FIVE
44 PERCENT, WHETHER DIRECT OR INDIRECT, IN THE OTHER, OR WHERE AN OWNERSHIP
45 INTEREST OF MORE THAN FIVE PERCENT, WHETHER DIRECT OR INDIRECT, IS HELD
46 IN EACH OF SUCH PERSONS BY ANOTHER PERSON OR BY A GROUP OF OTHER PERSONS
47 WHICH ARE AFFILIATED PERSONS WITH RESPECT TO EACH OTHER.

48 (2) MARKETPLACE SELLER. ANY PERSON, WHETHER OR NOT SUCH PERSON IS
49 REQUIRED TO REGISTER TO COLLECT TAX UNDER SECTION ELEVEN HUNDRED THIR-
50 TY-FOUR OF THIS ARTICLE, WHO (I) HAS AN AGREEMENT WITH A MARKETPLACE
51 PROVIDER UNDER WHICH THE MARKETPLACE PROVIDER WILL FACILITATE SALES,
52 OCCUPANCIES OR ADMISSIONS FOR SUCH PERSON WITHIN THE MEANING OF PARA-
53 GRAPH ONE OF THIS SUBDIVISION; AND (II) SATISFIES AT LEAST ONE OF THE
54 FOLLOWING CONDITIONS: (A) SELLS TANGIBLE PERSONAL PROPERTY OR THE

1 SERVICES DESCRIBED IN SUBDIVISIONS (A), (B) AND (C) OF SECTION ELEVEN
2 HUNDRED FIVE OF THIS ARTICLE; (B) OPERATES A RESTAURANT, TAVERN OR OTHER
3 ESTABLISHMENT, OR ACTS AS A CATERER, WHO SELLS FOOD AND DRINK OR MAKES
4 OTHER CHARGES TAXABLE UNDER SUBDIVISION (D) OF SUCH SECTION ELEVEN
5 HUNDRED FIVE OF THIS ARTICLE; (C) IS AN OPERATOR OF A HOTEL; OR (D) IS A
6 RECIPIENT AS DEFINED BY PARAGRAPH ELEVEN OF SUBDIVISION (D) OF THIS
7 SECTION.

8 S 2. Subdivision 1 of section 1131 of the tax law, as amended by chap-
9 ter 576 of the laws of 1994, is amended to read as follows:

10 (1) "Persons required to collect tax" or "person required to collect
11 any tax imposed by this article" shall include: every vendor of tangible
12 personal property or services; every recipient of amusement charges;
13 [and] every operator of a hotel, AND EVERY MARKETPLACE PROVIDER WITH
14 RESPECT TO SALES, OCCUPANCIES, OR ADMISSIONS FACILITATED BY IT AS
15 DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED
16 ONE OF THIS ARTICLE. Said terms shall also include any officer, direc-
17 tor or employee of a corporation or of a dissolved corporation, any
18 employee of a partnership, any employee or manager of a limited liabil-
19 ity company, or any employee of an individual proprietorship who as such
20 officer, director, employee or manager is under a duty to act for such
21 corporation, partnership, limited liability company or individual
22 proprietorship in complying with any requirement of this article; and
23 any member of a partnership or limited liability company. Provided,
24 however, that any person who is a vendor solely by reason of clause (D)
25 or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of
26 section eleven hundred one shall not be a "person required to collect
27 any tax imposed by this article" until twenty days after the date by
28 which such person is required to file a certificate of registration
29 pursuant to section eleven hundred thirty-four.

30 S 3. Section 1132 of the tax law is amended by adding a new subdivi-
31 sion (1) to read as follows:

32 (L)(1) A MARKETPLACE PROVIDER: (I) SHALL COMPLY WITH ALL THE
33 PROVISIONS OF THIS ARTICLE AND ARTICLE TWENTY-NINE OF THIS CHAPTER AND
34 OF ANY REGULATIONS ADOPTED PURSUANT THERETO, AND TO ALL THE REQUIREMENTS
35 AND OBLIGATIONS THEREOF, INCLUDING THE RIGHT TO ACCEPT A CERTIFICATE OR
36 OTHER DOCUMENTATION FROM A CUSTOMER SUBSTANTIATING AN EXEMPTION OR
37 EXCLUSION FROM TAX, AND HAVE ALL THE DUTIES, BENEFITS AND ENTITLEMENTS
38 OF A PERSON REQUIRED TO COLLECT TAX UNDER THIS ARTICLE AND PURSUANT TO
39 THE AUTHORITY OF SUCH ARTICLE TWENTY-NINE WITH RESPECT TO SUCH SALE,
40 OCCUPANCY, OR ADMISSION, AND SUCH TAX REQUIRED TO BE COLLECTED, AS IF
41 SUCH MARKETPLACE PROVIDER WERE THE VENDOR, OPERATOR, OR RECIPIENT WITH
42 RESPECT TO SUCH SALE, OCCUPANCY, OR ADMISSION, INCLUDING THE RIGHT TO
43 RECEIVE THE REFUND AUTHORIZED BY SUBDIVISION (E) OF THIS SECTION AND THE
44 CREDIT ALLOWED BY SUBDIVISION (F) OF SECTION ELEVEN HUNDRED THIRTY-SEVEN
45 OF THIS PART; AND (II) SHALL KEEP SUCH RECORDS AND INFORMATION AND COOP-
46 ERATE WITH THE COMMISSIONER TO ENSURE THE PROPER COLLECTION AND REMIT-
47 TANCE OF TAX IMPOSED, COLLECTED OR REQUIRED TO BE COLLECTED UNDER THIS
48 ARTICLE AND SUCH ARTICLE TWENTY-NINE.

49 (2) A MARKETPLACE SELLER IS NOT A PERSON REQUIRED TO COLLECT TAX FOR
50 PURPOSES OF THIS SECTION IN REGARD TO A PARTICULAR SALE, OCCUPANCY, OR
51 ADMISSION SUBJECT TO TAX UNDER SUBDIVISIONS (A) THROUGH (E) OR PARAGRAPH
52 ONE OF SUBDIVISION (F) OF SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE
53 IF, IN REGARD TO SUCH SALE, OCCUPANCY OR ADMISSION: (I) THE MARKETPLACE
54 SELLER CAN SHOW THAT SUCH SALE, OCCUPANCY, OR ADMISSION WAS FACILITATED,
55 AS DESCRIBED IN PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN
56 HUNDRED ONE OF THIS ARTICLE, BY A MARKETPLACE PROVIDER FROM WHOM SUCH

1 SELLER HAS RECEIVED IN GOOD FAITH A PROPERLY COMPLETED CERTIFICATE OF
2 COLLECTION IN A FORM PRESCRIBED BY THE COMMISSIONER CERTIFYING THAT THE
3 MARKETPLACE PROVIDER IS REGISTERED TO COLLECT SALES TAX AND WILL COLLECT
4 SALES TAX ON ALL TAXABLE SALES, OCCUPANCIES OR ADMISSIONS BY THE MARKET-
5 PLACE SELLER AND WITH SUCH OTHER INFORMATION AS THE COMMISSIONER MAY
6 PRESCRIBE; AND (II) ANY FAILURE OF THE MARKETPLACE PROVIDER TO COLLECT
7 THE PROPER AMOUNT OF TAX IN REGARD TO SUCH SALE, OCCUPANCY, OR ADMISSION
8 WAS NOT THE RESULT OF SUCH MARKETPLACE SELLER PROVIDING THE MARKETPLACE
9 PROVIDER WITH INCORRECT INFORMATION. THIS PROVISION SHALL BE ADMINIS-
10 TERED IN A MANNER CONSISTENT WITH SUBPARAGRAPH (I) OF PARAGRAPH ONE OF
11 SUBDIVISION (C) OF THIS SECTION AS IF A CERTIFICATE OF COLLECTION WERE A
12 RESALE OR EXEMPTION CERTIFICATE FOR PURPOSES OF SUCH SUBPARAGRAPH,
13 INCLUDING WITH REGARD TO THE COMPLETENESS OF SUCH CERTIFICATE OF
14 COLLECTION AND THE TIMING OF ITS ACCEPTANCE BY THE MARKETPLACE SELLER.
15 PROVIDED THAT, WITH REGARD TO ANY SALES, OCCUPANCIES, OR ADMISSIONS SOLD
16 BY A MARKETPLACE SELLER THAT ARE FACILITATED BY A MARKETPLACE PROVIDER
17 WHO IS AFFILIATED WITH SUCH MARKETPLACE SELLER WITHIN THE MEANING OF
18 PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ONE OF THIS
19 ARTICLE, THE MARKETPLACE SELLER SHALL BE DEEMED LIABLE AS A PERSON UNDER
20 A DUTY TO ACT FOR SUCH MARKETPLACE PROVIDER FOR PURPOSES OF SUBDIVISION
21 ONE OF SECTION ELEVEN HUNDRED THIRTY-ONE OF THIS PART.

22 (3) THE COMMISSIONER MAY, IN HIS OR HER DISCRETION: (I) DEVELOP STAND-
23 ARD LANGUAGE, OR APPROVE LANGUAGE DEVELOPED BY A MARKETPLACE PROVIDER,
24 IN WHICH THE MARKETPLACE PROVIDER OBLIGATES ITSELF TO COLLECT THE TAX ON
25 BEHALF OF ALL THE MARKETPLACE SELLERS FOR WHOM THE MARKETPLACE PROVIDER
26 FACILITATES SALES, OCCUPANCIES, OR ADMISSIONS, AS DESCRIBED IN PARAGRAPH
27 ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE;
28 AND (II) PROVIDE BY REGULATION OR OTHERWISE THAT THE INCLUSION OF SUCH
29 LANGUAGE IN THE MARKETPLACE PROVIDER'S AGREEMENT WITH A MARKETPLACE
30 SELLER THAT IS PUBLICLY AVAILABLE WILL HAVE THE SAME EFFECT AS A MARKET-
31 PLACE SELLER'S ACCEPTANCE OF A CERTIFICATE OF COLLECTION FROM SUCH
32 MARKETPLACE PROVIDER UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH.

33 S 4. Section 1133 of the tax law is amended by adding a new subdivi-
34 sion (f) to read as follows:

35 (F) A MARKETPLACE PROVIDER IS RELIEVED OF LIABILITY UNDER THIS SECTION
36 FOR FAILURE TO COLLECT THE CORRECT AMOUNT OF TAX TO THE EXTENT THAT THE
37 MARKETPLACE PROVIDER CAN SHOW THAT THE ERROR WAS DUE TO INCORRECT INFOR-
38 MATION GIVEN TO THE MARKETPLACE PROVIDER BY THE MARKETPLACE SELLER.
39 PROVIDED, HOWEVER, THIS SUBDIVISION SHALL NOT APPLY IF THE MARKETPLACE
40 SELLER AND MARKETPLACE PROVIDER ARE AFFILIATED WITHIN THE MEANING OF
41 PARAGRAPH ONE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ONE OF THIS
42 ARTICLE.

43 S 5. This act shall take effect March 1, 2016, and shall apply in
44 accordance with the transition provisions in sections 1106 and 1217 of
45 the tax law.

46 PART Y

47 Section 1. The tax law is amended by adding a new section 1118-A to
48 read as follows:

49 S 1118-A. LIMITATIONS ON TAX AVOIDANCE STRATEGIES. NOTWITHSTANDING
50 THE PROVISIONS OF THIS ARTICLE OR OTHER LAW TO THE CONTRARY:

51 (A) THE EXCLUSION IN SUBDIVISION TWO OF SECTION ELEVEN HUNDRED EIGH-
52 TEEN OF THIS PART FOR PROPERTY OR SERVICES PURCHASED BY A NONRESIDENT OF
53 THIS STATE SHALL NOT APPLY WHEN A PERSON (OTHER THAN AN INDIVIDUAL)
54 BRINGS SUCH PROPERTY OR SERVICE INTO THIS STATE FOR USE HERE, UNLESS

1 SUCH PERSON HAS BEEN DOING BUSINESS OUTSIDE THIS STATE FOR AT LEAST SIX
2 MONTHS PRIOR TO THE DATE SUCH PERSON BROUGHT SUCH PROPERTY OR SERVICE
3 INTO THIS STATE.

4 (B) A SINGLE MEMBER LIMITED LIABILITY COMPANY AND THE MEMBER OF THAT
5 LIMITED LIABILITY COMPANY SHALL BE DEEMED TO BE ONE PERSON, AND, AMONG
6 OTHER THINGS, A PURCHASE OR SALE BY ONE SHALL BE DEEMED TO BE THE
7 PURCHASE OR SALE BY THE OTHER AND NEITHER OF THEM CAN MAKE A PURCHASE
8 FOR RESALE TO THE OTHER.

9 (C) A LEASE OF ANY TANGIBLE PERSONAL PROPERTY BETWEEN RELATED ENTITIES
10 SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION (I) OF SECTION ELEVEN
11 HUNDRED ELEVEN OF THIS ARTICLE, INCLUDING THE PROVISIONS, AMONG OTHERS,
12 RELATING TO LEASES ENTERED INTO OUTSIDE THIS STATE WHERE THE PROPERTY
13 SUBJECT TO THE LEASE IS THEN BROUGHT INTO THIS STATE, AS IF SUCH SUBDI-
14 VISION (I) REFERRED TO THE LEASE DESCRIBED IN THIS SUBDIVISION, WITH
15 SUCH CHANGES AS ARE NECESSARY TO MAKE SUCH PROVISIONS APPLY TO THIS
16 SUBDIVISION; PROVIDED THAT ANY PAYMENTS DUE UNDER SUCH A LEASE UNDER
17 THIS SUBDIVISION SHALL BE DUE AT THE INCEPTION OF THE LEASE REGARDLESS
18 OF THE LENGTH OF THE TERM OF SUCH LEASE, INCLUDING ANY OPTION TO RENEW
19 OR SIMILAR PROVISION, OR COMBINATION OF THEM; AND PROVIDED FURTHER THAT,
20 IF THE COMMISSIONER FINDS THAT THE SUM OF ALL SUCH PAYMENTS DUE UNDER
21 SUCH LEASE DO NOT REFLECT THE TRUE VALUE OR COST OF THE PROPERTY SUBJECT
22 TO SUCH LEASE, THE COMMISSIONER SHALL BE AUTHORIZED TO ESTIMATE SUCH
23 TRUE VALUE OR COST FROM SUCH INFORMATION AS MAY BE AVAILABLE, INCLUDING
24 BY MEANS OF EXTERNAL INDICES, AND ASSESS TAX DUE UNDER THIS SUBDIVISION
25 BASED ON SUCH ESTIMATE. FOR PURPOSES OF THIS SUBDIVISION:

26 (1) "LEASE" MEANS AND INCLUDES A LEASE, RENTAL AGREEMENT, OR RIGHT TO
27 USE OR OTHER AGREEMENT IN THE NATURE OF A LEASE, RENTAL AGREEMENT, OR
28 RIGHT TO USE;

29 (2) "RELATED ENTITIES" MEANS TWO OR MORE PERSONS THAT BEAR A RELATION-
30 SHIP TO EACH OTHER AS DESCRIBED IN SUBPARAGRAPHS (II) THROUGH (VI) OF
31 PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION FIVE HUNDRED FOUR OF THIS
32 CHAPTER.

33 S 2. Subdivision (q) of section 1111 of the tax law, as added by
34 section 3 of subpart B of part S of chapter 57 of the laws of 2010, is
35 amended to read as follows:

36 (q) (1) The exclusions from the definition of retail sale in subpara-
37 graph (iv) of paragraph four of subdivision (b) of section eleven
38 hundred one of this article shall not apply to transfers, distributions,
39 or contributions of [an aircraft or vessel] TANGIBLE PERSONAL PROPERTY,
40 except where, in the case of the exclusion in subclause (I) of clause
41 (A) of such subparagraph (iv), the two corporations to be merged or
42 consolidated are not affiliated persons with respect to each other. For
43 purposes of this subdivision, corporations are affiliated persons with
44 respect to each other where (i) more than five percent of their combined
45 shares are owned by members of the same family, as defined by paragraph
46 four of subsection (c) of section two hundred sixty-seven of the inter-
47 nal revenue code of nineteen hundred eighty-six; (ii) one of the corpo-
48 rations has an ownership interest of more than five percent, whether
49 direct or indirect, in the other; or (iii) another person or a group of
50 other persons that are affiliated persons with respect to each other
51 hold an ownership interest of more than five percent, whether direct or
52 indirect, in each of the corporations.

53 (2) Notwithstanding any contrary provision of law, in relation to any
54 transfer, distribution, or contribution of [an aircraft or vessel]
55 TANGIBLE PERSONAL PROPERTY that qualifies as a retail sale as a result
56 of paragraph one of this subdivision, the sales tax imposed by subdivi-

1 sion (a) of section eleven hundred five of this part shall be computed
2 based on the price at which the seller purchased the tangible personal
3 property, provided that where the seller or purchaser affirmatively
4 shows that the seller owned the property for six months prior to making
5 the transfer, distribution or contribution covered by paragraph one of
6 this subdivision, such [aircraft or vessel] TANGIBLE PERSONAL PROPERTY
7 shall be taxed on the basis of the current market value of the [aircraft
8 or vessel] TANGIBLE PERSONAL PROPERTY at the time of that transfer,
9 distribution, or contribution. For the purposes of the prior sentence,
10 "current market value" shall not exceed the cost of the [aircraft or
11 vessel] TANGIBLE PERSONAL PROPERTY. See subdivision (b) of this section
12 for a similar rule on the computation of any compensating use tax due
13 under section eleven hundred ten of this part on such transfers,
14 distributions, or contributions.

15 (3) A purchaser of [an aircraft or vessel] TANGIBLE PERSONAL PROPERTY
16 covered by paragraph one of this subdivision will be entitled to a
17 refund or credit against the sales or compensating use tax due as a
18 result of a transfer, distribution, or contribution of such [aircraft or
19 vessel] TANGIBLE PERSONAL PROPERTY in the amount of any sales or use tax
20 paid to this state or any other state on the seller's purchase or use of
21 the [aircraft or vessel] TANGIBLE PERSONAL PROPERTY so transferred,
22 distributed or contributed, but not to exceed the tax due on the trans-
23 fer, distribution, or contribution of the [aircraft or vessel] TANGIBLE
24 PERSONAL PROPERTY or on the purchaser's use in the state of the
25 [aircraft or vessel] TANGIBLE PERSONAL PROPERTY so transferred, distrib-
26 uted or contributed. An application for a refund or credit under this
27 subdivision must be filed and shall be in such form as the commissioner
28 may prescribe. Where an application for credit has been filed, the
29 applicant may immediately take such credit on the return which is due
30 coincident with or immediately subsequent to the time the application
31 for credit is filed. However, the taking of the credit on the return
32 shall be deemed to be part of the application for credit. Provided that
33 the commissioner may, in his or her discretion and notwithstanding any
34 other law, waive the application requirement for any or all classes of
35 persons where the amount of the credit or refund is equal to the amount
36 of the tax due from the purchaser. The provisions of subdivisions (a),
37 (b), and (c) of section eleven hundred thirty-nine of this article shall
38 apply to applications for refund or credit under this subdivision. No
39 interest shall be allowed or paid on any refund made or credit allowed
40 under this subdivision. If a refund is granted or a credit allowed under
41 this paragraph, the seller or purchaser shall not be eligible for a
42 refund or credit pursuant to subdivision seven of section eleven hundred
43 eighteen of this article with regard to the same purchase or use.

44 S 3. This act shall take effect immediately and shall apply in accord-
45 ance with applicable transitional provisions of sections 1106 and 1217
46 of the tax law.

47

PART Z

48 Section 1. Subdivision (ee) of section 1115 of the tax law, as added
49 by chapter 306 of the laws of 2005, is amended to read as follows:

50 (ee) THE FOLLOWING SHALL BE EXEMPT FROM TAX UNDER THIS ARTICLE: (1)
51 Receipts from the retail sale of, AND CONSIDERATION GIVEN OR CONTRACTED
52 TO BE GIVEN FOR, OR FOR THE USE OF, residential solar energy systems
53 equipment and [of] the service of installing such systems [shall be
54 exempt from tax under this article]. For the purposes of this subdivi-

1 sion, "residential solar energy systems equipment" shall mean an
2 arrangement or combination of components installed in a residence that
3 utilizes solar radiation to produce energy designed to provide heating,
4 cooling, hot water and/or electricity. Such arrangement or components
5 shall not include equipment that is part of a non-solar energy system or
6 which uses any sort of recreational facility or equipment as a storage
7 medium.

8 (2) RECEIPTS FROM THE SALE OF ELECTRICITY BY A PERSON PRIMARILY
9 ENGAGED IN THE SALE OF SOLAR ENERGY SYSTEM EQUIPMENT AND/OR ELECTRICITY
10 GENERATED BY SUCH EQUIPMENT PURSUANT TO A WRITTEN AGREEMENT UNDER WHICH
11 SUCH ELECTRICITY IS GENERATED BY RESIDENTIAL SOLAR ENERGY SYSTEM EQUIP-
12 MENT THAT IS: (A) OWNED BY A PERSON OTHER THAN THE PURCHASER OF SUCH
13 ELECTRICITY; (B) INSTALLED ON RESIDENTIAL PROPERTY OF THE PURCHASER OF
14 SUCH ELECTRICITY; AND (C) USED TO PROVIDE HEATING, COOLING, HOT WATER OR
15 ELECTRICITY TO SUCH PROPERTY.

16 S 2. Subdivision (ii) of section 1115 of the tax law, as amended by
17 chapter 13 of the laws of 2013, is amended to read as follows:

18 (ii) THE FOLLOWING SHALL BE EXEMPT FROM TAX UNDER THIS ARTICLE: (1)
19 Receipts from the retail sale of, AND CONSIDERATION GIVEN OR CONTRACTED
20 TO BE GIVEN FOR, OR FOR THE USE OF, commercial solar energy systems
21 equipment and [of] the service of installing such systems [shall be
22 exempt from taxes imposed by sections eleven hundred five and eleven
23 hundred ten of this article]. For the purposes of this subdivision,
24 "commercial solar energy systems equipment" shall mean an arrangement or
25 combination of components installed upon non-residential premises that
26 utilize solar radiation to produce energy designed to provide heating,
27 cooling, hot water and/or electricity. Such arrangement or components
28 shall not include equipment that is part of a non-solar energy system.

29 (2) RECEIPTS FROM THE SALE OF ELECTRICITY BY A PERSON PRIMARILY
30 ENGAGED IN THE SALE OF SOLAR ENERGY SYSTEM EQUIPMENT AND/OR ELECTRICITY
31 GENERATED BY SUCH EQUIPMENT PURSUANT TO A WRITTEN AGREEMENT UNDER WHICH
32 THE ELECTRICITY IS GENERATED BY COMMERCIAL SOLAR ENERGY SYSTEM EQUIPMENT
33 THAT IS: (A) OWNED BY A PERSON OTHER THAN THE PURCHASER OF SUCH ELEC-
34 TRICITY; (B) INSTALLED ON THE NON-RESIDENTIAL PREMISES OF THE PURCHASER
35 OF SUCH ELECTRICITY; AND (C) USED TO PROVIDE HEATING, COOLING, HOT WATER
36 OR ELECTRICITY TO SUCH PREMISES.

37 S 3. Paragraphs 1 and 4 of subdivision (a) of section 1210 of the tax
38 law, paragraph 1 as amended by chapter 13 of the laws of 2012, and para-
39 graph 4 as amended by chapter 200 of the laws of 2009, are amended to
40 read as follows:

41 (1) Either, all of the taxes described in article twenty-eight of this
42 chapter, at the same uniform rate, as to which taxes all provisions of
43 the local laws, ordinances or resolutions imposing such taxes shall be
44 identical, except as to rate and except as otherwise provided, with the
45 corresponding provisions in such article twenty-eight, including the
46 definition and exemption provisions of such article, so far as the
47 provisions of such article twenty-eight can be made applicable to the
48 taxes imposed by such city or county and with such limitations and
49 special provisions as are set forth in this article. The taxes author-
50 ized under this subdivision may not be imposed by a city or county
51 unless the local law, ordinance or resolution imposes such taxes so as
52 to include all portions and all types of receipts, charges or rents,
53 subject to state tax under sections eleven hundred five and eleven
54 hundred ten of this chapter, except as otherwise provided. (i) Any local
55 law, ordinance or resolution enacted by any city of less than one
56 million or by any county or school district, imposing the taxes author-

1 ized by this subdivision, shall, notwithstanding any provision of law to
2 the contrary, exclude from the operation of such local taxes all sales
3 of tangible personal property for use or consumption directly and
4 predominantly in the production of tangible personal property, gas,
5 electricity, refrigeration or steam, for sale, by manufacturing, proc-
6 essing, generating, assembly, refining, mining or extracting; and all
7 sales of tangible personal property for use or consumption predominantly
8 either in the production of tangible personal property, for sale, by
9 farming or in a commercial horse boarding operation, or in both; and,
10 unless such city, county or school district elects otherwise, shall omit
11 the provision for credit or refund contained in clause six of subdivi-
12 sion (a) or subdivision (d) of section eleven hundred nineteen of this
13 chapter. (ii) Any local law, ordinance or resolution enacted by any
14 city, county or school district, imposing the taxes authorized by this
15 subdivision, shall omit the residential solar energy systems equipment
16 AND ELECTRICITY exemption provided for in subdivision (ee), the commer-
17 cial solar energy systems equipment AND ELECTRICITY exemption provided
18 for in subdivision (ii) and the clothing and footwear exemption provided
19 for in paragraph thirty of subdivision (a) of section eleven hundred
20 fifteen of this chapter, unless such city, county or school district
21 elects otherwise as to either such residential solar energy systems
22 equipment AND ELECTRICITY exemption, such commercial solar energy
23 systems equipment AND ELECTRICITY exemption or such clothing and foot-
24 wear exemption.

25 (4) Notwithstanding any other provision of law to the contrary, any
26 local law enacted by any city of one million or more that imposes the
27 taxes authorized by this subdivision (i) may omit the exception provided
28 in subparagraph (ii) of paragraph three of subdivision (c) of section
29 eleven hundred five of this chapter for receipts from laundering, dry-
30 cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining;
31 (ii) may impose the tax described in paragraph six of subdivision (c) of
32 section eleven hundred five of this chapter at a rate in addition to the
33 rate prescribed by this section not to exceed two percent in multiples
34 of one-half of one percent; (iii) shall provide that the tax described
35 in paragraph six of subdivision (c) of section eleven hundred five of
36 this chapter does not apply to facilities owned and operated by the city
37 or an agency or instrumentality of the city or a public corporation the
38 majority of whose members are appointed by the chief executive officer
39 of the city or the legislative body of the city or both of them; (iv)
40 shall not include any tax on receipts from, or the use of, the services
41 described in paragraph seven of subdivision (c) of section eleven
42 hundred five of this chapter; (v) shall provide that, for purposes of
43 the tax described in subdivision (e) of section eleven hundred five of
44 this chapter, "permanent resident" means any occupant of any room or
45 rooms in a hotel for at least one hundred eighty consecutive days with
46 regard to the period of such occupancy; (vi) may omit the exception
47 provided in paragraph one of subdivision (f) of section eleven hundred
48 five of this chapter for charges to a patron for admission to, or use
49 of, facilities for sporting activities in which the patron is to be a
50 participant, such as bowling alleys and swimming pools; (vii) may
51 provide the clothing and footwear exemption in paragraph thirty of
52 subdivision (a) of section eleven hundred fifteen of this chapter, and,
53 notwithstanding any provision of subdivision (d) of this section to the
54 contrary, any local law providing for such exemption or repealing such
55 exemption, may go into effect on any one of the following dates: March
56 first, June first, September first or December first; (viii) shall omit

1 the exemption provided in paragraph forty-one of subdivision (a) of
2 section eleven hundred fifteen of this chapter; (ix) shall omit the
3 exemption provided in subdivision (c) of section eleven hundred fifteen
4 of this chapter insofar as it applies to fuel, gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of
5 whatever nature for use or consumption directly and exclusively in the
6 production of gas, electricity, refrigeration or steam; (x) shall omit,
7 unless such city elects otherwise, the provision for refund or credit
8 contained in clause six of subdivision (a) or in subdivision (d) of
9 section eleven hundred nineteen of this chapter; [and] (xi) shall
10 provide that section eleven hundred five-C of this chapter does not
11 apply to such taxes, and shall tax receipts from every sale, other than
12 sales for resale, of gas service or electric service of whatever nature,
13 including the transportation, transmission or distribution of gas or
14 electricity, even if sold separately, at the rate set forth in clause
15 one of subparagraph (i) of the opening paragraph of this section; (XII)
16 SHALL OMIT, UNLESS SUCH CITY ELECTS OTHERWISE, THE EXEMPTION FOR RESI-
17 DENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN
18 SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER; AND
19 (XIII) SHALL OMIT, UNLESS SUCH CITY ELECTS OTHERWISE, THE EXEMPTION FOR
20 COMMERCIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN
21 SUBDIVISION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER. ANY
22 REFERENCE IN THIS CHAPTER OR IN ANY LOCAL LAW, ORDINANCE OR RESOLUTION
23 ENACTED PURSUANT TO THE AUTHORITY OF THIS ARTICLE TO FORMER SUBDIVISIONS
24 (N) OR (P) OF THIS SECTION SHALL BE DEEMED TO BE A REFERENCE TO CLAUSES
25 (XII) OR (XIII) OF THIS PARAGRAPH, RESPECTIVELY, AND ANY SUCH LOCAL LAW,
26 ORDINANCE OR RESOLUTION THAT PROVIDES THE EXEMPTIONS PROVIDED IN SUCH
27 FORMER SUBDIVISIONS (N) AND/OR (P) SHALL BE DEEMED INSTEAD TO PROVIDE
28 THE EXEMPTIONS PROVIDED IN CLAUSES (XII) AND/OR (XIII) OF THIS
29 PARAGRAPH.
30

31 S 4. Paragraph 1 and subparagraph (i) of paragraph 3 of subdivision
32 (b) of section 1210 of the tax law, paragraph 1 as amended by section 36
33 of part S-1 of chapter 57 of the laws of 2009, and subparagraph (i) of
34 paragraph 3 as amended by section 3 of part B of chapter 35 of the laws
35 of 2006, are amended to read as follows:

36 (1) Or, one or more of the taxes described in subdivisions (b), (d),
37 (e) and (f) of section eleven hundred five of this chapter, at the same
38 uniform rate, including the transitional provisions in section eleven
39 hundred six of this chapter covering such taxes, but not the taxes
40 described in subdivisions (a) and (c) of section eleven hundred five of
41 this chapter. Provided, further, that where the tax described in subdivi-
42 sion (b) of section eleven hundred five of this chapter is imposed,
43 the compensating use taxes described in clauses (E), (G) and (H) of
44 subdivision (a) of section eleven hundred ten of this chapter shall also
45 be imposed. Provided, further, that where the taxes described in subdivi-
46 sion (b) of section eleven hundred five are imposed, such taxes shall
47 omit: (A) the provision for refund or credit contained in subdivision
48 (d) of section eleven hundred nineteen of this chapter with respect to
49 such taxes described in such subdivision (b) of section eleven hundred
50 five unless such city or county elects to provide such provision or, if
51 so elected, to repeal such provision; (B) THE EXEMPTION PROVIDED IN
52 PARAGRAPH TWO OF SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF
53 THIS CHAPTER UNLESS SUCH COUNTY OR CITY ELECTS OTHERWISE; AND (C) THE
54 EXEMPTION PROVIDED IN PARAGRAPH TWO OF SUBDIVISION (II) OF SECTION ELEV-
55 EN HUNDRED FIFTEEN OF THIS CHAPTER, UNLESS SUCH COUNTY OR CITY ELECTS
56 OTHERWISE.

1 (i) Notwithstanding any other provision of law to the contrary but not
2 with respect to cities subject to the provisions of section eleven
3 hundred eight of this chapter, any city or county, except a county whol-
4 ly contained within a city, may provide that the tax imposed, pursuant
5 to this subdivision, by such city or county on the sale, other than for
6 resale, of propane (except when sold in containers of less than one
7 hundred pounds), natural gas, electricity, steam and gas, electric and
8 steam services of whatever nature used for residential purposes and on
9 the use of gas or electricity used for residential purposes may be
10 imposed at a lower rate than the uniform local rate imposed pursuant to
11 the opening paragraph of this section, as long as such rate is one of
12 the rates authorized by such paragraph or such sale or use may be
13 exempted from such taxes. Provided, however, such lower rate must apply
14 to all such energy sources and services and at the same rate and no such
15 exemption, OTHER THAN THE EXEMPTION PROVIDED FOR IN SUBDIVISION (EE) OF
16 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, IF SUCH EXEMPTION IS
17 ELECTED BY SUCH CITY OR COUNTY, may be enacted unless such exemption
18 applies to all such energy sources and services.

19 S 4-a. Subdivision (d) of section 1210 of the tax law, as amended by
20 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
21 read as follows:

22 (d) A local law, ordinance or resolution imposing any tax pursuant to
23 this section, increasing or decreasing the rate of such tax, repealing
24 or suspending such tax, exempting from such tax the energy sources and
25 services described in paragraph three of subdivision (a) or of subdivi-
26 sion (b) of this section or changing the rate of tax imposed on such
27 energy sources and services or providing for the credit or refund
28 described in clause six of subdivision (a) of section eleven hundred
29 nineteen of this chapter, OR ELECTING OR REPEALING THE EXEMPTION FOR
30 RESIDENTIAL SOLAR EQUIPMENT AND ELECTRICITY IN SUBDIVISION (EE) OF
31 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE, OR THE EXEMPTION FOR
32 COMMERCIAL SOLAR EQUIPMENT AND ELECTRICITY IN SUBDIVISION (II) OF
33 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE must go into effect only
34 on one of the following dates: March first, June first, September first
35 or December first; provided, that a local law, ordinance or resolution
36 providing for the exemption described in paragraph thirty of subdivision
37 (a) of section eleven hundred fifteen of this chapter or repealing any
38 such exemption or a local law, ordinance or resolution providing for a
39 refund or credit described in subdivision (d) of section eleven hundred
40 nineteen of this chapter or repealing such provision so provided must go
41 into effect only on March first. No such local law, ordinance or resol-
42 ution shall be effective unless a certified copy of such law, ordinance
43 or resolution is mailed by registered or certified mail to the commis-
44 sioner at the commissioner's office in Albany at least ninety days prior
45 to the date it is to become effective. However, the commissioner may
46 waive and reduce such ninety-day minimum notice requirement to a mailing
47 of such certified copy by registered or certified mail within a period
48 of not less than thirty days prior to such effective date if the commis-
49 sioner deems such action to be consistent with the commissioner's duties
50 under section twelve hundred fifty of this article and the commissioner
51 acts by resolution. Where the restriction provided for in section twelve
52 hundred twenty-three of this article as to the effective date of a tax
53 and the notice requirement provided for therein are applicable and have
54 not been waived, the restriction and notice requirement in section
55 twelve hundred twenty-three of this article shall also apply.

1 S 5. Subdivisions (n) and (p) of section 1210 of the tax law are
2 REPEALED.

3 S 6. Subdivision (a) of section 1212 of the tax law, as amended by
4 section 40 of part S-1 of chapter 57 of the laws of 2009, is amended to
5 read as follows:

6 (a) Any school district which is coterminous with, partly within or
7 wholly within a city having a population of less than one hundred twen-
8 ty-five thousand, is hereby authorized and empowered, by majority vote
9 of the whole number of its school authorities, to impose for school
10 district purposes, within the territorial limits of such school district
11 and without discrimination between residents and nonresidents thereof,
12 the taxes described in subdivision (b) of section eleven hundred five
13 (but excluding the tax on prepaid telephone calling services) and the
14 taxes described in clauses (E) and (H) of subdivision (a) of section
15 eleven hundred ten, including the transitional provisions in subdivision
16 (b) of section eleven hundred six of this chapter, so far as such
17 provisions can be made applicable to the taxes imposed by such school
18 district and with such limitations and special provisions as are set
19 forth in this article, such taxes to be imposed at the rate of one-half,
20 one, one and one-half, two, two and one-half or three percent which rate
21 shall be uniform for all portions and all types of receipts and uses
22 subject to such taxes. In respect to such taxes, all provisions of the
23 resolution imposing them, except as to rate and except as otherwise
24 provided herein, shall be identical with the corresponding provisions in
25 such article twenty-eight of this chapter, including the applicable
26 definition and exemption provisions of such article, so far as the
27 provisions of such article twenty-eight of this chapter can be made
28 applicable to the taxes imposed by such school district and with such
29 limitations and special provisions as are set forth in this article. The
30 taxes described in subdivision (b) of section eleven hundred five (but
31 excluding the tax on prepaid telephone calling service) and clauses (E)
32 and (H) of subdivision (a) of section eleven hundred ten, including the
33 transitional provision in subdivision (b) of such section eleven hundred
34 six of this chapter, may not be imposed by such school district unless
35 the resolution imposes such taxes so as to include all portions and all
36 types of receipts and uses subject to tax under such subdivision (but
37 excluding the tax on prepaid telephone calling service) and clauses.
38 Provided, however, that, where a school district imposes such taxes,
39 such taxes shall omit the provision for refund or credit contained in
40 subdivision (d) of section eleven hundred nineteen of this chapter with
41 respect to such taxes described in such subdivision (b) of section elev-
42 en hundred five unless such school district elects to provide such
43 provision or, if so elected, to repeal such provision, AND SHALL OMIT
44 THE EXEMPTION PROVIDED IN PARAGRAPH TWO OF EITHER SUBDIVISION (EE) OR
45 SUBDIVISION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER
46 UNLESS SUCH SCHOOL DISTRICT ELECTS OTHERWISE.

47 S 7. Section 1224 of the tax law is amended by adding a new subdivi-
48 sion (c-1) to read as follows:

49 (C-1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (1) WHERE A COUNTY
50 CONTAINING ONE OR MORE CITIES WITH A POPULATION OF LESS THAN ONE MILLION
51 HAS ELECTED THE EXEMPTION FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT
52 AND ELECTRICITY PROVIDED IN SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED
53 FIFTEEN OF THIS CHAPTER, THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY
54 SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN SUBDIVISION (II) OF SUCH
55 SECTION ELEVEN HUNDRED FIFTEEN, OR BOTH SUCH EXEMPTIONS, A CITY WITHIN
56 SUCH COUNTY SHALL HAVE THE PRIOR RIGHT TO IMPOSE TAX ON SUCH EXEMPT

1 EQUIPMENT AND/OR ELECTRICITY TO THE EXTENT OF ONE HALF OF THE MAXIMUM
2 RATES AUTHORIZED UNDER SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF
3 THIS ARTICLE;

4 (2) WHERE A CITY OF LESS THAN ONE MILLION HAS ELECTED THE EXEMPTION
5 FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED
6 IN SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER,
7 THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELEC-
8 TRICITY PROVIDED IN SUBDIVISION (II) OF SUCH SECTION ELEVEN HUNDRED
9 FIFTEEN, OR BOTH SUCH EXEMPTIONS, THE COUNTY IN WHICH SUCH CITY IS
10 LOCATED SHALL HAVE THE PRIOR RIGHT TO IMPOSE TAX ON SUCH EXEMPT EQUIP-
11 MENT AND/OR ELECTRICITY TO THE EXTENT OF ONE HALF OF THE MAXIMUM RATES
12 AUTHORIZED UNDER SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS
13 ARTICLE.

14 S 8. This act shall take effect December 1, 2015 and shall apply in
15 accordance with the applicable transitional provisions in sections 1106
16 and 1217 of the tax law.

17 PART AA

18 Section 1. Subdivision (f) of section 301-c of the tax law, as amended
19 by section 23 of part K of chapter 61 of the laws of 2011, is amended to
20 read as follows:

21 (f) Motor fuel AND HIGHWAY DIESEL MOTOR FUEL used for farm production.
22 No more than one thousand five hundred gallons of motor fuel AND NO MORE
23 THAN FOUR THOUSAND FIVE HUNDRED GALLONS OF HIGHWAY DIESEL MOTOR FUEL
24 purchased in this state in a thirty-day period or a greater amount which
25 has been given prior clearance by the commissioner, by a consumer for
26 use or consumption directly and exclusively in the production for sale
27 of tangible personal property by farming, but only if all of such MOTOR
28 fuel OR HIGHWAY DIESEL MOTOR FUEL is delivered on the farm site and is
29 consumed other than on the public highways of this state (except for the
30 use of the public highway to reach adjacent farmlands). This reimburse-
31 ment to such purchaser who used such motor fuel OR HIGHWAY DIESEL MOTOR
32 FUEL in the manner specified in this subdivision may be claimed only
33 where, (i) the tax imposed pursuant to this article has been paid with
34 respect to such motor fuel OR HIGHWAY DIESEL MOTOR FUEL and the entire
35 amount of such tax has been absorbed by such purchaser, and (ii) such
36 purchaser possesses documentary proof satisfactory to the commissioner
37 evidencing the absorption by it of the entire amount of the tax imposed
38 pursuant to this article. Provided, however, that the commissioner shall
39 require such documentary proof to qualify for any reimbursement of tax
40 provided by this subdivision as the commissioner deems appropriate. The
41 commissioner is hereby empowered to make such provisions as deemed
42 necessary to define the procedures for granting prior clearance for
43 purchases of more than one thousand five hundred gallons OF MOTOR FUEL
44 OR FOUR THOUSAND FIVE HUNDRED GALLONS OF HIGHWAY DIESEL MOTOR FUEL in a
45 thirty-day period.

46 S 2. This act shall take effect immediately.

47 PART BB

48 Section 1. Subsection (b) of section 952 of the tax law, as amended by
49 section 2 of part X of chapter 59 of the laws of 2014, is amended to
50 read as follows:

51 (b) Computation of tax. The tax imposed by this section shall be
52 computed on the deceased resident's New York taxable estate as follows:

1	[In the case of decedents dying on or after April 1, 2014 and before	
2	April 1, 2015]	
3	If the New York taxable estate is:	The tax is:
4	Not over \$500,000	3.06% of taxable estate
5	Over \$500,000 but not over \$1,000,000	\$15,300 plus 5.0% of excess over
6		\$500,000
7	Over \$1,000,000 but not over \$1,500,000	\$40,300 plus 5.5% of excess over
8		\$1,000,000
9	Over \$1,500,000 but not over \$2,100,000	\$67,800 plus 6.5% of excess over
10		\$1,500,000
11	Over \$2,100,000 but not over \$2,600,000	\$106,800 plus 8.0% of excess
12		over \$2,100,000
13	Over \$2,600,000 but not over \$3,100,000	\$146,800 plus 8.8% of excess over
14		\$2,600,000
15	Over \$3,100,000 but not over \$3,600,000	\$190,800 plus 9.6% of excess over
16		\$3,100,000
17	Over \$3,600,000 but not over \$4,100,000	\$238,800 plus 10.4% of excess
18		over \$3,600,000
19	Over \$4,100,000 but not over \$5,100,000	\$290,800 plus 11.2% of excess
20		over \$4,100,000
21	Over \$5,100,000 but not over \$6,100,000	\$402,800 plus 12.0% of excess
22		over \$5,100,000
23	Over \$6,100,000 but not over \$7,100,000	\$522,800 plus 12.8% of excess
24		over \$6,100,000
25	Over \$7,100,000 but not over \$8,100,000	\$650,800 plus 13.6% of excess
26		over \$7,100,000
27	Over \$8,100,000 but not over \$9,100,000	\$786,800 plus 14.4% of excess
28		over \$8,100,000
29	Over \$9,100,000 but not over	\$930,800 plus 15.2% of excess over
30	\$10,100,000	\$9,100,000
31	Over \$10,100,000	\$1,082,800 plus 16.0% of excess
32		over \$10,100,000

33 S 2. Paragraph 3 of subsection (a) of section 954 of the tax law, as
 34 added by section 3 of part X of chapter 59 of the laws of 2014, is
 35 amended to read as follows:

36 (3) Increased by the amount of any taxable gift under section 2503 of
 37 the internal revenue code not otherwise included in the decedent's
 38 federal gross estate, made during the three year period ending on the
 39 decedent's date of death, but not including any gift made: [(1)] (A)
 40 when the decedent was not a resident of New York state; [(2)] OR (B)
 41 before April first, two thousand fourteen[; or (3)]. PROVIDED, HOWEVER
 42 THAT THIS PARAGRAPH SHALL NOT APPLY TO THE ESTATE OF A DECEDENT DYING
 43 on or after January first, two thousand nineteen.

44 S 3. Subsection (b) of section 960 of the tax law, as amended by
 45 section 5 of part X of chapter 59 of the laws of 2014, is amended to
 46 read as follows:

47 (b) Computation of tax.--The tax imposed under subsection (a) shall be
 48 the same as the tax that would be due, if the decedent had died a resi-
 49 dent, under subsection (a) of section nine hundred fifty-two, except
 50 that for purposes of computing the tax under subsection (b) of section
 51 nine hundred fifty-two, "New York taxable estate" shall not include the
 52 value of, OR ANY DEDUCTION ALLOWABLE UNDER THE INTERNAL REVENUE CODE
 53 RELATED TO, any intangible personal property otherwise includible in the
 54 deceased individual's New York gross estate, and shall not include the
 55 amount of any gift unless such gift consists of real or tangible
 56 personal property having an actual situs in New York state or intangible

1 personal property employed in a business, trade or profession carried on
2 in this state.

3 S 4. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2014.

5 PART CC

6 Section 1. Section 282 of the tax law is amended by adding a new
7 subdivision 27 to read as follows:

8 27. "WHOLESALE OF MOTOR FUEL" MEANS ANY PERSON, FIRM, ASSOCIATION OR
9 CORPORATION WHO OR WHICH IS NOT A DISTRIBUTOR OF MOTOR FUEL, AND MAKES A
10 SALE OF MOTOR FUEL IN THIS STATE OTHER THAN A RETAIL SALE NOT IN BULK.
11 FOR THE PURPOSES OF THIS ARTICLE WHEN USED WITH RESPECT TO MOTOR FUEL, A
12 "RETAIL SALE NOT IN BULK" MEANS THE MAKING OR OFFERING TO MAKE ANY SALE
13 OF MOTOR FUEL TO A CONSUMER OF SUCH FUEL WHICH IS DELIVERED DIRECTLY
14 INTO A MOTOR VEHICLE FOR USE IN THE OPERATION OF SUCH VEHICLE. A "RETAIL
15 SALE IN BULK" MEANS THE MAKING OR OFFERING TO MAKE ANY SALE OF MOTOR
16 FUEL TO A CONSUMER WHICH IS OTHER THAN A "RETAIL SALE NOT IN BULK".

17 S 2. The tax law is amended by adding a new section 283-d to read as
18 follows:

19 S 283-D. REGISTRATION OF WHOLESALERS OF MOTOR FUEL. (A) REGISTRATION
20 REQUIRED. EACH WHOLESALER OF MOTOR FUEL MUST BE REGISTERED WITH THE
21 DEPARTMENT UNDER THIS SECTION. NO WHOLESALER OF MOTOR FUEL SHALL MAKE A
22 SALE OF MOTOR FUEL IN THIS STATE OTHER THAN A RETAIL SALE NOT IN BULK
23 UNLESS SUCH WHOLESALER IS SO REGISTERED. THE DEPARTMENT, UPON THE
24 APPLICATION OF A PERSON, SHALL REGISTER SUCH PERSON AS A WHOLESALER OF
25 MOTOR FUEL EXCEPT THAT THE COMMISSIONER MAY REFUSE TO REGISTER AN APPLI-
26 CANT FOR ANY OF THE GROUNDS SPECIFIED IN SUBDIVISION TWO OR FIVE OF
27 SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE OR IN SUBDIVISION (C)
28 OF THIS SECTION. THE APPLICATION SHALL BE IN SUCH FORM AND CONTAIN SUCH
29 INFORMATION AS THE COMMISSIONER SHALL PRESCRIBE. ALL OF THE PROVISIONS
30 OF SUBDIVISIONS TWO, FOUR, FIVE, SIX, SEVEN, EIGHT, NINE AND TEN OF
31 SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE RELATING TO REGISTRA-
32 TION OF DISTRIBUTORS SHALL BE APPLICABLE TO THE REGISTRATION OF WHOLE-
33 SALERS OF MOTOR FUEL UNDER THIS SECTION WITH THE SAME FORCE AND EFFECT
34 AS IF THE LANGUAGE OF SUCH SUBDIVISIONS HAD BEEN INCORPORATED IN FULL IN
35 THIS SECTION AND HAD EXPRESSLY REFERRED TO THE REGISTRATION OF WHOLE-
36 SALERS OF MOTOR FUEL, WITH SUCH MODIFICATION AS MAY BE NECESSARY IN
37 ORDER TO ADAPT THE LANGUAGE OF SUCH PROVISIONS TO THE PROVISIONS OF THIS
38 SECTION, PROVIDED, SPECIFICALLY, THAT THE TERM "DISTRIBUTOR" SHALL BE
39 READ AS "WHOLESALE OF MOTOR FUEL." PROVIDED, HOWEVER, THAT IF THE
40 COMMISSIONER IS SATISFIED THAT THE REQUIREMENTS OF SUCH PROVISIONS FOR
41 REGISTRATION ARE NOT NECESSARY IN ORDER TO PROTECT TAX REVENUES, THE
42 COMMISSIONER MAY LIMIT OR MODIFY SUCH REQUIREMENTS WITH RESPECT TO ANY
43 PERSON NOT REQUIRED TO BE REGISTERED AS A DISTRIBUTOR OF MOTOR FUEL.

44 (B) BOND OR OTHER SECURITY. THE COMMISSIONER MAY REQUIRE A WHOLESALER
45 OF MOTOR FUEL SEEKING A REGISTRATION TO FILE WITH THE DEPARTMENT A BOND
46 ISSUED BY A SURETY COMPANY APPROVED BY THE SUPERINTENDENT OF FINANCIAL
47 SERVICES AS TO SOLVENCY AND RESPONSIBILITY AND AUTHORIZED TO TRANSACT
48 BUSINESS IN THIS STATE OR OTHER SECURITY ACCEPTABLE TO THE COMMISSIONER,
49 IN SUCH AMOUNT AS THE COMMISSIONER MAY FIX TO SECURE THE PERFORMANCE BY
50 SUCH WHOLESALER OF MOTOR FUEL OF THE DUTIES AND RESPONSIBILITIES
51 REQUIRED (I) PURSUANT TO THIS ARTICLE AND (II) PURSUANT TO ARTICLES
52 TWENTY-EIGHT AND TWENTY-NINE OF THIS CHAPTER WITH RESPECT TO MOTOR FUEL.
53 THE COMMISSIONER MAY REQUIRE THAT SUCH A BOND OR OTHER SECURITY BE FILED
54 BEFORE A WHOLESALER OF MOTOR FUEL IS REGISTERED, AND THE AMOUNT THEREOF

1 MAY BE INCREASED AT ANY TIME WHEN IN THE COMMISSIONER'S JUDGMENT THE
2 SAME IS NECESSARY. IF SECURITIES ARE DEPOSITED AS SECURITY UNDER THIS
3 SUBDIVISION, SUCH SECURITIES SHALL BE KEPT IN THE JOINT CUSTODY OF THE
4 COMPTROLLER AND THE COMMISSIONER AND MAY BE SOLD BY THE COMMISSIONER IF
5 IT BECOMES NECESSARY SO TO DO IN ORDER TO RECOVER AGAINST SUCH WHOLE-
6 SALER OF MOTOR FUEL BUT NO SUCH SALE SHALL BE HAD UNTIL AFTER SUCH
7 WHOLESALER OF MOTOR FUEL SHALL HAVE HAD OPPORTUNITY TO LITIGATE THE
8 VALIDITY OF THE LIABILITY IF IT ELECTS TO DO SO. UPON ANY SUCH SALE THE
9 SURPLUS, IF ANY, ABOVE THE SUMS DUE SHALL BE RETURNED TO SUCH WHOLESALER
10 OF MOTOR FUEL. THE DEPARTMENT, WHEN AUTHORIZED BY THE WHOLESALER OF
11 MOTOR FUEL, SHALL FURNISH INFORMATION REGARDING THE REGISTRATION OF THE
12 WHOLESALER OF MOTOR FUEL AND ANY OTHER INFORMATION WHICH THE WHOLESALER
13 OF MOTOR FUEL AUTHORIZES IT TO DISCLOSE.

14 (C) REFUSAL TO REGISTER. FOR THE PURPOSES OF DETERMINING WHETHER TO
15 REFUSE AN APPLICATION FOR REGISTRATION UNDER THIS SECTION, THE REFER-
16 ENCES IN SUBDIVISION TWO OF SECTION TWO HUNDRED EIGHTY-THREE OF THIS
17 ARTICLE TO EMPLOYEES OR SHAREHOLDERS UNDER A DUTY TO FILE A RETURN UNDER
18 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR PAY THE TAXES IMPOSED BY
19 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF OF THE APPLICANT
20 OR ANOTHER PERSON SHALL BE DEEMED TO ALSO INCLUDE AN EMPLOYEE UNDER A
21 DUTY TO FILE A RETURN OR PAY TAXES UNDER OR PURSUANT TO THE AUTHORITY OF
22 THIS ARTICLE ON BEHALF OF SUCH APPLICANT OR OTHER PERSON. IN ADDITION TO
23 THE GROUNDS SPECIFIED IN SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTI-
24 CLE, THE COMMISSIONER MAY REFUSE TO REGISTER AN APPLICANT WHERE THE
25 COMMISSIONER ASCERTAINS THAT THE APPLICANT, AN OFFICER, DIRECTOR OR
26 PARTNER OF THE APPLICANT, A SHAREHOLDER DIRECTLY OR INDIRECTLY OWNING
27 MORE THAN TEN PERCENT OF THE NUMBER OF SHARES OF STOCK OF SUCH APPLICANT
28 (WHERE SUCH APPLICANT IS A CORPORATION) ENTITLING THE HOLDER THEREOF TO
29 VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR AN EMPLOYEE OR SHARE-
30 HOLDER OF SUCH APPLICANT WHO, AS SUCH EMPLOYEE OR SHAREHOLDER IS UNDER A
31 DUTY TO FILE A RETURN UNDER OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE
32 OR TO PAY THE TAXES IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS
33 ARTICLE ON BEHALF OF THE APPLICANT; (1) HAS COMMITTED ANY OF THE ACTS OR
34 OMISSIONS WHICH ARE, OR WAS CONVICTED AS, SPECIFIED IN SUBDIVISION (D)
35 OF THIS SECTION WITHIN THE PRECEDING FIVE YEARS; OR (2) WAS AN OFFICER,
36 DIRECTOR OR PARTNER OF ANOTHER PERSON, OR WHO DIRECTLY OR INDIRECTLY
37 OWNED MORE THAN TEN PERCENT OF THE SHARES OF STOCK OF ANOTHER PERSON
38 (WHERE SUCH OTHER PERSON IS A CORPORATION) ENTITLING THE HOLDER THEREOF
39 TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR WHO WAS AN EMPLOY-
40 EE OR SHAREHOLDER OF ANOTHER PERSON UNDER A DUTY TO FILE A RETURN UNDER
41 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR PAY THE TAXES IMPOSED BY
42 OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF OF SUCH OTHER
43 PERSON AT THE TIME SUCH OTHER PERSON COMMITTED ANY OF THE ACTS OR OMIS-
44 SIONS WHICH ARE, OR WAS CONVICTED AS, SPECIFIED IN SUBDIVISION (D) OF
45 THIS SECTION WITHIN THE PRECEDING FIVE YEARS.

46 (D) CANCELLATION OR SUSPENSION OF REGISTRATION. THE GROUNDS FOR A
47 CANCELLATION OR SUSPENSION OF A REGISTRATION UNDER THIS SECTION AS A
48 WHOLESALER OF MOTOR FUEL ARE THE SAME AS THOSE GROUNDS SPECIFIED IN
49 SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE AND, IN ADDITION TO
50 SUCH GROUNDS, THE FOLLOWING GROUNDS RELATING TO THIS ARTICLE SHALL
51 APPLY:

52 (1) A REGISTRATION AS A WHOLESALER OF MOTOR FUEL MAY BE CANCELLED OR
53 SUSPENDED IF THE COMMISSIONER DETERMINES THAT A REGISTRANT OR AN OFFI-
54 CER, DIRECTOR OR PARTNER OF THE REGISTRANT, A SHAREHOLDER DIRECTLY OR
55 INDIRECTLY OWNING MORE THAN TEN PERCENT OF THE NUMBER OF SHARES OF STOCK
56 OF SUCH REGISTRANT (WHERE SUCH REGISTRANT IS A CORPORATION) ENTITLING

1 THE HOLDER THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR
2 AN EMPLOYEE OR SHAREHOLDER OF SUCH REGISTRANT UNDER A DUTY TO FILE A
3 RETURN UNDER OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR TO PAY THE
4 TAXES IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF
5 OF THE REGISTRANT

6 (A) FAILS TO FILE OR MAINTAIN IN FULL FORCE AND EFFECT A BOND OR OTHER
7 SECURITY WHEN REQUIRED PURSUANT TO SUBDIVISION (B) OF THIS SECTION OR
8 WHEN THE AMOUNT THEREOF IS INCREASED,

9 (B) FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF THIS ARTICLE OR ANY
10 RULE OR REGULATION ADOPTED PURSUANT TO THIS ARTICLE BY THE COMMISSIONER,

11 (C) KNOWINGLY AIDS AND ABETS ANOTHER PERSON IN VIOLATING ANY OF THE
12 PROVISIONS OF THIS ARTICLE OR ANY RULE OR REGULATION ADOPTED PURSUANT TO
13 THIS ARTICLE BY THE COMMISSIONER,

14 (D) TRANSFERS ITS REGISTRATION AS A WHOLESALER OF MOTOR FUEL WITHOUT
15 THE PRIOR WRITTEN APPROVAL OF THE COMMISSIONER,

16 (E) WITH RESPECT TO A WHOLESALER OF MOTOR FUEL WHICH IS A CORPORATION,
17 HAS BEEN DISSOLVED PURSUANT TO SECTION TWO HUNDRED THREE-A AND SUBDIVI-
18 SION (D) OF SECTION THREE HUNDRED TEN OF THIS CHAPTER,

19 (F) COMMITS FRAUD OR DECEIT IN HIS, HER OR ITS OPERATIONS AS A WHOLE-
20 SALER OF MOTOR FUEL OR HAS COMMITTED FRAUD OR DECEIT IN PROCURING HIS,
21 HER OR ITS REGISTRATION,

22 (G) HAS IMPERSONATED ANY PERSON REPRESENTED TO BE A WHOLESALER OF
23 MOTOR FUEL UNDER THIS ARTICLE BUT NOT IN FACT REGISTERED AS A WHOLESALER
24 OF MOTOR FUEL, OR

25 (H) HAS KNOWINGLY AIDED AND ABETTED THE DISTRIBUTION OF MOTOR FUEL, BY
26 ANY PERSON WHICH SUCH REGISTRANT OR SUCH OTHER PERSON KNOWS HAS NOT BEEN
27 REGISTERED BY THE COMMISSIONER AS REQUIRED UNDER THIS ARTICLE.

28 (2) A REGISTRATION AS A WHOLESALER OF MOTOR FUEL MAY BE CANCELLED OR
29 SUSPENDED IF THE COMMISSIONER DETERMINES THAT A REGISTRANT OR AN OFFI-
30 CER, DIRECTOR OR PARTNER OF THE REGISTRANT, A SHAREHOLDER DIRECTLY OR
31 INDIRECTLY OWNING MORE THAN TEN PERCENT OF THE NUMBER OF SHARES OF STOCK
32 OF SUCH REGISTRANT (WHERE SUCH REGISTRANT IS A CORPORATION) ENTITLING
33 THE HOLDER THEREOF TO VOTE FOR THE ELECTION OF DIRECTORS OR TRUSTEES, OR
34 AN EMPLOYEE OR SHAREHOLDER OF SUCH REGISTRANT UNDER A DUTY TO FILE A
35 RETURN UNDER OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE OR TO PAY THE
36 TAXES IMPOSED BY OR PURSUANT TO THE AUTHORITY OF THIS ARTICLE ON BEHALF
37 OF THE REGISTRANT, WAS AN OFFICER, DIRECTOR OR PARTNER OF ANOTHER PERSON
38 OR WAS A SHAREHOLDER DIRECTLY OR INDIRECTLY OWNING MORE THAN TEN PERCENT
39 OF THE NUMBER OF SHARES OF STOCK OF ANOTHER PERSON (WHERE SUCH OTHER
40 PERSON IS A CORPORATION) ENTITLING THE HOLDER THEREOF TO VOTE FOR THE
41 ELECTION OF DIRECTORS OR TRUSTEES, OR WAS AN EMPLOYEE OR SHAREHOLDER OF
42 ANOTHER PERSON UNDER A DUTY TO FILE A RETURN UNDER OR PURSUANT TO THE
43 AUTHORITY OF THIS ARTICLE OR TO PAY THE TAXES IMPOSED BY OR PURSUANT TO
44 THE AUTHORITY OF THIS ARTICLE ON BEHALF OF SUCH OTHER PERSON AT THE TIME
45 SUCH OTHER PERSON COMMITTED ANY OF THE ACTS SPECIFIED IN PARAGRAPH ONE
46 OF THIS SUBDIVISION WITHIN THE PRECEDING FIVE YEARS.

47 (E) CANCELLATION OR SUSPENSION OF REGISTRATION PRIOR TO A HEARING.
48 THE GROUNDS FOR CANCELLING OR SUSPENDING A REGISTRATION AS A WHOLESALER
49 OF MOTOR FUEL PRIOR TO A HEARING SHALL BE THE SAME AS THOSE SPECIFIED IN
50 SUBDIVISION FIVE OF SECTION TWO HUNDRED EIGHTY-THREE OF THIS ARTICLE
51 AND, IN ADDITION TO SUCH GROUNDS, THE FOLLOWING GROUNDS RELATING TO THIS
52 ARTICLE SHALL APPLY:

53 (1) THE FAILURE TO FILE A RETURN WITHIN TEN DAYS OF THE DATE
54 PRESCRIBED FOR FILING A RETURN UNDER THIS ARTICLE IF THE REGISTRANT
55 SHALL HAVE FAILED TO FILE SUCH RETURN WITHIN TEN DAYS AFTER THE DATE THE
56 DEMAND THEREFOR IS SENT BY REGISTERED OR CERTIFIED MAIL TO THE ADDRESS

1 OF THE WHOLESALER OF MOTOR FUEL GIVEN IN ITS APPLICATION, OR AN ADDRESS
2 SUBSTITUTED THEREFOR AS PROVIDED IN SUBDIVISION FIVE OF SECTION TWO
3 HUNDRED EIGHTY-THREE OF THIS ARTICLE,

4 (2) THE FAILURE TO CONTINUE TO MAINTAIN IN FULL FORCE AND EFFECT AT
5 ALL TIMES THE BOND OR OTHER SECURITY REQUIRED TO BE FILED PURSUANT TO
6 SUBDIVISION (B) OF THIS SECTION, PROVIDED, HOWEVER, THAT IF A SURETY
7 BOND IS CANCELLED PRIOR TO EXPIRATION, THE COMMISSIONER MAY AFTER
8 CONSIDERING ALL THE RELEVANT CIRCUMSTANCES MAKE SUCH OTHER ARRANGEMENTS,
9 AND MAY REQUIRE THE FILING OF SUCH OTHER BOND OR OTHER SECURITY AS IT
10 DEEMS APPROPRIATE,

11 (3) THE TRANSFER OF A REGISTRATION AS A WHOLESALER OF MOTOR FUEL WITH-
12 OUT THE PRIOR WRITTEN APPROVAL OF THE COMMISSIONER, OR

13 (4) WITH RESPECT TO A WHOLESALER OF MOTOR FUEL WHICH IS A CORPORATION,
14 THE DISSOLUTION OR ANNULMENT OF SUCH CORPORATION PURSUANT TO SECTION
15 THREE HUNDRED TEN OF THIS CHAPTER.

16 S 3. Section 287 of the tax law is amended by adding a new subdivision
17 3 to read as follows:

18 3. EVERY WHOLESALER OF MOTOR FUEL SHALL, ON OR BEFORE THE TWENTIETH
19 DAY OF EACH MONTH, FILE WITH THE DEPARTMENT A RETURN, ON FORMS
20 PRESCRIBED BY THE COMMISSIONER STATING THE NUMBER OF GALLONS OF MOTOR
21 FUEL PURCHASED AND SOLD BY SUCH WHOLESALER IN THE STATE DURING THE
22 PRECEDING CALENDAR MONTH. FOR EACH PURCHASE AND SALE, THE DATE, NUMBER
23 OF GALLONS OF MOTOR FUEL PURCHASED OR SOLD, AND THE NAME OF THE SELLER
24 OR PURCHASER SHALL BE SET FORTH ON THE RETURN. SUCH RETURNS SHALL
25 CONTAIN SUCH FURTHER INFORMATION AS THE COMMISSIONER SHALL REQUIRE. THE
26 FACT THAT A WHOLESALER'S NAME IS SIGNED TO A FILED RETURN SHALL BE PRIMA
27 FACIE EVIDENCE FOR ALL PURPOSES THAT THE RETURN WAS ACTUALLY SIGNED BY
28 SUCH WHOLESALER OF MOTOR FUEL.

29 S 4. Section 1102 of the tax law is amended by adding a new subdivi-
30 sion (f) to read as follows:

31 (F) EVERY WHOLESALER OF MOTOR FUEL, AS SUCH TERM IS DEFINED BY SUBDI-
32 VISION TWENTY-SEVEN OF SECTION TWO HUNDRED EIGHTY-TWO OF THIS CHAPTER,
33 SHALL PAY OR BE ENTITLED TO A CREDIT OR REFUND OF THE TAX IMPOSED BY
34 THIS SECTION ON GALLONS OF MOTOR FUEL UNDER THE CIRCUMSTANCES SET FORTH
35 IN PARAGRAPH THREE OF SUBDIVISION (E) OF SECTION ELEVEN HUNDRED ELEVEN
36 OF THIS ARTICLE.

37 S 5. Subdivision (e) of section 1111 of the tax law is amended by
38 adding a new paragraph 3 to read as follows:

39 (3) WHEN A WHOLESALER OF MOTOR FUEL SELLS MOTOR FUEL IN A REGION, AS
40 DEFINED IN PARAGRAPH ONE OF THIS SUBDIVISION, DIFFERENT FROM THE REGION
41 IN WHICH SUCH MOTOR FUEL WAS PURCHASED:

42 (I) IF THE REGION IN WHICH IT SELLS THE MOTOR FUEL HAS A HIGHER
43 PREPAID RATE AS SET FORTH IN THIS SUBDIVISION THAN THE REGION IN WHICH
44 THE WHOLESALER PURCHASED THE MOTOR FUEL IN, THE WHOLESALER SHALL PAY TO
45 THE DEPARTMENT THE DIFFERENCE IN THE RATES FOR THE GALLONAGE SOLD.

46 (II) IF THE REGION IN WHICH IT SELLS THE MOTOR FUEL HAS A LOWER
47 PREPAID RATE AS SET FORTH IN THIS SUBDIVISION THAN THE REGION IN WHICH
48 THE WHOLESALER PURCHASED THE MOTOR FUEL, THE WHOLESALER SHALL BE ENTI-
49 TLED TO A CREDIT OR REFUND FOR THE DIFFERENCE IN THE RATES FOR THE
50 GALLONAGE SOLD.

51 S 6. The tax law is amended by adding a new section 1812-g to read as
52 follows:

53 S 1812-G. PERSON NOT REGISTERED AS A WHOLESALER OF MOTOR FUEL. ANY
54 PERSON WHO, WHILE NOT REGISTERED AS A WHOLESALER OF MOTOR FUEL PURSUANT
55 TO THE PROVISIONS OF ARTICLE TWELVE-A OF THIS CHAPTER, MAKES A SALE OF

1 MOTOR FUEL IN THIS STATE OTHER THAN A RETAIL SALE NOT IN BULK, SHALL BE
2 GUILTY OF A CLASS E FELONY.

3 S 7. This act shall take effect September 1, 2015.

4 PART DD

5 Section 1. Section 2 of part Q of chapter 59 of the laws of 2013,
6 amending the tax law relating to serving an income execution with
7 respect to individual tax debtors without filing a warrant, is amended
8 to read as follows:

9 S 2. This act shall take effect immediately [and shall expire and be
10 deemed repealed on and after April 1, 2015].

11 S 2. This act shall take effect immediately.

12 PART EE

13 Section 1. Subdivision 1 of section 171-v of the tax law, as added by
14 section 1 of part P of chapter 59 of the laws of 2013, is amended to
15 read as follows:

16 (1) The commissioner shall enter into a written agreement with the
17 commissioner of motor vehicles, which shall set forth the procedures for
18 the two departments to cooperate in a program to improve tax collection
19 through the suspension of drivers' licenses of taxpayers with past-due
20 tax liabilities equal to or in excess of [ten] FIVE thousand dollars.
21 For the purposes of this section, the term "tax liabilities" shall mean
22 any tax, surcharge, or fee administered by the commissioner, or any
23 penalty or interest due on these amounts owed by an individual with a
24 New York driver's license, the term "driver's license" means any license
25 issued by the department of motor vehicles, except for a commercial
26 driver's license as defined in section five hundred one-a of the vehicle
27 and traffic law, and the term "past-due tax liabilities" means any tax
28 liability or liabilities which have become fixed and final such that the
29 taxpayer no longer has any right to administrative or judicial review.

30 S 2. This act shall take effect immediately; provided, however, that
31 the department of taxation and finance and the department of motor vehi-
32 cles shall have up to two months after this act shall have become a law
33 to execute any amendment to the written agreement and implement the
34 necessary procedures as described in section one of this act.

35 PART FF

36 Section 1. Paragraph (a) of subdivision 1 of section 18 of chapter 266
37 of the laws of 1986, amending the civil practice law and rules and other
38 laws relating to malpractice and professional medical conduct, as
39 amended by section 18 of part B of chapter 60 of the laws of 2014, is
40 amended to read as follows:

41 (a) The superintendent of [insurance] FINANCIAL SERVICES and the
42 commissioner of health or their designee shall, from funds available in
43 the hospital excess liability pool created pursuant to subdivision 5 of
44 this section, purchase a policy or policies for excess insurance cover-
45 age, as authorized by paragraph 1 of subsection (e) of section 5502 of
46 the insurance law; or from an insurer, other than an insurer described
47 in section 5502 of the insurance law, duly authorized to write such
48 coverage and actually writing medical malpractice insurance in this
49 state; or shall purchase equivalent excess coverage in a form previously
50 approved by the superintendent of [insurance] FINANCIAL SERVICES for

1 purposes of providing equivalent excess coverage in accordance with
2 section 19 of chapter 294 of the laws of 1985, for medical or dental
3 malpractice occurrences between July 1, 1986 and June 30, 1987, between
4 July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989,
5 between July 1, 1989 and June 30, 1990, between July 1, 1990 and June
6 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992
7 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July
8 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996,
9 between July 1, 1996 and June 30, 1997, between July 1, 1997 and June
10 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999
11 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July
12 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003,
13 between July 1, 2003 and June 30, 2004, between July 1, 2004 and June
14 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006
15 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July
16 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010,
17 between July 1, 2010 and June 30, 2011, between July 1, 2011 and June
18 30, 2012, between July 1, 2012 and June 30, 2013, between July 1, 2013
19 and June 30, 2014, [and] between July 1, 2014 and June 30, 2015, AND
20 BETWEEN JULY 1, 2015 AND JUNE 30, 2016 or reimburse the hospital where
21 the hospital purchases equivalent excess coverage as defined in subpara-
22 graph (i) of paragraph (a) of subdivision 1-a of this section for
23 medical or dental malpractice occurrences between July 1, 1987 and June
24 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989
25 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July
26 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,
27 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June
28 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996
29 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July
30 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,
31 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June
32 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003
33 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July
34 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,
35 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June
36 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010
37 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July
38 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014, [and]
39 between July 1, 2014 and June 30, 2015, AND BETWEEN JULY 1, 2015 AND
40 JUNE 30, 2016 for physicians or dentists certified as eligible for each
41 such period or periods pursuant to subdivision 2 of this section by a
42 general hospital licensed pursuant to article 28 of the public health
43 law; provided that no single insurer shall write more than fifty percent
44 of the total excess premium for a given policy year; and provided,
45 however, that such eligible physicians or dentists must have in force an
46 individual policy, from an insurer licensed in this state of primary
47 malpractice insurance coverage in amounts of no less than one million
48 three hundred thousand dollars for each claimant and three million nine
49 hundred thousand dollars for all claimants under that policy during the
50 period of such excess coverage for such occurrences or be endorsed as
51 additional insureds under a hospital professional liability policy which
52 is offered through a voluntary attending physician ("channeling")
53 program previously permitted by the superintendent of [insurance] FINAN-
54 CIAL SERVICES during the period of such excess coverage for such occur-
55 rences; AND PROVIDED THAT SUCH ELIGIBLE PHYSICIANS OR DENTISTS HAVE
56 RECEIVED TAX CLEARANCES FROM THE DEPARTMENT OF TAXATION AND FINANCE

1 PURSUANT TO SECTION 171-W OF THE TAX LAW. During such period, such
2 policy for excess coverage or such equivalent excess coverage shall,
3 when combined with the physician's or dentist's primary malpractice
4 insurance coverage or coverage provided through a voluntary attending
5 physician ("channeling") program, total an aggregate level of two
6 million three hundred thousand dollars for each claimant and six million
7 nine hundred thousand dollars for all claimants from all such policies
8 with respect to occurrences in each of such years provided, however, if
9 the cost of primary malpractice insurance coverage in excess of one
10 million dollars, but below the excess medical malpractice insurance
11 coverage provided pursuant to this act, exceeds the rate of nine percent
12 per annum, then the required level of primary malpractice insurance
13 coverage in excess of one million dollars for each claimant shall be in
14 an amount of not less than the dollar amount of such coverage available
15 at nine percent per annum; the required level of such coverage for all
16 claimants under that policy shall be in an amount not less than three
17 times the dollar amount of coverage for each claimant; and excess cover-
18 age, when combined with such primary malpractice insurance coverage,
19 shall increase the aggregate level for each claimant by one million
20 dollars and three million dollars for all claimants; and provided
21 further, that, with respect to policies of primary medical malpractice
22 coverage that include occurrences between April 1, 2002 and June 30,
23 2002, such requirement that coverage be in amounts no less than one
24 million three hundred thousand dollars for each claimant and three
25 million nine hundred thousand dollars for all claimants for such occur-
26 rences shall be effective April 1, 2002.

27 S 2. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
28 amending the civil practice law and rules and other laws relating to
29 malpractice and professional medical conduct, as amended by section 19
30 of part B of chapter 60 of the laws of 2014, is amended to read as
31 follows:

32 (3)(a) The superintendent of [insurance] FINANCIAL SERVICES shall
33 determine and certify to each general hospital and to the commissioner
34 of health the cost of excess malpractice insurance for medical or dental
35 malpractice occurrences between July 1, 1986 and June 30, 1987, between
36 July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990,
37 between July 1, 1990 and June 30, 1991, between July 1, 1991 and June
38 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993
39 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July
40 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997,
41 between July 1, 1997 and June 30, 1998, between July 1, 1998 and June
42 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000
43 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July
44 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004,
45 between July 1, 2004 and June 30, 2005, between July 1, 2005 and June
46 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007
47 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July
48 1, 2009 and June 30, 2010, between July 1, 2010 and June 30, 2011,
49 between July 1, 2011 and June 30, 2012, between July 1, 2012 and June
50 30, 2013, and between July 1, 2013 and June 30, 2014, [and] between July
51 1, 2014 and June 30, 2015, AND BETWEEN JULY 1, 2015 AND JUNE 30, 2016
52 allocable to each general hospital for physicians or dentists certified
53 as eligible for purchase of a policy for excess insurance coverage by
54 such general hospital in accordance with subdivision 2 of this section,
55 and may amend such determination and certification as necessary.

1 (b) The superintendent of [insurance] FINANCIAL SERVICES shall deter-
2 mine and certify to each general hospital and to the commissioner of
3 health the cost of excess malpractice insurance or equivalent excess
4 coverage for medical or dental malpractice occurrences between July 1,
5 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989, between
6 July 1, 1989 and June 30, 1990, between July 1, 1990 and June 30, 1991,
7 between July 1, 1991 and June 30, 1992, between July 1, 1992 and June
8 30, 1993, between July 1, 1993 and June 30, 1994, between July 1, 1994
9 and June 30, 1995, between July 1, 1995 and June 30, 1996, between July
10 1, 1996 and June 30, 1997, between July 1, 1997 and June 30, 1998,
11 between July 1, 1998 and June 30, 1999, between July 1, 1999 and June
12 30, 2000, between July 1, 2000 and June 30, 2001, between July 1, 2001
13 and June 30, 2002, between July 1, 2002 and June 30, 2003, between July
14 1, 2003 and June 30, 2004, between July 1, 2004 and June 30, 2005,
15 between July 1, 2005 and June 30, 2006, between July 1, 2006 and June
16 30, 2007, between July 1, 2007 and June 30, 2008, between July 1, 2008
17 and June 30, 2009, between July 1, 2009 and June 30, 2010, between July
18 1, 2010 and June 30, 2011, between July 1, 2011 and June 30, 2012,
19 between July 1, 2012 and June 30, 2013, between July 1, 2013 and June
20 30, 2014, [and] between July 1, 2014 and June 30, 2015, AND BETWEEN JULY
21 1, 2015 AND JUNE 30, 2016 allocable to each general hospital for physi-
22 cians or dentists certified as eligible for purchase of a policy for
23 excess insurance coverage or equivalent excess coverage by such general
24 hospital in accordance with subdivision 2 of this section, and may amend
25 such determination and certification as necessary. The superintendent of
26 [insurance] FINANCIAL SERVICES shall determine and certify to each
27 general hospital and to the commissioner of health the ratable share of
28 such cost allocable to the period July 1, 1987 to December 31, 1987, to
29 the period January 1, 1988 to June 30, 1988, to the period July 1, 1988
30 to December 31, 1988, to the period January 1, 1989 to June 30, 1989, to
31 the period July 1, 1989 to December 31, 1989, to the period January 1,
32 1990 to June 30, 1990, to the period July 1, 1990 to December 31, 1990,
33 to the period January 1, 1991 to June 30, 1991, to the period July 1,
34 1991 to December 31, 1991, to the period January 1, 1992 to June 30,
35 1992, to the period July 1, 1992 to December 31, 1992, to the period
36 January 1, 1993 to June 30, 1993, to the period July 1, 1993 to December
37 31, 1993, to the period January 1, 1994 to June 30, 1994, to the period
38 July 1, 1994 to December 31, 1994, to the period January 1, 1995 to June
39 30, 1995, to the period July 1, 1995 to December 31, 1995, to the period
40 January 1, 1996 to June 30, 1996, to the period July 1, 1996 to December
41 31, 1996, to the period January 1, 1997 to June 30, 1997, to the period
42 July 1, 1997 to December 31, 1997, to the period January 1, 1998 to June
43 30, 1998, to the period July 1, 1998 to December 31, 1998, to the period
44 January 1, 1999 to June 30, 1999, to the period July 1, 1999 to December
45 31, 1999, to the period January 1, 2000 to June 30, 2000, to the period
46 July 1, 2000 to December 31, 2000, to the period January 1, 2001 to June
47 30, 2001, to the period July 1, 2001 to June 30, 2002, to the period
48 July 1, 2002 to June 30, 2003, to the period July 1, 2003 to June 30,
49 2004, to the period July 1, 2004 to June 30, 2005, to the period July 1,
50 2005 and June 30, 2006, to the period July 1, 2006 and June 30, 2007, to
51 the period July 1, 2007 and June 30, 2008, to the period July 1, 2008
52 and June 30, 2009, to the period July 1, 2009 and June 30, 2010, to the
53 period July 1, 2010 and June 30, 2011, to the period July 1, 2011 and
54 June 30, 2012, to the period July 1, 2012 and June 30, 2013, to the
55 period July 1, 2013 and June 30, 2014, [and] to the period July 1, 2014
56 and June 30, 2015, AND TO THE PERIOD JULY 1, 2015 AND JUNE 30, 2016.

1 S 3. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section
2 18 of chapter 266 of the laws of 1986, amending the civil practice law
3 and rules and other laws relating to malpractice and professional
4 medical conduct, as amended by section 20 of part B of chapter 60 of the
5 laws of 2014, are amended to read as follows:

6 (a) To the extent funds available to the hospital excess liability
7 pool pursuant to subdivision 5 of this section as amended, and pursuant
8 to section 6 of part J of chapter 63 of the laws of 2001, as may from
9 time to time be amended, which amended this subdivision, are insuffi-
10 cient to meet the costs of excess insurance coverage or equivalent
11 excess coverage for coverage periods during the period July 1, 1992 to
12 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during
13 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995
14 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,
15 during the period July 1, 1997 to June 30, 1998, during the period July
16 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,
17 2000, during the period July 1, 2000 to June 30, 2001, during the period
18 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to
19 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during
20 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004
21 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,
22 during the period July 1, 2006 to June 30, 2007, during the period July
23 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,
24 2009, during the period July 1, 2009 to June 30, 2010, during the period
25 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June
26 30, 2012, during the period July 1, 2012 to June 30, 2013, during the
27 period July 1, 2013 to June 30, 2014, [and] during the period July 1,
28 2014 to June 30, 2015, AND DURING THE PERIOD JULY 1, 2015 AND JUNE 30,
29 2016 allocated or reallocated in accordance with paragraph (a) of subdi-
30 vision 4-a of this section to rates of payment applicable to state
31 governmental agencies, each physician or dentist for whom a policy for
32 excess insurance coverage or equivalent excess coverage is purchased for
33 such period shall be responsible for payment to the provider of excess
34 insurance coverage or equivalent excess coverage of an allocable share
35 of such insufficiency, based on the ratio of the total cost of such
36 coverage for such physician to the sum of the total cost of such cover-
37 age for all physicians applied to such insufficiency.

38 (b) Each provider of excess insurance coverage or equivalent excess
39 coverage covering the period July 1, 1992 to June 30, 1993, or covering
40 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
41 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
42 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
43 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
44 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
45 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
46 the period July 1, 2001 to October 29, 2001, or covering the period
47 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
48 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
49 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
50 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
51 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
52 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
53 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
54 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or
55 covering the period July 1, 2012 to June 30, 2013, or covering the peri-
56 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to

1 June 30, 2015, OR COVERING THE PERIOD JULY 1, 2015 TO JUNE 30, 2016
2 shall notify a covered physician or dentist by mail, mailed to the
3 address shown on the last application for excess insurance coverage or
4 equivalent excess coverage, of the amount due to such provider from such
5 physician or dentist for such coverage period determined in accordance
6 with paragraph (a) of this subdivision. Such amount shall be due from
7 such physician or dentist to such provider of excess insurance coverage
8 or equivalent excess coverage in a time and manner determined by the
9 superintendent of [insurance] FINANCIAL SERVICES.

10 (c) If a physician or dentist liable for payment of a portion of the
11 costs of excess insurance coverage or equivalent excess coverage cover-
12 ing the period July 1, 1992 to June 30, 1993, or covering the period
13 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
14 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
15 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
16 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
17 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
18 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
19 od July 1, 2001 to October 29, 2001, or covering the period April 1,
20 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
21 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
22 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
23 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
24 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
25 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
26 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
27 2011, or covering the period July 1, 2011 to June 30, 2012, or covering
28 the period July 1, 2012 to June 30, 2013, or covering the period July 1,
29 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,
30 2015, OR COVERING THE PERIOD JULY 1, 2015 TO JUNE 30, 2016 determined in
31 accordance with paragraph (a) of this subdivision fails, refuses or
32 neglects to make payment to the provider of excess insurance coverage or
33 equivalent excess coverage in such time and manner as determined by the
34 superintendent of [insurance] FINANCIAL SERVICES pursuant to paragraph
35 (b) of this subdivision, excess insurance coverage or equivalent excess
36 coverage purchased for such physician or dentist in accordance with this
37 section for such coverage period shall be cancelled and shall be null
38 and void as of the first day on or after the commencement of a policy
39 period where the liability for payment pursuant to this subdivision has
40 not been met.

41 (d) Each provider of excess insurance coverage or equivalent excess
42 coverage shall notify the superintendent of [insurance] FINANCIAL
43 SERVICES and the commissioner of health or their designee of each physi-
44 cian and dentist eligible for purchase of a policy for excess insurance
45 coverage or equivalent excess coverage covering the period July 1, 1992
46 to June 30, 1993, or covering the period July 1, 1993 to June 30, 1994,
47 or covering the period July 1, 1994 to June 30, 1995, or covering the
48 period July 1, 1995 to June 30, 1996, or covering the period July 1,
49 1996 to June 30, 1997, or covering the period July 1, 1997 to June 30,
50 1998, or covering the period July 1, 1998 to June 30, 1999, or covering
51 the period July 1, 1999 to June 30, 2000, or covering the period July 1,
52 2000 to June 30, 2001, or covering the period July 1, 2001 to October
53 29, 2001, or covering the period April 1, 2002 to June 30, 2002, or
54 covering the period July 1, 2002 to June 30, 2003, or covering the peri-
55 od July 1, 2003 to June 30, 2004, or covering the period July 1, 2004 to
56 June 30, 2005, or covering the period July 1, 2005 to June 30, 2006, or

1 covering the period July 1, 2006 to June 30, 2007, or covering the peri-
2 od July 1, 2007 to June 30, 2008, or covering the period July 1, 2008 to
3 June 30, 2009, or covering the period July 1, 2009 to June 30, 2010, or
4 covering the period July 1, 2010 to June 30, 2011, or covering the peri-
5 od July 1, 2011 to June 30, 2012, or covering the period July 1, 2012 to
6 June 30, 2013, or covering the period July 1, 2013 to June 30, 2014, or
7 covering the period July 1, 2014 to June 30, 2015, OR COVERING THE PERI-
8 OD JULY 1, 2015 TO JUNE 30, 2016 that has made payment to such provider
9 of excess insurance coverage or equivalent excess coverage in accordance
10 with paragraph (b) of this subdivision and of each physician and dentist
11 who has failed, refused or neglected to make such payment.

12 (e) A provider of excess insurance coverage or equivalent excess
13 coverage shall refund to the hospital excess liability pool any amount
14 allocable to the period July 1, 1992 to June 30, 1993, and to the period
15 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
16 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
17 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
18 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
19 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
20 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
21 and to the period April 1, 2002 to June 30, 2002, and to the period July
22 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
23 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
24 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
25 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
26 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
27 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to
28 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012
29 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and
30 to the period July 1, 2014 to June 30, 2015, AND TO THE PERIOD JULY 1,
31 2015 TO JUNE 30, 2016 received from the hospital excess liability pool
32 for purchase of excess insurance coverage or equivalent excess coverage
33 covering the period July 1, 1992 to June 30, 1993, and covering the
34 period July 1, 1993 to June 30, 1994, and covering the period July 1,
35 1994 to June 30, 1995, and covering the period July 1, 1995 to June 30,
36 1996, and covering the period July 1, 1996 to June 30, 1997, and cover-
37 ing the period July 1, 1997 to June 30, 1998, and covering the period
38 July 1, 1998 to June 30, 1999, and covering the period July 1, 1999 to
39 June 30, 2000, and covering the period July 1, 2000 to June 30, 2001,
40 and covering the period July 1, 2001 to October 29, 2001, and covering
41 the period April 1, 2002 to June 30, 2002, and covering the period July
42 1, 2002 to June 30, 2003, and covering the period July 1, 2003 to June
43 30, 2004, and covering the period July 1, 2004 to June 30, 2005, and
44 covering the period July 1, 2005 to June 30, 2006, and covering the
45 period July 1, 2006 to June 30, 2007, and covering the period July 1,
46 2007 to June 30, 2008, and covering the period July 1, 2008 to June 30,
47 2009, and covering the period July 1, 2009 to June 30, 2010, and cover-
48 ing the period July 1, 2010 to June 30, 2011, and covering the period
49 July 1, 2011 to June 30, 2012, and covering the period July 1, 2012 to
50 June 30, 2013, and covering the period July 1, 2013 to June 30, 2014,
51 and covering the period July 1, 2014 to June 30, 2015, AND COVERING THE
52 PERIOD JULY 1, 2015 TO JUNE 30, 2016 for a physician or dentist where
53 such excess insurance coverage or equivalent excess coverage is
54 cancelled in accordance with paragraph (c) of this subdivision.

55 S 4. Section 40 of chapter 266 of the laws of 1986, amending the civil
56 practice law and rules and other laws relating to malpractice and

1 professional medical conduct, as amended by section 21 of part B of
2 chapter 60 of the laws of 2014, is amended to read as follows:

3 S 40. The superintendent of [insurance] FINANCIAL SERVICES shall
4 establish rates for policies providing coverage for physicians and
5 surgeons medical malpractice for the periods commencing July 1, 1985 and
6 ending June 30, [2015] 2016; provided, however, that notwithstanding any
7 other provision of law, the superintendent shall not establish or
8 approve any increase in rates for the period commencing July 1, 2009 and
9 ending June 30, 2010. The superintendent shall direct insurers to estab-
10 lish segregated accounts for premiums, payments, reserves and investment
11 income attributable to such premium periods and shall require periodic
12 reports by the insurers regarding claims and expenses attributable to
13 such periods to monitor whether such accounts will be sufficient to meet
14 incurred claims and expenses. On or after July 1, 1989, the superinten-
15 dent shall impose a surcharge on premiums to satisfy a projected defi-
16 ciency that is attributable to the premium levels established pursuant
17 to this section for such periods; provided, however, that such annual
18 surcharge shall not exceed eight percent of the established rate until
19 July 1, [2015] 2016, at which time and thereafter such surcharge shall
20 not exceed twenty-five percent of the approved adequate rate, and that
21 such annual surcharges shall continue for such period of time as shall
22 be sufficient to satisfy such deficiency. The superintendent shall not
23 impose such surcharge during the period commencing July 1, 2009 and
24 ending June 30, 2010. On and after July 1, 1989, the surcharge
25 prescribed by this section shall be retained by insurers to the extent
26 that they insured physicians and surgeons during the July 1, 1985
27 through June 30, [2015] 2016 policy periods; in the event and to the
28 extent physicians and surgeons were insured by another insurer during
29 such periods, all or a pro rata share of the surcharge, as the case may
30 be, shall be remitted to such other insurer in accordance with rules and
31 regulations to be promulgated by the superintendent. Surcharges
32 collected from physicians and surgeons who were not insured during such
33 policy periods shall be apportioned among all insurers in proportion to
34 the premium written by each insurer during such policy periods; if a
35 physician or surgeon was insured by an insurer subject to rates estab-
36 lished by the superintendent during such policy periods, and at any time
37 thereafter a hospital, health maintenance organization, employer or
38 institution is responsible for responding in damages for liability aris-
39 ing out of such physician's or surgeon's practice of medicine, such
40 responsible entity shall also remit to such prior insurer the equivalent
41 amount that would then be collected as a surcharge if the physician or
42 surgeon had continued to remain insured by such prior insurer. In the
43 event any insurer that provided coverage during such policy periods is
44 in liquidation, the property/casualty insurance security fund shall
45 receive the portion of surcharges to which the insurer in liquidation
46 would have been entitled. The surcharges authorized herein shall be
47 deemed to be income earned for the purposes of section 2303 of the
48 insurance law. The superintendent, in establishing adequate rates and
49 in determining any projected deficiency pursuant to the requirements of
50 this section and the insurance law, shall give substantial weight,
51 determined in his discretion and judgment, to the prospective antic-
52 ipated effect of any regulations promulgated and laws enacted and the
53 public benefit of stabilizing malpractice rates and minimizing rate
54 level fluctuation during the period of time necessary for the develop-
55 ment of more reliable statistical experience as to the efficacy of such
56 laws and regulations affecting medical, dental or podiatric malpractice

1 enacted or promulgated in 1985, 1986, by this act and at any other time.
2 Notwithstanding any provision of the insurance law, rates already estab-
3 lished and to be established by the superintendent pursuant to this
4 section are deemed adequate if such rates would be adequate when taken
5 together with the maximum authorized annual surcharges to be imposed for
6 a reasonable period of time whether or not any such annual surcharge has
7 been actually imposed as of the establishment of such rates.

8 S 5. Section 5 and subdivisions (a) and (e) of section 6 of part J of
9 chapter 63 of the laws of 2001, amending chapter 20 of the laws of 2001
10 amending the military law and other laws relating to making appropri-
11 ations for the support of government, as amended by section 22 of part B
12 of chapter 60 of the laws of 2014, are amended to read as follows:

13 S 5. The superintendent of [insurance] FINANCIAL SERVICES and the
14 commissioner of health shall determine, no later than June 15, 2002,
15 June 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15,
16 2007, June 15, 2008, June 15, 2009, June 15, 2010, June 15, 2011, June
17 15, 2012, June 15, 2013, June 15, 2014, [and] June 15, 2015, AND JUNE
18 15, 2016 the amount of funds available in the hospital excess liability
19 pool, created pursuant to section 18 of chapter 266 of the laws of 1986,
20 and whether such funds are sufficient for purposes of purchasing excess
21 insurance coverage for eligible participating physicians and dentists
22 during the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June
23 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
24 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
25 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
26 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
27 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
28 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
29 2015, OR JULY 1, 2015 TO JUNE 30, 2016, as applicable.

30 (a) This section shall be effective only upon a determination, pursu-
31 ant to section five of this act, by the superintendent of [insurance]
32 FINANCIAL SERVICES and the commissioner of health, and a certification
33 of such determination to the state director of the budget, the chair of
34 the senate committee on finance and the chair of the assembly committee
35 on ways and means, that the amount of funds in the hospital excess
36 liability pool, created pursuant to section 18 of chapter 266 of the
37 laws of 1986, is insufficient for purposes of purchasing excess insur-
38 ance coverage for eligible participating physicians and dentists during
39 the period July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,
40 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,
41 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
42 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008 to June 30,
43 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to June 30,
44 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June 30,
45 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,
46 2015, OR JULY 1, 2015 TO JUNE 30, 2016, as applicable.

47 (e) The commissioner of health shall transfer for deposit to the
48 hospital excess liability pool created pursuant to section 18 of chapter
49 266 of the laws of 1986 such amounts as directed by the superintendent
50 of [insurance] FINANCIAL SERVICES for the purchase of excess liability
51 insurance coverage for eligible participating physicians and dentists
52 for the policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to
53 June 30, 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June
54 30, 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,
55 2007, as applicable, and the cost of administering the hospital excess
56 liability pool for such applicable policy year, pursuant to the program

1 established in chapter 266 of the laws of 1986, as amended, no later
2 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June
3 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,
4 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, [and] June
5 15, 2015, AND JUNE 15, 2016, as applicable.

6 S 6. Notwithstanding any law, rule or regulation to the contrary, only
7 physicians or dentists who were eligible, and for whom the superinten-
8 dent of financial services and the commissioner of health, or their
9 designee, purchased, with funds available in the hospital excess liabil-
10 ity pool, a full or partial policy for excess coverage or equivalent
11 excess coverage for the coverage period ending the thirtieth of June,
12 two thousand fifteen, shall be eligible to apply for such coverage for
13 the coverage period beginning the first of July, two thousand fifteen;
14 provided, however, if the total number of physicians or dentists for
15 whom such excess coverage or equivalent excess coverage was purchased
16 for the policy year ending the thirtieth of June, two thousand fifteen
17 exceeds the total number of physicians or dentists certified as eligible
18 for the coverage period beginning the first of July, two thousand
19 fifteen, then the general hospitals may certify additional eligible
20 physicians or dentists in a number equal to such general hospital's
21 proportional share of the total number of physicians or dentists for
22 whom excess coverage or equivalent excess coverage was purchased with
23 funds available in the hospital excess liability pool as of the thirti-
24 eth of June, two thousand fifteen, as applied to the difference between
25 the number of eligible physicians or dentists for whom a policy for
26 excess coverage or equivalent excess coverage was purchased for the
27 coverage period ending the thirtieth of June, two thousand fifteen and
28 the number of such eligible physicians or dentists who have applied for
29 excess coverage or equivalent excess for the coverage period beginning
30 the first of July, two thousand fifteen.

31 S 7. The tax law is amended by adding a new section 171-w to read as
32 follows:

33 S 171-w. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-
34 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"
35 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,
36 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM
37 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE
38 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO
39 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS
40 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,
41 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION
42 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),
43 OR COMBINATION THEREOF.

44 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY
45 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX
46 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE
47 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-
48 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE
49 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-
50 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT
51 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-
52 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO
53 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A
54 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR
55 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER

1 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-
2 MENT.

3 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL
4 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-
5 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE
6 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO
7 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN
8 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO
9 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF
10 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS
11 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH
12 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO
13 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF
14 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT
15 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX
16 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF
17 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,
18 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION
19 REQUIREMENTS.

20 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED
21 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE
22 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-
23 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE
24 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT
25 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-
26 ANCE AND SHALL ALSO INFORM THE APPLICANT: (I) THAT A TAX CLEARANCE
27 DENIED DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER
28 FULLY SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS
29 SATISFACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE
30 TO FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS
31 SATISFIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX
32 CLEARANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOU-
33 SAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE
34 APPLICANT HAS REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS
35 FOR CHALLENGING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE
36 OF THIS SECTION.

37 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS
38 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL
39 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER
40 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED
41 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

42 (B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE
43 MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER
44 THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT
45 THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT
46 FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT: (I) THE
47 INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR
48 ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX
49 LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING
50 GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL
51 SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE
52 THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF
53 THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING
54 ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY
55 COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE
56 PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD

1 SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT
2 TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B
3 OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE
4 MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY
5 OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING
6 OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE
7 GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE
8 PAST THREE YEARS.

9 (C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT
10 FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION
11 SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS
12 ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT
13 THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED
14 BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978
15 (TITLE ELEVEN OF THE UNITED STATES CODE).

16 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY
17 EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE
18 DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A
19 TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE
20 THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE
21 PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS
22 BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

23 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO
24 COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT
25 TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE
26 DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX
27 LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

28 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF
29 THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION
30 ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

31 S 8. This act shall take effect immediately.

32 PART GG

33 Section 1. The public authorities law is amended by adding a new
34 section 2858 to read as follows:

35 S 2858. CLEARANCE OF PAST-DUE TAX LIABILITIES FOR STATE OR LOCAL
36 AUTHORITY GRANT APPLICANTS. 1. AS USED IN THIS SECTION:

37 A. "APPLICANT" MEANS ANY APPLICANT, AGENT OR AFFILIATED PERSON OF
38 EITHER OF THEM THAT MAKES AN APPLICATION FOR A GRANT.

39 B. "GRANT" MEANS ANY STATE MONIES AWARDED BY A STATE OR LOCAL AUTHORI-
40 TY TO AN APPLICANT FOR ANY STATE OR LOCAL PUBLIC PURPOSE.

41 C. "LOCAL AUTHORITY" MEANS (I) A PUBLIC AUTHORITY OR PUBLIC BENEFIT
42 CORPORATION CREATED BY OR EXISTING UNDER THIS CHAPTER OR ANY OTHER LAW
43 OF THE STATE OF NEW YORK THAT HAS THE POWER TO MAKE GRANTS OR LOAN FUNDS
44 OF STATE MONIES AND WHOSE MEMBERS DO NOT HOLD A CIVIL OFFICE OF THE
45 STATE, AND WHOSE MEMBERS EITHER ARE NOT APPOINTED BY THE GOVERNOR OR ARE
46 APPOINTED BY THE GOVERNOR SPECIFICALLY UPON THE RECOMMENDATION OF THE
47 LOCAL GOVERNMENT OR GOVERNMENTS; (II) A NOT-FOR-PROFIT CORPORATION
48 AFFILIATED WITH, SPONSORED BY, OR CREATED BY A COUNTY, CITY, TOWN OR
49 VILLAGE GOVERNMENT; (III) A LAND BANK CORPORATION CREATED PURSUANT TO
50 ARTICLE SIXTEEN OF THE NOT-FOR-PROFIT CORPORATION LAW, INCLUDING SUBSID-
51 IARIES AND AFFILIATES OF SUCH LOCAL AUTHORITY; OR (IV) HOUSING AUTHORI-
52 TIES CREATED PURSUANT TO THE PUBLIC HOUSING LAW.

53 D. "PAST-DUE TAX LIABILITIES" MEANS A PAST-DUE LEGALLY ENFORCEABLE
54 DEBT WITHIN THE MEANING OF SUBDIVISION ONE OF SECTION ONE HUNDRED SEVEN-

1 TY-ONE-W OF THE TAX LAW IN AN AMOUNT THAT IS EQUAL TO FIVE HUNDRED
2 DOLLARS OR MORE.

3 E. "STATE AUTHORITY" MEANS A PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPO-
4 RATION CREATED BY OR EXISTING UNDER THIS CHAPTER OR ANY OTHER LAW OF THE
5 STATE OF NEW YORK THAT HAS THE POWER TO MAKE GRANTS OR LOAN FUNDS OF
6 STATE MONIES AND HAS ONE OR MORE OF ITS MEMBERS APPOINTED BY THE GOVER-
7 NOR OR WHO SERVE AS MEMBER BY VIRTUE OF HOLDING A CIVIL OFFICE OF THE
8 STATE, OTHER THAN AN INTERSTATE OR INTERNATIONAL AUTHORITY OR PUBLIC
9 BENEFIT CORPORATION, INCLUDING SUBSIDIARIES AND AFFILIATES OF SUCH
10 PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION.

11 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY STATE AUTHORITY OR
12 LOCAL AUTHORITY THAT PROCESSES AN APPLICATION FOR A GRANT SHALL REQUIRE,
13 AS A CONDITION TO RECEIVE SUCH GRANT, THE RECEIPT OF A TAX CLEARANCE
14 THAT SUCH APPLICANT HAS NO PAST-DUE TAX LIABILITIES PURSUANT TO SECTION
15 ONE HUNDRED SEVENTY-ONE-W OF THE TAX LAW.

16 3. THE APPLICANT SHALL BE REQUIRED TO PROVIDE ANY INFORMATION DEEMED
17 NECESSARY BY THE STATE AUTHORITY OR THE LOCAL AUTHORITY AND THE DEPART-
18 MENT OF TAXATION AND FINANCE TO EFFICIENTLY AND ACCURATELY PROVIDE A
19 CLEARANCE OF NO PAST-DUE TAX LIABILITIES, AND THE FAILURE BY THE APPLI-
20 CANT TO PROVIDE SUCH INFORMATION SHALL RENDER THE APPLICATION INCOM-
21 PLETE.

22 4. IF THE STATE AUTHORITY OR THE LOCAL AUTHORITY RECEIVES NOTIFICATION
23 THAT PAST-DUE TAX LIABILITIES ARE OWED BY THE APPLICANT, THE STATE
24 AUTHORITY OR THE LOCAL AUTHORITY, AS THE CASE MAY BE, SHALL DENY THE
25 GRANT APPLICATION AND SHALL NOTIFY THE APPLICANT TO CONTACT THE DEPART-
26 MENT OF TAXATION AND FINANCE TO RESOLVE THE PAST-DUE TAX LIABILITIES AND
27 THAT NO GRANT MAY BE ISSUED UNTIL THE TAX LIABILITIES ARE RESOLVED. ANY
28 PERIOD OF TIME THAT IS DETERMINED ACCORDING TO THE PROVISIONS OF THIS
29 SECTION OR THE TAX LAW SHALL COMMENCE TO RUN FROM THE DATE OF NOTIFICA-
30 TION TO THE APPLICANT THAT THE TAX CLEARANCE WAS DENIED.

31 S 2. The tax law is amended by adding a new section 171-w to read as
32 follows:

33 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-
34 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"
35 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,
36 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM
37 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE
38 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO
39 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS
40 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,
41 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION
42 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),
43 OR COMBINATION THEREOF.

44 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY
45 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX
46 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE
47 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-
48 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE
49 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-
50 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT
51 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-
52 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO
53 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A
54 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR
55 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER

1 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-
2 MENT.

3 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL
4 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-
5 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE
6 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO
7 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN
8 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO
9 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF
10 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS
11 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH
12 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO
13 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF
14 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT
15 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX
16 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF
17 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,
18 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION
19 REQUIREMENTS.

20 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED
21 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE
22 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-
23 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE
24 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT
25 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-
26 ANCE AND SHALL ALSO INFORM THE APPLICANT (I) THAT A TAX CLEARANCE DENIED
27 DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER FULLY
28 SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS SATIS-
29 FACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE TO
30 FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS SATIS-
31 FIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX CLEAR-
32 ANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE
33 HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE APPLICANT HAS
34 REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS FOR CHALLENG-
35 ING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS
36 SECTION.

37 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS
38 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL
39 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER
40 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED
41 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

42 (B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE
43 MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER
44 THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT
45 THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT
46 FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT (I) THE
47 INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR
48 ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX
49 LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING
50 GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL
51 SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE
52 THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF
53 THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING
54 ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY
55 COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE
56 PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD

1 SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT
2 TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B
3 OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE
4 MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY
5 OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING
6 OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE
7 GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE
8 PAST THREE YEARS.

9 (C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT
10 FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION
11 SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS
12 ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT
13 THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED
14 BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978
15 (TITLE ELEVEN OF THE UNITED STATES CODE).

16 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY
17 EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE
18 DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A
19 TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE
20 THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE
21 PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS
22 BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

23 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO
24 COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT
25 TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE
26 DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX
27 LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

28 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF
29 THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION
30 171-V OF THIS ARTICLE.

31 S 3. This act shall take effect immediately; provided, however, that
32 the department of taxation and finance and any state or local public
33 authority may work to execute the necessary procedures and technical
34 changes to support the tax clearance process as described in sections
35 one and two of this act before the effective date of this act.

36 PART HH

37 Section 1. The tax law is amended by adding a new section 171-z to
38 read as follows:

39 S 171-Z. RECIPROCAL TAX COLLECTION AGREEMENTS WITH OTHER CLAIMANT
40 STATES. (1) THE COMMISSIONER SHALL HAVE THE AUTHORITY TO ENTER INTO
41 AGREEMENTS WITH CLAIMANT STATES TO COLLECT AND PAY OVER TO CLAIMANT
42 STATES, TAXES OWED TO CLAIMANT STATES BY NEW YORK TAXPAYERS AND TO
43 CERTIFY AND REQUEST THAT CLAIMANT STATES COLLECT AND PAY OVER TAXES OWED
44 TO NEW YORK BY TAXPAYERS RESIDING IN CLAIMANT STATES. FOR PURPOSES OF
45 THIS SECTION, THE TERM "CLAIMANT STATE" SHALL MEAN ANY OTHER STATE IN
46 THE UNITED STATES OR THE DISTRICT OF COLUMBIA THAT ALLOWS THE COMMIS-
47 SIONER, IN CASES WHERE A TAXPAYER IN ANOTHER STATE OWES TAXES TO NEW
48 YORK STATE, TO CERTIFY AND REQUEST THAT THE OTHER STATE COLLECT AND PAY
49 SUCH COLLECTED TAXES TO NEW YORK STATE; THE TERM "TAXES" SHALL MEAN ANY
50 AMOUNT OF TAX IMPOSED UNDER THE LAWS OF NEW YORK OR A CLAIMANT STATE,
51 DUE AND PAYABLE TO NEW YORK OR A CLAIMANT STATE, INCLUDING ADDITIONS TO
52 TAX FOR PENALTIES AND INTEREST, THAT HAS BECOME FIXED AND FINAL SUCH
53 THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO ADMINISTRATIVE OR JUDICIAL
54 REVIEW; THE TERM "TAXPAYER" SHALL MEAN ANY INDIVIDUAL, CORPORATION,

1 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP OR COMPANY, PARTNER, MEMBER,
2 MANAGER, ESTATE, TRUST, FIDUCIARY OR ENTITY, WHO OR WHICH HAS BEEN IDEN-
3 TIFIED BY NEW YORK OR A CLAIMANT STATE UNDER THIS SECTION AS OWING TAXES
4 TO NEW YORK OR A CLAIMANT STATE.

5 (2) THE RECIPROCAL TAX COLLECTION AGREEMENTS MAY INCLUDE THE FOLLOWING
6 PROVISIONS:

7 (A) UPON THE REQUEST AND CERTIFICATION OF A CLAIMANT STATE TO THE
8 COMMISSIONER THAT A TAXPAYER OWES TAXES TO SUCH CLAIMANT STATE, THE
9 COMMISSIONER MAY, PURSUANT TO THE AUTHORITY UNDER THIS SECTION, COLLECT
10 SUCH TAXES IN THE SAME MANNER THAT THE COMMISSIONER CAN COLLECT TAXES
11 DUE AND PAYABLE TO NEW YORK STATE, AND SHALL PAY OVER SUCH COLLECTED
12 AMOUNT TO THE CLAIMANT STATE IN ACCORDANCE WITH THE PROVISIONS OF THIS
13 SECTION. THE COMMISSIONER SHALL NOT COLLECT SUCH TAXES UNLESS THE LAWS
14 OF THE CLAIMANT STATE (I) ALLOW THE COMMISSIONER, IN CASES WHERE A
15 TAXPAYER OWES TAXES TO NEW YORK STATE, TO CERTIFY AND REQUEST THE CLAIM-
16 ANT STATE COLLECT SUCH TAXES OWED TO NEW YORK STATE, AND (II) PROVIDE
17 FOR THE PAYMENT OF SUCH COLLECTED AMOUNT TO NEW YORK STATE.

18 (B) SUCH CERTIFICATION SHALL INCLUDE (I) THE FULL NAME AND ADDRESS OF
19 THE TAXPAYER; (II) THE TAXPAYER'S SOCIAL SECURITY NUMBER OR FEDERAL
20 EMPLOYER IDENTIFICATION NUMBER; (III) THE AMOUNT OF THE TAX FOR THE
21 TAXABLE PERIOD SOUGHT TO BE COLLECTED, INCLUDING A DETAILED STATEMENT
22 FOR EACH TAXABLE PERIOD SHOWING TAX, INTEREST AND PENALTY; (IV) A STATE-
23 MENT WHETHER THE TAXPAYER FILED A TAX RETURN WITH THE CLAIMANT STATE FOR
24 SUCH TAX, AND, IF SO, WHETHER SUCH TAX RETURN WAS FILED UNDER PROTEST;
25 AND (V) A STATEMENT THAT ANY ADMINISTRATIVE OR JUDICIAL REMEDIES, OR
26 BOTH, HAVE BEEN EXHAUSTED OR HAVE LAPSED AND THE AMOUNT OF TAX IS LEGAL-
27 LY ENFORCEABLE UNDER THE LAWS OF THE CLAIMANT STATE AGAINST THE TAXPAY-
28 ER.

29 (C) UPON RECEIPT BY THE COMMISSIONER OF THE REQUIRED CERTIFICATION,
30 THE COMMISSIONER SHALL NOTIFY THE TAXPAYER BY FIRST-CLASS MAIL WITH
31 CERTIFICATE OF MAILING TO THE TAXPAYER'S LAST KNOWN ADDRESS THAT THE
32 COMMISSIONER HAS RECEIVED A REQUEST FROM THE CLAIMANT STATE TO COLLECT
33 TAXES FROM THE TAXPAYER, THAT THE TAXPAYER HAS THE RIGHT TO PROTEST THE
34 COLLECTION OF SUCH TAXES, THAT FAILURE TO FILE A PROTEST IN ACCORDANCE
35 WITH PARAGRAPH (D) OF THIS SUBDIVISION SHALL CONSTITUTE A WAIVER OF ANY
36 CLAIM AGAINST NEW YORK STATE REGARDING THE COLLECTION OF SUCH TAXES AND
37 THAT THE AMOUNT, UPON COLLECTION, WILL BE PAID OVER TO THE CLAIMANT
38 STATE. SIXTY DAYS AFTER THE DATE ON WHICH IT IS MAILED, A NOTICE UNDER
39 THIS SUBDIVISION SHALL BE FINAL EXCEPT ONLY FOR SUCH AMOUNTS AS TO WHICH
40 THE TAXPAYER HAS FILED, AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVI-
41 SION, A WRITTEN PROTEST WITH THE COMMISSIONER.

42 (D) ANY TAXPAYER NOTIFIED IN ACCORDANCE WITH PARAGRAPH (C) OF THIS
43 SUBDIVISION MAY, ON OR BEFORE THE SIXTIETH DAY AFTER THE MAILING OF SUCH
44 NOTICE BY THE COMMISSIONER, PROTEST THE COLLECTION OF ALL OR A PORTION
45 OF SUCH TAXES BY FILING WITH THE CLAIMANT STATE AND PROVIDING A COPY TO
46 THE COMMISSIONER A WRITTEN PROTEST IN WHICH THE TAXPAYER SHALL SET FORTH
47 THE GROUNDS ON WHICH THE PROTEST IS BASED. IF A TIMELY PROTEST IS FILED,
48 THE COMMISSIONER SHALL REFRAIN FROM COLLECTING SUCH TAXES AND SHALL SEND
49 A COPY OF THE PROTEST TO THE CLAIMANT STATE FOR A DETERMINATION OF THE
50 PROTEST ON ITS MERITS IN ACCORDANCE WITH THE LAWS OF THE CLAIMANT STATE.

51 (E) THE COMMISSIONER MAY ENTER INTO AGREEMENTS WITH CLAIMANT STATES
52 THAT (I) RELATE TO PROCEDURES AND METHODS TO BE EMPLOYED BY A CLAIMANT
53 STATE WITH RESPECT TO THE OPERATION OF THIS SECTION; (II) SAFEGUARD
54 AGAINST THE DISCLOSURE OR INAPPROPRIATE USE OF ANY INFORMATION THAT
55 IDENTIFIES, DIRECTLY OR INDIRECTLY, A PARTICULAR TAXPAYER OBTAINED OR
56 MAINTAINED PURSUANT TO THIS SECTION; (III) ESTABLISH A MINIMUM THRESHOLD

1 FOR THE AMOUNT OF TAXES OWED BY A TAXPAYER TO A CLAIMANT STATE THAT
2 WOULD TRIGGER THE OPERATION OF THIS SECTION; (IV) PROVIDE THAT EACH
3 CLAIMANT STATE SHALL BEAR THE COSTS THAT ARE INCURRED BY IT UNDER SUCH
4 RECIPROCAL AGREEMENTS; (V) SET THE COMMENCEMENT AND TERMINATION DATE OF
5 SUCH RECIPROCAL AGREEMENTS; AND (VI) PROVIDE THAT EACH CLAIMANT STATE
6 SHALL AGREE THAT, UPON PAYMENT TO A CLAIMANT STATE OF AN AMOUNT
7 COLLECTED UNDER THIS SECTION, THE COMMISSIONER AND THE STATE OF NEW YORK
8 SHALL BE DISCHARGED OF ANY OBLIGATION OR LIABILITY TO A TAXPAYER AND A
9 CLAIMANT STATE WITH RESPECT TO THE AMOUNTS COLLECTED FROM THE TAXPAYER
10 AND PAID TO THE CLAIMANT STATE PURSUANT TO THIS SECTION. ANY ACTION FOR
11 REFUND OF THOSE AMOUNTS SHALL LIE SOLELY AGAINST THE CLAIMANT STATE.

12 (3) FOR PURPOSES OF MAKING PAYMENT OF ANY TAXES THAT ARE COLLECTED BY
13 THE COMMISSIONER ON BEHALF OF ANY CLAIMANT STATE UNDER RECIPROCAL AGREE-
14 MENTS, THE OFFICE OF THE STATE COMPTROLLER, UPON REQUEST BY THE COMMIS-
15 SIONER, IS AUTHORIZED TO PAY THE AMOUNT COLLECTED FROM THE RECIPROCAL
16 TAX COLLECTION REVENUE FUND ESTABLISHED PURSUANT TO SECTION
17 NINETY-NINE-W OF THE STATE FINANCE LAW TO WHICH SUCH TAXES ARE CREDITED.

18 (4) NOTWITHSTANDING OTHER PROVISIONS OF THIS CHAPTER, THE COMMISSIONER
19 IS AUTHORIZED TO RELEASE TO THE CLAIMANT STATE ANY SPECIFIC TAXPAYER
20 INFORMATION NECESSARY FOR PURPOSES OF IMPLEMENTING AND ADMINISTERING AN
21 AGREEMENT ENTERED INTO BETWEEN THE CLAIMANT STATE AND NEW YORK STATE
22 UNDER THIS SECTION.

23 S 2. The state finance law is amended by adding a new section 99-w to
24 read as follows:

25 S 99-w. RECIPROCAL TAX COLLECTION REVENUE FUND. 1. THERE IS HEREBY
26 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
27 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND KNOWN AS THE
28 "RECIPROCAL TAX COLLECTION REVENUE FUND".

29 2. ALL MONIES RECEIVED BY THE RECIPROCAL TAX COLLECTION REVENUE FUND
30 PURSUANT TO RECIPROCAL TAX COLLECTION AGREEMENTS WITH OTHER STATES
31 ENTERED INTO PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-Z OF THE TAX
32 LAW SHALL BE DEPOSITED TO THE EXCLUSIVE CREDIT OF SUCH FUND. SAID MONIES
33 SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES
34 IN THE CUSTODY OF THE COMPTROLLER OR THE COMMISSIONER OF TAXATION AND
35 FINANCE.

36 3. THE MONIES IN SAID REVENUE FUND SHALL BE RETAINED UNTIL THE COMMIS-
37 SIONER OF TAXATION AND FINANCE REQUESTS THE STATE COMPTROLLER MAKE A
38 PAYMENT OF TAXES COLLECTED BY THE COMMISSIONER OF TAXATION AND FINANCE
39 ON BEHALF OF A CLAIMANT STATE UNDER A RECIPROCAL TAX COLLECTION AGREE-
40 MENT ENTERED INTO PURSUANT TO SECTION ONE HUNDRED SEVENTY-ONE-Z OF THE
41 TAX LAW. THE STATE COMPTROLLER SHALL BE AUTHORIZED TO PAY A CLAIMANT
42 STATE THE AMOUNT COLLECTED FROM THE RECIPROCAL TAX COLLECTION REVENUE
43 FUND.

44 S 3. This act shall take effect immediately.

45 PART II

46 Section 1. The tax law is amended by adding a new section 178 to read
47 as follows:

48 S 178. MULTI-AGENCY INFORMATION-SHARING DATABASE. 1. THE PURPOSE OF
49 THIS SECTION IS TO PROVIDE A MECHANISM FOR INFORMATION SHARING BETWEEN
50 THE STATE AGENCIES RESPONSIBLE FOR REGULATING VARIOUS ENFORCEMENT INITI-
51 ATIVES AND TO PROMOTE IMPROVED COMMUNICATION AND COOPERATION BETWEEN
52 AGENCIES WITH RESPECT TO THE ENFORCEMENT OF STATUTES, RULES AND REGU-
53 LATIONS. UNDER THIS SECTION, THESE AGENCIES SHALL SHARE INVESTIGATION
54 AND ENFORCEMENT DATA AND CREATE AND MAINTAIN A COOPERATIVE INFORMATION-

1 SHARING DATABASE TO ENSURE EFFECTIVE OVERSIGHT AND REGULATION OF INDI-
2 VIDUALS AND ENTITIES SUBJECT TO REGULATORY JURISDICTION, MAXIMIZE AGENCY
3 EFFECTIVENESS AND AVOID UNNECESSARY DUPLICATION OF EFFORT IN GENERAL.
4 USE OF THE COOPERATIVE INFORMATION-SHARING DATABASE SHALL ENSURE EFFI-
5 CIENT USE OF THE STATE'S ENFORCEMENT RESOURCES AND EFFECTIVE STRATEGIC
6 PLANNING OF REGULATORY AND ENFORCEMENT EFFORTS AMONG MEMBER AGENCIES.
7 THE INTERAGENCY GROUP SHALL ENTER INTO A MEMORANDUM OF AGREEMENT TO
8 IMPLEMENT THIS SECTION AND SHALL INCLUDE, AMONG OTHER THINGS, PROVISIONS
9 ON THE ASSEMBLY AND DISSEMINATION OF THE AGENCY DATA AND THE PROTECTION
10 OF THE CONFIDENTIALITY OF THE AGENCY DATA SHARED.

11 2. DEFINITIONS. (A) "AGENCY DATA" MEANS INFORMATION ORIGINALLY
12 RECEIVED, CREATED, OR HELD BY A MEMBER AGENCY REGARDING AGENCY INVESTI-
13 GATION AND AUDITS, AND AGENCY ENFORCEMENT ACTIONS, BUT DOES NOT INCLUDE
14 ANY INFORMATION RECEIVED FROM FEDERAL AGENCIES THAT IS PROTECTED FROM
15 FURTHER DISCLOSURE BY STATUTE.

16 (B) "COOPERATIVE INFORMATION SHARING DATABASE" MEANS A SHARED SYSTEM
17 DEVELOPED, OR DATA STANDARDS DEVELOPED BY THE MEMBER AGENCIES TO MAKE
18 DATA FROM EACH MEMBER AGENCY ACCESSIBLE TO ALL MEMBER AGENCIES.

19 (C) "INTERAGENCY GROUP" MEANS THE DEPARTMENT OF STATE, THE WORKERS'
20 COMPENSATION BOARD, THE DEPARTMENT OF LABOR AND THE DEPARTMENT OF TAXA-
21 TION AND FINANCE.

22 (D) "MEMBER AGENCY" OR "MEMBER AGENCIES" MEANS ANY EXECUTIVE AGENCY OF
23 THE STATE, INCLUDING THE DEPARTMENT OF STATE, THE WORKERS' COMPENSATION
24 BOARD, THE DEPARTMENT OF LABOR AND THE DEPARTMENT OF TAXATION AND
25 FINANCE.

26 (E) "SHARED DATA" MEANS AGENCY DATA SUBMITTED AND HELD WITHIN THE
27 CONFIDENTIAL COOPERATIVE INFORMATION-SHARING DATABASE. A MEMBER AGENCY
28 SHALL BE ALLOWED TO SUBMIT AGENCY DATA TO THE COOPERATIVE INFORMATION
29 SHARING DATABASE EVEN THOUGH ANOTHER LAW OF THIS STATE MAY OTHERWISE
30 SPECIFICALLY PROHIBIT THE SHARING OR DISCLOSURE OF SUCH AGENCY DATA.
31 HOWEVER, THE DEPARTMENT OF TAXATION AND FINANCE SHALL BE ALLOWED TO
32 SHARE ONLY TAXPAYER IDENTIFICATION DATA AND INFORMATION CONCERNING A
33 NAMED GROUP OF NOT LESS THAN TEN TAXPAYERS THAT RELATE TO INCOME RANGES,
34 SIZE AND TYPE OF BUSINESS, AND FILING CHARACTERISTICS FOR THE GROUP OF
35 TAXPAYERS, PROVIDED THAT THE INFORMATION IS ARRANGED IN SUCH A MANNER
36 THAT THE PARTICULARS FOR A SPECIFIC TAXPAYER CANNOT BE DETERMINED.

37 3. THE MEMBER AGENCIES SHALL COOPERATE WITH ONE ANOTHER TO SHARE RELE-
38 VANT AGENCY DATA FOR THE PURPOSE OF CONDUCTING AUDITS, EXAMINATIONS,
39 INVESTIGATIONS, ADMINISTRATIVE ENFORCEMENT PROCEEDINGS, AND/OR CIVIL
40 AGENCY ENFORCEMENT ACTIONS. A MEMBER AGENCY, EXCEPT AS OTHERWISE
41 PROVIDED IN THIS CHAPTER, SHALL PRESERVE ANY PRIVILEGE OR CONFIDENTIALI-
42 TY REGARDING AGENCY DATA OR SHARED DATA IT RECEIVES FROM ANOTHER MEMBER
43 AGENCY PURSUANT TO THIS CHAPTER.

44 4. THE INTERAGENCY GROUP SHALL DEVELOP AND USE THE INFORMATION-SHARING
45 DATABASE AND SHALL MAKE THE AGENCY DATA FROM EACH MEMBER AGENCY ACCESSI-
46 BLE TO ALL MEMBER AGENCIES. USE OF THE COOPERATIVE INFORMATION-SHARING
47 DATABASE SHALL ENSURE EFFICIENT USE OF THE STATE'S ENFORCEMENT RESOURCES
48 AND EFFECTIVE STRATEGIC PLANNING OF REGULATORY AND ENFORCEMENT EFFORTS
49 AMONG MEMBER AGENCIES. THE INTERAGENCY GROUP SHALL ENTER INTO A MEMORAN-
50 DUM OF AGREEMENT TO IMPLEMENT THIS SECTION AND SUCH AGREEMENT SHALL
51 INCLUDE, AMONG OTHER THINGS, PROVISIONS ON THE ASSEMBLY AND DISSEM-
52 INATION OF THE AGENCY DATA AND THE PROTECTION OF THE CONFIDENTIALITY OF
53 THE AGENCY DATA AND THE SHARED DATA.

54 5. NOTWITHSTANDING ANY PROVISION OF ARTICLE SIX OF THE PUBLIC OFFICERS
55 LAW, AGENCY DATA, SHARED DATA AND THE INFORMATION-SHARING DATABASE AND
56 ITS CONTENTS SHALL BE CONFIDENTIAL AND SHALL NOT BE PUBLICLY DISCLOSED.

1 S 2. This act shall take effect immediately.

2 PART JJ

3 Section 1. The general obligations law is amended by adding a new
4 section 3-505 to read as follows:

5 S 3-505. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH ELECTRONIC
6 TAX CLEARANCES FOR OCCUPATIONAL, PROFESSIONAL AND BUSINESS LICENSES.

7 1. AS USED IN THIS SECTION:

8 A. "GOVERNMENT ENTITY" MEANS THE STATE OF NEW YORK, OR ANY OF ITS
9 AGENCIES, POLITICAL SUBDIVISIONS, INSTRUMENTALITIES, PUBLIC CORPORATIONS
10 (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT
11 WITH ANOTHER STATE OR CANADA), OR COMBINATION THEREOF, RESPONSIBLE FOR
12 DETERMINING WHETHER A LICENSE SHALL BE ISSUED OR RENEWED.

13 B. "ELECTRONIC LICENSE APPLICATION" MEANS ANY ELECTRONIC DATA FORM
14 THAT MUST BE COMPLETED BY AN APPLICANT TO OBTAIN OR RENEW A LICENSE, OR
15 AN ELECTRONIC DATA PROCESS WHICH IS USED BY A GOVERNMENT ENTITY TO PROC-
16 ESS INFORMATION RECEIVED FROM AN APPLICANT SEEKING TO RECEIVE OR RENEW A
17 LICENSE.

18 C. "ELECTRONIC TAX CLEARANCE" MEANS AN ELECTRONIC COMMUNICATION FROM
19 THE DEPARTMENT OF TAXATION AND FINANCE INDICATING THAT AN APPLICANT
20 SUBMITTING AN ELECTRONIC LICENSE APPLICATION HAD NO PAST-DUE TAX LIABIL-
21 ITIES, AS THAT TERM IS DEFINED IN SUBDIVISION ONE OF SECTION ONE HUNDRED
22 SEVENTY-ONE-W OF THE TAX LAW, OR THAT NO CONCLUSIVE MATCH COULD BE MADE.

23 D. "LICENSE" MEANS ANY CERTIFICATE, LICENSE, PERMIT OR GRANT OF
24 PERMISSION REQUIRED BY LAW OR AGENCY REGULATION AS A CONDITION FOR THE
25 LAWFUL PRACTICE OF ANY OCCUPATION, EMPLOYMENT, TRADE, VOCATION, BUSI-
26 NESS, OR PROFESSION, INCLUDING ANY REGISTRATION REQUIRED BY LAW OR AGEN-
27 CY REGULATION AS A CONDITION FOR SUCH LAWFUL PRACTICE. THIS SHALL
28 INCLUDE, BUT IS NOT LIMITED TO, ANY LICENSE OR RENEWAL GRANTED TO AN
29 INDIVIDUAL OR ENTITY BY (I) THE STATE EDUCATION DEPARTMENT AS PRESCRIBED
30 UNDER TITLE VII OF THE NEW YORK STATE EDUCATION LAW, (II) THE DEPARTMENT
31 OF STATE, OR (III) THE OFFICE OF COURT ADMINISTRATION. PROVIDED, HOWEV-
32 ER, THAT "LICENSE" SHALL NOT, FOR THE PURPOSES OF THIS SECTION, INCLUDE
33 ANY LICENSE OR PERMIT TO OWN, POSSESS, CARRY, OR FIRE ANY EXPLOSIVE,
34 PISTOL, HANDGUN, RIFLE, SHOTGUN, OTHER FIREARM OR AMMUNITION.

35 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND WHEN NOT ALREADY
36 REQUIRED BY ANOTHER PROVISION OF LAW OR REGULATION, ANY GOVERNMENT ENTI-
37 TY SHALL ELECT TO CONDITION THE ISSUANCE OR RENEWAL OF A LICENSE ON THE
38 ABSENCE OF PAST-DUE TAX LIABILITIES AND TO MAKE SUCH DETERMINATION
39 THROUGH THE RECEIPT OF AN ELECTRONIC TAX CLEARANCE FROM THE DEPARTMENT
40 OF TAXATION AND FINANCE AS PROVIDED FOR IN SECTION ONE HUNDRED SEVENTY-
41 ONE-W OF THE TAX LAW. SUCH A CLEARANCE SHALL BE DEEMED A NECESSARY AND
42 LAWFUL REQUIREMENT FOR THE RECEIPT OF THE LICENSE OR ITS RENEWAL AND
43 SHALL BE READ INTO ANY SUCH LICENSING STATUTE AS AN ADDITIONAL PREREQUI-
44 SITE ALONG WITH OTHER STATUTORY OR REGULATORY CONDITIONS FOR RECEIVING
45 OR RENEWING SUCH A LICENSE.

46 3. ANY APPLICANT FOR A LICENSE SUBJECT TO ELECTRONIC TAX CLEARANCE
47 SHALL BE REQUIRED TO PROVIDE ANY INFORMATION DEEMED NECESSARY BY THE
48 GOVERNMENT ENTITY AND THE DEPARTMENT OF TAXATION AND FINANCE TO EFFI-
49 CIENTLY AND ACCURATELY PROVIDE AN ELECTRONIC TAX CLEARANCE, INCLUDING
50 BUT NOT LIMITED TO, THE APPLICANT'S SOCIAL SECURITY NUMBER OR EMPLOYEE
51 IDENTIFICATION NUMBER OR, IF AN ENTITY, A LIST OF RESPONSIBLE OFFICERS
52 AND THEIR SOCIAL SECURITY NUMBERS, AND THE FAILURE BY THE APPLICANT TO
53 PROVIDE SUCH INFORMATION SHALL RENDER THE APPLICATION INCOMPLETE.
54 NOTWITHSTANDING ANY LAW OR REGULATION TO THE CONTRARY, THE EXCHANGE OF

1 INFORMATION BETWEEN THE DEPARTMENT AND THE GOVERNMENTAL ENTITY, OR THEIR
2 AGENTS, NECESSARY FOR THIS TAX CLEARANCE TO BE CONDUCTED SHALL CONSTI-
3 TUTE AN AUTHORIZED EXCHANGE OF INFORMATION AND SHALL NOT CONSTITUTE AN
4 UNAUTHORIZED DISCLOSURE OR A VIOLATION OF ANY SECRECY, CONFIDENTIALITY
5 OR SIMILAR PROVISION IN LAW OR REGULATION.

6 4. THE ELECTRONIC LICENSE APPLICATION, OR THE INSTRUCTIONS FOR SUCH
7 APPLICATION, SHALL CLEARLY INFORM THE APPLICANT THAT AN ELECTRONIC TAX
8 CLEARANCE WILL BE PERFORMED AND THAT, IF THE TAX CLEARANCE IS DENIED,
9 THE APPLICANT MUST CONTACT THE DEPARTMENT OF TAXATION AND FINANCE TO
10 RESOLVE ANY PAST-DUE TAX LIABILITIES BEFORE THE APPLICATION FOR A
11 LICENSE OR RENEWAL MAY BE RESUBMITTED.

12 5. IF AN ELECTRONIC TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXA-
13 TION AND FINANCE, THE GOVERNMENT ENTITY SHALL DENY ISSUANCE OR RENEWAL
14 OF THE REQUESTED LICENSE AND SHALL NOTIFY THE APPLICANT TO CONTACT THE
15 DEPARTMENT OF TAXATION AND FINANCE WITHIN SIXTY DAYS OF THE ISSUANCE OF
16 THIS NOTICE TO RESOLVE THE PAST-DUE TAX LIABILITIES AND THAT NO LICENSE
17 MAY BE ISSUED OR RENEWED UNTIL THE TAX LIABILITIES ARE RESOLVED. NOTICE
18 SHALL BE PROVIDED BY FIRST CLASS MAIL WITH CERTIFICATE OF MAILING TO THE
19 APPLICANT'S ADDRESS PROVIDED WITH THE APPLICATION. GOVERNMENT ENTITY
20 RECORDS OF SUCH A MAILING SHALL CONSTITUTE APPROPRIATE AND SUFFICIENT
21 PROOF OF DELIVERY THEREOF AND BE ADMISSIBLE IN ANY ACTION OR PROCEEDING;
22 INCLUDING BUT NOT LIMITED, TO THE TIMELINESS OF AN APPLICANT'S PROTEST.

23 6. ANY TAX CLEARANCE OR RELATED COMMUNICATIONS SHALL BE BY SECURE
24 ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT OF TAXATION AND FINANCE
25 AND THE REQUESTING GOVERNMENT ENTITY SUCH THAT PROCESSING OF THE ELEC-
26 TRONIC APPLICATION IS NOT DELAYED IF THE ELECTRONIC TAX CLEARANCE IS
27 RECEIVED.

28 7. NO FEE SHALL BE CHARGED TO THE APPLICANT FOR THE PURPOSES OF
29 RECEIVING AN ELECTRONIC TAX CLEARANCE.

30 S 2. The tax law is amended by adding a new section 171-w to read as
31 follows:

32 S 171-w. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-
33 ANCES. (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES"
34 SHALL MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER,
35 OR ANY PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM
36 "PAST-DUE TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE
37 BECOME FIXED AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO
38 ADMINISTRATIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS
39 THE STATE OF NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS,
40 INSTRUMENTALITIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION
41 CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA),
42 OR COMBINATION THEREOF.

43 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY
44 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX
45 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE
46 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-
47 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE
48 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-
49 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT
50 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-
51 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO
52 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A
53 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR
54 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER
55 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-
56 MENT.

1 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL
2 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-
3 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE
4 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO
5 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN
6 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO
7 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF
8 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS
9 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH
10 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO
11 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF
12 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT
13 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX
14 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF
15 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,
16 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION
17 REQUIREMENTS.

18 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED
19 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE
20 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-
21 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE
22 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT
23 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-
24 ANCE AND SHALL ALSO INFORM THE APPLICANT: (I) THAT A TAX CLEARANCE
25 DENIED DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER
26 FULLY SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS
27 SATISFACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE
28 TO FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS
29 SATISFIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX
30 CLEARANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOU-
31 SAND ONE HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE
32 APPLICANT HAS REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS
33 FOR CHALLENGING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE
34 OF THIS SECTION.

35 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS
36 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL
37 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER
38 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED
39 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

40 (B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE
41 MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER
42 THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT
43 THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT
44 FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT: (I) THE
45 INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR
46 ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX
47 LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING
48 GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL
49 SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE
50 THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF
51 THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING
52 ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY
53 COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE
54 PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD
55 SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT
56 TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B

1 OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE
2 MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY
3 OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING
4 OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE
5 GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE
6 PAST THREE YEARS.

7 (C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT
8 FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION
9 SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS
10 ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT
11 THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED
12 BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978
13 (TITLE ELEVEN OF THE UNITED STATES CODE).

14 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY
15 EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE
16 DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A
17 TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE
18 THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE
19 PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS
20 BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

21 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO
22 COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT
23 TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE
24 DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX
25 LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

26 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF
27 THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION
28 ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

29 S 3. This act shall take effect June 1, 2015; provided, however, that
30 the department of taxation and finance and any government entity elect-
31 ing to receive an electronic tax clearance from the department of taxa-
32 tion and finance may work to execute the necessary procedures and tech-
33 nical changes to support the electronic tax clearance process as
34 described in sections one and two of this act before such date;
35 provided, further, that this effective date will not impact the adminis-
36 tration of any electronic tax clearance program authorized by another
37 provision of law.

38

PART KK

39 Section 1. Subdivision 4 of section 50 of the civil service law is
40 amended by adding a new closing paragraph to read as follows:

41 THE DEPARTMENT SHALL REQUIRE A TAX CLEARANCE FROM THE DEPARTMENT OF
42 TAXATION AND FINANCE, AS PROVIDED FOR IN SECTION ONE HUNDRED
43 SEVENTY-ONE-W OF THE TAX LAW, FOR EACH APPLICANT AND SHALL REFUSE TO
44 EXAMINE AN APPLICANT, OR AFTER EXAMINATION TO CERTIFY AN ELIGIBLE FOR
45 WHOM A TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXATION AND
46 FINANCE. A MUNICIPAL COMMISSION, SUBJECT TO THE APPROVAL OF THE GOVERN-
47 ING BOARD OR BODY OF THE CITY OR COUNTY AS THE CASE MAY BE, OR A
48 REGIONAL COMMISSION OR PERSONNEL OFFICER, PURSUANT TO GOVERNMENTAL
49 AGREEMENT, MAY ELECT TO REQUIRE TAX CLEARANCES FOR APPLICANTS AND TO
50 REFUSE TO EXAMINE AN APPLICANT, OR AFTER EXAMINATION TO CERTIFY AN
51 ELIGIBLE FOR WHOM A TAX CLEARANCE IS DENIED BY THE DEPARTMENT OF TAXA-
52 TION AND FINANCE. PROVIDED, HOWEVER, THAT THE DEPARTMENT AND MUNICIPAL
53 COMMISSIONS SHALL NOT REQUIRE A TAX CLEARANCE FOR (1) ANY CURRENT
54 EMPLOYEE; OR (2) A PERSON WHO IS CONSIDERED AN APPLICANT BY REASON OF

1 (A) A TRANSFER PURSUANT TO SECTION SEVENTY OF THIS CHAPTER; OR (B) A
2 PERSON WHO IS ON A PREFERRED LIST SUBJECT TO SECTION EIGHTY-ONE OF THIS
3 CHAPTER; OR (C) A PERSON WHOSE NAME IS ON AN ELIGIBLE LIST AS DEFINED IN
4 SECTION FIFTY-SIX OF THIS ARTICLE AND WHO HAS SUCCESSFULLY COMPLETED A
5 PROMOTION EXAM SUBJECT TO SECTION FIFTY-TWO OF THIS ARTICLE. WHERE A TAX
6 CLEARANCE IS REQUIRED, THE APPLICATION FOR EXAMINATION, OR THE
7 INSTRUCTIONS FOR SUCH APPLICATION, SHALL CLEARLY INFORM THE APPLICANT
8 THAT A TAX CLEARANCE WILL BE PERFORMED AND THAT, IF THE TAX CLEARANCE IS
9 DENIED, THE APPLICANT MUST CONTACT THE DEPARTMENT OF TAXATION AND
10 FINANCE TO RESOLVE ANY PAST-DUE TAX LIABILITIES OR RETURN FILING COMPLI-
11 ANCE BEFORE THE APPLICATION FOR EXAMINATION MAY BE RESUBMITTED. ANY
12 APPLICANT SUBJECT TO TAX CLEARANCE SHALL BE REQUIRED TO PROVIDE ANY
13 INFORMATION DEEMED NECESSARY BY THE DEPARTMENT AND THE DEPARTMENT OF
14 TAXATION AND FINANCE TO EFFICIENTLY AND ACCURATELY PROVIDE A TAX CLEAR-
15 ANCE, AND THE FAILURE BY THE APPLICANT TO PROVIDE SUCH INFORMATION SHALL
16 DISQUALIFY THE APPLICANT.

17 S 2. The tax law is amended by adding a new section 171-w to read as
18 follows:

19 S 171-W. ENFORCEMENT OF DELINQUENT TAX LIABILITIES THROUGH TAX CLEAR-
20 ANCES.

21 (1) FOR THE PURPOSES OF THIS SECTION, THE TERM "TAX LIABILITIES" SHALL
22 MEAN ANY TAX, SURCHARGE, OR FEE ADMINISTERED BY THE COMMISSIONER, OR ANY
23 PENALTY OR INTEREST OWED BY AN INDIVIDUAL OR ENTITY. THE TERM "PAST-DUE
24 TAX LIABILITIES" MEANS ANY UNPAID TAX LIABILITIES THAT HAVE BECOME FIXED
25 AND FINAL SUCH THAT THE TAXPAYER NO LONGER HAS ANY RIGHT TO ADMINISTRA-
26 TIVE OR JUDICIAL REVIEW. THE TERM "GOVERNMENT ENTITY" MEANS THE STATE OF
27 NEW YORK, OR ANY OF ITS AGENCIES, POLITICAL SUBDIVISIONS, INSTRUMENTALI-
28 TIES, PUBLIC CORPORATIONS (INCLUDING A PUBLIC CORPORATION CREATED PURSU-
29 ANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR CANADA), OR COMBINA-
30 TION THEREOF.

31 (2) THE COMMISSIONER, OR HIS OR HER DESIGNEE, SHALL COOPERATE WITH ANY
32 GOVERNMENT ENTITY THAT IS REQUIRED BY LAW OR HAS ELECTED TO REQUIRE TAX
33 CLEARANCES TO ESTABLISH PROCEDURES BY WHICH THE DEPARTMENT SHALL RECEIVE
34 A TAX CLEARANCE REQUEST AND TRANSMIT SUCH TAX CLEARANCE TO THE GOVERN-
35 MENT ENTITY, AND ANY OTHER PROCEDURES DEEMED NECESSARY TO CARRY OUT THE
36 PROVISIONS OF THIS SECTION. THESE PROCEDURES SHALL, TO THE EXTENT PRAC-
37 TICABLE, REQUIRE SECURE ELECTRONIC COMMUNICATION BETWEEN THE DEPARTMENT
38 AND THE REQUESTING GOVERNMENT ENTITY FOR THE TRANSMISSION OF TAX CLEAR-
39 ANCE REQUESTS TO THE DEPARTMENT AND TRANSMISSION OF TAX CLEARANCES TO
40 THE REQUESTING ENTITY. NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A
41 GOVERNMENT ENTITY SHALL BE AUTHORIZED TO SHARE ANY APPLICANT DATA OR
42 INFORMATION WITH THE DEPARTMENT THAT IS NECESSARY TO ENSURE THE PROPER
43 MATCHING OF THE APPLICANT TO THE TAX RECORDS MAINTAINED BY THE DEPART-
44 MENT.

45 (3) UPON RECEIPT OF A TAX CLEARANCE REQUEST, THE DEPARTMENT SHALL
46 EXAMINE ITS RECORDS TO DETERMINE WHETHER THE SUBJECT OF THE TAX CLEAR-
47 ANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF THE
48 DOLLAR THRESHOLD APPLICABLE FOR SUCH TAX CLEARANCE REQUEST OR, WHERE NO
49 THRESHOLD HAS BEEN ESTABLISHED BY LAW OR OTHERWISE, EQUAL TO OR IN
50 EXCESS OF FIVE HUNDRED DOLLARS. WHEN A TAX CLEARANCE REQUEST SO
51 REQUIRES, THE DEPARTMENT SHALL ALSO DETERMINE WHETHER (I) THE SUBJECT OF
52 SUCH REQUEST HAS COMPLIED WITH APPLICABLE TAX RETURN FILING REQUIREMENTS
53 FOR EACH OF THE PAST THREE YEARS; AND/OR (II) WHETHER A SUBJECT OF SUCH
54 REQUEST THAT IS AN INDIVIDUAL OR ENTITY THAT IS A PERSON REQUIRED TO
55 REGISTER PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED THIRTY-FOUR OF
56 THIS CHAPTER IS REGISTERED PURSUANT TO SUCH SECTION. THE DEPARTMENT

1 SHALL DENY A TAX CLEARANCE IF IT DETERMINES THAT THE SUBJECT OF A TAX
2 CLEARANCE REQUEST HAS PAST-DUE TAX LIABILITIES EQUAL TO OR IN EXCESS OF
3 THE APPLICABLE THRESHOLD OR, WHEN THE TAX CLEARANCE REQUEST SO REQUIRES,
4 HAS NOT COMPLIED WITH APPLICABLE RETURN FILING AND/OR REGISTRATION
5 REQUIREMENTS.

6 (4) IF A TAX CLEARANCE IS DENIED, THE GOVERNMENT ENTITY THAT REQUESTED
7 THE CLEARANCE SHALL PROVIDE NOTICE TO THE APPLICANT TO CONTACT THE
8 DEPARTMENT. SUCH NOTICE SHALL BE MADE BY FIRST CLASS MAIL WITH A CERTIF-
9 ICATE OF MAILING AND A COPY OF SUCH NOTICE ALSO SHALL BE PROVIDED TO THE
10 DEPARTMENT. WHEN THE APPLICANT CONTACTS THE DEPARTMENT, THE DEPARTMENT
11 SHALL INFORM THE APPLICANT OF THE BASIS FOR THE DENIAL OF THE TAX CLEAR-
12 ANCE AND SHALL ALSO INFORM THE APPLICANT (I) THAT A TAX CLEARANCE DENIED
13 DUE TO PAST-DUE TAX LIABILITIES MAY BE ISSUED ONCE THE TAXPAYER FULLY
14 SATISFIES PAST-DUE TAX LIABILITIES OR MAKES PAYMENT ARRANGEMENTS SATIS-
15 FACTORY TO THE COMMISSIONER; (II) THAT A TAX CLEARANCE DENIED DUE TO
16 FAILURE TO FILE TAX RETURNS MAY BE ISSUED ONCE THE APPLICANT HAS SATIS-
17 FIED THE APPLICABLE RETURN FILING REQUIREMENTS; (III) THAT A TAX CLEAR-
18 ANCE DENIED FOR FAILURE TO REGISTER PURSUANT TO SECTION ONE THOUSAND ONE
19 HUNDRED THIRTY-FOUR OF THIS CHAPTER MAY BE ISSUED ONCE THE APPLICANT HAS
20 REGISTERED PURSUANT TO SUCH SECTION; AND (IV) THE GROUNDS FOR CHALLENG-
21 ING THE DENIAL OF A TAX CLEARANCE LISTED IN SUBDIVISION FIVE OF THIS
22 SECTION.

23 (5) (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS
24 SPECIFICALLY PROVIDED HEREIN, AN APPLICANT DENIED A TAX CLEARANCE SHALL
25 HAVE NO RIGHT TO COMMENCE A COURT ACTION OR PROCEEDING OR SEEK ANY OTHER
26 LEGAL RECOURSE AGAINST THE DEPARTMENT OR THE GOVERNMENT ENTITY RELATED
27 TO THE DENIAL OF A TAX CLEARANCE BY THE DEPARTMENT.

28 (B) AN APPLICANT SEEKING TO CHALLENGE THE DENIAL OF A TAX CLEARANCE
29 MUST PROTEST TO THE DEPARTMENT OR THE DIVISION OF TAX APPEALS NO LATER
30 THAN SIXTY DAYS FROM THE DATE OF THE NOTIFICATION TO THE APPLICANT THAT
31 THE TAX CLEARANCE WAS DENIED. AN APPLICANT MAY CHALLENGE A DEPARTMENT
32 FINDING OF PAST-DUE TAX LIABILITIES ONLY ON THE GROUNDS THAT (I) THE
33 INDIVIDUAL OR ENTITY DENIED THE TAX CLEARANCE IS NOT THE INDIVIDUAL OR
34 ENTITY WITH THE PAST-DUE TAX LIABILITIES AT ISSUE; (II) THE PAST-DUE TAX
35 LIABILITIES WERE SATISFIED; (III) THE APPLICANT'S WAGES ARE BEING
36 GARNISHED FOR THE PAYMENT OF CHILD SUPPORT OR COMBINED CHILD AND SPOUSAL
37 SUPPORT PURSUANT TO AN INCOME EXECUTION ISSUED PURSUANT TO SECTION FIVE
38 THOUSAND TWO HUNDRED FORTY-ONE OR FIVE THOUSAND TWO HUNDRED FORTY-TWO OF
39 THE CIVIL PRACTICE LAW AND RULES OR ANOTHER STATE'S INCOME WITHHOLDING
40 ORDER AS AUTHORIZED UNDER PART FIVE OF ARTICLE FIVE-B OF THE FAMILY
41 COURT ACT, OR GARNISHED BY THE DEPARTMENT FOR THE PAYMENT OF THE
42 PAST-DUE TAX LIABILITIES AT ISSUE; OR (IV) THE APPLICANT IS MAKING CHILD
43 SUPPORT PAYMENTS OR COMBINED CHILD AND SPOUSAL SUPPORT PAYMENTS PURSUANT
44 TO A SATISFACTORY PAYMENT ARRANGEMENT UNDER SECTION ONE HUNDRED ELEVEN-B
45 OF THE SOCIAL SERVICES LAW WITH A SUPPORT COLLECTION UNIT OR OTHERWISE
46 MAKING PERIODIC PAYMENTS IN ACCORDANCE WITH SECTION FOUR HUNDRED FORTY
47 OF THE FAMILY COURT ACT. AN APPLICANT MAY CHALLENGE A DEPARTMENT FINDING
48 OF FAILURE TO COMPLY WITH TAX RETURN FILING REQUIREMENTS ONLY ON THE
49 GROUNDS THAT ALL REQUIRED TAX RETURNS HAVE BEEN FILED FOR EACH OF THE
50 PAST THREE YEARS.

51 (C) NOTHING IN THIS SUBDIVISION IS INTENDED TO LIMIT ANY APPLICANT
52 FROM SEEKING RELIEF FROM JOINT AND SEVERAL LIABILITY PURSUANT TO SECTION
53 SIX HUNDRED FIFTY-FOUR OF THIS CHAPTER, TO THE EXTENT THAT HE OR SHE IS
54 ELIGIBLE PURSUANT TO THAT SECTION, OR ESTABLISHING TO THE DEPARTMENT
55 THAT THE ENFORCEMENT OF THE UNDERLYING TAX LIABILITIES HAS BEEN STAYED

1 BY THE FILING OF A PETITION PURSUANT TO THE BANKRUPTCY CODE OF 1978
2 (TITLE ELEVEN OF THE UNITED STATES CODE).

3 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT MAY
4 EXCHANGE WITH A GOVERNMENT ENTITY ANY DATA OR INFORMATION THAT, IN THE
5 DISCRETION OF THE COMMISSIONER, IS NECESSARY FOR THE IMPLEMENTATION OF A
6 TAX CLEARANCE REQUIREMENT. HOWEVER, NO GOVERNMENT ENTITY MAY RE-DISCLOSE
7 THIS INFORMATION TO ANY OTHER ENTITY OR PERSON, OTHER THAN FOR THE
8 PURPOSE OF INFORMING THE APPLICANT THAT A REQUIRED TAX CLEARANCE HAS
9 BEEN DENIED, UNLESS OTHERWISE PERMITTED BY LAW.

10 (7) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE ACTIVITIES TO
11 COLLECT PAST-DUE TAX LIABILITIES UNDERTAKEN BY THE DEPARTMENT PURSUANT
12 TO THIS SECTION SHALL NOT IN ANY WAY LIMIT, RESTRICT OR IMPAIR THE
13 DEPARTMENT FROM EXERCISING ANY OTHER AUTHORITY TO COLLECT OR ENFORCE TAX
14 LIABILITIES UNDER ANY OTHER APPLICABLE PROVISION OF LAW.

15 (8) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVISIONS OF
16 THIS SECTION ARE NOT APPLICABLE TO THE TAX CLEARANCE REQUIRED BY SECTION
17 ONE HUNDRED SEVENTY-ONE-V OF THIS ARTICLE.

18 S 3. This act shall take effect June 1, 2015; provided, however, that
19 the department of taxation and finance, the department of civil service,
20 any municipal commission, and any other government entity electing to
21 receive a tax clearance from the department of taxation and finance may
22 work to execute the necessary procedures and technical changes to
23 support the tax clearance process as described in sections one and two
24 of this act before that date; provided, further, that this effective
25 date will not impact the administration of any tax clearance program
26 authorized by another provision of law.

27 PART LL

28 Section 1. Subdivision 2 of section 136 of the social services law, as
29 amended by section 24 of part B of chapter 436 of the laws of 1997, is
30 amended to read as follows:

31 2. All communications and information relating to a person receiving
32 public assistance or care obtained by any social services official,
33 service officer, or employee in the course of his or her work shall be
34 considered confidential and, except as otherwise provided in this
35 section, shall be disclosed only to the commissioner, or his or her
36 authorized representative, the commissioner of labor, or his or her
37 authorized representative, the commissioner of health, or his or her
38 authorized representative, THE COMMISSIONER OF TAXATION AND FINANCE, OR
39 HIS OR HER AUTHORIZED REPRESENTATIVE, the welfare inspector general, or
40 his or her authorized representative, the county board of supervisors,
41 city council, town board or other board or body authorized and required
42 to appropriate funds for public assistance and care in and for such
43 county, city or town or its authorized representative or, by authority
44 of the county, city or town social services official, to a person or
45 agency considered entitled to such information. Nothing herein shall
46 preclude a social services official from reporting to an appropriate
47 agency or official, including law enforcement agencies or officials,
48 known or suspected instances of physical or mental injury, sexual abuse
49 or exploitation, sexual contact with a minor or negligent treatment or
50 maltreatment of a child of which the official becomes aware in the
51 administration of public assistance and care nor shall it preclude
52 communication with the federal immigration and naturalization service
53 regarding the immigration status of any individual.

54 S 2. This act shall take effect immediately.

1

PART MM

2 Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivi-
3 sion b of section 1612 of the tax law, as amended by section 1 of part
4 BB of chapter 59 of the laws of 2014, is amended to read as follows:

5 (H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of
6 this subparagraph, the track operator of a vendor track shall be eligi-
7 ble for a vendor's capital award of up to four percent of the total
8 revenue wagered at the vendor track after payout for prizes pursuant to
9 this chapter, which shall be used exclusively for capital project
10 investments to improve the facilities of the vendor track which promote
11 or encourage increased attendance at the video lottery gaming facility
12 including, but not limited to hotels, other lodging facilities, enter-
13 tainment facilities, retail facilities, dining facilities, events
14 arenas, parking garages and other improvements that enhance facility
15 amenities; provided that such capital investments shall be approved by
16 the division, in consultation with the state racing and wagering board,
17 and that such vendor track demonstrates that such capital expenditures
18 will increase patronage at such vendor track's facilities and increase
19 the amount of revenue generated to support state education programs. The
20 annual amount of such vendor's capital awards that a vendor track shall
21 be eligible to receive shall be limited to two million five hundred
22 thousand dollars, except for Aqueduct racetrack, for which there shall
23 be no vendor's capital awards. Except for tracks having less than one
24 thousand one hundred video gaming machines, and except for a vendor
25 track located west of State Route 14 from Sodus Point to the Pennsylva-
26 nia border within New York, each track operator shall be required to
27 co-invest an amount of capital expenditure equal to its cumulative
28 vendor's capital award. For all tracks, except for Aqueduct racetrack,
29 the amount of any vendor's capital award that is not used during any one
30 year period may be carried over into subsequent years ending before
31 April first, two thousand [fifteen] SIXTEEN. Any amount attributable to
32 a capital expenditure approved prior to April first, two thousand
33 [fifteen] SIXTEEN and completed before April first, two thousand [seven-
34 teen] EIGHTEEN; or approved prior to April first, two thousand [nine-
35 teen] TWENTY and completed before April first, two thousand [twenty-one]
36 TWENTY-TWO for a vendor track located west of State Route 14 from Sodus
37 Point to the Pennsylvania border within New York, shall be eligible to
38 receive the vendor's capital award. In the event that a vendor track's
39 capital expenditures, approved by the division prior to April first, two
40 thousand [fifteen] SIXTEEN and completed prior to April first, two thou-
41 sand [seventeen] EIGHTEEN, exceed the vendor track's cumulative capital
42 award during the five year period ending April first, two thousand
43 [fifteen] SIXTEEN, the vendor shall continue to receive the capital
44 award after April first, two thousand [fifteen] SIXTEEN until such
45 approved capital expenditures are paid to the vendor track subject to
46 any required co-investment. In no event shall any vendor track that
47 receives a vendor fee pursuant to clause (F) or (G) of this subparagraph
48 be eligible for a vendor's capital award under this section. Any opera-
49 tor of a vendor track which has received a vendor's capital award,
50 choosing to divest the capital improvement toward which the award was
51 applied, prior to the full depreciation of the capital improvement in
52 accordance with generally accepted accounting principles, shall reim-
53 burse the state in amounts equal to the total of any such awards. Any
54 capital award not approved for a capital expenditure at a video lottery

1 gaming facility by April first, two thousand [fifteen] SIXTEEN shall be
2 deposited into the state lottery fund for education aid; and
3 S 2. This act shall take effect immediately.

4 PART NN

5 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
6 racing, pari-mutuel wagering and breeding law, as amended by section 1
7 of part AA of chapter 59 of the laws of 2014, is amended to read as
8 follows:

9 (a) Any racing association or corporation or regional off-track
10 betting corporation, authorized to conduct pari-mutuel wagering under
11 this chapter, desiring to display the simulcast of horse races on which
12 pari-mutuel betting shall be permitted in the manner and subject to the
13 conditions provided for in this article may apply to the commission for
14 a license so to do. Applications for licenses shall be in such form as
15 may be prescribed by the commission and shall contain such information
16 or other material or evidence as the commission may require. No license
17 shall be issued by the commission authorizing the simulcast transmission
18 of thoroughbred races from a track located in Suffolk county. The fee
19 for such licenses shall be five hundred dollars per simulcast facility
20 and for account wagering licensees that do not operate either a simul-
21 cast facility that is open to the public within the state of New York or
22 a licensed racetrack within the state, twenty thousand dollars per year
23 payable by the licensee to the commission for deposit into the general
24 fund. Except as provided in this section, the commission shall not
25 approve any application to conduct simulcasting into individual or group
26 residences, homes or other areas for the purposes of or in connection
27 with pari-mutuel wagering. The commission may approve simulcasting into
28 residences, homes or other areas to be conducted jointly by one or more
29 regional off-track betting corporations and one or more of the follow-
30 ing: a franchised corporation, thoroughbred racing corporation or a
31 harness racing corporation or association; provided (i) the simulcasting
32 consists only of those races on which pari-mutuel betting is authorized
33 by this chapter at one or more simulcast facilities for each of the
34 contracting off-track betting corporations which shall include wagers
35 made in accordance with section one thousand fifteen, one thousand
36 sixteen and one thousand seventeen of this article; provided further
37 that the contract provisions or other simulcast arrangements for such
38 simulcast facility shall be no less favorable than those in effect on
39 January first, two thousand five; (ii) that each off-track betting
40 corporation having within its geographic boundaries such residences,
41 homes or other areas technically capable of receiving the simulcast
42 signal shall be a contracting party; (iii) the distribution of revenues
43 shall be subject to contractual agreement of the parties except that
44 statutory payments to non-contracting parties, if any, may not be
45 reduced; provided, however, that nothing herein to the contrary shall
46 prevent a track from televising its races on an irregular basis primari-
47 ly for promotional or marketing purposes as found by the commission. For
48 purposes of this paragraph, the provisions of section one thousand thir-
49 teen of this article shall not apply. Any agreement authorizing an
50 in-home simulcasting experiment commencing prior to May fifteenth, nine-
51 teen hundred ninety-five, may, and all its terms, be extended until June
52 thirtieth, two thousand [fifteen] SIXTEEN; provided, however, that any
53 party to such agreement may elect to terminate such agreement upon
54 conveying written notice to all other parties of such agreement at least

1 forty-five days prior to the effective date of the termination, via
2 registered mail. Any party to an agreement receiving such notice of an
3 intent to terminate, may request the commission to mediate between the
4 parties new terms and conditions in a replacement agreement between the
5 parties as will permit continuation of an in-home experiment until June
6 thirtieth, two thousand [fifteen] SIXTEEN; and (iv) no in-home simul-
7 casting in the thoroughbred special betting district shall occur without
8 the approval of the regional thoroughbred track.

9 S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
10 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
11 section 2 of part AA of chapter 59 of the laws of 2014, is amended to
12 read as follows:

13 (iii) Of the sums retained by a receiving track located in Westchester
14 county on races received from a franchised corporation, for the period
15 commencing January first, two thousand eight and continuing through June
16 thirtieth, two thousand [fifteen] SIXTEEN, the amount used exclusively
17 for purses to be awarded at races conducted by such receiving track
18 shall be computed as follows: of the sums so retained, two and one-half
19 percent of the total pools. Such amount shall be increased or decreased
20 in the amount of fifty percent of the difference in total commissions
21 determined by comparing the total commissions available after July twen-
22 ty-first, nineteen hundred ninety-five to the total commissions that
23 would have been available to such track prior to July twenty-first,
24 nineteen hundred ninety-five.

25 S 3. The opening paragraph of subdivision 1 of section 1014 of the
26 racing, pari-mutuel wagering and breeding law, as amended by section 3
27 of part AA of chapter 59 of the laws of 2014, is amended to read as
28 follows:

29 The provisions of this section shall govern the simulcasting of races
30 conducted at thoroughbred tracks located in another state or country on
31 any day during which a franchised corporation is conducting a race meet-
32 ing in Saratoga county at Saratoga thoroughbred racetrack until June
33 thirtieth, two thousand [fifteen] SIXTEEN and on any day regardless of
34 whether or not a franchised corporation is conducting a race meeting in
35 Saratoga county at Saratoga thoroughbred racetrack after June thirtieth,
36 two thousand [fifteen] SIXTEEN. On any day on which a franchised corpo-
37 ration has not scheduled a racing program but a thoroughbred racing
38 corporation located within the state is conducting racing, every off-
39 track betting corporation branch office and every simulcasting facility
40 licensed in accordance with section one thousand seven (that have
41 entered into a written agreement with such facility's representative
42 horsemen's organization, as approved by the commission), one thousand
43 eight, or one thousand nine of this article shall be authorized to
44 accept wagers and display the live simulcast signal from thoroughbred
45 tracks located in another state or foreign country subject to the
46 following provisions:

47 S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
48 and breeding law, as amended by section 4 of part AA of chapter 59 of
49 the laws of 2014, is amended to read as follows:

50 1. The provisions of this section shall govern the simulcasting of
51 races conducted at harness tracks located in another state or country
52 during the period July first, nineteen hundred ninety-four through June
53 thirtieth, two thousand [fifteen] SIXTEEN. This section shall supersede
54 all inconsistent provisions of this chapter.

55 S 5. The opening paragraph of subdivision 1 of section 1016 of the
56 racing, pari-mutuel wagering and breeding law, as amended by section 5

1 of part AA of chapter 59 of the laws of 2014, is amended to read as
2 follows:

3 The provisions of this section shall govern the simulcasting of races
4 conducted at thoroughbred tracks located in another state or country on
5 any day during which a franchised corporation is not conducting a race
6 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
7 thirtieth, two thousand [fifteen] SIXTEEN. Every off-track betting
8 corporation branch office and every simulcasting facility licensed in
9 accordance with section one thousand seven that have entered into a
10 written agreement with such facility's representative horsemen's organ-
11 ization as approved by the commission, one thousand eight or one thou-
12 sand nine of this article shall be authorized to accept wagers and
13 display the live full-card simulcast signal of thoroughbred tracks
14 (which may include quarter horse or mixed meetings provided that all
15 such wagering on such races shall be construed to be thoroughbred races)
16 located in another state or foreign country, subject to the following
17 provisions; provided, however, no such written agreement shall be
18 required of a franchised corporation licensed in accordance with section
19 one thousand seven of this article:

20 S 6. The opening paragraph of section 1018 of the racing, pari-mutuel
21 wagering and breeding law, as amended by section 6 of part AA of chapter
22 59 of the laws of 2014, is amended to read as follows:

23 Notwithstanding any other provision of this chapter, for the period
24 July twenty-fifth, two thousand one through September eighth, two thou-
25 sand [fourteen] FIFTEEN, when a franchised corporation is conducting a
26 race meeting within the state at Saratoga Race Course, every off-track
27 betting corporation branch office and every simulcasting facility
28 licensed in accordance with section one thousand seven (that has entered
29 into a written agreement with such facility's representative horsemen's
30 organization as approved by the commission), one thousand eight or one
31 thousand nine of this article shall be authorized to accept wagers and
32 display the live simulcast signal from thoroughbred tracks located in
33 another state, provided that such facility shall accept wagers on races
34 run at all in-state thoroughbred tracks which are conducting racing
35 programs subject to the following provisions; provided, however, no such
36 written agreement shall be required of a franchised corporation licensed
37 in accordance with section one thousand seven of this article.

38 S 7. Section 32 of chapter 281 of the laws of 1994, amending the
39 racing, pari-mutuel wagering and breeding law and other laws relating
40 to simulcasting, as amended by section 7 of part AA of chapter 59 of the
41 laws of 2014, is amended to read as follows:

42 S 32. This act shall take effect immediately and the pari-mutuel tax
43 reductions in section six of this act shall expire and be deemed
44 repealed on July 1, [2015] 2016; provided, however, that nothing
45 contained herein shall be deemed to affect the application, qualifica-
46 tion, expiration, or repeal of any provision of law amended by any
47 section of this act, and such provisions shall be applied or qualified
48 or shall expire or be deemed repealed in the same manner, to the same
49 extent and on the same date as the case may be as otherwise provided by
50 law; provided further, however, that sections twenty-three and twenty-
51 five of this act shall remain in full force and effect only until May 1,
52 1997 and at such time shall be deemed to be repealed.

53 S 8. Section 54 of chapter 346 of the laws of 1990, amending the
54 racing, pari-mutuel wagering and breeding law and other laws relating to
55 simulcasting and the imposition of certain taxes, as amended by section

1 8 of part AA of chapter 59 of the laws of 2014, is amended to read as
2 follows:

3 S 54. This act shall take effect immediately; provided, however,
4 sections three through twelve of this act shall take effect on January
5 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
6 ing law, as added by section thirty-eight of this act, shall expire and
7 be deemed repealed on July 1, [2015] 2016; and section eighteen of this
8 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
9 two of this act shall take effect as of the same date as chapter 772 of
10 the laws of 1989 took effect.

11 S 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
12 pari-mutuel wagering and breeding law, as amended by section 9 of part
13 AA of chapter 59 of the laws of 2014, is amended to read as follows:

14 (a) The franchised corporation authorized under this chapter to
15 conduct pari-mutuel betting at a race meeting or races run thereat shall
16 distribute all sums deposited in any pari-mutuel pool to the holders of
17 winning tickets therein, provided such tickets be presented for payment
18 before April first of the year following the year of their purchase,
19 less an amount which shall be established and retained by such fran-
20 chised corporation of between twelve to seventeen per centum of the
21 total deposits in pools resulting from on-track regular bets, and four-
22 teen to twenty-one per centum of the total deposits in pools resulting
23 from on-track multiple bets and fifteen to twenty-five per centum of the
24 total deposits in pools resulting from on-track exotic bets and fifteen
25 to thirty-six per centum of the total deposits in pools resulting from
26 on-track super exotic bets, plus the breaks. The retention rate to be
27 established is subject to the prior approval of the gaming commission.
28 Such rate may not be changed more than once per calendar quarter to be
29 effective on the first day of the calendar quarter. "Exotic bets" and
30 "multiple bets" shall have the meanings set forth in section five
31 hundred nineteen of this chapter. "Super exotic bets" shall have the
32 meaning set forth in section three hundred one of this chapter. For
33 purposes of this section, a "pick six bet" shall mean a single bet or
34 wager on the outcomes of six races. The breaks are hereby defined as the
35 odd cents over any multiple of five for payoffs greater than one dollar
36 five cents but less than five dollars, over any multiple of ten for
37 payoffs greater than five dollars but less than twenty-five dollars,
38 over any multiple of twenty-five for payoffs greater than twenty-five
39 dollars but less than two hundred fifty dollars, or over any multiple of
40 fifty for payoffs over two hundred fifty dollars. Out of the amount so
41 retained there shall be paid by such franchised corporation to the
42 commissioner of taxation and finance, as a reasonable tax by the state
43 for the privilege of conducting pari-mutuel betting on the races run at
44 the race meetings held by such franchised corporation, the following
45 percentages of the total pool for regular and multiple bets five per
46 centum of regular bets and four per centum of multiple bets plus twenty
47 per centum of the breaks; for exotic wagers seven and one-half per
48 centum plus twenty per centum of the breaks, and for super exotic bets
49 seven and one-half per centum plus fifty per centum of the breaks. For
50 the period June first, nineteen hundred ninety-five through September
51 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be
52 three per centum and such tax on multiple wagers shall be two and one-
53 half per centum, plus twenty per centum of the breaks. For the period
54 September tenth, nineteen hundred ninety-nine through March thirty-
55 first, two thousand one, such tax on all wagers shall be two and six-
56 tenths per centum and for the period April first, two thousand one

1 through December thirty-first, two thousand [fifteen] SIXTEEN, such tax
2 on all wagers shall be one and six-tenths per centum, plus, in each such
3 period, twenty per centum of the breaks. Payment to the New York state
4 thoroughbred breeding and development fund by such franchised corpo-
5 ration shall be one-half of one per centum of total daily on-track pari-
6 mutuel pools resulting from regular, multiple and exotic bets and three
7 per centum of super exotic bets provided, however, that for the period
8 September tenth, nineteen hundred ninety-nine through March thirty-
9 first, two thousand one, such payment shall be six-tenths of one per
10 centum of regular, multiple and exotic pools and for the period April
11 first, two thousand one through December thirty-first, two thousand
12 [fifteen] SIXTEEN, such payment shall be seven-tenths of one per centum
13 of such pools.

14 S 10. This act shall take effect immediately.

15

PART OO

16 Section 1. Section 1602 of the tax law is amended by adding a new
17 subdivision 6 to read as follows:

18 6. "VIDEO LOTTERY GAMING" MEANS ANY LOTTERY GAME PLAYED ON A VIDEO
19 LOTTERY TERMINAL THAT ISSUES ELECTRONIC TICKETS, ALLOWS MULTIPLE PLAYERS
20 TO PARTICIPATE IN THE SAME GAME AND DETERMINES WINNERS TO A MATERIAL
21 DEGREE UPON THE ELEMENT OF CHANCE, NOTWITHSTANDING THAT THE SKILL OF A
22 PLAYER MAY INFLUENCE SUCH PLAYER'S CHANCE OF WINNING A GAME. VIDEO
23 LOTTERY GAMING MAY INCLUDE ELEMENTS OF PLAYER INTERACTION AFTER A PLAYER
24 RECEIVES AN INITIAL CHANCE.

25 S 2. Subdivision 28 of section 225.00 of the penal law, as added by
26 chapter 174 of the laws of 2013, is amended to read as follows:

27 28. "Video lottery gaming" [means any lottery game played on a video
28 lottery terminal, which consists of multiple players competing for a
29 chance to win a random drawn prize pursuant to section sixteen hundred
30 seventeen-a and paragraph five of subdivision a of section sixteen
31 hundred twelve of the tax law, as amended and implemented] HAS THE MEAN-
32 ING SET FORTH IN SUBDIVISION SIX OF SECTION SIXTEEN HUNDRED TWO OF THE
33 TAX LAW.

34 S 3. This act shall take effect on the thirtieth day after it shall
35 have become a law.

36

PART PP

37 Section 1. Paragraph d of subdivision 1 of section 207 of the racing,
38 pari-mutuel wagering and breeding law, as added by chapter 457 of the
39 laws of 2012, is amended to read as follows:

40 d. The board, which shall become effective upon appointment of a
41 majority of public members, shall terminate [three] FOUR years from its
42 date of creation. The board shall propose, no less than one hundred
43 eighty days prior to its termination, recommendations to the governor
44 and the state legislature representing a statutory plan for the prospec-
45 tive not-for-profit governing structure of The New York Racing Associ-
46 ation, Inc.

47 S 2. This act shall take effect June 18, 2015.

48

PART QQ

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

4 SUBCHAPTER 3-A
5 CORPORATE TAX OF 2015

6 SECTION 11-651 APPLICABILITY.
7 11-652 DEFINITIONS.
8 11-653 IMPOSITION OF TAX; EXEMPTIONS.
9 11-654 COMPUTATION OF TAX.
10 11-654.1 NET OPERATING LOSS.
11 11-654.2 RECEIPTS APPORTIONMENT.
12 11-654.3 COMBINED REPORTS.
13 11-655 REPORTS.
14 11-656 PAYMENT AND LIEN OF TAX.
15 11-657 DECLARATION OF ESTIMATED TAX.
16 11-658 PAYMENTS ON ACCOUNT OF ESTIMATED TAX.
17 11-659 COLLECTION OF TAXES.
18 11-660 LIMITATIONS OF TIME.

19 S 11-651 APPLICABILITY. 1. NOTWITHSTANDING ANYTHING TO THE CONTRARY
20 IN THIS CHAPTER, THIS SUBCHAPTER SHALL APPLY TO CORPORATIONS FOR TAX
21 YEARS COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT
22 THAT IT SHALL NOT APPLY TO ANY CORPORATION THAT (A) HAS AN ELECTION IN
23 EFFECT UNDER SUBSECTION (A) OF SECTION THIRTEEN HUNDRED SIXTY-TWO OF THE
24 INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR (B) IS A QUALIFIED
25 SUBCHAPTER S SUBSIDIARY WITHIN THE MEANING OF PARAGRAPH THREE OF
26 SUBSECTION (B) OF SECTION THIRTEEN HUNDRED SIXTY-ONE OF THE INTERNAL
27 REVENUE CODE OF 1986, AS AMENDED, IN ANY TAX YEAR AFTER SUCH DATE.
28 SUBCHAPTERS TWO AND THREE OF THIS CHAPTER SHALL NOT APPLY TO CORPO-
29 RATIONS TO WHICH THIS SUBCHAPTER APPLIES FOR TAX YEARS COMMENCING ON OR
30 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, EXCEPT TO THE EXTENT PROVIDED
31 IN THIS SUBCHAPTER AND TO THE EXTENT THAT THE EFFECT OF THE APPLICATION
32 OF SUBCHAPTERS TWO AND THREE TO TAX YEARS COMMENCING PRIOR TO JANUARY
33 FIRST, TWO THOUSAND FIFTEEN CARRIES OVER TO TAX YEARS COMMENCING ON OR
34 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN.

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

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

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

1 TO BE SUBJECT TO THE PROVISIONS OF CHAPTER FIVE OF THIS TITLE FOR ITS
2 TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED NINETY-SIX.

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

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

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

16 2-A. THE TERM "TAXPAYER" MEANS ANY CORPORATION SUBJECT TO TAX UNDER
17 THIS SUBCHAPTER.

18 3. INTENTIONALLY OMITTED.

19 3-A. THE TERM "STOCK" MEANS AN INTEREST IN A CORPORATION THAT IS
20 TREATED AS EQUITY FOR FEDERAL INCOME TAX PURPOSES.

21 4. (A) THE TERM "INVESTMENT CAPITAL" MEANS INVESTMENTS IN STOCKS THAT
22 ARE HELD BY THE TAXPAYER FOR MORE THAN SIX CONSECUTIVE MONTHS BUT ARE
23 NOT AND HAVE NEVER BEEN USED BY THE TAXPAYER IN THE REGULAR COURSE OF
24 BUSINESS, OR, IF THE TAXPAYER MAKES THE ELECTION PROVIDED FOR IN SUBPAR-
25 AGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION 11-654.2 OF
26 THIS SUBCHAPTER, ARE NOT QUALIFIED FINANCIAL INSTRUMENTS AS DESCRIBED IN
27 SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER. STOCK IN A
28 CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER,
29 STOCK IN A CORPORATION THAT IS INCLUDED IN A COMBINED REPORT WITH THE
30 TAXPAYER PURSUANT TO THE COMMONLY OWNED GROUP ELECTION IN SUBDIVISION
31 THREE OF SECTION 11-654.3 OF THIS SUBCHAPTER, AND STOCK ISSUED BY THE
32 TAXPAYER SHALL NOT CONSTITUTE INVESTMENT CAPITAL. FOR PURPOSES OF THIS
33 SUBDIVISION, IF THE TAXPAYER OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY,
34 LESS THAN TWENTY PERCENT OF THE VOTING POWER OF THE STOCK OF A CORPO-
35 RATION, THAT CORPORATION WILL BE PRESUMED TO BE CONDUCTING A BUSINESS
36 THAT IS NOT UNITARY WITH THE BUSINESS OF THE TAXPAYER.

37 (B) THERE SHALL BE DEDUCTED FROM INVESTMENT CAPITAL ANY LIABILITIES
38 WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO INVESTMENT CAPITAL. IF
39 THE AMOUNT OF THOSE LIABILITIES EXCEEDS THE AMOUNT OF INVESTMENT CAPI-
40 TAL, THE AMOUNT OF INVESTMENT CAPITAL WILL BE ZERO.

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

1 (D) IF A TAXPAYER ACQUIRES STOCK DURING THE SECOND HALF OF ITS TAXABLE
2 YEAR AND OWNS THAT STOCK ON THE LAST DAY OF THE TAXABLE YEAR, IT WILL BE
3 PRESUMED, SOLELY FOR THE PURPOSES OF DETERMINING WHETHER THAT STOCK
4 SHOULD BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, THAT
5 THE TAXPAYER HELD THAT STOCK FOR MORE THAN SIX CONSECUTIVE MONTHS DURING
6 THE TAXABLE YEAR. THIS PRESUMPTION SHALL APPLY ONLY IF THE TAXPAYER IN
7 FACT OWNS THE STOCK AT THE TIME IT FILES ITS ORIGINAL REPORT FOR THE
8 TAXABLE YEAR IN WHICH IT ACQUIRES THE STOCK. HOWEVER, IF THE TAXPAYER
9 DOES NOT IN FACT HOLD THAT STOCK AS INVESTMENT CAPITAL FOR MORE THAN SIX
10 CONSECUTIVE MONTHS, THE TAXPAYER MUST INCREASE ITS BUSINESS CAPITAL IN
11 THE IMMEDIATELY SUCCEEDING TAXABLE YEAR BY THE AMOUNT INCLUDED IN
12 INVESTMENT CAPITAL FOR THAT STOCK, NET OF ANY LIABILITIES ATTRIBUTABLE
13 TO THAT STOCK COMPUTED AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION
14 AND MUST INCREASE ITS BUSINESS INCOME IN THE IMMEDIATELY SUCCEEDING
15 TAXABLE YEAR BY THE AMOUNT OF INCOME AND NET GAINS (BUT NOT LESS THAN
16 ZERO) FROM THAT STOCK INCLUDED IN INVESTMENT INCOME, LESS ANY INTEREST
17 DEDUCTIONS DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THAT STOCK, AS
18 PROVIDED IN SUBDIVISION FIVE OF THIS SECTION.

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

23 5. (A) THE TERM "INVESTMENT INCOME" MEANS INCOME, INCLUDING CAPITAL
24 GAINS IN EXCESS OF CAPITAL LOSSES, FROM INVESTMENT CAPITAL, TO THE
25 EXTENT INCLUDED IN COMPUTING ENTIRE NET INCOME, LESS, IN THE DISCRETION
26 OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS ALLOWABLE IN
27 COMPUTING ENTIRE NET INCOME WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUT-
28 ABLE TO INVESTMENT CAPITAL OR INVESTMENT INCOME, PROVIDED, HOWEVER, THAT
29 IN NO CASE SHALL INVESTMENT INCOME EXCEED ENTIRE NET INCOME. IF THE
30 AMOUNT OF INTEREST DEDUCTIONS SUBTRACTED UNDER THE PRECEDING SENTENCE
31 EXCEEDS INVESTMENT INCOME, THE EXCESS OF SUCH AMOUNT OVER INVESTMENT
32 INCOME MUST BE ADDED BACK TO ENTIRE NET INCOME.

33 (B) IN LIEU OF SUBTRACTING FROM INVESTMENT INCOME THE AMOUNT OF THOSE
34 INTEREST DEDUCTIONS, THE TAXPAYER MAY ELECT TO REDUCE ITS TOTAL INVEST-
35 MENT INCOME BY FORTY PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE
36 TAXPAYER MUST ALSO MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPHS (B) AND
37 (C) OF SUBDIVISION FIVE-A OF THIS SECTION. A TAXPAYER WHICH DOES NOT
38 MAKE THIS ELECTION BECAUSE IT HAS NO INVESTMENT CAPITAL WILL NOT BE
39 PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

42 5-A. (A) THE TERM "OTHER EXEMPT INCOME" MEANS THE SUM OF EXEMPT CFC
43 INCOME AND EXEMPT UNITARY CORPORATION DIVIDENDS.

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

1 WHICH DOES NOT MAKE THIS ELECTION BECAUSE IT HAS NO EXEMPT CFC INCOME
2 WILL NOT BE PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

3 (C) "EXEMPT UNITARY CORPORATE DIVIDENDS" MEANS THOSE DIVIDENDS FROM A
4 CORPORATION THAT IS CONDUCTING A UNITARY BUSINESS WITH THE TAXPAYER BUT
5 IS NOT INCLUDED IN A COMBINED REPORT WITH THE TAXPAYER, LESS, IN THE
6 DISCRETION OF THE COMMISSIONER OF FINANCE, ANY INTEREST DEDUCTIONS
7 DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH INCOME. OTHER THAN DIVIDEND
8 INCOME RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER ELEVEN
9 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO
10 TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER ELEVEN
11 OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE ALSO
12 TAXABLE UNDER THIS SUBCHAPTER) IF SUBJECT TO TAX, IN LIEU OF SUBTRACTING
13 FROM THIS DIVIDEND INCOME THOSE INTEREST DEDUCTIONS, THE TAXPAYER MAY
14 ELECT TO REDUCE THE TOTAL AMOUNT OF THIS DIVIDEND INCOME BY FORTY
15 PERCENT. IF THE TAXPAYER MAKES THIS ELECTION, THE TAXPAYER MUST ALSO
16 MAKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION FIVE OF
17 THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A TAXPAYER THAT DOES
18 NOT MAKE THIS ELECTION BECAUSE IT HAS NOT RECEIVED ANY EXEMPT UNITARY
19 CORPORATION DIVIDENDS OR IS PRECLUDED FROM MAKING THIS ELECTION FOR
20 DIVIDENDS RECEIVED FROM CORPORATIONS THAT ARE TAXABLE UNDER CHAPTER
21 ELEVEN OF THIS TITLE (EXCEPT FOR VENDORS OF UTILITY SERVICES THAT ARE
22 ALSO TAXABLE UNDER THIS SUBCHAPTER) OR WOULD BE TAXABLE UNDER CHAPTER
23 ELEVEN OF THIS TITLE IF SUBJECT TO TAX (EXCEPT FOR VENDORS OF UTILITY
24 SERVICES THAT ARE ALSO TAXABLE UNDER THIS SUBCHAPTER) WILL NOT BE
25 PRECLUDED FROM MAKING THOSE OTHER ELECTIONS.

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

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

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

40 (B) PROVIDED, FURTHER, "BUSINESS CAPITAL" SHALL NOT INCLUDE ASSETS TO
41 THE EXTENT EMPLOYED FOR THE PURPOSE OF GENERATING INCOME WHICH IS
42 EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO THE PROVISIONS OF PARAGRAPH
43 (C-1) OF SUBDIVISION EIGHT OF THIS SECTION AND SHALL BE COMPUTED WITHOUT
44 REGARD TO LIABILITIES DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO SUCH
45 ASSETS, BUT ONLY IF AIR CARRIERS ORGANIZED IN THE UNITED STATES AND
46 OPERATING IN THE FOREIGN COUNTRY OR COUNTRIES IN WHICH THE TAXPAYER HAS
47 ITS MAJOR BASE OF OPERATIONS AND IN WHICH IT IS ORGANIZED, RESIDENT OR
48 HEADQUARTERED (IF NOT IN THE SAME COUNTRY AS ITS MAJOR BASE OF OPER-
49 ATIONS) ARE NOT SUBJECT TO ANY TAX BASED ON OR MEASURED BY CAPITAL
50 IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES OR ANY POLITICAL SUBDIVI-
51 SION THEREOF, OR IF TAXED, ARE PROVIDED AN EXEMPTION, EQUIVALENT TO THAT
52 PROVIDED FOR HEREIN, FROM ANY TAX BASED ON OR MEASURED BY CAPITAL
53 IMPOSED BY SUCH FOREIGN COUNTRY OR COUNTRIES AND FROM ANY SUCH TAX
54 IMPOSED BY ANY POLITICAL SUBDIVISION THEREOF.

55 7. THE TERM "BUSINESS INCOME" MEANS ENTIRE NET INCOME MINUS INVESTMENT
56 INCOME AND OTHER EXEMPT INCOME. IN NO EVENT SHALL THE SUM OF INVESTMENT

1 INCOME AND OTHER EXEMPT INCOME EXCEED ENTIRE NET INCOME. IF THE TAXPAYER
2 MAKES THE ELECTION PROVIDED FOR IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF
3 SUBDIVISION FIVE OF SECTION 11-654.2 OF THIS SUBCHAPTER, THEN ALL INCOME
4 FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL CONSTITUTE BUSINESS INCOME.

5 8. THE TERM "ENTIRE NET INCOME" MEANS TOTAL NET INCOME FROM ALL SOURC-
6 ES, WHICH SHALL BE PRESUMABLY THE SAME AS THE ENTIRE TAXABLE INCOME (BUT
7 NOT ALTERNATIVE MINIMUM TAXABLE INCOME), WHICH EXCEPT AS HEREAFTER
8 PROVIDED IN THIS SUBDIVISION.

9 1. THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY
10 DEPARTMENT, OR

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

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

23 (A) ENTIRE NET INCOME SHALL NOT INCLUDE:

24 (1) INTENTIONALLY OMITTED;

25 (2) INTENTIONALLY OMITTED;

26 (2-A) ANY AMOUNTS TREATED AS DIVIDENDS PURSUANT TO SECTION
27 SEVENTY-EIGHT OF THE INTERNAL REVENUE CODE AND NOT OTHERWISE DEDUCTIBLE
28 UNDER SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH;

29 (3) BONA FIDE GIFTS;

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

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

41 (6) INTENTIONALLY OMITTED;

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

45 (8) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
46 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
47 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
48 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
49 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
50 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
51 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
52 EIGHTY-NINE, ANY AMOUNT WHICH IS INCLUDED IN THE TAXPAYER'S FEDERAL
53 TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION MADE PURSUANT TO THE
54 PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN EFFECT FOR AGREEMENTS
55 ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN HUNDRED EIGHTY-FOUR;

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

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

14 (11) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (J) OF THIS
15 SUBDIVISION APPLIES, THE AMOUNT, IF ANY, BY WHICH THE AGGREGATE OF THE
16 AMOUNTS DESCRIBED IN SUBPARAGRAPH ELEVEN OF PARAGRAPH (B) OF THIS SUBDI-
17 VISION ATTRIBUTABLE TO SUCH PROPERTY EXCEEDS THE AGGREGATE OF THE
18 AMOUNTS DESCRIBED IN PARAGRAPH (J) OF THIS SUBDIVISION ATTRIBUTABLE TO
19 SUCH PROPERTY;

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

22 (13) THE AMOUNT DEDUCTIBLE PURSUANT TO PARAGRAPH (O) OF THIS SUBDIVI-
23 SION; AND

24 (14) THE AMOUNT COMPUTED PURSUANT TO PARAGRAPH (Q), (R) OR (S) OF THIS
25 SUBDIVISION, BUT ONLY THE AMOUNT DETERMINED PURSUANT TO ONE OF SUCH
26 PARAGRAPHS.

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

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

38 (1) IN THE CASE OF AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF
39 THE INTERNAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS
40 DEFINED IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE, (I)
41 ANY PART OF ANY INCOME FROM DIVIDENDS OR INTEREST ON ANY KIND OF STOCK,
42 SECURITIES OR INDEBTEDNESS, BUT ONLY IF SUCH INCOME IS TREATED AS EFFEC-
43 TIVELY CONNECTED WITH THE CONDUCT OF A TRADE OR BUSINESS IN THE UNITED
44 STATES PURSUANT TO SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL
45 REVENUE CODE, (II) ANY INCOME EXEMPT FROM FEDERAL TAXABLE INCOME UNDER
46 ANY TREATY OBLIGATION OF THE UNITED STATES, BUT ONLY IF SUCH INCOME
47 WOULD BE TREATED AS EFFECTIVELY CONNECTED IN THE ABSENCE OF SUCH
48 EXEMPTION PROVIDED THAT SUCH TREATY OBLIGATION DOES NOT PRECLUDE THE
49 TAXATION OF SUCH INCOME BY A STATE, OR (III) ANY INCOME WHICH WOULD BE
50 TREATED AS EFFECTIVELY CONNECTED IF SUCH INCOME WERE NOT EXCLUDED FROM
51 GROSS INCOME PURSUANT TO SUBSECTION (A) OF SECTION ONE HUNDRED THREE OR
52 THE INTERNAL REVENUE CODE;

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

55 (3) TAXES ON OR MEASURED BY PROFITS OR INCOME PAID OR ACCRUED TO THE
56 UNITED STATES, ANY OF ITS POSSESSIONS, TERRITORIES OR COMMONWEALTHS,

1 INCLUDING TAXES IN LIEU OF ANY OF THE FOREGOING TAXES OTHERWISE GENERAL-
2 LY IMPOSED BY ANY POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED
3 STATES, OR TAXES PAID OR ACCRUED TO THE STATE UNDER ARTICLE NINE,
4 NINE-A, THIRTEEN-A OR THIRTY-TWO OF THE TAX LAW AS IN EFFECT ON DECEMBER
5 THIRTY-FIRST, TWO THOUSAND FOURTEEN;

6 (3-A) TAXES ON OR MEASURED BY PROFITS OR INCOME, OR WHICH INCLUDE
7 PROFITS OR INCOME AS A MEASURE, PAID OR ACCRUED TO ANY OTHER STATE OF
8 THE UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR TO THE
9 DISTRICT OF COLUMBIA, INCLUDING TAXES EXPRESSLY IN LIEU OF ANY OF THE
10 FOREGOING TAXES OTHERWISE GENERALLY IMPOSED BY ANY OTHER STATE OF THE
11 UNITED STATES, OR ANY POLITICAL SUBDIVISION THEREOF, OR THE DISTRICT OF
12 COLUMBIA;

13 (4) TAXES IMPOSED UNDER THIS CHAPTER;

14 (4-A) INTENTIONALLY OMITTED;

15 (4-B) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE
16 TAX LAW IN DETERMINING THE ENTIRE TAXABLE INCOME FOR A RELOCATION
17 DESCRIBED IN SUBDIVISION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER
18 WHICH THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY
19 DEPARTMENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS
20 NOT IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVI-
21 SION THIRTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

22 (4-C) THE AMOUNT ALLOWED AS AN EXCLUSION OR A DEDUCTION IMPOSED BY THE
23 TAX LAW FOR A RELOCATION DESCRIBED IN SUBDIVISION FOURTEEN OF SECTION
24 11-654 OF THIS SUBCHAPTER IN DETERMINING THE ENTIRE TAXABLE INCOME WHICH
25 THE TAXPAYER IS REQUIRED TO REPORT TO THE UNITED STATES TREASURY DEPART-
26 MENT BUT ONLY SUCH PORTION OF SUCH EXCLUSION OR DEDUCTION WHICH IS NOT
27 IN EXCESS OF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO SUBDIVISION
28 FOURTEEN OF SECTION 11-654 OF THIS SUBCHAPTER;

29 (4-D) INTENTIONALLY OMITTED;

30 (4-E) INTENTIONALLY OMITTED;

31 (5) INTENTIONALLY OMITTED;

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

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

42 (8) INTENTIONALLY OMITTED;

43 (9) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
44 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF
45 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
46 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
47 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
48 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
49 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
50 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER CLAIMED AS A DEDUCTION IN
51 COMPUTING ITS FEDERAL TAXABLE INCOME SOLELY AS A RESULT OF AN ELECTION
52 MADE PURSUANT TO THE PROVISIONS OF SUCH PARAGRAPH EIGHT AS IT WAS IN
53 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
54 HUNDRED EIGHTY-FOUR;

55 (10) EXCEPT WITH RESPECT TO PROPERTY WHICH IS A QUALIFIED MASS COMMUT-
56 ING VEHICLE DESCRIBED IN SUBPARAGRAPH (D) OF PARAGRAPH EIGHT OF

1 SUBSECTION (F) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
2 CODE (RELATING TO QUALIFIED MASS COMMUTING VEHICLES) AND PROPERTY OF
3 A TAXPAYER PRINCIPALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT,
4 FERRY OR NAVIGATION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH
5 IS PLACED IN SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED
6 EIGHTY-NINE, ANY AMOUNT WHICH THE TAXPAYER WOULD HAVE BEEN REQUIRED TO
7 INCLUDE IN THE COMPUTATION OF ITS FEDERAL TAXABLE INCOME HAD IT NOT MADE
8 THE ELECTION PERMITTED PURSUANT TO SUCH PARAGRAPH EIGHT AS IT WAS IN
9 EFFECT FOR AGREEMENTS ENTERED INTO PRIOR TO JANUARY FIRST, NINETEEN
10 HUNDRED EIGHTY-FOUR;

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

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

29 (13) INTENTIONALLY OMITTED;

30 (14) INTENTIONALLY OMITTED;

31 (15) INTENTIONALLY OMITTED;

32 (16) IN THE CASE OF QUALIFIED PROPERTY DESCRIBED IN PARAGRAPH TWO OF
33 SUBSECTION (K) OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
34 CODE, OTHER THAN QUALIFIED RESURGENCE ZONE PROPERTY DESCRIBED IN
35 PARAGRAPH (M) OF THIS SUBDIVISION, AND OTHER THAN QUALIFIED NEW YORK
36 LIBERTY ZONE PROPERTY DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (B) OF
37 SECTION FOURTEEN HUNDRED-L OF THE INTERNAL REVENUE CODE (WITHOUT REGARD
38 TO CLAUSE (I) OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH), THE AMOUNT ALLOW-
39 ABLE AS A DEDUCTION UNDER SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTER-
40 NAL REVENUE CODE;

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

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

50 (19) THE AMOUNT OF ANY FEDERAL DEDUCTION FOR TAXES IMPOSED UNDER ARTI-
51 CLE TWENTY-THREE OF THE TAX LAW;

52 (C) INTENTIONALLY OMITTED;

53 (C-1)(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, IN
54 THE CASE OF A TAXPAYER WHICH IS A FOREIGN AIR CARRIER HOLDING A FOREIGN
55 AIR CARRIER PERMIT ISSUED BY THE UNITED STATES DEPARTMENT OF TRANSPORTA-
56 TION PURSUANT TO SECTION FOUR HUNDRED TWO OF THE FEDERAL AVIATION ACT OF

1 NINETEEN HUNDRED FIFTY-EIGHT, AS AMENDED, AND WHICH IS QUALIFIED UNDER
2 SUBPARAGRAPH TWO OF THIS PARAGRAPH, ENTIRE NET INCOME SHALL NOT INCLUDE,
3 AND SHALL BE COMPUTED WITHOUT THE DEDUCTION OF, AMOUNTS DIRECTLY OR
4 INDIRECTLY ATTRIBUTABLE TO, (I) ANY INCOME DERIVED FROM THE INTERNA-
5 TIONAL OPERATION OF AIRCRAFT AS DESCRIBED IN AND SUBJECT TO THE
6 PROVISIONS OF SECTION EIGHT HUNDRED EIGHTY-THREE OF THE INTERNAL REVENUE
7 CODE, (II) INCOME WITHOUT THE UNITED STATES WHICH IS DERIVED FROM THE
8 OPERATION OF AIRCRAFT, AND (III) INCOME WITHOUT THE UNITED STATES WHICH
9 IS OF A TYPE DESCRIBED IN SUBDIVISION (A) OF SECTION EIGHT HUNDRED
10 EIGHTY-ONE OF THE INTERNAL REVENUE CODE EXCEPT THAT IT IS DERIVED FROM
11 SOURCES WITHOUT THE UNITED STATES. ENTIRE NET INCOME SHALL INCLUDE
12 INCOME DESCRIBED IN CLAUSES (I), (II) AND (III) OF THIS SUBPARAGRAPH IN
13 THE CASE OF TAXPAYERS NOT DESCRIBED IN THE PREVIOUS SENTENCE;

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

23 (D) THE COMMISSIONER OF FINANCE MAY, WHENEVER NECESSARY IN ORDER PROP-
24 ERLY TO REFLECT THE ENTIRE NET INCOME OF ANY TAXPAYER, DETERMINE THE
25 YEAR OR PERIOD IN WHICH ANY ITEM OF INCOME OR DEDUCTION SHALL BE
26 INCLUDED, WITHOUT REGARD TO THE METHOD OF ACCOUNTING EMPLOYED BY THE
27 TAXPAYER;

28 (E) THE ENTIRE NET INCOME OF ANY BRIDGE COMMISSION CREATED BY ACT OF
29 CONGRESS TO CONSTRUCT A BRIDGE ACROSS AN INTERNATIONAL BOUNDARY MEANS
30 ITS GROSS INCOME LESS THE EXPENSE OF MAINTAINING AND OPERATING ITS PROP-
31 erties, THE ANNUAL INTEREST UPON ITS BONDS AND OTHER OBLIGATIONS, AND
32 THE ANNUAL CHARGE FOR THE RETIREMENT OF SUCH BONDS OR OBLIGATIONS AT
33 MATURITY;

34 (F) INTENTIONALLY OMITTED;

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

39 (1)(I) THE TERM "INDUSTRIAL WASTE TREATMENT FACILITIES" SHALL MEAN
40 FACILITIES FOR THE TREATMENT, NEUTRALIZATION OR STABILIZATION OF INDUS-
41 TRIAL WASTE (AS THE TERM "INDUSTRIAL WASTE" IS DEFINED IN SECTION
42 17-0105 OF THE ENVIRONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY
43 PRECEDING THE POINT OF SUCH TREATMENT, NEUTRALIZATION OR STABILIZATION
44 TO THE POINT OF DISPOSAL, INCLUDING THE NECESSARY PUMPING AND TRANSMIT-
45 TING FACILITIES, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY
46 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING
47 PROCESS OR ARE MARKETABLE.

48 (II) THE TERM "AIR POLLUTION CONTROL FACILITIES" SHALL MEAN FACILITIES
49 WHICH REMOVE, REDUCE, OR RENDER LESS NOXIOUS AIR CONTAMINANTS EMITTED
50 FROM AN AIR CONTAMINATION SOURCE (AS THE TERMS "AIR CONTAMINANT" AND
51 "AIR CONTAMINATION SOURCE" ARE DEFINED IN SECTION 19-0107 OF THE ENVI-
52 RONMENTAL CONSERVATION LAW) FROM A POINT IMMEDIATELY PRECEDING THE POINT
53 OF SUCH REMOVAL, REDUCTION OR RENDERING TO THE POINT OF DISCHARGE OF
54 AIR, MEETING EMISSION STANDARDS AS ESTABLISHED BY THE AIR POLLUTION
55 CONTROL BOARD, BUT EXCLUDING SUCH FACILITIES INSTALLED FOR THE PRIMARY
56 PURPOSE OF SALVAGING MATERIALS WHICH ARE USABLE IN THE MANUFACTURING

1 PROCESS OR ARE MARKETABLE AND EXCLUDING THOSE FACILITIES WHICH RELY FOR
2 THEIR EFFICACY ON DILUTION, DISPERSION OR ASSIMILATION OF AIR CONTAM-
3 INANTS IN THE AMBIENT AIR AFTER EMISSION.

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

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

21 (III) ON CONDITION THAT ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL
22 SUCCEEDING TAXABLE YEARS BE COMPUTED WITHOUT ANY DEDUCTIONS FOR SUCH
23 EXPENDITURES OR FOR DEPRECIATION OF THE SAME PROPERTY OTHER THAN THE
24 DEDUCTIONS ALLOWED BY THIS PARAGRAPH EXCEPT TO THE EXTENT THAT THE BASIS
25 OF THE PROPERTY MAY BE ATTRIBUTABLE TO FACTORS OTHER THAN SUCH EXPENDI-
26 TURES, OR IN CASE A DEDUCTION IS ALLOWABLE PURSUANT TO THIS PARAGRAPH
27 FOR ONLY A PART OF SUCH EXPENDITURES, ON CONDITION THAT ANY DEDUCTION
28 ALLOWED FOR FEDERAL INCOME TAX PURPOSES FOR SUCH EXPENDITURES OR FOR
29 DEPRECIATION OF THE SAME PROPERTY BE PROPORTIONATELY REDUCED IN COMPUT-
30 ING ENTIRE NET INCOME FOR THE TAXABLE YEAR AND ALL SUCCEEDING TAXABLE
31 YEARS, AND

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

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

48 (II) IF A DEDUCTION IS ALLOWED AS HEREIN PROVIDED FOR EXPENDITURES
49 PAID OR INCURRED DURING ANY TAXABLE YEAR ON THE BASIS OF A TEMPORARY
50 CERTIFICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVA-
51 TION LAW AND IF THE TAXPAYER FAILS TO OBTAIN A PERMANENT CERTIFICATE OF
52 COMPLIANCE UPON COMPLETION OF THE FACILITIES WITH RESPECT TO WHICH SUCH
53 TEMPORARY CERTIFICATE WAS ISSUED, THE TAXPAYER SHALL REPORT SUCH FAILURE
54 IN ITS REPORT FOR THE TAXABLE YEAR DURING WHICH SUCH FACILITIES ARE
55 COMPLETED, AND THE COMMISSIONER OF FINANCE MAY RECOMPUTE THE TAX FOR THE
56 YEAR OR YEARS FOR WHICH SUCH DEDUCTION WAS ALLOWED AND ANY CARRYBACK OR

1 CARRYOVER YEAR, AND MAY ASSESS ANY ADDITIONAL TAX RESULTING FROM SUCH
2 RECOMPUTATION WITHIN THE TIME FIXED BY PARAGRAPH (H) OF SUBDIVISION
3 THREE OF SECTION 11-674 OF THIS CHAPTER.

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

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

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

48 (J) IN THE CASE OF PROPERTY PLACED IN SERVICE IN TAXABLE YEARS BEGIN-
49 NING BEFORE NINETEEN HUNDRED NINETY-FOUR, FOR TAXABLE YEARS BEGINNING
50 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-ONE, EXCEPT WITH
51 RESPECT TO PROPERTY SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED
52 EIGHTY-F OF THE INTERNAL REVENUE CODE AND PROPERTY SUBJECT TO THE
53 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
54 CODE WHICH IS PLACED IN SERVICE IN THIS STATE IN TAXABLE YEARS BEGINNING
55 AFTER DECEMBER THIRTY-FIRST, NINETEEN HUNDRED EIGHTY-FOUR, AND PROVIDED
56 A DEDUCTION HAS NOT BEEN EXCLUDED FROM ENTIRE NET INCOME PURSUANT TO

1 SUBPARAGRAPH NINE OF PARAGRAPH (B) OF THIS SUBDIVISION, A TAXPAYER SHALL
2 BE ALLOWED WITH RESPECT TO PROPERTY WHICH IS SUBJECT TO THE PROVISIONS
3 OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE THE
4 DEPRECIATION DEDUCTION ALLOWABLE UNDER SECTION ONE HUNDRED SIXTY-SEVEN
5 OF THE INTERNAL REVENUE CODE AS SUCH SECTION WOULD HAVE APPLIED TO PROP-
6 ERTY PLACED IN SERVICE ON DECEMBER THIRTY-FIRST, NINETEEN HUNDRED
7 EIGHTY. THIS PARAGRAPH SHALL NOT APPLY TO PROPERTY OF A TAXPAYER PRINCI-
8 PALLY ENGAGED IN THE CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGA-
9 TION BUSINESS, OR TWO OR MORE OF SUCH BUSINESSES, WHICH IS PLACED IN
10 SERVICE BEFORE TAXABLE YEARS BEGINNING IN NINETEEN HUNDRED EIGHTY-NINE.

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

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

35 (M) FOR PURPOSES OF THIS PARAGRAPH AND PARAGRAPH (L) OF THIS SUBDIVI-
36 SION, QUALIFIED RESURGENCE ZONE PROPERTY SHALL MEAN QUALIFIED PROPERTY
37 DESCRIBED IN PARAGRAPH TWO OF SUBSECTION (K) OF SECTION ONE HUNDRED
38 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE SUBSTANTIALLY ALL OF THE USE OF
39 WHICH IS IN THE RESURGENCE ZONE, AS DEFINED BELOW, AND IS IN THE ACTIVE
40 CONDUCT OF A TRADE OR BUSINESS BY THE TAXPAYER IN SUCH ZONE, AND THE
41 ORIGINAL USE OF WHICH IN THE RESURGENCE ZONE COMMENCES WITH THE TAXPAYER
42 AFTER SEPTEMBER TENTH, TWO THOUSAND ONE. THE RESURGENCE ZONE SHALL MEAN
43 THE AREA OF NEW YORK COUNTY BOUNDED ON THE SOUTH BY A LINE RUNNING FROM
44 THE INTERSECTION OF THE HUDSON RIVER WITH THE HOLLAND TUNNEL, AND
45 RUNNING THENCE EAST TO CANAL STREET, THEN RUNNING ALONG THE CENTERLINE
46 OF CANAL STREET TO THE INTERSECTION OF THE BOWERY AND CANAL STREET,
47 RUNNING THENCE IN A SOUTHEASTERLY DIRECTION DIAGONALLY ACROSS MANHATTAN
48 BRIDGE PLAZA, TO THE MANHATTAN BRIDGE, AND THENCE ALONG THE CENTERLINE
49 OF THE MANHATTAN BRIDGE TO THE POINT WHERE THE CENTERLINE OF THE MANHAT-
50 TAN BRIDGE WOULD INTERSECT WITH THE EASTERLY BANK OF THE EAST RIVER, AND
51 BOUNDED ON THE NORTH BY A LINE RUNNING FROM THE INTERSECTION OF THE
52 HUDSON RIVER WITH THE HOLLAND TUNNEL AND RUNNING THENCE NORTH ALONG WEST
53 AVENUE TO THE INTERSECTION OF CLARKSON STREET THEN RUNNING EAST ALONG
54 THE CENTERLINE OF CLARKSON STREET TO THE INTERSECTION OF WASHINGTON
55 AVENUE, THEN RUNNING SOUTH ALONG THE CENTERLINE OF WASHINGTON AVENUE TO
56 THE INTERSECTION OF WEST HOUSTON STREET, THEN EAST ALONG THE CENTERLINE

1 OF WEST HOUSTON STREET, THEN AT THE INTERSECTION OF THE AVENUE OF THE
2 AMERICAS CONTINUING EAST ALONG THE CENTERLINE OF EAST HOUSTON STREET TO
3 THE EASTERLY BANK OF THE EAST RIVER.

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

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

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

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

44 (2) ROYALTY EXPENSE ADD BACKS. (I) EXCEPT WHERE A TAXPAYER IS INCLUDED
45 IN A COMBINED REPORT PURSUANT TO SECTION 11-654.3 OF THIS SUBCHAPTER
46 WITH THE APPLICABLE RELATED MEMBER, FOR THE PURPOSE OF COMPUTING ENTIRE
47 NET INCOME OR OTHER APPLICABLE TAXABLE BASIS, A TAXPAYER MUST ADD BACK
48 ROYALTY PAYMENTS DIRECTLY OR INDIRECTLY PAID, ACCRUED, OR INCURRED IN
49 CONNECTION WITH ONE OR MORE DIRECT OR INDIRECT TRANSACTIONS WITH ONE OR
50 MORE RELATED MEMBERS DURING THE TAXABLE YEAR TO THE EXTENT DEDUCTIBLE IN
51 CALCULATING FEDERAL TAXABLE INCOME.

52 (II) EXCEPTIONS. (A) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL
53 NOT APPLY TO THE PORTION OF THE ROYALTY PAYMENT THAT THE TAXPAYER ESTAB-
54 LISHES, BY CLEAR AND CONVINCING EVIDENCE OF THE TYPE AND IN THE FORM
55 SPECIFIED BY THE COMMISSIONER OF FINANCE, MEETS ALL OF THE FOLLOWING
56 REQUIREMENTS: (I) THE RELATED MEMBER WAS SUBJECT TO TAX IN THIS CITY OR

1 ANOTHER CITY WITHIN THE UNITED STATES OR A FOREIGN NATION OR SOME COMBI-
2 NATION THEREOF ON A TAX BASE THAT INCLUDED THE ROYALTY PAYMENT PAID,
3 ACCRUED OR INCURRED BY THE TAXPAYER; (II) THE RELATED MEMBER DURING THE
4 SAME TAXABLE YEAR DIRECTLY OR INDIRECTLY PAID, ACCRUED OR INCURRED SUCH
5 PORTION TO A PERSON THAT IS NOT A RELATED MEMBER; AND (III) THE TRANS-
6 ACTION GIVING RISE TO THE ROYALTY PAYMENT BETWEEN THE TAXPAYER AND THE
7 RELATED MEMBER WAS UNDERTAKEN FOR A VALID BUSINESS PURPOSE.

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

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

33 (D) THE ADJUSTMENT REQUIRED IN THIS PARAGRAPH SHALL NOT APPLY IF THE
34 TAXPAYER AND THE COMMISSIONER OF FINANCE AGREE IN WRITING TO THE APPLI-
35 CATION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS. THE COMMIS-
36 SIONER OF FINANCE MAY, IN HIS OR HER DISCRETION, AGREE TO THE APPLICA-
37 TION OR USE OF ALTERNATIVE ADJUSTMENTS OR COMPUTATIONS WHEN HE OR SHE
38 CONCLUDES THAT IN THE ABSENCE OF SUCH AGREEMENT THE INCOME OF THE
39 TAXPAYER WOULD NOT BE PROPERLY REFLECTED.

40 (O) IN THE CASE OF A TAXPAYER THAT IS NOT AN ELIGIBLE FARMER AS
41 DEFINED IN SUBSECTION (N) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE
42 DEDUCTIONS ALLOWABLE UNDER SECTIONS ONE HUNDRED SEVENTY-NINE, ONE
43 HUNDRED SIXTY-SEVEN AND ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
44 CODE WITH RESPECT TO A SPORT UTILITY VEHICLE THAT IS NOT A PASSENGER
45 AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION (D) OF SECTION TWO
46 HUNDRED EIGHTY-F OF THE INTERNAL REVENUE CODE, DETERMINED AS IF SUCH
47 SPORT UTILITY VEHICLE WERE A PASSENGER AUTOMOBILE AS DEFINED IN SUCH
48 PARAGRAPH FIVE. FOR PURPOSES OF SUBPARAGRAPH SIXTEEN OF PARAGRAPH (B)
49 AND PARAGRAPH (K) OF THIS SUBDIVISION, THE TERMS QUALIFIED RESURGENCE
50 ZONE PROPERTY AND QUALIFIED NEW YORK LIBERTY ZONE PROPERTY DESCRIBED IN
51 PARAGRAPH TWO OF SUBSECTION B OF SECTION FOURTEEN HUNDRED-L OF THE
52 INTERNAL REVENUE CODE SHALL NOT INCLUDE ANY SPORT UTILITY VEHICLE THAT
53 IS NOT A PASSENGER AUTOMOBILE AS DEFINED IN PARAGRAPH FIVE OF SUBSECTION
54 (D) OF SECTION TWO HUNDRED EIGHTY-F OF THE INTERNAL REVENUE CODE.

55 (P) UPON THE DISPOSITION OF PROPERTY TO WHICH PARAGRAPH (O) OF THIS
56 SUBDIVISION APPLIES, THE AMOUNT OF ANY GAIN OR LOSS INCLUDIBLE IN ENTIRE

1 NET INCOME SHALL BE ADJUSTED TO REFLECT THE INCLUSIONS AND EXCLUSIONS
2 FROM ENTIRE NET INCOME PURSUANT TO SUBPARAGRAPH THIRTEEN OF PARAGRAPH
3 (A) AND SUBPARAGRAPH SEVENTEEN OF PARAGRAPH (B) OF THIS SUBDIVISION
4 ATTRIBUTABLE TO SUCH PROPERTY.

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

6 (1) A TAXPAYER THAT IS A QUALIFIED COMMUNITY BANK AS DEFINED IN SUBPARA-
7 GRAPH TWO OF THIS PARAGRAPH OR A SMALL THRIFT INSTITUTION AS DEFINED IN
8 SUBPARAGRAPH TWO-A OF THIS PARAGRAPH SHALL BE ALLOWED A DEDUCTION IN
9 COMPUTING ENTIRE NET INCOME EQUAL TO THE AMOUNT COMPUTED UNDER SUBPARA-
10 GRAPH THREE OF THIS PARAGRAPH.

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

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

16 (II) THE AVERAGE VALUE DURING THE TAXABLE YEAR OF THE ASSETS OF THE
17 TAXPAYER, OR, IF THE TAXPAYER IS INCLUDED IN A COMBINED REPORT, THE
18 ASSETS OF THE COMBINED REPORTING GROUP OF THE TAXPAYER UNDER SECTION
19 11-654.3 OF THIS SUBCHAPTER, MUST NOT EXCEED EIGHT BILLION DOLLARS.

20 (2-A) TO BE A SMALL THRIFT INSTITUTION, A TAXPAYER MUST SATISFY THE
21 FOLLOWING CONDITIONS:

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

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

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

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

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

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

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

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

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

1 VALUED AT THE ANNUAL LEASE PAYMENT MULTIPLIED BY EIGHT. INTANGIBLE PROP-
2 erty, SUCH AS LOANS AND INVESTMENTS, SHALL BE VALUED AT BOOK VALUE
3 EXCLUSIVE OF RESERVES.

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

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

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

14 (B) THE LOAN IS A SMALL BUSINESS LOAN OR A RESIDENTIAL MORTGAGE LOAN,
15 THE PRINCIPAL AMOUNT OF WHICH LOAN IS FIVE MILLION DOLLARS OR LESS, AND
16 EITHER THE BORROWER IS LOCATED IN THIS CITY AS DETERMINED UNDER SECTION
17 11-654.2 OF THIS SUBCHAPTER AND THE LOAN IS NOT SECURED BY REAL PROPER-
18 TY, OR THE LOAN IS SECURED BY REAL PROPERTY LOCATED IN THE CITY.

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

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

35 (S) SUBTRACTION MODIFICATION FOR QUALIFIED RESIDENTIAL LOAN PORTFO-
36 LIOS. (1)(I) A TAXPAYER THAT IS EITHER A THRIFT INSTITUTION AS DEFINED
37 IN SUBPARAGRAPH THREE OF THIS PARAGRAPH OR A QUALIFIED COMMUNITY BANK AS
38 DEFINED IN SUBPARAGRAPH TWO OF PARAGRAPH (Q) OF THIS SUBDIVISION AND
39 MAINTAINS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO AS DEFINED IN SUBPARA-
40 GRAPH TWO OF THIS PARAGRAPH SHALL BE ALLOWED AS A DEDUCTION IN COMPUTING
41 ENTIRE NET INCOME THE AMOUNT, IF ANY, BY WHICH (A) THIRTY-TWO PERCENT OF
42 ITS ENTIRE NET INCOME DETERMINED WITHOUT REGARD TO THIS PARAGRAPH
43 EXCEEDS (B) THE AMOUNTS DEDUCTED BY THE TAXPAYER PURSUANT TO SECTIONS
44 166 AND 585 OF THE INTERNAL REVENUE CODE LESS ANY AMOUNTS INCLUDED IN
45 FEDERAL TAXABLE INCOME AS A RESULT OF A RECOVERY OF A LOAN.

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

54 (B) MEASUREMENT OF ASSETS. (I) TOTAL ASSETS ARE THOSE ASSETS THAT ARE
55 PROPERLY REFLECTED ON A BALANCE SHEET, COMPUTED IN THE SAME MANNER AS IS

1 REQUIRED BY THE BANKING REGULATOR OF THE TAXPAYERS INCLUDED IN THE
2 COMBINED RETURN.

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

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

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

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

20 (2) QUALIFIED RESIDENTIAL LOAN PORTFOLIO. (I) A TAXPAYER MAINTAINS A
21 QUALIFIED RESIDENTIAL LOAN PORTFOLIO IF AT LEAST SIXTY PERCENT OF THE
22 AMOUNT OF THE TOTAL ASSETS AT THE CLOSE OF THE TAXABLE YEAR OF THE
23 THRIFT INSTITUTION OR QUALIFIED COMMUNITY BANK CONSISTS OF THE ASSETS
24 DESCRIBED IN SUBCLAUSES (A) THROUGH (L) OF THIS CLAUSE, WITH THE APPLI-
25 CATION OF THE RULE IN THE LAST UNDESIGNATED SUBCLAUSE OF THIS CLAUSE. IF
26 THE TAXPAYER IS A MEMBER OF A COMBINED GROUP, THE DETERMINATION OF
27 WHETHER THERE IS A QUALIFIED RESIDENTIAL LOAN PORTFOLIO WILL BE MADE BY
28 AGGREGATING THE ASSETS OF THE THRIFT INSTITUTIONS AND QUALIFIED COMMUNI-
29 TY BANKS THAT ARE MEMBERS OF THE COMBINED GROUP. ASSETS: (A) CASH,
30 WHICH INCLUDES CASH AND CASH EQUIVALENTS INCLUDING CASH ITEMS IN THE
31 PROCESS OF COLLECTION, DEPOSITS WITH OTHER FINANCIAL INSTITUTIONS,
32 INCLUDING CORPORATE CREDIT UNIONS, BALANCES WITH FEDERAL RESERVE BANKS
33 AND FEDERAL HOME LOAN BANKS, FEDERAL FUNDS SOLD, AND CASH AND CASH
34 EQUIVALENTS ON HAND. CASH SHALL NOT INCLUDE ANY BALANCES SERVING AS
35 COLLATERAL FOR SECURITIES LENDING TRANSACTIONS; (B) OBLIGATIONS OF THE
36 UNITED STATES OR OF A STATE OR POLITICAL SUBDIVISION THEREOF, AND STOCK
37 OR OBLIGATIONS OF A CORPORATION WHICH IS AN INSTRUMENTALITY OR A GOVERN-
38 MENT SPONSORED ENTERPRISE OF THE UNITED STATES OR OF A STATE OR POLI-
39 TICAL SUBDIVISION THEREOF; (C) LOANS SECURED BY A DEPOSIT OR SHARE OF A
40 MEMBER; (D) LOANS SECURED BY AN INTEREST IN REAL PROPERTY WHICH IS (OR,
41 FROM THE PROCEEDS OF THE LOAN, WILL BECOME) RESIDENTIAL REAL PROPERTY OR
42 REAL PROPERTY USED PRIMARILY FOR CHURCH PURPOSES, LOANS MADE FOR THE
43 IMPROVEMENT OF RESIDENTIAL REAL PROPERTY OR REAL PROPERTY USED PRIMARILY
44 FOR CHURCH PURPOSES, PROVIDED THAT FOR PURPOSES OF THIS SUBCLAUSE, RESI-
45 DENTIAL REAL PROPERTY SHALL INCLUDE SINGLE OR MULTI-FAMILY DWELLINGS,
46 FACILITIES IN RESIDENTIAL DEVELOPMENTS DEDICATED TO PUBLIC USE OR PROP-
47 erty USED ON A NONPROFIT BASIS FOR RESIDENTS, AND MOBILE HOMES NOT USED
48 ON A TRANSIENT BASIS; (E) PROPERTY ACQUIRED THROUGH THE LIQUIDATION OF
49 DEFAULTED LOANS DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (F) ANY REGU-
50 LAR OR RESIDUAL INTEREST IN A REMIC, AS SUCH TERM IS DEFINED IN SECTION
51 860D OF THE INTERNAL REVENUE CODE, BUT ONLY IN THE PROPORTION WHICH THE
52 ASSETS OF SUCH REMIC CONSIST OF PROPERTY DESCRIBED IN ANY OF THE PRECED-
53 ING SUBCLAUSES OF THIS CLAUSE, EXCEPT THAT IF NINETY-FIVE PERCENT OR
54 MORE OF THE ASSETS OF SUCH REMIC ARE ASSETS DESCRIBED IN SUBCLAUSES (A)
55 THROUGH (E) OF THIS CLAUSE, THE ENTIRE INTEREST IN THE REMIC SHALL QUAL-
56 IFY; (G) ANY MORTGAGE-BACKED SECURITY WHICH REPRESENTS OWNERSHIP OF A

1 FRACTIONAL UNDIVIDED INTEREST IN A TRUST, THE ASSETS OF WHICH CONSIST
2 PRIMARILY OF MORTGAGE LOANS, PROVIDED THAT THE REAL PROPERTY WHICH
3 SERVES AS SECURITY FOR THE LOANS IS (OR FROM THE PROCEEDS OF THE LOAN,
4 WILL BECOME) THE TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS
5 CLAUSE AND ANY COLLATERALIZED MORTGAGE OBLIGATION, THE SECURITY FOR
6 WHICH CONSISTS PRIMARILY OF MORTGAGE LOANS THAT MAINTAIN AS SECURITY THE
7 TYPE OF PROPERTY DESCRIBED IN SUBCLAUSE (D) OF THIS CLAUSE; (H) CERTIF-
8 ICATES OF DEPOSIT IN, OR OBLIGATIONS OF, A CORPORATION ORGANIZED UNDER A
9 STATE LAW WHICH SPECIFICALLY AUTHORIZES SUCH CORPORATION TO INSURE THE
10 DEPOSITS OR SHARE ACCOUNTS OF MEMBER ASSOCIATIONS; (I) LOANS SECURED BY
11 AN INTEREST IN EDUCATIONAL, HEALTH, OR WELFARE INSTITUTIONS OR FACILI-
12 TIES, INCLUDING STRUCTURES DESIGNED OR USED PRIMARILY FOR RESIDENTIAL
13 PURPOSES FOR STUDENTS, RESIDENTS, AND PERSONS UNDERCARE, EMPLOYEES, OR
14 MEMBERS OF THE STAFF OF SUCH INSTITUTIONS OR FACILITIES; (J) LOANS MADE
15 FOR THE PAYMENT OF EXPENSES OF COLLEGE OR UNIVERSITY EDUCATION OR VOCA-
16 TIONAL TRAINING; (K) PROPERTY USED BY THE TAXPAYER IN SUPPORT OF BUSI-
17 NESS WHICH CONSISTS PRINCIPALLY OF ACQUIRING THE SAVINGS OF THE PUBLIC
18 AND INVESTING IN LOANS; AND (L) LOANS FOR WHICH THE TAXPAYER IS THE
19 CREDITOR AND WHICH ARE WHOLLY SECURED BY LOANS DESCRIBED IN SUBCLAUSE
20 (D) OF THIS CLAUSE.

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

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

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

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

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

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

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

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

25 11. THE TERM "INTERNAL REVENUE CODE" MEANS, UNLESS OTHERWISE SPECIF-
26 ICALLY STATED IN THIS SUBCHAPTER, THE INTERNAL REVENUE CODE OF 1986, AS
27 AMENDED.

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

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

36 (C) WHOSE BUSINESS INCLUDES PROVIDING, DIRECTLY AND INDIRECTLY, INSUR-
37 ANCE OR REINSURANCE COVERING THE RISKS OF ITS PARENT AND/OR MEMBERS OF
38 ITS AFFILIATED GROUP; AND

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

42 FOR PURPOSES OF THIS SUBDIVISION, "AFFILIATED GROUP" HAS THE SAME
43 MEANING AS THAT TERM IS GIVEN IN SECTION FIFTEEN HUNDRED FOUR OF THE
44 INTERNAL REVENUE CODE, EXCEPT THAT THE TERM "COMMON PARENT CORPORATION"
45 IN THAT SECTION IS DEEMED TO MEAN ANY PERSON, AS DEFINED IN SECTION
46 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE AND REFER-
47 ENCES TO "AT LEAST EIGHTY PERCENT" IN SECTION FIFTEEN HUNDRED FOUR OF
48 THE INTERNAL REVENUE CODE ARE TO BE READ AS "FIFTY PERCENT OR MORE;"
49 SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE IS TO BE READ
50 WITHOUT REGARD TO THE EXCLUSIONS PROVIDED FOR IN SUBSECTION (B) OF THAT
51 SECTION; "PREMIUMS" HAS THE SAME MEANING AS THAT TERM IS GIVEN IN PARA-
52 GRAPH ONE OF SUBDIVISION (C) OF SECTION FIFTEEN HUNDRED TEN OF THE TAX
53 LAW, EXCEPT THAT IT INCLUDES CONSIDERATION FOR ANNUITY CONTRACTS AND
54 EXCLUDES ANY PART OF THE CONSIDERATION FOR INSURANCE, REINSURANCE OR
55 ANNUITY CONTRACTS THAT DO NOT PROVIDE BONA FIDE INSURANCE, REINSURANCE
56 OR ANNUITY BENEFITS; AND "GROSS RECEIPTS" INCLUDES THE AMOUNTS INCLUDED

1 IN GROSS RECEIPTS FOR PURPOSES OF PARAGRAPH FIFTEEN OF SUBSECTION (C) OF
2 SECTION FIVE HUNDRED ONE OF THE INTERNAL REVENUE CODE, EXCEPT THAT THOSE
3 AMOUNTS ALSO INCLUDE ALL PREMIUMS AS DEFINED IN THIS SUBDIVISION.

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

12 S 11-653 IMPOSITION OF TAX; EXEMPTIONS. 1. (A) FOR THE PRIVILEGE OF
13 DOING BUSINESS, OR OF EMPLOYING CAPITAL, OR OF OWNING OR LEASING PROPER-
14 TY IN THE CITY IN A CORPORATE OR ORGANIZED CAPACITY, OR OF MAINTAINING
15 AN OFFICE IN THE CITY, OR OF DERIVING RECEIPTS FROM ACTIVITY IN THE
16 CITY, FOR ALL OR ANY PART OF EACH OF ITS FISCAL OR CALENDAR YEARS, EVERY
17 DOMESTIC OR FOREIGN CORPORATION, EXCEPT CORPORATIONS SPECIFIED IN SUBDI-
18 VISION FOUR OF THIS SECTION, SHALL ANNUALLY PAY A TAX, UPON THE BASIS OF
19 ITS BUSINESS INCOME, OR UPON SUCH OTHER BASIS AS MAY BE APPLICABLE AS
20 HEREINAFTER PROVIDED, FOR SUCH FISCAL OR CALENDAR YEAR OR PART THEREOF,
21 ON A REPORT WHICH SHALL BE FILED, EXCEPT AS HEREINAFTER PROVIDED, ON OR
22 BEFORE THE FIFTEENTH DAY OF MARCH NEXT SUCCEEDING THE CLOSE OF EACH SUCH
23 YEAR, OR, IN THE CASE OF A TAXPAYER WHICH REPORTS ON THE BASIS OF A
24 FISCAL YEAR, WITHIN TWO AND ONE-HALF MONTHS AFTER THE CLOSE OF SUCH
25 FISCAL YEAR, AND SHALL BE PAID AS HEREINAFTER PROVIDED.

26 (B) A CORPORATION IS DERIVING RECEIPTS FROM ACTIVITY IN THE CITY IF IT
27 HAS RECEIPTS WITHIN THE CITY OF ONE MILLION DOLLARS OR MORE IN THE TAXA-
28 BLE YEAR. FOR PURPOSES OF THIS SECTION, THE TERM "RECEIPTS" MEANS THE
29 RECEIPTS THAT ARE SUBJECT TO THE APPORTIONMENT RULES SET FORTH IN
30 SECTION 11-654.2 OF THIS SUBCHAPTER, AND THE TERM "RECEIPTS WITHIN THE
31 CITY" MEANS THE RECEIPTS INCLUDED IN THE NUMERATOR OF THE RECEIPTS
32 PERCENTAGE DETERMINED UNDER SECTION 11-654.2 OF THIS SUBCHAPTER. FOR
33 PURPOSES OF THIS PARAGRAPH, RECEIPTS FROM PROCESSING CREDIT CARD TRANS-
34 ACTIONS FOR MERCHANTS INCLUDE MERCHANT DISCOUNT FEES RECEIVED BY THE
35 CORPORATION.

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

48 (D)(1) A CORPORATION WITH LESS THAN ONE MILLION DOLLARS BUT AT LEAST
49 TEN THOUSAND DOLLARS OF RECEIPTS WITHIN THE CITY IN A TAXABLE YEAR THAT
50 IS PART OF A UNITARY GROUP UNDER SECTION 11-654.3 OF THIS SUBCHAPTER IS
51 DERIVING RECEIPTS FROM ACTIVITY IN THE CITY IF THE RECEIPTS WITHIN THE
52 CITY OF THE MEMBERS OF THE UNITARY GROUP THAT HAVE AT LEAST TEN THOUSAND
53 DOLLARS OF RECEIPTS WITHIN THE CITY IN THE AGGREGATE MEET THE THRESHOLD
54 SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

55 (2) A CORPORATION THAT DOES NOT MEET ANY OF THE THRESHOLDS SET FORTH
56 IN PARAGRAPH (C) OF THIS SUBDIVISION BUT HAS AT LEAST TEN CUSTOMERS, OR

1 LOCATIONS, OR CUSTOMERS AND LOCATIONS, AS DESCRIBED IN PARAGRAPH (C) OF
2 THIS SUBDIVISION, AND IS PART OF A UNITARY GROUP THAT MEETS THE OWNER-
3 SHIP TEST UNDER SECTION 11-654.3 OF THIS SUBCHAPTER IS DOING BUSINESS IN
4 THE CITY IF THE NUMBER OF CUSTOMERS, LOCATIONS, OR CUSTOMERS AND
5 LOCATIONS, WITHIN THE CITY OF THE MEMBERS OF THE UNITARY GROUP THAT HAVE
6 AT LEAST TEN CUSTOMERS, LOCATIONS, OR CUSTOMERS AND LOCATIONS, WITHIN
7 THE CITY IN THE AGGREGATE MEETS ANY OF THE THRESHOLDS SET FORTH IN PARA-
8 GRAPH (C) OF THIS SUBDIVISION.

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

22 (F) IF A PARTNERSHIP IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING OR
23 LEASING PROPERTY IN THE CITY, MAINTAINING AN OFFICE IN THE CITY, OR
24 DERIVING RECEIPTS FROM ACTIVITY IN THE CITY, ANY CORPORATION THAT IS A
25 PARTNER IN SUCH PARTNERSHIP SHALL BE SUBJECT TO TAX UNDER THIS SUBCHAP-
26 TER AS DESCRIBED IN THE REGULATIONS OF THE COMMISSIONER OF FINANCE.

27 2. A CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS, EMPLOYING
28 CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE IN THE
29 CITY, OR DERIVING RECEIPTS FROM ACTIVITY IN THE CITY, FOR THE PURPOSES
30 OF THIS SUBCHAPTER, BY REASON OF

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

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

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

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

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

49 (F) ANY COMBINATION OF THE FOREGOING ACTIVITIES.

50 2-A. AN ALIEN CORPORATION SHALL NOT BE DEEMED TO BE DOING BUSINESS,
51 EMPLOYING CAPITAL, OWNING OR LEASING PROPERTY, OR MAINTAINING AN OFFICE
52 IN THE CITY, FOR THE PURPOSES OF THIS SUBCHAPTER, IF ITS ACTIVITIES IN
53 THE CITY ARE LIMITED SOLELY TO

54 (A) INVESTING OR TRADING IN STOCKS AND SECURITIES FOR ITS OWN ACCOUNT
55 WITHIN THE MEANING OF CLAUSE (II) OF SUBPARAGRAPH (A) OF PARAGRAPH (2)

1 OF SUBSECTION (B) OF SECTION EIGHT HUNDRED SIXTY-FOUR OF THE INTERNAL
2 REVENUE CODE, OR

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

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

9 AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTERNAL REVENUE
10 CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION
11 SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO EFFECTIVELY
12 CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE THREE OF THE
13 OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF THIS
14 SUBCHAPTER SHALL NOT BE SUBJECT TO TAX UNDER THIS SUBCHAPTER FOR THAT
15 TAXABLE YEAR. FOR PURPOSES OF THIS SUBCHAPTER, AN ALIEN CORPORATION IS A
16 CORPORATION ORGANIZED UNDER THE LAWS OF A COUNTRY, OR ANY POLITICAL
17 SUBDIVISION THEREOF, OTHER THAN THE UNITED STATES, OR ORGANIZED UNDER
18 THE LAWS OF A POSSESSION, TERRITORY OR COMMONWEALTH OF THE UNITED
19 STATES.

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

27 4. (A) CORPORATIONS SUBJECT TO TAX UNDER CHAPTER ELEVEN OF THIS TITLE,
28 ANY TRUST COMPANY ORGANIZED UNDER A LAW OF THIS STATE ALL OF THE STOCK
29 OF WHICH IS OWNED BY NOT LESS THAN TWENTY SAVINGS BANKS ORGANIZED UNDER
30 A LAW OF THIS STATE, HOUSING COMPANIES ORGANIZED AND OPERATING PURSUANT
31 TO THE PROVISIONS OF ARTICLE TWO OF THE PRIVATE HOUSING FINANCE LAW,
32 HOUSING DEVELOPMENT FUND COMPANIES ORGANIZED PURSUANT TO THE PROVISIONS
33 OF ARTICLE ELEVEN OF THE PRIVATE HOUSING FINANCE LAW, CORPORATIONS
34 DESCRIBED IN SECTION THREE OF THE TAX LAW, A CORPORATION PRINCIPALLY
35 ENGAGED IN THE OPERATION OF MARINE VESSELS WHOSE ACTIVITIES IN THE CITY
36 ARE LIMITED EXCLUSIVELY TO THE USE OF PROPERTY IN INTERSTATE OR FOREIGN
37 COMMERCE, PROVIDED, HOWEVER, SUCH A CORPORATION WILL NOT BE SUBJECT TO
38 TAX UNDER THIS SUBCHAPTER SOLELY BECAUSE IT MAINTAINS AN OFFICE IN THE
39 CITY, OR EMPLOYS CAPITAL IN THE CITY, IN CONNECTION WITH SUCH USE OF
40 PROPERTY, A CORPORATION PRINCIPALLY ENGAGED IN THE CONDUCT OF A FERRY
41 BUSINESS AND OPERATING BETWEEN ANY OF THE BOROUGHES OF THE CITY UNDER A
42 LEASE GRANTED BY THE CITY AND A CORPORATION PRINCIPALLY ENGAGED IN THE
43 CONDUCT OF AN AVIATION, STEAMBOAT, FERRY OR NAVIGATION BUSINESS, OR TWO
44 OR MORE OF SUCH BUSINESSES, ALL OF THE CAPITAL STOCK OF WHICH IS OWNED
45 BY A MUNICIPAL CORPORATION OF THIS STATE, SHALL NOT BE SUBJECT TO TAX
46 UNDER THIS SUBCHAPTER; PROVIDED, HOWEVER, THAT ANY CORPORATION, OTHER
47 THAN (1) A UTILITY CORPORATION SUBJECT TO THE SUPERVISION OF THE STATE
48 DEPARTMENT OF PUBLIC SERVICE, AND (2) FOR TAXABLE YEARS BEGINNING ON OR
49 AFTER AUGUST FIRST, TWO THOUSAND TWO, A UTILITY AS DEFINED IN SUBDIVI-
50 SION SIX OF SECTION 11-1101 OF THIS TITLE, WHICH IS SUBJECT TO TAX UNDER
51 CHAPTER ELEVEN OF THIS TITLE AS A VENDOR OF UTILITY SERVICES SHALL BE
52 SUBJECT TO TAX UNDER THIS SUBCHAPTER, BUT IN COMPUTING THE TAX IMPOSED
53 BY THIS SECTION PURSUANT TO THE PROVISIONS OF CLAUSE (I) OF SUBPARAGRAPH
54 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS
55 SUBCHAPTER, BUSINESS INCOME ALLOCATED TO THE CITY PURSUANT TO PARAGRAPH
56 (A) OF SUBDIVISION THREE OF SUCH SECTION SHALL BE REDUCED BY THE

1 PERCENTAGE WHICH SUCH CORPORATION'S GROSS OPERATING INCOME SUBJECT TO
2 TAX UNDER CHAPTER ELEVEN OF THIS TITLE IS OF ITS GROSS OPERATING INCOME.

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

11 (C) IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT THE APPLI-
12 CATION OF THE PROVISO OF PARAGRAPH (A) OF THIS SUBDIVISION, DOES NOT
13 FAIRLY AND EQUITABLY REFLECT THE PORTION OF THE TAXPAYER'S BUSINESS
14 INCOME ALLOCABLE TO THE CITY WHICH IS ATTRIBUTABLE TO ITS CITY ACTIV-
15 ITIES WHICH ARE NOT TAXABLE UNDER SUBCHAPTER TWO OF CHAPTER ELEVEN OF
16 THIS TITLE, THE COMMISSIONER OF FINANCE MAY PRESCRIBE OTHER MEANS OR
17 METHODS OF DETERMINING SUCH PORTION, INCLUDING THE USE OF THE BOOKS AND
18 RECORDS OF THE TAXPAYER, IF THE COMMISSIONER OF FINANCE FINDS THAT SUCH
19 MEANS OR METHODS USED IN KEEPING THEM FAIRLY AND EQUITABLY REFLECT SUCH
20 PORTION.

21 5. INTENTIONALLY OMITTED.

22 6. INTENTIONALLY OMITTED.

23 7. FOR ANY TAXABLE YEAR OF A REAL ESTATE INVESTMENT TRUST, AS DEFINED
24 IN SECTION EIGHT HUNDRED FIFTY-SIX OF THE INTERNAL REVENUE CODE, IN
25 WHICH SUCH TRUST IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION
26 EIGHT HUNDRED FIFTY-SEVEN OF SUCH CODE, SUCH TRUST SHALL BE SUBJECT TO A
27 TAX COMPUTED UNDER EITHER CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH
28 (E) SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, OR CLAUSE
29 (IV), WHICHEVER IS GREATER. IN THE CASE OF SUCH A REAL ESTATE INVESTMENT
30 TRUST, INCLUDING A CAPTIVE REIT AS DEFINED IN SECTION 11-601 OF THIS
31 CHAPTER, THE TERM "ENTIRE NET INCOME" MEANS "REAL ESTATE INVESTMENT
32 TRUST TAXABLE INCOME" AS DEFINED IN PARAGRAPH TWO OF SUBDIVISION (B) OF
33 SECTION EIGHT HUNDRED FIFTY-SEVEN (AS MODIFIED BY SECTION EIGHT HUNDRED
34 FIFTY-EIGHT) OF THE INTERNAL REVENUE CODE PLUS THE AMOUNT TAXABLE UNDER
35 PARAGRAPH THREE OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-SEVEN
36 OF SUCH CODE, SUBJECT TO THE MODIFICATIONS REQUIRED BY SUBDIVISION EIGHT
37 OF SECTION 11-652 OF THIS SUBCHAPTER INCLUDING THE MODIFICATIONS
38 REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF SECTION
39 11-654 OF THIS SUBCHAPTER.

40 8. FOR ANY TAXABLE YEAR OF A REGULATED INVESTMENT COMPANY, AS DEFINED
41 IN SECTION EIGHT HUNDRED FIFTY-ONE OF THE INTERNAL REVENUE CODE, IN
42 WHICH SUCH COMPANY IS SUBJECT TO FEDERAL INCOME TAXATION UNDER SECTION
43 EIGHT HUNDRED FIFTY-TWO OF SUCH CODE, SUCH COMPANY SHALL BE SUBJECT TO A
44 TAX COMPUTED UNDER EITHER CLAUSE ONE OR FOUR OF SUBPARAGRAPH (A) OF
45 PARAGRAPH E OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER,
46 WHICHEVER IS GREATER. IN THE CASE OF SUCH A REGULATED INVESTMENT COMPA-
47 NY, INCLUDING A CAPTIVE RIC AS DEFINED IN SECTION 11-601 OF THIS CHAP-
48 TER, THE TERM "ENTIRE NET INCOME" USED IN SUBDIVISION ONE OF THIS
49 SECTION MEANS "INVESTMENT COMPANY TAXABLE INCOME" AS DEFINED IN PARA-
50 GRAPH TWO OF SUBDIVISION (B) OF SECTION EIGHT HUNDRED FIFTY-TWO, AS
51 MODIFIED BY SECTION EIGHT HUNDRED FIFTY-FIVE, OF THE INTERNAL REVENUE
52 CODE PLUS THE AMOUNT TAXABLE UNDER PARAGRAPH THREE OF SUBDIVISION (B) OF
53 SECTION EIGHT HUNDRED FIFTY-TWO OF SUCH CODE SUBJECT TO THE MODIFICA-
54 TIONS REQUIRED BY SUBDIVISION EIGHT OF SECTION 11-652 OF THIS SUBCHAP-
55 TER, INCLUDING THE MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF
56 SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.

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

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

5 (B) INTENTIONALLY OMITTED.

6 (C) INTENTIONALLY OMITTED.

7 (D) INTENTIONALLY OMITTED.

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

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

11 (I) AN AMOUNT COMPUTED AT THE RATE OF EIGHT AND EIGHTY-FIVE ONE-HUN-
12 DREDTHS PER CENTUM, OF ITS BUSINESS INCOME OR THE PORTION OF SUCH BUSI-
13 NESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT
14 TO THE APPLICATION OF PARAGRAPHS (J) AND (K) OF THIS SUBDIVISION AND ANY
15 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF
16 THIS SECTION,

17 (II) AN AMOUNT COMPUTED BY MULTIPLYING ITS TOTAL BUSINESS CAPITAL, OR
18 THE PORTION THEREOF ALLOCATED WITHIN THE CITY, AS HEREINAFTER PROVIDED,
19 BY FIFTEEN ONE-HUNDREDTHS PER CENTUM AND SUBTRACTING TEN THOUSAND
20 DOLLARS FROM THE TOTAL, EXCEPT THAT IN THE CASE OF A COOPERATIVE HOUSING
21 CORPORATION AS DEFINED IN THE INTERNAL REVENUE CODE, SUCH AMOUNT SHALL
22 BE COMPUTED BY MULTIPLYING ITS TOTAL BUSINESS CAPITAL, OR THE PORTION
23 THEREOF ALLOCATED WITHIN THE CITY, AS HEREINAFTER PROVIDED, BY FOUR
24 ONE-HUNDREDTHS PER CENTUM AND SUBTRACTING TEN THOUSAND DOLLARS FROM THE
25 TOTAL, PROVIDED THAT IF SUCH AMOUNT IS LESS THAN ZERO IT SHALL BE DEEMED
26 TO BE ZERO, AND PROVIDED FURTHER THAT IN NO EVENT SHALL THE AMOUNT OF
27 TAX COMPUTED ON THE TAXPAYER'S BUSINESS CAPITAL, OR THE PORTION OF THER-
28 EOF ALLOCATED WITHIN THE CITY, EXCEED TEN MILLION DOLLARS, OR

29 (III) INTENTIONALLY OMITTED

30 (IV) IF NEW YORK CITY RECEIPTS ARE:

FIXED DOLLAR MINIMUM
TAX IS:

31		
32	NOT MORE THAN \$100,000	\$25
33	MORE THAN \$100,000 BUT NOT OVER \$250,000	\$75
34	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$175
35	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$500
36	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$1,500
37	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$3,500
38	MORE THAN \$25,000,000 BUT NOT OVER \$50,000,000	\$5,000
39	MORE THAN \$50,000,000 BUT NOT OVER \$100,000,000	\$10,000
40	MORE THAN \$100,000,000 BUT NOT OVER \$250,000,000	\$20,000
41	MORE THAN \$250,000,000 BUT NOT OVER \$500,000,000	\$50,000
42	MORE THAN \$500,000,000 BUT NOT OVER \$1,000,000,000	\$100,000
43	OVER \$1,000,000,000	\$200,000

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

55 (F) INTENTIONALLY OMITTED.

56 (G) INTENTIONALLY OMITTED.

1 (H) INTENTIONALLY OMITTED.

2 (I) INTENTIONALLY OMITTED.

3 (J) (1) IF THE AMOUNT OF BUSINESS INCOME COMPUTED WITHOUT TAKING INTO
4 ACCOUNT THE PRIOR NET OPERATION LOSS CONVERSION SUBTRACTION PROVIDED FOR
5 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER ALLOCATED
6 WITHIN THE CITY AS HEREINAFTER PROVIDED IS LESS THAN ONE MILLION
7 DOLLARS, THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARA-
8 GRAPH (E) OF THIS SUBDIVISION SHALL BE AT THE RATE OF SIX AND
9 FIVE-TENTHS PER CENTUM OF THE AMOUNT OF BUSINESS INCOME ALLOCATED WITHIN
10 THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED
11 BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS SECTION;

12 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE AMOUNT OF
13 BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPER-
14 ATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF
15 SECTION 11-654.1 OF THIS SUBCHAPTER ALLOCATED WITHIN THE CITY AS HEREIN-
16 AFTER PROVIDED IS ONE MILLION DOLLARS OR GREATER BUT LESS THAN ONE
17 MILLION DOLLARS BUT LESS THAN ONE MILLION FIVE HUNDRED THOUSAND DOLLARS,
18 THE AMOUNT COMPUTED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E)
19 OF THIS SUBDIVISION SHALL BE AT THE RATE OF (I) SIX AND FIVE-TENTHS PER
20 CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER CENTUM MULTI-
21 PLIED BY A FRACTION THE NUMERATOR OF WHICH IS ALLOCATED BUSINESS INCOME
22 COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPERATING LOSS
23 CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF SECTION
24 11-654.1 OF THIS SUBCHAPTER LESS ONE MILLION DOLLARS AND THE DENOMINATOR
25 OF WHICH IS FIVE HUNDRED THOUSAND DOLLARS, OF THE AMOUNT OF BUSINESS
26 INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY
27 MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF
28 THIS SECTION;

29 (3) PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF
30 THE AMOUNT OF UNALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO
31 ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR
32 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER IS TWO MILLION
33 DOLLARS OR GREATER BUT LESS THAN THREE MILLION DOLLARS, THE RATE OF TAX
34 PROVIDED FOR IN THIS PARAGRAPH SHALL NOT BE LESS THAN (I) SIX AND FIVE-
35 TENTHS PER CENTUM, PLUS (II) TWO AND THIRTY-FIVE ONE-HUNDREDTHS PER
36 CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS UNALLOCATED
37 BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPER-
38 ATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF
39 SECTION 11-654.1 OF THIS SUBCHAPTER LESS TWO MILLION DOLLARS AND THE
40 DENOMINATOR OF WHICH IS ONE MILLION DOLLARS, AND PROVIDED, HOWEVER,
41 NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF UNALLOCATED
42 BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPER-
43 ATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF
44 SECTION 11-654.1 OF THIS SUBCHAPTER IS THREE MILLION DOLLARS OR GREATER,
45 THE RATE OF TAX SHALL BE EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PERCENTUM.

46 (K)(1) FOR QUALIFIED NEW YORK CITY MANUFACTURING CORPORATIONS AS
47 DEFINED IN SUBPARAGRAPH FOUR OF THIS PARAGRAPH, IF THE AMOUNT OF BUSI-
48 NESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET OPERATING
49 LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF SECTION
50 11-654.1 OF THIS SUBCHAPTER ALLOCATED WITHIN THE CITY AS HEREINAFTER
51 PROVIDED IS LESS THAN TEN MILLION DOLLARS, THE AMOUNT COMPUTED IN CLAUSE
52 (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL BE AT
53 THE RATE OF FOUR AND FOUR HUNDRED TWENTY-FIVE ONE THOUSANDTHS PER
54 CENTUM, OF ITS BUSINESS INCOME ALLOCATED WITHIN THE CITY AS HEREINAFTER
55 PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED BY PARAGRAPHS (D) AND (E)
56 OF SUBDIVISION THREE OF THIS SECTION;

1 (2) SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH FOR QUALIFIED NEW
2 YORK CITY MANUFACTURING CORPORATIONS AS DEFINED IN SUBPARAGRAPH FOUR OF
3 THIS PARAGRAPH, IF THE AMOUNT OF BUSINESS INCOME COMPUTED WITHOUT TAKING
4 INTO ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
5 PROVIDED FOR IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER
6 ALLOCATED WITHIN THE CITY AS HEREINAFTER PROVIDED IS TEN MILLION DOLLARS
7 OR GREATER BUT LESS THAN TWENTY MILLION DOLLARS, THE AMOUNT COMPUTED IN
8 CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF THIS SUBDIVISION
9 SHALL BE AT THE RATE OF (I) FOUR AND FOUR HUNDRED TWENTY-FIVE ONE-THOUS-
10 ANDTHS PER CENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-FIVE
11 ONE-THOUSANDTHS PER CENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF
12 WHICH IS ALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT
13 THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN
14 SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER LESS TEN MILLION
15 DOLLARS AND THE DENOMINATOR OF WHICH IS TEN MILLION DOLLARS, OF ITS
16 BUSINESS INCOME OR THE PORTION OF SUCH BUSINESS INCOME ALLOCATED WITHIN
17 THE CITY AS HEREINAFTER PROVIDED, SUBJECT TO ANY MODIFICATION REQUIRED
18 BY PARAGRAPHS (D) AND (E) OF SUBDIVISION THREE OF THIS SECTION;

19 (3) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE AMOUNT OF UNALLO-
20 CATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO ACCOUNT THE PRIOR NET
21 OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR IN SUBDIVISION TWO OF
22 SECTION 11-654.1 OF THIS SUBCHAPTER IS TWENTY MILLION DOLLARS OR GREATER
23 BUT LESS THAN FORTY MILLION DOLLARS, THE RATE OF TAX PROVIDED FOR IN
24 THIS PARAGRAPH SHALL NOT BE LESS THAN (I) FOUR AND FOUR HUNDRED TWENTY-
25 FIVE ONE THOUSANDTHS PERCENTUM, PLUS (II) FOUR AND FOUR HUNDRED TWENTY-
26 FIVE ONE THOUSANDTHS PERCENTUM MULTIPLIED BY A FRACTION THE NUMERATOR OF
27 WHICH IS UNALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO
28 ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR
29 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER LESS TWENTY
30 MILLION DOLLARS AND THE DENOMINATOR OF WHICH IS TWENTY MILLION DOLLARS,
31 AND PROVIDED, HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRARY, IF THE
32 AMOUNT OF UNALLOCATED BUSINESS INCOME COMPUTED WITHOUT TAKING INTO
33 ACCOUNT THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION PROVIDED FOR
34 IN SUBDIVISION TWO OF SECTION 11-654.1 OF THIS SUBCHAPTER IS FORTY
35 MILLION DOLLARS OR GREATER, THE RATE OF TAX SHALL BE EIGHT AND
36 EIGHTY-FIVE ONE-HUNDREDTHS PER CENTUM.

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

55 (II) A "QUALIFIED NEW YORK CITY MANUFACTURING CORPORATION" IS A MANU-
56 FACTURING CORPORATION THAT HAS PROPERTY IN THE CITY WHICH IS DESCRIBED

1 IN SUBPARAGRAPH FIVE OF THIS PARAGRAPH AND EITHER (A) THE ADJUSTED BASIS
2 OF SUCH PROPERTY FOR FEDERAL INCOME TAX PURPOSES AT THE CLOSE OF THE
3 TAXABLE YEAR IS AT LEAST ONE MILLION DOLLARS OR (B) MORE THAN FIFTY
4 PERCENTUM OF ITS REAL AND PERSONAL PROPERTY IS LOCATED IN THE CITY.

5 (5) FOR PURPOSES OF SUBCLAUSE (A) OF CLAUSE (II) OF SUBPARAGRAPH FOUR
6 OF THIS PARAGRAPH, PROPERTY INCLUDES TANGIBLE PERSONAL PROPERTY AND
7 OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS
8 OF BUILDINGS, WHICH ARE: DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED
9 SIXTY-SEVEN OF THE INTERNAL REVENUE CODE, HAVE A USEFUL LIFE OF FOUR
10 YEARS OR MORE, ARE ACQUIRED BY PURCHASE AS DEFINED IN SUBSECTION (D) OF
11 SECTION ONE HUNDRED SEVENTY-NINE OF THE INTERNAL REVENUE CODE, HAVE A
12 SITUS IN THIS CITY AND ARE PRINCIPALLY USED BY THE TAXPAYER IN THE
13 PRODUCTION OF GOODS BY MANUFACTURING. PROPERTY USED IN THE PRODUCTION OF
14 GOODS SHALL INCLUDE MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY
15 WHICH IS PRINCIPALLY USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY,
16 EQUIPMENT OR OTHER TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION
17 OF GOODS AND SHALL INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERA-
18 TION, INCLUDING STORAGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE
19 PRODUCTS THAT ARE PRODUCED.

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

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

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

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

1 SUBCHAPTER TWO OF THIS CHAPTER AND DID NOT HAVE AN ELECTION IN EFFECT
2 UNDER SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
3 11-604 OF THIS CHAPTER ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN;

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

6 (3) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER
7 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF
8 EMPLOYEES WITHIN THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS, TO THE
9 TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY
10 COMPUTED, DURING SUCH PERIOD OF ALL THE TAXPAYER'S EMPLOYEES WITHIN AND
11 WITHOUT THE CITY, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

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

14 (5) INTENTIONALLY OMITTED.

15 (6) INTENTIONALLY OMITTED.

16 (7) INTENTIONALLY OMITTED.

17 (8) INTENTIONALLY OMITTED.

18 (9) INTENTIONALLY OMITTED.

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

24 (I) INTENTIONALLY OMITTED.

25 (II) INTENTIONALLY OMITTED.

26 (III) INTENTIONALLY OMITTED.

27 (IV) INTENTIONALLY OMITTED.

28 (V) INTENTIONALLY OMITTED.

29 (VI) INTENTIONALLY OMITTED.

30 (VII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND FIFTEEN, THE BUSI-
31 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
32 FOLLOWING PERCENTAGES:

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

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

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

39 (VIII) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SIXTEEN, THE BUSI-
40 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
41 FOLLOWING PERCENTAGES:

42 (A) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-
43 MINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH;

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

46 (C) THE PRODUCT OF SIX AND ONE-HALF PERCENT AND THE PERCENTAGE DETER-
47 MINED UNDER SUBPARAGRAPH THREE OF THIS PARAGRAPH.

48 (IX) FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND SEVENTEEN, THE BUSI-
49 NESS ALLOCATION PERCENTAGE SHALL BE DETERMINED BY ADDING TOGETHER THE
50 FOLLOWING PERCENTAGES:

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

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

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

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

4 (XI) THE COMMISSIONER OF FINANCE SHALL PROMULGATE RULES NECESSARY TO
5 IMPLEMENT THE PROVISIONS OF THIS SUBPARAGRAPH UNDER SUCH CIRCUMSTANCES
6 WHERE ANY OF THE PERCENTAGES TO BE DETERMINED UNDER SUBPARAGRAPH ONE,
7 TWO OR THREE OF THIS PARAGRAPH CANNOT BE DETERMINED BECAUSE THE TAXPAYER
8 HAS NO PROPERTY, RECEIPTS OR WAGES WITHIN OR WITHOUT THE CITY.

9 (B) INTENTIONALLY OMITTED.

10 (C) INTENTIONALLY OMITTED.

11 (D) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
12 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO
13 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION
14 11-604 OF THIS CHAPTER OR SUBDIVISION (K) OF SECTION 11-641 OF THIS
15 CHAPTER IN ANY PERIOD IN WHICH THE TAXPAYER WAS SUBJECT TO TAX UNDER
16 SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING INTO
17 THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN
18 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED
19 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN
20 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR
21 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO
22 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO
23 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION
24 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-
25 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR
26 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS
27 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
28 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

29 (E) IN ANY TAXABLE YEAR WHEN PROPERTY IS SOLD OR OTHERWISE DISPOSED
30 OF, WITH RESPECT TO WHICH A DEDUCTION HAS BEEN ALLOWED PURSUANT TO
31 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION
32 11-604 OF THIS CHAPTER IN ANY PERIOD THE TAXPAYER WAS SUBJECT TO TAX
33 UNDER SUBCHAPTER TWO OF THIS CHAPTER, THE GAIN OR LOSS THEREON ENTERING
34 INTO THE COMPUTATION OF FEDERAL TAXABLE INCOME SHALL BE DISREGARDED IN
35 COMPUTING ENTIRE NET INCOME, AND THERE SHALL BE ADDED TO OR SUBTRACTED
36 FROM THE PORTION OF ENTIRE NET INCOME ALLOCATED WITHIN THE CITY THE GAIN
37 OR LOSS UPON SUCH SALE OR OTHER DISPOSITION. IN COMPUTING SUCH GAIN OR
38 LOSS THE BASIS OF THE PROPERTY SOLD OR DISPOSED OF SHALL BE ADJUSTED TO
39 REFLECT THE DEDUCTION ALLOWED WITH RESPECT TO SUCH PROPERTY PURSUANT TO
40 SUBPARAGRAPH ONE OR TWO OF PARAGRAPH (E) OF SUBDIVISION THREE OF SECTION
41 11-604 OF THIS CHAPTER. PROVIDED, HOWEVER, THAT NO LOSS SHALL BE RECOG-
42 NIZED FOR THE PURPOSES OF THIS SUBPARAGRAPH WITH RESPECT TO A SALE OR
43 OTHER DISPOSITION OF PROPERTY TO A PERSON WHOSE ACQUISITION THEREOF IS
44 NOT A PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
45 SEVENTY-NINE OF THE INTERNAL REVENUE CODE.

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

49 4-A. A CORPORATION THAT IS A PARTNER IN A PARTNERSHIP SHALL COMPUTE
50 TAX UNDER THIS SUBCHAPTER USING ANY METHOD REQUIRED OR PERMITTED IN
51 REGULATIONS OF THE COMMISSIONER OF FINANCE.

52 5. INTENTIONALLY OMITTED.

53 6. INTENTIONALLY OMITTED.

54 7. INTENTIONALLY OMITTED.

55 8. INTENTIONALLY OMITTED.

1 9. IF IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY BUSINESS
2 ALLOCATION PERCENTAGE DETERMINED AS HEREINABOVE PROVIDED DOES NOT PROP-
3 ERLY REFLECT THE ACTIVITY, BUSINESS, INCOME OR CAPITAL OF A TAXPAYER
4 WITHIN THE CITY, THE COMMISSIONER OF FINANCE SHALL BE AUTHORIZED IN HIS
5 OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY REQUEST THAT THE
6 COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE OR MORE OF THE
7 FACTORS THEREIN, (B) INCLUDING ONE OR MORE OTHER FACTORS, SUCH AS
8 EXPENSES, PURCHASES, CONTRACT VALUES (MINUS SUBCONTRACT VALUES), (C)
9 EXCLUDING ONE OR MORE ASSETS IN COMPUTING SUCH ALLOCATION PERCENTAGE,
10 PROVIDED THE INCOME THEREFROM, IS ALSO EXCLUDED IN DETERMINING ENTIRE
11 NET INCOME, OR (D) ANY OTHER SIMILAR OR DIFFERENT METHOD CALCULATED TO
12 EFFECT A FAIR AND PROPER ALLOCATION OF THE INCOME AND CAPITAL REASONABLY
13 ATTRIBUTABLE TO THE CITY. THE COMMISSIONER OF FINANCE FROM TIME TO TIME
14 SHALL PUBLISH ALL RULINGS OF GENERAL PUBLIC INTEREST WITH RESPECT TO ANY
15 APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION.

16 10. INTENTIONALLY OMITTED.

17 11. INTENTIONALLY OMITTED.

18 12. INTENTIONALLY OMITTED.

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

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

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

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

55 (2) WHEN USED IN THIS SUBDIVISION:

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

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

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

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

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

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

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

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

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

44 THE COMMISSIONER OF FINANCE IS EMPOWERED TO PROMULGATE RULES AND REGU-
45 LATIONS AND TO PRESCRIBE THE FORM OF APPLICATION TO BE USED BY A TAXPAY-
46 ER SEEKING THE CREDIT PROVIDED HEREUNDER.

47 (2) WHEN USED IN THIS SUBDIVISION:

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

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

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

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

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

7 (VI) "EMPLOYMENT OPPORTUNITY RELOCATION COSTS" MEANS THE COSTS
8 INCURRED BY THE TAXPAYER IN MOVING FURNITURE, FILES, PAPERS AND OFFICE
9 EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS
10 INCURRED BY THE TAXPAYER IN THE MOVING AND INSTALLATION OF MACHINERY AND
11 EQUIPMENT INTO THE CITY FROM A LOCATION OUTSIDE THE STATE; THE COSTS OF
12 INSTALLATION OF TELEPHONES AND OTHER COMMUNICATIONS EQUIPMENT REQUIRED
13 AS A RESULT OF THE RELOCATION TO THE CITY FROM A LOCATION OUTSIDE THE
14 STATE; THE COST INCURRED IN THE PURCHASE OF OFFICE FURNITURE AND
15 FIXTURES REQUIRED AS A RESULT OF THE RELOCATION TO THE CITY FROM A
16 LOCATION OUTSIDE THE STATE; AND THE COST OF RENOVATION OF THE PREMISES
17 TO BE OCCUPIED AS A RESULT OF THE RELOCATION; PROVIDED, HOWEVER, THAT
18 SUCH RENOVATION COSTS SHALL BE ALLOWABLE ONLY TO THE EXTENT THAT THEY DO
19 NOT EXCEED SEVENTY-FIVE CENTS PER SQUARE FOOT OF THE TOTAL AREA UTILIZED
20 BY THE TAXPAYER IN THE OCCUPIED PREMISES.

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

25 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
26 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
27 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
28 FORTH IN SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER FOR AN
29 ELIGIBLE EMPLOYMENT RELOCATION, A CREDIT SHALL BE ALLOWED TO THE TAXPAY-
30 ER UNDER THIS SUBDIVISION FOR ANY TAX YEAR BEGINNING ON OR AFTER JANUARY
31 FIRST, TWO THOUSAND FIFTEEN, IN THE SAME AMOUNT AND TO THE SAME EXTENT
32 THAT A CREDIT, OR THE UNUSED PORTION THEREOF, WOULD HAVE BEEN ALLOWED
33 UNDER SUBDIVISION FOURTEEN OF SECTION 11-604 OF THIS CHAPTER, AS IN
34 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH SUBDIVI-
35 SION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

36 15. INTENTIONALLY OMITTED.

37 16. INTENTIONALLY OMITTED.

38 17. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A
39 TAXPAYER THAT HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-B
40 OF TITLE TWENTY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE
41 TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE
42 AMOUNT DETERMINED BY MULTIPLYING FIVE HUNDRED DOLLARS OR, IN THE CASE OF
43 A TAXPAYER THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH TITLE
44 TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY FIRST,
45 NINETEEN HUNDRED NINETY-FIVE, ONE THOUSAND DOLLARS OR, IN THE CASE OF AN
46 ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B OF SUCH
47 TITLE TWENTY-TWO A CERTIFICATION OF ELIGIBILITY DATED ON OR AFTER JULY
48 FIRST, TWO THOUSAND, FOR A RELOCATION TO ELIGIBLE PREMISES LOCATED WITH-
49 IN A REVITALIZATION AREA DEFINED IN SUBDIVISION (N) OF SECTION 22-621 OF
50 THIS CODE, THREE THOUSAND DOLLARS, BY THE NUMBER OF ELIGIBLE AGGREGATE
51 EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE YEAR
52 WITH RESPECT TO PARTICULAR PREMISES TO WHICH THE TAXPAYER HAS RELOCATED;
53 PROVIDED, HOWEVER, WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION
54 FOR A CERTIFICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO
55 THOUSAND THREE, TO ELIGIBLE PREMISES THAT ARE NOT WITHIN A REVITALIZA-
56 TION AREA, IF THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO

1 SUBDIVISION (J) OF SECTION 22-621 OF THIS CODE IS BEFORE JULY FIRST,
2 NINETEEN HUNDRED NINETY-FIVE, THE AMOUNT TO BE MULTIPLIED BY THE NUMBER
3 OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES SHALL BE FIVE HUNDRED DOLLARS,
4 AND WITH RESPECT TO A RELOCATION FOR WHICH NO APPLICATION FOR A CERTIF-
5 ICATE OF ELIGIBILITY IS SUBMITTED PRIOR TO JULY FIRST, TWO THOUSAND
6 THREE, TO ELIGIBLE PREMISES THAT ARE WITHIN A REVITALIZATION AREA, IF
7 THE DATE OF SUCH RELOCATION AS DETERMINED PURSUANT TO SUBDIVISION (J) OF
8 SUCH SECTION IS BEFORE JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, THE
9 AMOUNT TO BE MULTIPLIED BY THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT
10 SHARES SHALL BE FIVE HUNDRED DOLLARS, AND IF THE DATE OF SUCH RELOCATION
11 AS DETERMINED PURSUANT TO SUBDIVISION (J) OF SUCH SECTION IS ON OR AFTER
12 JULY FIRST, NINETEEN HUNDRED NINETY-FIVE, AND BEFORE JULY FIRST, TWO
13 THOUSAND, ONE THOUSAND DOLLARS; PROVIDED, HOWEVER, THAT NO CREDIT SHALL
14 BE ALLOWED FOR THE RELOCATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES;
15 PROVIDED, FURTHER, THAT NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVI-
16 SION TO ANY TAXPAYER THAT HAS ELECTED PURSUANT TO SUBDIVISION (D) OF
17 SECTION 22-622 OF THIS CODE TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS
18 TAX IMPOSED BY CHAPTER ELEVEN OF THIS TITLE; AND PROVIDED THAT IN THE
19 CASE OF AN ELIGIBLE BUSINESS THAT HAS OBTAINED PURSUANT TO CHAPTER SIX-B
20 OF SUCH TITLE TWENTY-TWO CERTIFICATIONS OF ELIGIBILITY FOR MORE THAN ONE
21 RELOCATION, THE PORTION OF THE TOTAL AMOUNT OF ELIGIBLE AGGREGATE
22 EMPLOYMENT SHARES TO BE MULTIPLIED BY THE DOLLAR AMOUNT SPECIFIED IN
23 THIS SUBDIVISION FOR EACH SUCH CERTIFICATION OF A RELOCATION SHALL BE
24 THE NUMBER OF TOTAL ATTRIBUTED ELIGIBLE AGGREGATE EMPLOYMENT SHARES
25 DETERMINED WITH RESPECT TO SUCH RELOCATION PURSUANT TO SUBDIVISION (O)
26 OF SECTION 22-621 OF THIS CODE. FOR PURPOSES OF THIS SUBDIVISION, THE
27 TERMS "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "RELOCATE," "RETAIL ACTIV-
28 ITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED BY SECTION
29 22-621 OF THIS CODE.

30 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE
31 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO PARTICULAR PREM-
32 ISSES TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE FIRST
33 TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE
34 MAINTAINED WITH RESPECT TO SUCH PREMISES AND FOR ANY OF THE TWELVE
35 SUCCEEDING TAXABLE YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT
36 SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES; PROVIDED THAT THE
37 CREDIT ALLOWED FOR THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCU-
38 LATED BY MULTIPLYING THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES
39 MAINTAINED WITH RESPECT TO SUCH PREMISES IN THE TWELFTH SUCCEEDING TAXA-
40 BLE YEAR BY THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS
41 SUCH NUMBER OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF
42 DAYS THE ELIGIBLE BUSINESS MAINTAINED EMPLOYMENT SHARES IN THE ELIGIBLE
43 PREMISES IN THE TAXABLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH
44 IS THE NUMBER OF DAYS IN SUCH TWELFTH SUCCEEDING TAXABLE YEAR DURING
45 WHICH SUCH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED WITH
46 RESPECT TO SUCH PREMISES. EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS
47 SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVI-
48 SION FOR ANY TAXABLE YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE
49 EXCESS MAY BE CARRIED OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING
50 TAXABLE YEARS AND, TO THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE
51 DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEARS.

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

55 (D) IN THE CASE OF A TAXPAYER THAT HAS OBTAINED A CERTIFICATION OF
56 ELIGIBILITY PURSUANT TO CHAPTER SIX-B OF TITLE TWENTY-TWO OF THIS CODE

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

18 (E) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
19 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-
20 TER SIX-B OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-
21 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,
22 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION SEVENTEEN OF
23 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS CHAPTER FOR
24 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER
25 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR
26 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE
27 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION
28 SEVENTEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.7 OF THIS
29 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,
30 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE
31 YEAR.

32 17-A. INTENTIONALLY OMITTED.

33 17-B. (A) IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, AN
34 ELIGIBLE BUSINESS THAT FIRST ENTERS INTO A BINDING CONTRACT ON OR AFTER
35 JULY FIRST, TWO THOUSAND FIVE TO PURCHASE OR LEASE ELIGIBLE PREMISES TO
36 WHICH IT RELOCATES SHALL BE ALLOWED A ONE-TIME CREDIT AGAINST THE TAX
37 IMPOSED BY THIS SUBCHAPTER TO BE CREDITED OR REFUNDED IN THE MANNER
38 HEREINAFTER PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF SUCH CREDIT
39 SHALL BE ONE THOUSAND DOLLARS PER FULL-TIME EMPLOYEE; PROVIDED, HOWEVER,
40 THAT THE AMOUNT OF SUCH CREDIT SHALL NOT EXCEED THE LESSER OF ACTUAL
41 RELOCATION COSTS OR ONE HUNDRED THOUSAND DOLLARS.

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

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

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

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

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

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

16 (6) "INDUSTRIAL AND MANUFACTURING ACTIVITIES" MEANS ACTIVITIES INVOLV-
17 ING THE ASSEMBLY OF GOODS TO CREATE A DIFFERENT ARTICLE, OR THE PROCESS-
18 ING, FABRICATION, OR PACKAGING OF GOODS. INDUSTRIAL AND MANUFACTURING
19 ACTIVITIES SHALL NOT INCLUDE WASTE MANAGEMENT OR UTILITY SERVICES.

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (C) IF SUCH PARTNER'S NET TOTAL DISTRIBUTIVE SHARE OF INCOME, GAIN,
56 LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, ANY UNINCORPORATED

1 BUSINESS IS LESS THAN ZERO, SUCH NET TOTAL SHALL BE TREATED AS ZERO. THE
2 AMOUNT DETERMINED IN THIS SUBPARAGRAPH SHALL NOT BE LESS THAN ZERO.

3 (B)(1) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN PARAGRAPH (A) OF
4 THIS SUBDIVISION, IN THE CASE OF A CORPORATION THAT, BEFORE THE APPLICA-
5 TION OF THIS SUBDIVISION OR ANY OTHER CREDIT ALLOWED BY THIS SECTION, IS
6 LIABLE FOR THE TAX ON BUSINESS INCOME UNDER CLAUSE (I) OF SUBPARAGRAPH
7 ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF THIS SECTION, THE CREDIT OR
8 THE SUM OF THE CREDITS THAT MAY BE TAKEN BY SUCH CORPORATION FOR A TAXA-
9 BLE YEAR UNDER THIS SUBDIVISION WITH RESPECT TO AN UNINCORPORATED BUSI-
10 NESS OR UNINCORPORATED BUSINESSES IN WHICH IT IS A PARTNER SHALL NOT
11 EXCEED THE TAX SO COMPUTED, WITHOUT ALLOWANCE OF ANY CREDITS ALLOWED BY
12 THIS SECTION, MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS FOUR
13 AND THE DENOMINATOR OF WHICH IS EIGHT AND EIGHTY-FIVE ONE-HUNDREDTHS
14 PROVIDED HOWEVER, IN THE CASE OF A TAXPAYER THAT IS SUBJECT TO PARAGRAPH
15 (J) OR (K) OF SUBDIVISION ONE OF THIS SECTION, SUCH DENOMINATOR SHALL BE
16 THE RATE OF TAX AS DETERMINED BY SUCH PARAGRAPH (J) OR (K) FOR THE TAXA-
17 BLE YEAR. IF THE CREDIT ALLOWED UNDER THIS SUBDIVISION OR THE SUM OF
18 SUCH CREDITS EXCEEDS THE PRODUCT OF SUCH TAX AND SUCH FRACTION, THE
19 AMOUNT OF THE EXCESS MAY BE CARRIED FORWARD, IN ORDER, TO EACH OF THE
20 SEVEN IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO THE EXTENT NOT PREVI-
21 OUSLY TAKEN, SHALL BE ALLOWED AS A CREDIT IN EACH OF SUCH YEARS. IN
22 APPLYING THE PROVISIONS OF THE PRECEDING SENTENCE, THE CREDIT DETERMINED
23 FOR THE TAXABLE YEAR UNDER PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE
24 TAKEN BEFORE TAKING ANY CREDIT CARRYFORWARD PURSUANT TO THIS PARAGRAPH
25 AND THE CREDIT CARRYFORWARD ATTRIBUTABLE TO THE EARLIEST TAXABLE YEAR
26 SHALL BE TAKEN BEFORE TAKING A CREDIT CARRYFORWARD ATTRIBUTABLE TO A
27 SUBSEQUENT TAXABLE YEAR.

28 (2) INTENTIONALLY OMITTED.

29 (2-A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
30 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
31 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
32 FORTH IN SUBDIVISION EIGHTEEN OF SECTION 11-604 OF THIS CHAPTER OR
33 SECTION 11-643.8 OF THIS CHAPTER FOR A TAX PAID UNDER CHAPTER FIVE OF
34 THIS TITLE IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-
35 SAND FIFTEEN, THE TAXPAYER MAY CARRY FORWARD THE UNUSED PORTION OF SUCH
36 CREDIT UNDER THIS SUBDIVISION TO ANY TAXABLE YEAR BEGINNING ON OR AFTER
37 JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE SAME
38 EXTENT, INCLUDING THE SAME LIMITATIONS, THAT THE CREDIT, OR THE UNUSED
39 PORTION THEREOF, WOULD HAVE BEEN ALLOWED TO BE CARRIED FORWARD UNDER
40 SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SUBDIVISION EIGHTEEN OF SECTION
41 11-604 OF THIS CHAPTER OR PARAGRAPH ONE OF SUBDIVISION (B) OF SECTION
42 11-643.8 OF THIS CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO
43 THOUSAND FOURTEEN, IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAY-
44 ER FOR SUCH TAXABLE YEAR.

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

51 (C) FOR CORPORATIONS THAT FILE A REPORT ON A COMBINED BASIS PURSUANT
52 TO SECTION 11-654.3 OF THIS SUBCHAPTER, THE CREDIT ALLOWED BY THIS
53 SUBDIVISION SHALL BE COMPUTED AS IF THE COMBINED GROUP WERE THE PARTNER
54 IN EACH UNINCORPORATED BUSINESS FROM WHICH ANY OF THE MEMBERS OF SUCH
55 GROUP HAD A DISTRIBUTIVE SHARE OR GUARANTEED PAYMENTS, PROVIDED, HOWEV-
56 ER, IF MORE THAN ONE MEMBER OF THE COMBINED GROUP IS A PARTNER IN THE

1 SAME UNINCORPORATED BUSINESS, FOR PURPOSES OF THE CALCULATION REQUIRED
2 IN SUBPARAGRAPH ONE OF PARAGRAPH (A) OF THIS SUBDIVISION, THE NUMERATOR
3 OF THE FRACTION DESCRIBED IN CLAUSE (II) OF SUCH SUBPARAGRAPH ONE SHALL
4 BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF INCOME, GAIN, LOSS
5 AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE UNINCORPORATED
6 BUSINESS OF ALL OF THE PARTNERS OF THE UNINCORPORATED BUSINESS WITHIN
7 THE COMBINED GROUP FOR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED
8 FOR EACH PARTNER) IS GREATER THAN ZERO, AND THE DENOMINATOR OF SUCH
9 FRACTION SHALL BE THE SUM OF THE NET TOTAL DISTRIBUTIVE SHARES OF
10 INCOME, GAIN, LOSS AND DEDUCTIONS OF, AND GUARANTEED PAYMENTS FROM, THE
11 UNINCORPORATED BUSINESS OF ALL PARTNERS IN THE UNINCORPORATED BUSINESS
12 FOR WHOM OR WHICH SUCH NET TOTAL (AS SEPARATELY DETERMINED FOR EACH
13 PARTNER) IS GREATER THAN ZERO.

14 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBCHAPTER, THE CREDIT
15 ALLOWABLE UNDER THIS SUBDIVISION SHALL BE TAKEN PRIOR TO THE TAKING OF
16 ANY OTHER CREDIT ALLOWED BY THIS SECTION. NOTWITHSTANDING ANY OTHER
17 PROVISION OF THIS SUBCHAPTER, THE APPLICATION OF THIS SUBDIVISION SHALL
18 NOT CHANGE THE BASIS ON WHICH THE TAXPAYER'S TAX IS COMPUTED UNDER PARA-
19 GRAPH (E) OF SUBDIVISION ONE OF THIS SECTION.

20 19. LOWER MANHATTAN RELOCATION AND EMPLOYMENT ASSISTANCE CREDIT. (A)
21 IN ADDITION TO ANY OTHER CREDIT ALLOWED BY THIS SECTION, A TAXPAYER THAT
22 HAS OBTAINED THE CERTIFICATIONS REQUIRED BY CHAPTER SIX-C OF TITLE TWEN-
23 TY-TWO OF THIS CODE SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
24 THIS SUBCHAPTER. THE AMOUNT OF THE CREDIT SHALL BE THE AMOUNT DETERMINED
25 BY MULTIPLYING THREE THOUSAND DOLLARS BY THE NUMBER OF ELIGIBLE AGGRE-
26 GATE EMPLOYMENT SHARES MAINTAINED BY THE TAXPAYER DURING THE TAXABLE
27 YEAR WITH RESPECT TO ELIGIBLE PREMISES TO WHICH THE TAXPAYER HAS RELO-
28 CATED; PROVIDED, HOWEVER, THAT NO CREDIT SHALL BE ALLOWED FOR THE RELO-
29 CATION OF ANY RETAIL ACTIVITY OR HOTEL SERVICES; PROVIDED, FURTHER, THAT
30 NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION TO ANY TAXPAYER THAT
31 HAS ELECTED PURSUANT TO SUBDIVISION (D) OF SECTION 22-624 OF THIS CODE
32 TO TAKE SUCH CREDIT AGAINST A GROSS RECEIPTS TAX IMPOSED UNDER CHAPTER
33 ELEVEN OF THIS TITLE. FOR PURPOSES OF THIS SUBDIVISION, THE TERMS
34 "ELIGIBLE AGGREGATE EMPLOYMENT SHARES," "ELIGIBLE PREMISES," "RELOCATE,"
35 "RETAIL ACTIVITY" AND "HOTEL SERVICES" SHALL HAVE THE MEANINGS ASCRIBED
36 BY SECTION 22-623 OF THIS CODE.

37 (B) THE CREDIT ALLOWED UNDER THIS SUBDIVISION WITH RESPECT TO ELIGIBLE
38 AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH RESPECT TO ELIGIBLE PREMISES
39 TO WHICH THE TAXPAYER HAS RELOCATED SHALL BE ALLOWED FOR THE TAXABLE
40 YEAR OF THE RELOCATION AND FOR ANY OF THE TWELVE SUCCEEDING TAXABLE
41 YEARS DURING WHICH ELIGIBLE AGGREGATE EMPLOYMENT SHARES ARE MAINTAINED
42 WITH RESPECT TO ELIGIBLE PREMISES; PROVIDED THAT THE CREDIT ALLOWED FOR
43 THE TWELFTH SUCCEEDING TAXABLE YEAR SHALL BE CALCULATED BY MULTIPLYING
44 THE NUMBER OF ELIGIBLE AGGREGATE EMPLOYMENT SHARES MAINTAINED WITH
45 RESPECT TO ELIGIBLE PREMISES IN THE TWELFTH SUCCEEDING TAXABLE YEAR BY
46 THE LESSER OF ONE AND A FRACTION THE NUMERATOR OF WHICH IS SUCH NUMBER
47 OF DAYS IN THE TAXABLE YEAR OF RELOCATION LESS THE NUMBER OF DAYS THE
48 TAXPAYER MAINTAINED EMPLOYMENT SHARES IN ELIGIBLE PREMISES IN THE TAXA-
49 BLE YEAR OF RELOCATION AND THE DENOMINATOR OF WHICH IS THE NUMBER OF
50 DAYS IN SUCH TWELFTH TAXABLE YEAR DURING WHICH SUCH ELIGIBLE AGGREGATE
51 EMPLOYMENT SHARES ARE MAINTAINED WITH RESPECT TO SUCH PREMISES.

52 (C) EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SUBDIVISION, IF THE
53 AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE
54 YEAR EXCEEDS THE TAX IMPOSED FOR SUCH YEAR, THE EXCESS MAY BE CARRIED
55 OVER, IN ORDER, TO THE FIVE IMMEDIATELY SUCCEEDING TAXABLE YEARS AND, TO

1 THE EXTENT NOT PREVIOUSLY DEDUCTIBLE, MAY BE DEDUCTED FROM THE TAXPAY-
2 ER'S TAX FOR SUCH YEARS.

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

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

15 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
16 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS OBTAINED, PURSUANT TO CHAP-
17 TER SIX-C OF TITLE TWENTY-TWO OF THIS CODE, A CERTIFICATION OF ELIGIBIL-
18 ITY AND HAS RECEIVED, IN A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST,
19 TWO THOUSAND FIFTEEN, THE CREDIT SET FORTH IN SUBDIVISION NINETEEN OF
20 SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS CHAPTER FOR
21 THE RELOCATION OF AN ELIGIBLE BUSINESS, A CREDIT SHALL BE ALLOWED UNDER
22 THIS SUBDIVISION TO THE TAXPAYER FOR ANY TAXABLE YEAR BEGINNING ON OR
23 AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN THE SAME AMOUNT AND TO THE
24 SAME EXTENT THAT A CREDIT WOULD HAVE BEEN ALLOWED UNDER SUBDIVISION
25 NINETEEN OF SECTION 11-604 OF THIS CHAPTER OR SECTION 11-643.9 OF THIS
26 CHAPTER, AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN,
27 IF SUCH SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE
28 YEAR.

29 20. INTENTIONALLY OMITTED.

30 21. BIOTECHNOLOGY CREDIT. (A) (1) A TAXPAYER THAT IS A QUALIFIED
31 EMERGING TECHNOLOGY COMPANY, ENGAGES IN BIOTECHNOLOGIES, AND MEETS THE
32 ELIGIBILITY REQUIREMENTS OF THIS SUBDIVISION, SHALL BE ALLOWED A CREDIT
33 AGAINST THE TAX IMPOSED BY THIS SUBCHAPTER. THE AMOUNT OF CREDIT SHALL
34 BE EQUAL TO THE SUM OF THE AMOUNTS SPECIFIED IN SUBPARAGRAPHS THREE,
35 FOUR AND FIVE OF THIS PARAGRAPH, SUBJECT TO THE LIMITATIONS IN SUBPARA-
36 GRAPH SEVEN OF THIS PARAGRAPH AND PARAGRAPH (B) OF THIS SUBDIVISION. FOR
37 THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED EMERGING TECHNOLOGY COMPA-
38 NY" SHALL MEAN A COMPANY LOCATED IN THE CITY: (I) WHOSE PRIMARY PRODUCTS
39 OR SERVICES ARE CLASSIFIED AS EMERGING TECHNOLOGIES AND WHOSE TOTAL
40 ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS; OR (II) A COMPANY
41 THAT HAS RESEARCH AND DEVELOPMENT ACTIVITIES IN THE CITY AND WHOSE RATIO
42 OF RESEARCH AND DEVELOPMENT FUNDS TO NET SALES EQUALS OR EXCEEDS THE
43 AVERAGE RATIO FOR ALL SURVEYED COMPANIES CLASSIFIED AS DETERMINED BY THE
44 NATIONAL SCIENCE FOUNDATION IN THE MOST RECENT PUBLISHED RESULTS FROM
45 ITS SURVEY OF INDUSTRY RESEARCH AND DEVELOPMENT, OR ANY COMPARABLE
46 SUCCESSOR SURVEY AS DETERMINED BY THE DEPARTMENT OF FINANCE, AND WHOSE
47 TOTAL ANNUAL PRODUCT SALES ARE TEN MILLION DOLLARS OR LESS. FOR THE
48 PURPOSES OF THIS SUBDIVISION, THE DEFINITION OF RESEARCH AND DEVELOPMENT
49 FUNDS SHALL BE THE SAME AS THAT USED BY THE NATIONAL SCIENCE FOUNDATION
50 IN THE AFOREMENTIONED SURVEY. FOR THE PURPOSES OF THIS SUBDIVISION,
51 "BIOTECHNOLOGIES" SHALL MEAN THE TECHNOLOGIES INVOLVING THE SCIENTIFIC
52 MANIPULATION OF LIVING ORGANISMS, ESPECIALLY AT THE MOLECULAR AND/OR THE
53 SUB-MOLECULAR GENETIC LEVEL, TO PRODUCE PRODUCTS CONDUCIVE TO IMPROVING
54 THE LIVES AND HEALTH OF PLANTS, ANIMALS, AND HUMANS; AND THE ASSOCIATED
55 SCIENTIFIC RESEARCH, PHARMACOLOGICAL, MECHANICAL, AND COMPUTATIONAL
56 APPLICATIONS AND SERVICES CONNECTED WITH THESE IMPROVEMENTS. ACTIVITIES

1 INCLUDED WITH SUCH APPLICATIONS AND SERVICES SHALL INCLUDE, BUT NOT BE
2 LIMITED TO, ALTERNATIVE MRNA SPLICING, DNA SEQUENCE AMPLIFICATION, ANTI-
3 GENETIC SWITCHING BIOAUGMENTATION, BIOENRICHMENT, BIOREMEDIATION, CHRO-
4 MOSOME WALKING, CYTOGENETIC ENGINEERING, DNA DIAGNOSIS, FINGERPRINTING,
5 AND SEQUENCING, ELECTROPORATION, GENE TRANSLOCATION, GENETIC MAPPING,
6 SITE-DIRECTED MUTAGENESIS, BIO-TRANSDUCTION, BIO-MECHANICAL AND BIO-E-
7 LECTRICAL ENGINEERING, AND BIO-INFORMATICS.

8 (2) AN ELIGIBLE TAXPAYER SHALL (I) HAVE NO MORE THAN ONE HUNDRED
9 FULL-TIME EMPLOYEES, OF WHICH AT LEAST SEVENTY-FIVE PERCENT ARE EMPLOYED
10 IN THE CITY, (II) HAVE A RATIO OF RESEARCH AND DEVELOPMENT FUNDS TO NET
11 SALES, AS REFERRED TO IN SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC
12 AUTHORITIES LAW, WHICH EQUALS OR EXCEEDS SIX PERCENT DURING THE CALENDAR
13 YEAR ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS
14 CLAIMED, AND (III) HAVE GROSS REVENUES, ALONG WITH THE GROSS REVENUES OF
15 ITS "AFFILIATES" AND "RELATED MEMBERS" NOT EXCEEDING TWENTY MILLION
16 DOLLARS FOR THE CALENDAR YEAR IMMEDIATELY PRECEDING THE CALENDAR YEAR
17 ENDING WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE CREDIT IS CLAIMED.
18 FOR THE PURPOSES OF THIS SUBDIVISION, "AFFILIATES" SHALL MEAN THOSE
19 CORPORATIONS THAT ARE MEMBERS OF THE SAME AFFILIATED GROUP (AS DEFINED
20 IN SECTION FIFTEEN HUNDRED FOUR OF THE INTERNAL REVENUE CODE) AS THE
21 TAXPAYER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "RELATED
22 MEMBERS" SHALL MEAN A PERSON, CORPORATION, OR OTHER ENTITY, INCLUDING AN
23 ENTITY THAT IS TREATED AS A PARTNERSHIP OR OTHER PASS-THROUGH VEHICLE
24 FOR PURPOSES OF FEDERAL TAXATION, WHETHER SUCH PERSON, CORPORATION OR
25 ENTITY IS A TAXPAYER OR NOT, WHERE ONE SUCH PERSON, CORPORATION OR ENTI-
26 TY, OR SET OF RELATED PERSONS, CORPORATIONS OR ENTITIES, DIRECTLY OR
27 INDIRECTLY OWNS OR CONTROLS A CONTROLLING INTEREST IN ANOTHER ENTITY.
28 SUCH ENTITY OR ENTITIES MAY INCLUDE ALL TAXPAYERS UNDER CHAPTERS FIVE,
29 ELEVEN AND SEVENTEEN OF THIS TITLE, AND SUBCHAPTERS TWO AND THREE OF
30 THIS CHAPTER. A CONTROLLING INTEREST SHALL MEAN, IN THE CASE OF A CORPO-
31 RATION, EITHER THIRTY PERCENT OR MORE OF THE TOTAL COMBINED VOTING POWER
32 OF ALL CLASSES OF STOCK OF SUCH CORPORATION, OR THIRTY PERCENT OR MORE
33 OF THE CAPITAL, PROFITS OR BENEFICIAL INTEREST IN SUCH VOTING STOCK OF
34 SUCH CORPORATION; AND IN THE CASE OF A PARTNERSHIP, ASSOCIATION, TRUST
35 OR OTHER ENTITY, THIRTY PERCENT OR MORE OF THE CAPITAL, PROFITS OR BENE-
36 FICIAL INTEREST IN SUCH PARTNERSHIP, ASSOCIATION, TRUST OR OTHER ENTITY.

37 (3) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EIGHTEEN PER
38 CENTUM OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF
39 RESEARCH AND DEVELOPMENT PROPERTY THAT IS ACQUIRED BY THE TAXPAYER BY
40 PURCHASE AS DEFINED IN SUBSECTION (D) OF SECTION ONE HUNDRED
41 SEVENTY-NINE OF THE INTERNAL REVENUE CODE AND PLACED IN SERVICE DURING
42 THE CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH
43 THE CREDIT IS CLAIMED. PROVIDED, HOWEVER, FOR THE PURPOSES OF THIS
44 PARAGRAPH ONLY, AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR SUCH
45 PERCENTAGE OF THE (I) COST OR OTHER BASIS FOR FEDERAL INCOME TAX
46 PURPOSES FOR PROPERTY USED IN THE TESTING OR INSPECTION OF MATERIALS AND
47 PRODUCTS, (II) THE COSTS OR EXPENSES ASSOCIATED WITH QUALITY CONTROL OF
48 THE RESEARCH AND DEVELOPMENT, (III) FEES FOR USE OF SOPHISTICATED TECH-
49 NOLOGY FACILITIES AND PROCESSES, AND (IV) FEES FOR THE PRODUCTION OR
50 EVENTUAL COMMERCIAL DISTRIBUTION OF MATERIALS AND PRODUCTS RESULTING
51 FROM THE ACTIVITIES OF AN ELIGIBLE TAXPAYER AS LONG AS SUCH ACTIVITIES
52 FALL UNDER ACTIVITIES RELATING TO BIOTECHNOLOGIES. THE COSTS, EXPENSES
53 AND OTHER AMOUNTS FOR WHICH A CREDIT IS ALLOWED AND CLAIMED UNDER THIS
54 PARAGRAPH SHALL NOT BE USED IN THE CALCULATION OF ANY OTHER CREDIT
55 ALLOWED UNDER THIS SUBCHAPTER. FOR THE PURPOSES OF THIS SUBDIVISION,
56 "RESEARCH AND DEVELOPMENT PROPERTY" SHALL MEAN PROPERTY THAT IS USED FOR

1 PURPOSES OF RESEARCH AND DEVELOPMENT IN THE EXPERIMENTAL OR LABORATORY
2 SENSE. SUCH PURPOSES SHALL NOT BE DEEMED TO INCLUDE THE ORDINARY TESTING
3 OR INSPECTION OF MATERIALS OR PRODUCTS FOR QUALITY CONTROL, EFFICIENCY
4 SURVEYS, MANAGEMENT STUDIES, CONSUMER SURVEYS, ADVERTISING, PROMOTIONS,
5 OR RESEARCH IN CONNECTION WITH LITERARY, HISTORICAL OR SIMILAR PROJECTS.

6 (4) AN ELIGIBLE TAXPAYER SHALL BE ALLOWED A CREDIT FOR NINE PER CENTUM
7 OF QUALIFIED RESEARCH EXPENSES PAID OR INCURRED BY THE TAXPAYER IN THE
8 CALENDAR YEAR THAT ENDS WITH OR WITHIN THE TAXABLE YEAR FOR WHICH THE
9 CREDIT IS CLAIMED. FOR THE PURPOSES OF THIS SUBDIVISION, "QUALIFIED
10 RESEARCH EXPENSES" SHALL MEAN EXPENSES ASSOCIATED WITH IN-HOUSE RESEARCH
11 AND PROCESSES, AND COSTS ASSOCIATED WITH THE DISSEMINATION OF THE
12 RESULTS OF THE PRODUCTS THAT DIRECTLY RESULT FROM SUCH RESEARCH AND
13 DEVELOPMENT ACTIVITIES; PROVIDED, HOWEVER, THAT SUCH COSTS SHALL NOT
14 INCLUDE ADVERTISING OR PROMOTION THROUGH MEDIA. IN ADDITION, COSTS ASSO-
15 CIATED WITH THE PREPARATION OF PATENT APPLICATIONS, PATENT APPLICATION
16 FILING FEES, PATENT RESEARCH FEES, PATENT EXAMINATIONS FEES, PATENT POST
17 ALLOWANCE FEES, PATENT MAINTENANCE FEES, AND GRANT APPLICATION EXPENSES
18 AND FEES SHALL QUALIFY AS QUALIFIED RESEARCH EXPENSES. IN NO CASE SHALL
19 THE CREDIT ALLOWED UNDER THIS SUBPARAGRAPH APPLY TO EXPENSES FOR LITI-
20 GATION OR THE CHALLENGE OF ANOTHER ENTITY'S INTELLECTUAL PROPERTY
21 RIGHTS, OR FOR CONTRACT EXPENSES INVOLVING OUTSIDE PAID CONSULTANTS.

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

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

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

49 (III) QUALIFIED HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL INCLUDE
50 EXPENSES FOR TUITION AND MANDATORY FEES, SOFTWARE REQUIRED BY THE INSTI-
51 TUTION, FEES FOR TEXTBOOKS OR OTHER LITERATURE REQUIRED BY THE INSTITU-
52 TION OFFERING THE COURSE OR COURSES, MINUS APPLICABLE SCHOLARSHIPS AND
53 TUITION OR FEE WAIVERS NOT GRANTED BY THE TAXPAYER OR ANY AFFILIATES OF
54 THE TAXPAYER, THAT ARE PAID OR REIMBURSED BY THE TAXPAYER. QUALIFIED
55 HIGH-TECHNOLOGY EXPENDITURES DO NOT INCLUDE ROOM AND BOARD, COMPUTER
56 HARDWARE OR SOFTWARE NOT SPECIFICALLY ASSIGNED FOR SUCH COURSE OR COURSE-

1 ES, LATE-CHARGES, FINES OR MEMBERSHIP DUES AND SIMILAR EXPENSES. SUCH
2 QUALIFIED EXPENDITURES SHALL NOT BE ELIGIBLE FOR THE CREDIT PROVIDED BY
3 THIS SECTION UNLESS THE EMPLOYEE FOR WHOM THE EXPENDITURES ARE DISBURSED
4 IS CONTINUOUSLY EMPLOYED BY THE TAXPAYER IN A FULL-TIME, FULL-YEAR POSI-
5 TION PRIMARILY LOCATED AT A QUALIFIED SITE DURING THE PERIOD OF SUCH
6 COURSEWORK AND LASTING THROUGH AT LEAST ONE HUNDRED EIGHTY DAYS AFTER
7 THE SATISFACTORY COMPLETION OF THE QUALIFYING COURSE-WORK. QUALIFIED
8 HIGH-TECHNOLOGY TRAINING EXPENDITURES SHALL NOT INCLUDE EXPENSES FOR
9 IN-HOUSE OR SHARED TRAINING OUTSIDE OF A CITY HIGHER EDUCATION INSTITU-
10 TION OR THE USE OF CONSULTANTS OUTSIDE OF CREDIT GRANTING COURSES,
11 WHETHER SUCH CONSULTANTS FUNCTION INSIDE OF SUCH HIGHER EDUCATION INSTI-
12 TUTION OR NOT.

13 (IV) IF A TAXPAYER RELOCATES FROM AN ACADEMIC BUSINESS INCUBATOR
14 FACILITY PARTNERED WITH AN ACCREDITED POST-SECONDARY EDUCATION INSTITU-
15 TION LOCATED WITHIN THE CITY, WHICH PROVIDES SPACE AND BUSINESS SUPPORT
16 SERVICES TO TAXPAYERS, TO ANOTHER SITE, THE CREDIT PROVIDED IN THIS
17 SUBDIVISION SHALL BE ALLOWED FOR ALL EXPENDITURES REFERENCED IN CLAUSE
18 (III) OF THIS SUBPARAGRAPH PAID OR INCURRED IN THE TWO PRECEDING CALEN-
19 DAR YEARS THAT THE TAXPAYER WAS LOCATED IN SUCH AN INCUBATOR FACILITY
20 FOR EMPLOYEES OF THE TAXPAYER WHO ALSO RELOCATE FROM SAID INCUBATOR
21 FACILITY TO SUCH CITY SITE AND ARE EMPLOYED AND PRIMARILY LOCATED BY THE
22 TAXPAYER IN THE CITY. SUCH EXPENDITURES IN THE TWO PRECEDING YEARS
23 SHALL BE ADDED TO THE AMOUNTS OTHERWISE QUALIFYING FOR THE CREDIT
24 PROVIDED BY THIS SUBDIVISION THAT WERE PAID OR INCURRED IN THE CALENDAR
25 YEAR THAT THE TAXPAYER RELOCATES FROM SUCH A FACILITY. SUCH EXPENDITURES
26 SHALL INCLUDE EXPENSES PAID FOR AN ELIGIBLE EMPLOYEE WHO IS A FULL-TIME,
27 FULL-YEAR EMPLOYEE OF SAID TAXPAYER DURING THE CALENDAR YEAR THAT THE
28 TAXPAYER RELOCATED FROM AN INCUBATOR FACILITY NOTWITHSTANDING (A) THAT
29 SUCH EMPLOYEE WAS EMPLOYED FULL OR PART-TIME AS AN OFFICER, STAFF-PERSON
30 OR PAID INTERN OF THE TAXPAYER WHEN SUCH TAXPAYER WAS LOCATED AT SUCH
31 INCUBATOR FACILITY OR (B) THAT SUCH EMPLOYEE WAS NOT CONTINUOUSLY
32 EMPLOYED WHEN SUCH TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY DURING
33 THE ONE HUNDRED EIGHTY DAY PERIOD REFERRED TO IN CLAUSE (III) OF THIS
34 SUBPARAGRAPH, PROVIDED SUCH EMPLOYEE RECEIVED WAGES OR EQUIVALENT INCOME
35 FOR AT LEAST SEVEN HUNDRED FIFTY HOURS DURING ANY TWENTY-FOUR MONTH
36 PERIOD WHEN THE TAXPAYER WAS LOCATED AT THE INCUBATOR FACILITY. SUCH
37 EXPENDITURES SHALL INCLUDE PAYMENTS MADE TO SUCH EMPLOYEE AFTER THE
38 TAXPAYER HAS RELOCATED FROM THE INCUBATOR FACILITY FOR QUALIFIED EXPEND-
39 ITURES IF SUCH PAYMENTS ARE MADE TO REIMBURSE AN EMPLOYEE FOR EXPENDI-
40 TURES PAID BY THE EMPLOYEE DURING SUCH TWO PRECEDING YEARS. THE CREDIT
41 PROVIDED UNDER THIS PARAGRAPH SHALL BE ALLOWED IN ANY TAXABLE YEAR THAT
42 THE TAXPAYER QUALIFIES AS AN ELIGIBLE TAXPAYER.

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

46 (VI) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "ACADEMIC INCUBATOR
47 FACILITY" SHALL MEAN A FACILITY PROVIDING LOW-COST SPACE, TECHNICAL
48 ASSISTANCE, SUPPORT SERVICES AND EDUCATIONAL OPPORTUNITIES, INCLUDING
49 BUT NOT LIMITED TO CENTRAL SERVICES PROVIDED BY THE MANAGER OF THE
50 FACILITY TO THE TENANTS OF THE FACILITY, TO AN ENTITY LOCATED IN THE
51 CITY. SUCH ENTITY'S PRIMARY ACTIVITY MUST BE IN BIOTECHNOLOGIES, AND
52 SUCH ENTITY MUST BE IN THE FORMATIVE STAGE OF DEVELOPMENT. THE ACADEMIC
53 INCUBATOR FACILITY AND THE ENTITY MUST ACT IN PARTNERSHIP WITH AN
54 ACCREDITED POST-SECONDARY COLLEGE OR UNIVERSITY LOCATED IN THE CITY. AN
55 ACADEMIC INCUBATOR FACILITY'S MISSION SHALL BE TO PROMOTE JOB CREATION,
56 ENTREPRENEURSHIP, TECHNOLOGY TRANSFER, AND PROVIDE SUPPORT SERVICES TO

1 INCUBATOR TENANTS, INCLUDING, BUT NOT LIMITED TO, BUSINESS PLANNING,
2 MANAGEMENT ASSISTANCE, FINANCIAL-PACKAGING, LINKAGES TO FINANCING
3 SERVICES, AND COORDINATING WITH OTHER SOURCES OF ASSISTANCE.

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

8 (7) THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR
9 SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT
10 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-
11 VISION ONE OF THIS SECTION. PROVIDED, HOWEVER, IF THE AMOUNT OF CREDIT
12 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
13 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
14 SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN
15 ACCORDANCE WITH THE PROVISIONS OF SECTION 11-677 OF THIS CHAPTER;
16 PROVIDED, HOWEVER, THAT NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679
17 OF THIS CHAPTER, NO INTEREST SHALL BE PAID THEREON.

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

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

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

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

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

54 (3) FOR THE PURPOSES OF THIS SUBDIVISION, AVERAGE NUMBER OF INDIVID-
55 UALS EMPLOYED FULL-TIME SHALL BE COMPUTED BY ADDING THE NUMBER OF SUCH
56 INDIVIDUALS EMPLOYED BY THE TAXPAYER AT THE END OF EACH QUARTER DURING

1 EACH CALENDAR YEAR OR OTHER APPLICABLE PERIOD AND DIVIDING THE SUM SO
2 OBTAINED BY THE NUMBER OF SUCH QUARTERS OCCURRING WITHIN SUCH CALENDAR
3 YEAR OR OTHER APPLICABLE PERIOD.

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

8 (C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBDIVISION TO THE
9 CONTRARY, IN THE CASE OF A TAXPAYER THAT HAS RECEIVED, IN A TAXABLE YEAR
10 BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN, THE CREDIT SET
11 FORTH IN SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER FOR AN
12 ELIGIBLE ACQUISITION OF PROPERTY AND/OR EXPENSE PAID OR INCURRED, A
13 CREDIT SHALL BE ALLOWED TO THE TAXPAYER UNDER THIS SUBDIVISION FOR ANY
14 TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN IN
15 THE SAME AMOUNT AND TO THE SAME EXTENT THAT A CREDIT WOULD HAVE BEEN
16 ALLOWED UNDER SUBDIVISION TWENTY-ONE OF SECTION 11-604 OF THIS CHAPTER,
17 AS IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, IF SUCH
18 SUBDIVISION CONTINUED TO APPLY TO THE TAXPAYER FOR SUCH TAXABLE YEAR.

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

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

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

31 (2) "UNABSORBED NET OPERATING LOSS" MEANS THE UNABSORBED PORTION OF
32 NET OPERATING LOSS AS CALCULATED UNDER PARAGRAPH (F) OF SUBDIVISION
33 EIGHT OF SECTION 11-602 OF THIS CHAPTER OR SUBDIVISION (K-1) OF SECTION
34 11-641 OF THIS CHAPTER AS SUCH SECTIONS WERE IN EFFECT ON DECEMBER THIR-
35 TY-FIRST, TWO THOUSAND FOURTEEN, THAT WAS NOT DEDUCTIBLE IN PREVIOUS
36 TAXABLE YEARS AND WAS ELIGIBLE FOR CARRYOVER ON THE LAST DAY OF THE BASE
37 YEAR SUBJECT TO THE LIMITATIONS FOR DEDUCTION UNDER SUCH SECTIONS,
38 INCLUDING ANY NET OPERATING LOSS SUSTAINED BY THE TAXPAYER DURING THE
39 BASE YEAR.

40 (3) "BASE YEAR BAP" MEANS THE TAXPAYER'S BUSINESS ALLOCATION PERCENT-
41 AGE AS CALCULATED UNDER PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
42 11-604 OF THIS CHAPTER FOR THE BASE YEAR, OR THE TAXPAYER'S ALLOCATION
43 PERCENTAGE AS CALCULATED UNDER SECTION 11-642 OF THIS CHAPTER FOR
44 PURPOSES OF CALCULATING ENTIRE NET INCOME FOR THE BASE YEAR, AS SUCH
45 SECTIONS WERE IN EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

46 (4) "BASE YEAR TAX RATE" MEANS THE TAXPAYER'S TAX RATE FOR THE BASE
47 YEAR AS CALCULATED UNDER SUBDIVISION ONE OF SECTION 11-604 OF THIS CHAP-
48 TER OR SECTION 11-643.5 OF THIS CHAPTER, AS SUCH PROVISIONS WERE IN
49 EFFECT ON DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN.

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

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

1 (2) THE PRODUCT DETERMINED UNDER SUBPARAGRAPH ONE OF THIS PARAGRAPH
2 SHALL THEN BE DIVIDED BY EIGHT AND EIGHTY-FIVE ONE HUNDREDTHS PER
3 CENTUM. THIS RESULT SHALL EQUAL THE TAXPAYER'S PRIOR NET OPERATING LOSS
4 CONVERSION SUBTRACTION POOL.

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

9 (4) IN LIEU OF THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
10 DESCRIBED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, IF THE TAXPAYER SO
11 ELECTS, THE TAXPAYER'S PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION
12 FOR ITS TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
13 FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN SHALL EQUAL, IN
14 EACH YEAR, NOT MORE THAN ONE-HALF OF ITS PRIOR NET OPERATING LOSS
15 CONVERSION SUBTRACTION POOL UNTIL THE POOL IS EXHAUSTED. IF THE POOL IS
16 NOT EXHAUSTED AT THE END OF SUCH TIME PERIOD, THE REMAINDER OF THE POOL
17 SHALL BE FORFEITED. THE TAXPAYER SHALL MAKE SUCH ELECTION ON ITS FIRST
18 RETURN FOR THE TAX YEAR BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
19 SAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN BY THE DUE
20 DATE FOR SUCH RETURN (DETERMINED WITH REGARD TO EXTENSIONS).

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

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

40 (3) IF A TAXPAYER WAS PROPERLY INCLUDED IN A COMBINED REPORT FOR THE
41 BASE YEAR AND FILES A SEPARATE REPORT FOR A SUBSEQUENT TAXABLE YEAR,
42 THEN THE AMOUNT OF REMAINING PRIOR NET OPERATING LOSS CONVERSION
43 SUBTRACTION ALLOWED TO THE TAXPAYER FILING SUCH SEPARATE REPORT SHALL BE
44 PROPORTIONATE TO THE AMOUNT THAT SUCH TAXPAYER CONTRIBUTED TO THE PRIOR
45 NET OPERATING LOSS CONVERSION SUBTRACTION POOL ON A COMBINED BASIS, AND
46 THE REMAINING PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION ALLOWED TO
47 THE REMAINING MEMBERS OF THE COMBINED GROUP SHALL BE REDUCED ACCORDING-
48 LY.

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

55 (D) THE PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION MAY BE USED TO
56 REDUCE THE TAXPAYER'S TAX ON ALLOCATED BUSINESS INCOME TO THE HIGHER OF

1 THE TAX ON CAPITAL UNDER CLAUSE (II) OF SUBPARAGRAPH ONE OF PARAGRAPH
2 (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER OR THE FIXED
3 DOLLAR MINIMUM UNDER CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF
4 SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER. UNLESS THE TAXPAY-
5 ER HAS MADE THE ELECTION PROVIDED FOR IN SUBPARAGRAPH FOUR OF PARAGRAPH
6 (B) OF THIS SUBDIVISION, ANY AMOUNT OF UNUSED PRIOR NET OPERATING LOSS
7 CONVERSION SUBTRACTION SHALL BE CARRIED FORWARD TO A SUBSEQUENT TAX YEAR
8 OR SUBSEQUENT TAX YEARS UNTIL THE PRIOR NET OPERATING LOSS CONVERSION
9 SUBTRACTION POOL IS EXHAUSTED, BUT FOR NO LONGER THAN TWENTY TAXABLE
10 YEARS OR NOT AFTER THE TAXABLE YEAR BEGINNING ON OR AFTER JANUARY FIRST,
11 TWO THOUSAND THIRTY-FIVE BUT BEFORE JANUARY FIRST, TWO THOUSAND THIRTY-
12 SIX, WHICHEVER COMES FIRST. SUCH AMOUNT CARRIED FORWARD SHALL NOT BE
13 SUBJECT TO THE ONE-TENTH LIMITATION FOR THE SUBSEQUENT TAX YEAR OR YEARS
14 UNDER SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVISION. HOWEVER,
15 IF THE TAXPAYER ELECTS TO COMPUTE ITS PRIOR NET OPERATING LOSS CONVER-
16 SION SUBTRACTION PURSUANT TO SUBPARAGRAPH FOUR OF PARAGRAPH (B) OF THIS
17 SUBDIVISION, THE TAXPAYER SHALL NOT CARRY FORWARD ANY UNUSED AMOUNT OF
18 SUCH PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION TO ANY TAX YEAR
19 BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

20 3. IN COMPUTING BUSINESS INCOME, A NET OPERATING LOSS DEDUCTION SHALL
21 BE ALLOWED. A NET OPERATING LOSS DEDUCTION SHALL BE THE AMOUNT OF NET
22 OPERATING LOSS OR LOSSES FROM ONE OR MORE TAXABLE YEARS THAT ARE CARRIED
23 FORWARD OR CARRIED BACK TO A PARTICULAR TAXABLE YEAR. A NET OPERATING
24 LOSS SHALL BE THE AMOUNT OF A BUSINESS LOSS INCURRED IN A PARTICULAR TAX
25 YEAR MULTIPLIED BY THE BUSINESS ALLOCATION PERCENTAGE FOR THAT YEAR AS
26 DETERMINED UNDER SUBDIVISION THREE OF SECTION 11-654 OF THIS SUBCHAPTER.
27 THE MAXIMUM NET OPERATING LOSS DEDUCTION THAT IS ALLOWED IN A TAXABLE
28 YEAR SHALL BE THE AMOUNT THAT REDUCES THE TAXPAYER'S TAX ON ALLOCATED
29 BUSINESS INCOME TO THE HIGHER OF THE TAX ON CAPITAL OR THE FIXED DOLLAR
30 MINIMUM AMOUNT. SUCH NET OPERATING LOSS DEDUCTION AND NET OPERATING LOSS
31 SHALL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING:

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

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

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

45 (D) A NET OPERATING LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS
46 PRECEDING THE TAXABLE YEAR OF THE LOSS EXCEPT THAT NO LOSS MAY BE
47 CARRIED BACK TO A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOU-
48 SAND FIFTEEN. THE LOSS FIRST SHALL BE CARRIED TO THE EARLIEST OF THE
49 THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS. IF IT IS NOT
50 ENTIRELY USED IN THAT YEAR, IT SHALL BE CARRIED TO THE SECOND TAXABLE
51 YEAR PRECEDING THE TAXABLE YEAR OF THE LOSS, AND ANY REMAINING AMOUNT
52 SHALL BE CARRIED TO THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE
53 YEAR OF THE LOSS. ANY UNUSED AMOUNT OF LOSS THEN REMAINING MAY BE
54 CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS FOLLOWING THE TAXA-
55 BLE YEAR OF THE LOSS. LOSSES CARRIED FORWARD ARE CARRIED FORWARD FIRST
56 TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE TAXABLE YEAR OF THE LOSS,

1 THEN TO THE SECOND TAXABLE YEAR FOLLOWING THE TAXABLE YEAR OF THE LOSS,
2 AND THEN TO THE NEXT IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL
3 THE LOSS IS USED UP OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE LOSS
4 YEAR, WHICHEVER COMES FIRST.

5 (E) SUCH NET OPERATING LOSS DEDUCTION SHALL NOT INCLUDE ANY NET OPER-
6 ATING LOSS INCURRED DURING ANY YEAR COMMENCING AFTER JANUARY FIRST, TWO
7 THOUSAND FIFTEEN IF THE TAXPAYER WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO
8 OR THREE OF THIS CHAPTER IN THAT YEAR; PROVIDED, HOWEVER, ANY YEAR
9 COMMENCING AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN THAT THE TAXPAYER
10 WAS SUBJECT TO TAX UNDER SUBCHAPTER TWO OR THREE OF THIS CHAPTER IN THAT
11 YEAR MUST BE TREATED AS A TAXABLE YEAR FOR PURPOSES OF DETERMINING THE
12 NUMBER OF TAXABLE YEARS TO WHICH A NET OPERATING LOSS MAY BE CARRIED
13 FORWARD.

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

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

26 S 11-654.2 RECEIPTS APPORTIONMENT. 1. THE PERCENTAGE OF RECEIPTS OF
27 THE TAXPAYER TO BE ALLOCATED TO THE CITY FOR PURPOSES OF SUBPARAGRAPH
28 TWO OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION 11-654 OF THIS
29 SUBCHAPTER SHALL BE EQUAL TO THE RECEIPTS FRACTION DETERMINED PURSUANT
30 TO THIS SECTION. THE RECEIPTS FRACTION IS A FRACTION, DETERMINED BY
31 INCLUDING ONLY THOSE RECEIPTS, NET INCOME, NET GAINS, AND OTHER ITEMS
32 DESCRIBED IN THIS SECTION THAT ARE INCLUDED IN THE COMPUTATION OF THE
33 TAXPAYER'S BUSINESS INCOME (DETERMINED WITHOUT REGARD TO THE MODIFICA-
34 TION PROVIDED IN SUBPARAGRAPH FOURTEEN OF PARAGRAPH (A) OF SUBDIVISION
35 EIGHT OF SECTION 11-652 OF THIS SUBCHAPTER) FOR THE TAXABLE YEAR. THE
36 NUMERATOR OF THE RECEIPTS FRACTION SHALL BE EQUAL TO THE SUM OF ALL THE
37 AMOUNTS REQUIRED TO BE INCLUDED IN THE NUMERATOR PURSUANT TO THE
38 PROVISIONS OF THIS SECTION AND THE DENOMINATOR OF THE RECEIPTS FRACTION
39 SHALL BE EQUAL TO THE SUM OF ALL THE AMOUNTS REQUIRED TO BE INCLUDED IN
40 THE DENOMINATOR PURSUANT TO THE PROVISIONS OF THIS SECTION.

41 2. (A) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY WHERE SHIP-
42 MENTS ARE MADE TO POINTS WITHIN THE CITY OR THE DESTINATION OF THE PROP-
43 erty IS A POINT WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF
44 THE RECEIPTS FRACTION. RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY
45 WHERE SHIPMENTS ARE MADE TO POINTS WITHIN AND WITHOUT THE CITY OR THE
46 DESTINATION IS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE
47 DENOMINATOR OF THE RECEIPTS FRACTION.

48 (B) RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN THE
49 CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.
50 RECEIPTS FROM SALES OF ELECTRICITY DELIVERED TO POINTS WITHIN AND WITH-
51 OUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
52 TION.

53 (C) RECEIPTS FROM SALES OF TANGIBLE PERSONAL PROPERTY AND ELECTRICITY
54 THAT ARE TRADED AS COMMODITIES AS THE TERM "COMMODITY" IS DEFINED IN
55 SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE SHALL BE

1 INCLUDED IN THE RECEIPTS FRACTION IN ACCORDANCE WITH CLAUSE (I) OF
2 SUBPARAGRAPH TWO OF PARAGRAPH (A) OF SUBDIVISION FIVE OF THIS SECTION.

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

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

13 (B) RECEIPTS OF ROYALTIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADE-
14 MARKS, AND SIMILAR INTANGIBLE PERSONAL PROPERTY WITHIN THE CITY SHALL BE
15 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS OF ROYAL-
16 TIES FROM THE USE OF PATENTS, COPYRIGHTS, TRADEMARKS, AND SIMILAR INTAN-
17 GIBLE PERSONAL PROPERTY WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN
18 THE DENOMINATOR OF THE RECEIPTS FRACTION. A PATENT, COPYRIGHT, TRADE-
19 MARK, OR SIMILAR INTANGIBLE PERSONAL PROPERTY IS USED WITHIN THE CITY TO
20 THE EXTENT THAT THE ACTIVITIES THEREUNDER ARE CARRIED ON WITHIN THE
21 CITY.

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

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

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

1 DIVIDED INTO SEPARATE COMPONENTS AND SHALL BE CONSIDERED TO BE ONE
2 RECEIPT REGARDLESS OF WHETHER IT IS SEPARATELY STATED FOR BILLING
3 PURPOSES. THE ENTIRE RECEIPT MUST BE ALLOCATED BY THIS HIERARCHY.

4 (C) THE HIERARCHY OF SOURCING METHODS IS AS FOLLOWS: (1) THE CUSTOM-
5 ER'S PRIMARY USE LOCATION OF THE DIGITAL PRODUCT; (2) THE LOCATION WHERE
6 THE DIGITAL PRODUCT IS RECEIVED BY THE CUSTOMER, OR IS RECEIVED BY A
7 PERSON DESIGNATED FOR RECEIPT BY THE CUSTOMER; (3) THE RECEIPTS FRACTION
8 DETERMINED PURSUANT TO THIS SUBDIVISION FOR THE PRECEDING TAXABLE YEAR
9 FOR SUCH DIGITAL PRODUCT; OR (4) THE RECEIPTS FRACTION IN THE CURRENT
10 TAXABLE YEAR FOR THOSE DIGITAL PRODUCTS THAT CAN BE SOURCED USING THE
11 HIERARCHY OF SOURCING METHODS IN SUBPARAGRAPHS ONE AND TWO OF THIS PARA-
12 GRAPH.

13 5. (A) A FINANCIAL INSTRUMENT IS A "QUALIFIED FINANCIAL INSTRUMENT" IF
14 IT IS ELIGIBLE OR REQUIRED TO BE MARKED TO MARKET UNDER SECTION FOUR
15 HUNDRED SEVENTY-FIVE OR SECTION TWELVE HUNDRED FIFTY-SIX OF THE INTERNAL
16 REVENUE CODE, PROVIDED THAT LOANS SECURED BY REAL PROPERTY SHALL NOT BE
17 QUALIFIED FINANCIAL INSTRUMENTS. A FINANCIAL INSTRUMENT IS A "NONQUALI-
18 FIED FINANCIAL INSTRUMENT" IF IT IS NOT A QUALIFIED FINANCIAL INSTRU-
19 MENT.

20 (1) IN DETERMINING THE INCLUSION OF RECEIPTS AND NET GAINS FROM QUALI-
21 FIED FINANCIAL INSTRUMENTS IN THE RECEIPTS FRACTION, TAXPAYERS MAY ELECT
22 TO USE THE FIXED PERCENTAGE METHOD DESCRIBED IN THIS SUBPARAGRAPH FOR
23 QUALIFIED FINANCIAL INSTRUMENTS. THE ELECTION IS IRREVOCABLE, APPLIES TO
24 ALL QUALIFIED FINANCIAL INSTRUMENTS, AND MUST BE MADE ON AN ANNUAL BASIS
25 ON THE TAXPAYER'S ORIGINAL, TIMELY FILED RETURN. IF THE TAXPAYER ELECTS
26 THE FIXED PERCENTAGE METHOD, THEN ALL INCOME, GAIN OR LOSS, INCLUDING
27 MARKED TO MARKET NET GAINS AS DEFINED IN CLAUSE (X) OF SUBPARAGRAPH TWO
28 OF THIS PARAGRAPH FROM QUALIFIED FINANCIAL INSTRUMENTS CONSTITUTE BUSI-
29 NESS INCOME, GAIN OR LOSS. IF THE TAXPAYER DOES NOT ELECT TO USE THE
30 FIXED PERCENTAGE METHOD, THEN RECEIPTS AND NET GAINS ARE INCLUDED IN THE
31 RECEIPTS FRACTION IN ACCORDANCE WITH THE CUSTOMER SOURCING METHOD
32 DESCRIBED IN SUBPARAGRAPH TWO OF THIS PARAGRAPH. UNDER THE FIXED
33 PERCENTAGE METHOD, EIGHT PERCENT OF ALL NET INCOME (NOT LESS THAN ZERO)
34 FROM QUALIFIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE NUMERATOR
35 OF THE RECEIPTS FRACTION. ALL NET INCOME (NOT LESS THAN ZERO) FROM QUAL-
36 IFIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE
37 RECEIPTS FRACTION.

38 (2) RECEIPTS AND NET GAINS FROM QUALIFIED FINANCIAL INSTRUMENTS, IN
39 CASES WHERE THE TAXPAYER DID NOT ELECT TO USE THE FIXED PERCENTAGE METH-
40 OD DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH, AND FROM NONQUALI-
41 FIED FINANCIAL INSTRUMENTS SHALL BE INCLUDED IN THE RECEIPTS FRACTION IN
42 ACCORDANCE WITH THIS SUBPARAGRAPH. FOR PURPOSES OF THIS PARAGRAPH, AN
43 INDIVIDUAL IS DEEMED TO BE LOCATED WITHIN THE CITY IF HIS OR HER BILLING
44 ADDRESS IS WITHIN THE CITY. A BUSINESS ENTITY IS DEEMED TO BE LOCATED
45 WITHIN THE CITY IF ITS COMMERCIAL DOMICILE IS LOCATED WITHIN THE CITY.

46 (I)(A) RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY REAL PROP-
47 erty LOCATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR OF THE
48 RECEIPTS FRACTION. RECEIPTS CONSTITUTING INTEREST FROM LOANS SECURED BY
49 REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN
50 THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

1 (C) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF LOANS SECURED BY REAL
2 PROPERTY SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
3 PROVIDED IN THIS SUBCLAUSE. THE AMOUNT OF NET GAINS FROM THE SALES OF
4 LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR OF THE RECEIPTS
5 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE NET GAINS BY A FRACTION,
6 THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS FROM SALES
7 OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN THE CITY AND THE DENOM-
8 INATOR OF WHICH SHALL BE THE GROSS PROCEEDS FROM SALES OF LOANS SECURED
9 BY REAL PROPERTY LOCATED WITHIN AND WITHOUT THE CITY. GROSS PROCEEDS
10 SHALL BE DETERMINED AFTER THE DEDUCTION OF ANY COST INCURRED TO ACQUIRE
11 THE LOANS BUT SHALL NOT BE LESS THAN ZERO. NET GAINS (NOT LESS THAN
12 ZERO) FROM SALES OF LOANS SECURED BY REAL PROPERTY LOCATED WITHIN AND
13 WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS
14 FRACTION.

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

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

33 (II) FEDERAL, STATE, AND MUNICIPAL DEBT. RECEIPTS CONSTITUTING INTER-
34 EST AND NET GAINS FROM SALES OF DEBT INSTRUMENTS ISSUED BY THE UNITED
35 STATES, ANY STATE, OR POLITICAL SUBDIVISION OF A STATE SHALL NOT BE
36 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS CONSTITUT-
37 ING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF DEBT
38 INSTRUMENTS ISSUED BY THE UNITED STATES AND THE STATE OF NEW YORK OR ITS
39 POLITICAL SUBDIVISIONS, INCLUDING THE CITY, SHALL BE INCLUDED IN THE
40 DENOMINATOR OF THE RECEIPTS FRACTION. FIFTY PERCENT OF THE RECEIPTS
41 CONSTITUTING INTEREST AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF
42 DEBT INSTRUMENTS ISSUED BY OTHER STATES OR THEIR POLITICAL SUBDIVISIONS
43 SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

44 (III) ASSET BACKED SECURITIES AND OTHER GOVERNMENT AGENCY DEBT. EIGHT
45 PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECURITIES OR OTHER
46 SECURITIES ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO
47 SECURITIES ISSUED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION
48 (GNMA), THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA), THE FEDERAL
49 HOME LOAN MORTGAGE CORPORATION (FHLMC), OR THE SMALL BUSINESS ADMINIS-
50 TRATION, OR EIGHT PERCENT OF THE INTEREST INCOME FROM ASSET BACKED SECU-
51 RITIES ISSUED BY OTHER ENTITIES SHALL BE INCLUDED IN THE NUMERATOR OF
52 THE RECEIPTS FRACTION. EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN
53 ZERO) FROM (A) SALES OF ASSET BACKED SECURITIES OR OTHER SECURITIES
54 ISSUED BY GOVERNMENT AGENCIES, INCLUDING BUT NOT LIMITED TO SECURITIES
55 ISSUED BY GNMA, FNMA, FHLMC, OR THE SMALL BUSINESS ADMINISTRATION, OR
56 (B) SALES OF OTHER ASSET BACKED SECURITIES THAT ARE SOLD THROUGH A

1 REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED EXCHANGE,
2 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. THE AMOUNT
3 OF NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER ASSET BACKED SECU-
4 RITIES NOT REFERENCED IN SUBCLAUSE (A) OR (B) OF THIS CLAUSE INCLUDED IN
5 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-
6 ING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE
7 AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS LOCATED IN THE
8 CITY AND THE DENOMINATOR OF WHICH SHALL BE THE AMOUNT OF GROSS PROCEEDS
9 FROM SUCH SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY.
10 RECEIPTS CONSTITUTING INTEREST INCOME FROM ASSET BACKED SECURITIES AND
11 OTHER SECURITIES REFERENCED IN THIS CLAUSE AND NET GAINS (NOT LESS THAN
12 ZERO) FROM SALES OF ASSET BACKED SECURITIES AND OTHER SECURITIES REFER-
13 ENCED IN THIS CLAUSE SHALL BE INCLUDED IN THE DENOMINATOR OF THE
14 RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER THE
15 DEDUCTION OF ANY COST TO ACQUIRE THE SECURITIES BUT SHALL NOT BE LESS
16 THAN ZERO.

17 (IV) RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS SHALL BE
18 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE COMMERCIAL
19 DOMICILE OF THE ISSUING CORPORATION IS WITHIN THE CITY. EIGHT PERCENT OF
20 THE NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS SOLD
21 THROUGH A REGISTERED SECURITIES BROKER OR DEALER OR THROUGH A LICENSED
22 EXCHANGE SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION.
23 THE AMOUNT OF NET GAINS (NOT LESS THAN ZERO) FROM OTHER SALES OF CORPO-
24 RATE BONDS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE
25 DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION, THE NUMERATOR OF
26 WHICH IS THE AMOUNT OF GROSS PROCEEDS FROM SUCH SALES TO PURCHASERS
27 LOCATED WITHIN THE CITY AND THE DENOMINATOR OF WHICH IS THE AMOUNT OF
28 GROSS PROCEEDS FROM SALES TO PURCHASERS LOCATED WITHIN AND WITHOUT THE
29 CITY. RECEIPTS CONSTITUTING INTEREST FROM CORPORATE BONDS, WHETHER THE
30 ISSUING CORPORATION'S COMMERCIAL DOMICILE IS WITHIN OR WITHOUT THE CITY,
31 AND NET GAINS (NOT LESS THAN ZERO) FROM SALES OF CORPORATE BONDS TO
32 PURCHASERS WITHIN AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMI-
33 NATOR OF THE RECEIPTS FRACTION. GROSS PROCEEDS SHALL BE DETERMINED AFTER
34 THE DEDUCTION OF ANY COST TO ACQUIRE THE BONDS BUT SHALL NOT BE LESS
35 THAN ZERO.

36 (V) EIGHT PERCENT OF NET INTEREST INCOME (NOT LESS THAN ZERO) FROM
37 REVERSE REPURCHASE AGREEMENTS AND SECURITIES BORROWING AGREEMENTS SHALL
38 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. NET INTEREST
39 INCOME (NOT LESS THAN ZERO) FROM REVERSE REPURCHASE AGREEMENTS AND SECU-
40 RITIES BORROWING AGREEMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE
41 RECEIPTS FRACTION. NET INTEREST INCOME FROM REVERSE REPURCHASE AGREE-
42 MENTS AND SECURITIES BORROWING AGREEMENTS SHALL BE DETERMINED FOR
43 PURPOSES OF THIS SUBDIVISION AFTER THE DEDUCTION OF THE INTEREST EXPENSE
44 FROM THE TAXPAYER'S REPURCHASE AGREEMENTS AND SECURITIES LENDING AGREE-
45 MENTS BUT SHALL NOT BE LESS THAN ZERO. FOR THIS CALCULATION, THE AMOUNT
46 OF SUCH INTEREST EXPENSE SHALL BE THE INTEREST EXPENSE ASSOCIATED WITH
47 THE SUM OF THE VALUE OF THE TAXPAYER'S REPURCHASE AGREEMENTS WHERE IT IS
48 THE SELLER/BORROWER PLUS THE VALUE OF THE TAXPAYER'S SECURITIES LENDING
49 AGREEMENTS WHERE IT IS THE SECURITIES LENDER, PROVIDED SUCH SUM IS
50 LIMITED TO THE SUM OF THE VALUE OF THE TAXPAYER'S REVERSE REPURCHASE
51 AGREEMENTS WHERE IT IS THE PURCHASER/LENDER PLUS THE VALUE OF THE
52 TAXPAYER'S SECURITIES LENDING AGREEMENTS WHERE IT IS THE SECURITIES
53 BORROWER.

54 (VI) EIGHT PERCENT OF THE NET INTEREST (NOT LESS THAN ZERO) FROM
55 FEDERAL FUNDS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
56 TION. THE NET INTEREST (NOT LESS THAN ZERO) FROM FEDERAL FUNDS SHALL BE

1 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION. NET INTEREST FROM
2 FEDERAL FUNDS SHALL BE DETERMINED AFTER DEDUCTION OF INTEREST EXPENSE
3 FROM FEDERAL FUNDS.

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

11 (VIII)(A) RECEIPTS CONSTITUTING INTEREST FROM OTHER FINANCIAL INSTRU-
12 MENTS SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IF THE
13 PAYOR IS LOCATED WITHIN THE CITY. RECEIPTS CONSTITUTING INTEREST FROM
14 OTHER FINANCIAL INSTRUMENTS, WHETHER THE PAYOR IS WITHIN OR WITHOUT THE
15 CITY, SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

16 (B) NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL
17 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL
18 INSTRUMENTS WHERE THE PURCHASER OR PAYOR IS LOCATED WITHIN THE CITY
19 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION, PROVIDED
20 THAT, IF THE PURCHASER OR PAYOR IS A REGISTERED SECURITIES BROKER OR
21 DEALER OR THE TRANSACTION IS MADE THROUGH A LICENSED EXCHANGE, THEN
22 EIGHT PERCENT OF THE NET GAINS (NOT LESS THAN ZERO) OR OTHER INCOME (NOT
23 LESS THAN ZERO) SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRAC-
24 TION. NET GAINS (NOT LESS THAN ZERO) FROM SALES OF OTHER FINANCIAL
25 INSTRUMENTS AND OTHER INCOME (NOT LESS THAN ZERO) FROM OTHER FINANCIAL
26 INSTRUMENTS SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
27 TION.

28 (IX) NET INCOME (NOT LESS THAN ZERO) FROM SALES OF PHYSICAL COMMOD-
29 ITIES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
30 PROVIDED IN THIS CLAUSE. THE AMOUNT OF NET INCOME FROM SALES OF PHYS-
31 ICAL COMMODITIES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
32 SHALL BE DETERMINED BY MULTIPLYING THE NET INCOME FROM SALES OF PHYSICAL
33 COMMODITIES BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AMOUNT OF
34 RECEIPTS FROM SALES OF PHYSICAL COMMODITIES ACTUALLY DELIVERED TO POINTS
35 WITHIN THE CITY OR, IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL
36 COMMODITY, SOLD TO PURCHASERS LOCATED WITHIN THE CITY, AND THE DENOMINA-
37 TOR OF WHICH SHALL BE THE AMOUNT OF RECEIPTS FROM SALES OF PHYSICAL
38 COMMODITIES ACTUALLY DELIVERED TO POINTS WITHIN AND WITHOUT THE CITY OR,
39 IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL COMMODITY, SOLD TO
40 PURCHASERS LOCATED WITHIN AND WITHOUT THE CITY. NET INCOME (NOT LESS
41 THAN ZERO) FROM SALES OF PHYSICAL COMMODITIES SHALL BE INCLUDED IN THE
42 DENOMINATOR OF THE RECEIPTS FRACTION. NET INCOME (NOT LESS THAN ZERO)
43 FROM SALES OF PHYSICAL COMMODITIES SHALL BE DETERMINED AFTER THE
44 DEDUCTION OF THE COST TO ACQUIRE OR PRODUCE THE PHYSICAL COMMODITIES.

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

55 (B) THE AMOUNT OF MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM
56 EACH TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET INCLUDED IN

1 THE NUMERATOR OF THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-
2 ING THE MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM SUCH TYPE
3 OF FINANCIAL INSTRUMENT BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE
4 THE NUMERATOR OF THE RECEIPTS FRACTION FOR THAT TYPE OF FINANCIAL
5 INSTRUMENT DETERMINED UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH
6 AND THE DENOMINATOR OF WHICH SHALL BE THE DENOMINATOR OF THE RECEIPTS
7 FRACTION FOR NET GAINS FROM THAT TYPE OF FINANCIAL INSTRUMENT DETERMINED
8 UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH. MARKED TO MARKET NET
9 GAINS (NOT LESS THAN ZERO) FROM FINANCIAL INSTRUMENTS FOR WHICH THE
10 NUMERATOR OF THE RECEIPTS FRACTION FOR NET GAINS IS DETERMINED UNDER THE
11 IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOMINATOR OF
12 THE RECEIPTS FRACTION.

13 (C) IF THE TYPE OF FINANCIAL INSTRUMENT THAT IS MARKED TO MARKET IS
14 NOT OTHERWISE SOURCED BY THE TAXPAYER UNDER THIS SUBPARAGRAPH, OR IF THE
15 TAXPAYER HAS A NET LOSS FROM THE SALES OF THAT TYPE OF FINANCIAL INSTRU-
16 MENT UNDER THE APPLICABLE CLAUSE OF THIS SUBPARAGRAPH, THE AMOUNT OF
17 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FROM THAT TYPE OF FINAN-
18 CIAL INSTRUMENT INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL
19 BE DETERMINED BY MULTIPLYING THE MARKED TO MARKET NET GAINS (BUT NOT
20 LESS THAN ZERO) FROM THAT TYPE OF FINANCIAL INSTRUMENT BY A FRACTION,
21 THE NUMERATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS
22 INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)
23 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE, AND
24 THE DENOMINATOR OF WHICH SHALL BE THE SUM OF THE AMOUNT OF RECEIPTS
25 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION UNDER CLAUSES (I)
26 THROUGH (IX) OF THIS SUBPARAGRAPH AND SUBCLAUSE (B) OF THIS CLAUSE.
27 MARKED TO MARKET NET GAINS (NOT LESS THAN ZERO) FOR WHICH THE AMOUNT TO
28 BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION IS DETERMINED
29 UNDER THE IMMEDIATELY PRECEDING SENTENCE SHALL BE INCLUDED IN THE DENOM-
30 INATOR OF THE RECEIPTS FRACTION.

31 (B) RECEIPTS OF A REGISTERED SECURITIES BROKER OR DEALER FROM SECURI-
32 TIES OR COMMODITIES BROKER OR DEALER ACTIVITIES DESCRIBED IN THIS PARA-
33 GRAPH SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY AS DESCRIBED IN
34 SUBPARAGRAPHS ONE THROUGH EIGHT OF THIS PARAGRAPH. RECEIPTS FROM SUCH
35 ACTIVITIES GENERATED WITHIN THE CITY SHALL BE INCLUDED IN THE NUMERATOR
36 OF THE RECEIPTS FRACTION. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN
37 AND WITHOUT THE CITY SHALL BE INCLUDED IN THE DENOMINATOR OF THE
38 RECEIPTS FRACTION. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM "SECURI-
39 TIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO OF SUBSECTION (C)
40 OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL REVENUE CODE AND
41 THE TERM "COMMODITIES" SHALL HAVE THE SAME MEANING AS IN PARAGRAPH TWO
42 OF SUBSECTION (E) OF SECTION FOUR HUNDRED SEVENTY-FIVE OF THE INTERNAL
43 REVENUE CODE.

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

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

53 (3) (1) RECEIPTS CONSTITUTING FEES EARNED BY THE TAXPAYER FOR ADVISORY
54 SERVICES TO A CUSTOMER IN CONNECTION WITH THE UNDERWRITING OF SECURITIES
55 FOR SUCH CUSTOMER (SUCH CUSTOMER BEING THE ENTITY THAT IS CONTEMPLATING
56 ISSUING OR IS ISSUING SECURITIES) OR FEES EARNED BY THE TAXPAYER FOR

1 MANAGING AN UNDERWRITING SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY
2 IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF SUCH CUSTOMER
3 WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE CITY.

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

7 (III) THE TERM "PRIMARY SPREAD" MEANS THE DIFFERENCE BETWEEN THE PRICE
8 PAID BY THE TAXPAYER TO THE ISSUER OF THE SECURITIES BEING MARKETED AND
9 THE PRICE RECEIVED FROM THE SUBSEQUENT SALE OF THE UNDERWRITTEN SECURI-
10 TIES AT THE INITIAL PUBLIC OFFERING PRICE, LESS ANY SELLING CONCESSION
11 AND ANY FEES PAID TO THE TAXPAYER FOR ADVISORY SERVICES OR ANY MANAGER'S
12 FEES, IF SUCH FEES ARE NOT PAID BY THE CUSTOMER TO THE TAXPAYER SEPA-
13 RATELY. THE TERM "PUBLIC OFFERING PRICE" MEANS THE PRICE AGREED UPON BY
14 THE TAXPAYER AND THE ISSUER AT WHICH THE SECURITIES ARE TO BE OFFERED TO
15 THE PUBLIC. THE TERM "SELLING CONCESSION" MEANS THE AMOUNT PAID TO THE
16 TAXPAYER FOR PARTICIPATING IN THE UNDERWRITING OF A SECURITY WHERE THE
17 TAXPAYER IS NOT THE LEAD UNDERWRITER.

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

22 (5) RECEIPTS CONSTITUTING FEES FOR MANAGEMENT OR ADVISORY SERVICES,
23 INCLUDING FEES FOR ADVISORY SERVICES IN RELATION TO MERGER OR ACQUISSI-
24 TION ACTIVITIES, BUT EXCLUDING FEES PAID FOR SERVICES DESCRIBED IN PARA-
25 GRAPH (D) OF THIS SUBDIVISION, SHALL BE DEEMED TO BE GENERATED WITHIN
26 THE CITY IF THE MAILING ADDRESS IN THE RECORDS OF THE TAXPAYER OF THE
27 CUSTOMER WHO IS RESPONSIBLE FOR PAYING SUCH FEES IS WITHIN THE CITY.

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

34 (7) IF THE TAXPAYER RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPAR-
35 AGRAPHS ONE THROUGH FOUR OF THIS PARAGRAPH AS A RESULT OF A SECURITIES
36 CORRESPONDENT RELATIONSHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR
37 DEALER WITH THE TAXPAYER ACTING IN THIS RELATIONSHIP AS THE CLEARING
38 FIRM, SUCH RECEIPTS SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY TO
39 THE EXTENT SET FORTH IN EACH OF SUCH SUBPARAGRAPHS. THE AMOUNT OF SUCH
40 RECEIPTS SHALL EXCLUDE THE AMOUNT THE TAXPAYER IS REQUIRED TO PAY TO THE
41 CORRESPONDENT FIRM FOR SUCH CORRESPONDENT RELATIONSHIP. IF THE TAXPAYER
42 RECEIVES ANY OF THE RECEIPTS ENUMERATED IN SUBPARAGRAPHS ONE THROUGH
43 FOUR OF THIS PARAGRAPH AS RESULT OF A SECURITIES CORRESPONDENT RELATION-
44 SHIP SUCH TAXPAYER HAS WITH ANOTHER BROKER OR DEALER WITH THE TAXPAYER
45 ACTING IN THIS RELATIONSHIP AS THE INTRODUCING FIRM, SUCH RECEIPTS SHALL
46 BE DEEMED TO BE GENERATED WITHIN THE CITY TO THE EXTENT SET FORTH IN
47 EACH OF SUCH SUBPARAGRAPHS.

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

53 (C) RECEIPTS RELATING TO THE BANK, CREDIT, TRAVEL, AND ENTERTAINMENT
54 CARD ACTIVITIES DESCRIBED IN THIS PARAGRAPH SHALL BE DEEMED TO BE GENER-
55 ATED WITHIN THE CITY AS DESCRIBED IN SUBPARAGRAPHS ONE THROUGH FOUR OF
56 THIS PARAGRAPH. RECEIPTS FROM SUCH ACTIVITIES GENERATED WITHIN THE CITY

1 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION. RECEIPTS
2 FROM SUCH ACTIVITIES GENERATED WITHIN AND WITHOUT THE CITY SHALL BE
3 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

4 (1) RECEIPTS CONSTITUTING INTEREST, AND FEES AND PENALTIES IN THE
5 NATURE OF INTEREST, FROM BANK, CREDIT, TRAVEL AND ENTERTAINMENT CARD
6 RECEIVABLES SHALL BE DEEMED TO BE GENERATED WITHIN THE CITY IF THE MAIL-
7 ING ADDRESS OF THE CARD HOLDER IN THE RECORDS OF THE TAXPAYER IS WITHIN
8 THE CITY;

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

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

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

35 (D) RECEIPTS RECEIVED FROM AN INVESTMENT COMPANY ARISING FROM THE SALE
36 OF MANAGEMENT, ADMINISTRATION OR DISTRIBUTION SERVICES TO SUCH INVEST-
37 MENT COMPANY SHALL BE INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRAC-
38 TION. THE PORTION OF SUCH RECEIPTS INCLUDED IN THE NUMERATOR OF THE
39 RECEIPTS FRACTION (SUCH PORTION REFERRED TO HEREIN AS THE NEW YORK CITY
40 PORTION) SHALL BE DETERMINED AS PROVIDED IN THIS PARAGRAPH.

41 (1) THE NEW YORK CITY PORTION SHALL BE THE PRODUCT OF THE TOTAL OF
42 SUCH RECEIPTS FROM THE SALE OF SUCH SERVICES AND A FRACTION. THE NUMERA-
43 TOR OF THAT FRACTION SHALL BE THE SUM OF THE MONTHLY PERCENTAGES (AS
44 DEFINED HEREINAFTER) DETERMINED FOR EACH MONTH OF THE INVESTMENT COMPA-
45 NY'S TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES WHICH TAXABLE YEAR
46 ENDS WITHIN THE TAXABLE YEAR OF THE TAXPAYER (BUT EXCLUDING ANY MONTH
47 DURING WHICH THE INVESTMENT COMPANY HAD NO OUTSTANDING SHARES). THE
48 MONTHLY PERCENTAGE FOR EACH SUCH MONTH SHALL BE DETERMINED BY DIVIDING
49 THE NUMBER OF SHARES IN THE INVESTMENT COMPANY THAT ARE OWNED ON THE
50 LAST DAY OF THE MONTH BY SHAREHOLDERS THAT ARE LOCATED IN THE CITY BY
51 THE TOTAL NUMBER OF SHARES IN THE INVESTMENT COMPANY OUTSTANDING ON THAT
52 DATE. THE DENOMINATOR OF THE FRACTION SHALL BE THE NUMBER OF SUCH MONTH-
53 LY PERCENTAGES.

54 (2)(I) FOR PURPOSES OF THIS PARAGRAPH, AN INDIVIDUAL, ESTATE OR TRUST
55 SHALL BE DEEMED TO BE LOCATED WITHIN THE CITY IF HIS, HER OR ITS MAILING
56 ADDRESS IN THE RECORDS OF THE INVESTMENT COMPANY IS LOCATED WITHIN THE

1 CITY. A BUSINESS ENTITY IS DEEMED TO BE LOCATED WITHIN THE CITY IF ITS
2 COMMERCIAL DOMICILE IS LOCATED WITHIN THE CITY.

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

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

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

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

38 (VI) FOR PURPOSES OF THIS PARAGRAPH, THE TERM "ADMINISTRATION
39 SERVICES" INCLUDES CLERICAL, ACCOUNTING, BOOKKEEPING, DATA PROCESSING,
40 INTERNAL AUDITING, LEGAL AND TAX SERVICES PERFORMED FOR AN INVESTMENT
41 COMPANY BUT ONLY IF THE PROVIDER OF SUCH SERVICE OR SERVICES DURING THE
42 TAXABLE YEAR IN WHICH SUCH SERVICE OR SERVICES ARE SOLD ALSO SELLS
43 MANAGEMENT OR DISTRIBUTION SERVICES, AS DEFINED HEREINABOVE, TO SUCH
44 INVESTMENT COMPANY.

45 (E) FOR PURPOSES OF THIS SUBDIVISION, A TAXPAYER SHALL USE THE FOLLOW-
46 ING HIERARCHY TO DETERMINE THE COMMERCIAL DOMICILE OF A BUSINESS ENTITY,
47 BASED ON THE INFORMATION KNOWN TO THE TAXPAYER OR INFORMATION THAT WOULD
48 BE KNOWN UPON REASONABLE INQUIRY: (1) THE SEAT OF MANAGEMENT AND CONTROL
49 OF THE BUSINESS ENTITY; AND (2) THE BILLING ADDRESS OF THE BUSINESS
50 ENTITY IN THE TAXPAYER'S RECORDS. THE TAXPAYER MUST EXERCISE DUE DILI-
51 GENCE BEFORE REJECTING THE FIRST METHOD IN THIS HIERARCHY AND PROCEEDING
52 TO THE NEXT METHOD.

53 (F) FOR PURPOSES OF THIS SUBDIVISION, THE TERM "REGISTERED SECURITIES
54 BROKER OR DEALER" MEANS A BROKER OR DEALER REGISTERED AS SUCH BY THE
55 SECURITIES AND EXCHANGE COMMISSION OR A BROKER OR DEALER REGISTERED AS
56 SUCH BY THE COMMODITIES FUTURES TRADING COMMISSION, AND SHALL INCLUDE AN

1 OTC DERIVATIVES DEALER AS DEFINED UNDER REGULATIONS OF THE SECURITIES
2 AND EXCHANGE COMMISSION AT TITLE 17, PART 240, SECTION 3B-12 OF THE CODE
3 OF FEDERAL REGULATIONS (17 CFR 240.3B-12).

4 6. RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS (INCLUDING SURFACE
5 RAILROAD, WHETHER OR NOT OPERATED BY STEAM, SUBWAY RAILROAD, ELEVATED
6 RAILROAD, PALACE CAR OR SLEEPING CAR BUSINESS) OR A TRUCKING BUSINESS
7 SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS.
8 THE AMOUNT OF RECEIPTS FROM THE CONDUCT OF A RAILROAD BUSINESS OR A
9 TRUCKING BUSINESS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
10 SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF RECEIPTS FROM SUCH
11 BUSINESS BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE MILES IN
12 SUCH BUSINESS WITHIN THE CITY DURING THE PERIOD COVERED BY THE TAXPAY-
13 ER'S REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE MILES IN SUCH
14 BUSINESS WITHIN AND WITHOUT THE CITY DURING SUCH PERIOD. RECEIPTS FROM
15 THE CONDUCT OF THE RAILROAD BUSINESS OR A TRUCKING BUSINESS SHALL BE
16 INCLUDED IN THE DENOMINATOR OF THE RECEIPTS FRACTION.

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

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

34 (A) THE PERCENTAGE DETERMINED BY DIVIDING THE AIRCRAFT ARRIVALS AND
35 DEPARTURES WITHIN THE CITY BY THE TAXPAYER DURING THE PERIOD COVERED BY
36 ITS REPORT BY THE TOTAL AIRCRAFT ARRIVALS AND DEPARTURES WITHIN AND
37 WITHOUT THE CITY DURING SUCH PERIOD; PROVIDED, HOWEVER, ARRIVALS AND
38 DEPARTURES SOLELY FOR MAINTENANCE OR REPAIR, REFUELING (WHERE NO DEBAR-
39 KATION OR EMBARKATION OF TRAFFIC OCCURS), ARRIVALS AND DEPARTURES OF
40 FERRY AND PERSONNEL TRAINING FLIGHTS OR ARRIVALS AND DEPARTURES IN THE
41 EVENT OF EMERGENCY SITUATIONS SHALL NOT BE INCLUDED IN COMPUTING SUCH
42 ARRIVAL AND DEPARTURE PERCENTAGE; PROVIDED, FURTHER, THE COMMISSIONER OF
43 FINANCE MAY ALSO EXEMPT FROM SUCH PERCENTAGE AIRCRAFT ARRIVALS AND
44 DEPARTURES OF ALL NON-REVENUE FLIGHTS INCLUDING FLIGHTS INVOLVING THE
45 TRANSPORTATION OF OFFICERS OR EMPLOYEES RECEIVING AIR TRANSPORTATION TO
46 PERFORM MAINTENANCE OR REPAIR SERVICES OR WHERE SUCH OFFICERS OR EMPLOY-
47 EES ARE TRANSPORTED IN CONJUNCTION WITH AN EMERGENCY SITUATION OR THE
48 INVESTIGATION OF AN AIR DISASTER (OTHER THAN ON A SCHEDULED FLIGHT);
49 PROVIDED, HOWEVER, THAT ARRIVALS AND DEPARTURES OF FLIGHTS TRANSPORTING
50 OFFICERS AND EMPLOYEES RECEIVING AIR TRANSPORTATION FOR PURPOSES OTHER
51 THAN SPECIFIED ABOVE (WITHOUT REGARD TO REMUNERATION) SHALL BE INCLUDED
52 IN COMPUTING SUCH ARRIVAL AND DEPARTURE PERCENTAGE;

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

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

4 (II) AS USED HEREIN THE TERM "AIRCRAFT ARRIVALS AND DEPARTURES" MEANS
5 THE NUMBER OF LANDINGS AND TAKEOFFS OF THE AIRCRAFT OF THE TAXPAYER AND
6 THE NUMBER OF AIR PICKUPS AND DELIVERIES BY THE AIRCRAFT OF SUCH TAXPAY-
7 ER; THE TERM "ORIGINATING REVENUE" MEANS REVENUE TO THE TAXPAYER FROM
8 THE TRANSPORTATION OF REVENUE PASSENGERS AND REVENUE PROPERTY FIRST
9 RECEIVED BY THE TAXPAYER EITHER AS ORIGINATING OR CONNECTING TRAFFIC AT
10 AIRPORTS; AND THE TERM "REVENUE TONS HANDLED BY THE TAXPAYER AT
11 AIRPORTS" MEANS THE WEIGHT IN TONS OF REVENUE PASSENGERS (AT TWO HUNDRED
12 POUNDS PER PASSENGER) AND REVENUE CARGO FIRST RECEIVED EITHER AS ORIGI-
13 NATING OR CONNECTING TRAFFIC OR FINALLY DISCHARGED BY THE TAXPAYER AT
14 AIRPORTS.

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

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

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

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

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

29 8. (A) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING IN NEWSPAPERS
30 OR PERIODICALS INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION SHALL
31 BE DETERMINED BY MULTIPLYING THE TOTAL OF SUCH RECEIPTS BY A FRACTION,
32 THE NUMERATOR OF WHICH SHALL BE THE NUMBER OF NEWSPAPERS AND PERIODICALS
33 DELIVERED TO POINTS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL
34 BE THE NUMBER OF NEWSPAPERS AND PERIODICALS DELIVERED TO POINTS WITHIN
35 AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVERTIS-
36 ING IN NEWSPAPERS OR PERIODICALS SHALL BE INCLUDED IN THE DENOMINATOR OF
37 THE RECEIPTS FRACTION.

38 (B) THE AMOUNT OF RECEIPTS FROM SALES OF ADVERTISING ON TELEVISION OR
39 RADIO INCLUDED IN THE RECEIPTS FRACTION SHALL BE DETERMINED BY MULTIPLY-
40 ING THE TOTAL OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF WHICH
41 SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN THE CITY AND THE
42 DENOMINATOR OF WHICH SHALL BE THE NUMBER OF VIEWERS OR LISTENERS WITHIN
43 AND WITHOUT THE CITY. THE TOTAL OF SUCH RECEIPTS FROM SALES OF ADVER-
44 TISING ON TELEVISION OR RADIO SHALL BE INCLUDED IN THE DENOMINATOR OF
45 THE RECEIPTS FRACTION.

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

1 DESCRIBED IN THIS PARAGRAPH SHALL BE INCLUDED IN THE DENOMINATOR OF THE
2 RECEIPTS FRACTION.

3 9. RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION OF GAS THROUGH
4 PIPES SHALL BE INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION AS
5 FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE TRANSPORTATION OR TRANSMISSION
6 OF GAS THROUGH PIPES INCLUDED IN THE NUMERATOR OF THE RECEIPTS FRACTION
7 SHALL BE DETERMINED BY MULTIPLYING THE TOTAL AMOUNT OF SUCH RECEIPTS BY
8 A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE TAXPAYER'S TRANSPORTA-
9 TION UNITS WITHIN THE CITY AND THE DENOMINATOR OF WHICH SHALL BE THE
10 TAXPAYER'S TRANSPORTATION UNITS WITHIN AND WITHOUT THE CITY. A TRANSPOR-
11 TATION UNIT IS THE TRANSPORTATION OF ONE CUBIC FOOT OF GAS OVER A
12 DISTANCE OF ONE MILE. THE TOTAL AMOUNT OF RECEIPTS FROM THE TRANSPORTA-
13 TION OR TRANSMISSION OF GAS THROUGH PIPES SHALL BE INCLUDED IN THE
14 DENOMINATOR OF THE RECEIPTS FRACTION.

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

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

35 11. IF IT SHALL APPEAR THAT THE RECEIPTS FRACTION DETERMINED PURSUANT
36 TO THIS SECTION DOES NOT RESULT IN A PROPER REFLECTION OF THE TAXPAYER'S
37 BUSINESS INCOME OR CAPITAL WITHIN THE CITY, THE COMMISSIONER OF FINANCE
38 IS AUTHORIZED IN HIS OR HER DISCRETION TO ADJUST IT, OR THE TAXPAYER MAY
39 REQUEST THAT THE COMMISSIONER OF FINANCE ADJUST IT, BY (A) EXCLUDING ONE
40 OR MORE ITEMS IN SUCH DETERMINATION, (B) INCLUDING ONE OR MORE OTHER
41 ITEMS IN SUCH DETERMINATION, OR (C) ANY OTHER SIMILAR OR DIFFERENT METH-
42 OD CALCULATED TO EFFECT A FAIR AND PROPER APPORTIONMENT OF THE BUSINESS
43 INCOME AND CAPITAL REASONABLY ATTRIBUTED TO THE CITY. THE PARTY SEEKING
44 THE ADJUSTMENT SHALL BEAR THE BURDEN OF PROOF TO DEMONSTRATE THAT THE
45 RECEIPTS FRACTION DETERMINED PURSUANT TO THIS SECTION DOES NOT RESULT IN
46 A PROPER REFLECTION OF THE TAXPAYER'S BUSINESS INCOME OR CAPITAL WITHIN
47 THE CITY AND THAT THE PROPOSED ADJUSTMENT IS APPROPRIATE.

48 12. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE
49 NUMERATOR OF THE RECEIPTS FRACTION AS FOLLOWS. THE AMOUNT OF RECEIPTS
50 FROM THE OPERATION OF VESSELS INCLUDED IN THE NUMERATOR OF THE RECEIPTS
51 FRACTION SHALL BE DETERMINED BY MULTIPLYING THE AMOUNT OF SUCH RECEIPTS
52 BY A FRACTION, THE NUMERATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF
53 WORKING DAYS OF THE VESSELS OWNED OR LEASED BY THE TAXPAYER IN TERRITO-
54 RIAL WATERS OF THE CITY DURING THE PERIOD COVERED BY THE TAXPAYER'S
55 REPORT AND THE DENOMINATOR OF WHICH SHALL BE THE AGGREGATE NUMBER OF
56 WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY THE TAXPAYER DURING SUCH

1 PERIOD. RECEIPTS FROM THE OPERATION OF VESSELS SHALL BE INCLUDED IN THE
2 DENOMINATOR OF THE RECEIPTS FRACTION.

3 S 11-654.3 COMBINED REPORTS. 1. (A) THE TAX ON A COMBINED REPORT SHALL
4 BE THE HIGHEST OF (1) THE COMBINED BUSINESS INCOME MULTIPLIED BY THE TAX
5 RATE SPECIFIED IN CLAUSE (I) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF
6 SUBDIVISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER; (2) THE COMBINED
7 CAPITAL MULTIPLIED BY THE TAX RATE SPECIFIED IN CLAUSE (II) OF SUBPARA-
8 GRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION 11-654 OF THIS
9 SUBCHAPTER, BUT NOT EXCEEDING THE LIMITATION PROVIDED FOR IN SUCH CLAUSE
10 (II); OR (3) THE FIXED DOLLAR MINIMUM THAT IS ATTRIBUTABLE TO THE DESIG-
11 NATED AGENT OF THE COMBINED GROUP. IN ADDITION, THE TAX ON A COMBINED
12 REPORT SHALL INCLUDE THE FIXED DOLLAR MINIMUM TAX SPECIFIED IN CLAUSE
13 (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION
14 11-654 OF THIS SUBCHAPTER FOR EACH MEMBER OF THE COMBINED GROUP, OTHER
15 THAN THE DESIGNATED AGENT, THAT IS A TAXPAYER.

16 (B) THE COMBINED BUSINESS INCOME BASE IS THE AMOUNT OF THE COMBINED
17 BUSINESS INCOME OF THE COMBINED GROUP THAT IS ALLOCATED TO THE CITY,
18 REDUCED BY ANY PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY
19 NET OPERATING LOSS DEDUCTION FOR THE COMBINED GROUP. THE COMBINED CAPI-
20 TAL BASE IS THE AMOUNT OF THE COMBINED CAPITAL OF THE COMBINED GROUP
21 THAT IS ALLOCATED TO THE CITY.

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

34 (B) A CORPORATION REQUIRED TO MAKE A COMBINED REPORT WITHIN THE MEAN-
35 ING OF THIS SECTION SHALL ALSO INCLUDE (1) A CAPTIVE REIT AND A CAPTIVE
36 RIC; (2) A COMBINABLE CAPTIVE INSURANCE COMPANY; AND (3) AN ALIEN CORPO-
37 RATION THAT SATISFIES THE CONDITIONS IN PARAGRAPH (A) OF THIS SUBDIVI-
38 SION IF (I) UNDER ANY PROVISION OF THE INTERNAL REVENUE CODE, THAT
39 CORPORATION IS TREATED AS A "DOMESTIC CORPORATION" AS DEFINED IN SECTION
40 SEVEN THOUSAND SEVEN HUNDRED ONE OF THE INTERNAL REVENUE CODE, OR (II)
41 IT HAS EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO
42 CLAUSE THREE OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION
43 11-652 OF THIS SUBCHAPTER.

44 (C) A CORPORATION REQUIRED OR PERMITTED TO MAKE A COMBINED REPORT
45 UNDER THIS SECTION DOES NOT INCLUDE (1) A CORPORATION THAT IS TAXABLE
46 UNDER A TAX IMPOSED BY SUBCHAPTER TWO OF THIS CHAPTER OR CHAPTER ELEVEN
47 OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES THAT IS TAXABLE
48 UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS SUBCHAPTER), OR WOULD
49 BE TAXABLE UNDER A TAX IMPOSED BY SUBCHAPTER TWO OF THIS CHAPTER OR
50 CHAPTER ELEVEN OF THIS TITLE (EXCEPT FOR A VENDOR OF UTILITY SERVICES
51 THAT IS TAXABLE UNDER BOTH CHAPTER ELEVEN OF THIS TITLE AND THIS
52 SUBCHAPTER), OR WOULD HAVE BEEN TAXABLE AS AN INSURANCE CORPORATION
53 UNDER THE FORMER PART IV, TITLE R, CHAPTER FORTY-SIX OF THE ADMINISTRA-
54 TIVE CODE AS IN EFFECT ON JUNE THIRTIETH, NINETEEN HUNDRED SEVENTY-FOUR;
55 (2) A REIT THAT IS NOT A CAPTIVE REIT, AND A RIC THAT IS NOT A CAPTIVE
56 RIC; OR (3) AN ALIEN CORPORATION THAT UNDER ANY PROVISION OF THE INTER-

1 NAL REVENUE CODE IS NOT TREATED AS A "DOMESTIC CORPORATION" AS DEFINED
2 IN SECTION SEVEN THOUSAND SEVEN HUNDRED ONE OF SUCH CODE AND HAS NO
3 EFFECTIVELY CONNECTED INCOME FOR THE TAXABLE YEAR PURSUANT TO CLAUSE
4 THREE OF THE OPENING PARAGRAPH OF SUBDIVISION EIGHT OF SECTION 11-652 OF
5 THIS SUBCHAPTER. IF A CORPORATION IS SUBJECT TO TAX UNDER THIS SUBCHAP-
6 TER SOLELY AS A RESULT OF ITS OWNERSHIP OF A LIMITED PARTNER INTEREST IN
7 A LIMITED PARTNERSHIP THAT IS DOING BUSINESS, EMPLOYING CAPITAL, OWNING
8 OR LEASING PROPERTY, MAINTAINING AN OFFICE IN THIS STATE, OR DERIVING
9 RECEIPTS FROM ACTIVITY IN THIS STATE, AND NONE OF THE CORPORATION'S
10 RELATED CORPORATIONS ARE SUBJECT TO TAX UNDER THIS SUBCHAPTER, SUCH
11 CORPORATION SHALL NOT BE REQUIRED OR PERMITTED TO FILE A COMBINED REPORT
12 UNDER THIS SECTION WITH SUCH RELATED CORPORATIONS.

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

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

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

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

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

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

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

55 (C) QUALIFICATION FOR CREDITS, INCLUDING ANY LIMITATIONS THEREON,
56 SHALL BE DETERMINED SEPARATELY FOR EACH OF THE MEMBERS OF THE COMBINED

1 GROUP, AND SHALL NOT BE DETERMINED ON A COMBINED GROUP BASIS, EXCEPT AS
2 OTHERWISE PROVIDED. HOWEVER, THE CREDITS SHALL BE APPLIED AGAINST THE
3 COMBINED TAX OF THE GROUP. TO THE EXTENT THAT A PROVISION OF SECTION
4 11-654 OF THIS SUBCHAPTER, OR ANY OTHER APPLICABLE SECTION OF THIS
5 SUBCHAPTER, LIMITS A CREDIT TO THE FIXED DOLLAR MINIMUM AMOUNT
6 PRESCRIBED IN CLAUSE (IV) OF SUBPARAGRAPH ONE OF PARAGRAPH (E) OF SUBDI-
7 VISION ONE OF SECTION 11-654 OF THIS SUBCHAPTER, SUCH FIXED DOLLAR MINI-
8 MUM AMOUNT SHALL BE THE FIXED DOLLAR MINIMUM AMOUNT THAT IS ATTRIBUTABLE
9 TO THE DESIGNATED AGENT OF THE COMBINED GROUP.

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

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

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

40 (4) IN GENERAL, ANY NET OPERATING LOSS CARRYOVER FROM A YEAR IN WHICH
41 A COMBINED REPORT WAS FILED SHALL BE BASED ON THE COMBINED NET OPERATING
42 LOSS OF THE GROUP OF CORPORATIONS FILING SUCH REPORT. THE PORTION OF THE
43 COMBINED LOSS ATTRIBUTABLE TO ANY MEMBER OF THE GROUP THAT FILES A SEPA-
44 RATE REPORT FOR A SUCCEEDING TAXABLE YEAR WILL BE AN AMOUNT BEARING THE
45 SAME RELATION TO THE COMBINED LOSS AS THE NET OPERATING LOSS OF SUCH
46 CORPORATION BEARS TO THE TOTAL NET OPERATING LOSS OF ALL MEMBERS OF THE
47 GROUP HAVING SUCH LOSSES TO THE EXTENT THAT THEY ARE TAKEN INTO ACCOUNT
48 IN COMPUTING THE COMBINED NET OPERATING LOSS.

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

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

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

18 (2) IN THE CASE OF A COMBINABLE CAPTIVE INSURANCE COMPANY REQUIRED
19 UNDER THIS SECTION TO BE INCLUDED IN A COMBINED REPORT, ENTIRE NET
20 INCOME SHALL BE COMPUTED AS REQUIRED BY SUBDIVISION EIGHT OF SECTION
21 11-652 OF THIS SUBCHAPTER.

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

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

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

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

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

44 S 11-655 REPORTS. 1. EVERY CORPORATION HAVING AN OFFICER, AGENT OR
45 REPRESENTATIVE WITHIN THE CITY, SHALL ANNUALLY ON OR BEFORE MARCH
46 FIFTEENTH, TRANSMIT TO THE COMMISSIONER OF FINANCE A REPORT IN A FORM
47 PRESCRIBED BY THE COMMISSIONER OF FINANCE (EXCEPT THAT A CORPORATION
48 WHICH REPORTS ON THE BASIS OF A FISCAL YEAR SHALL TRANSMIT ITS REPORT
49 WITHIN TWO AND ONE-HALF MONTHS AFTER THE CLOSE OF ITS FISCAL YEAR),
50 SETTING FORTH SUCH INFORMATION AS THE COMMISSIONER OF FINANCE MAY
51 PRESCRIBE AND EVERY TAXPAYER WHICH CEASES TO DO BUSINESS IN THE CITY OR
52 TO BE SUBJECT TO THE TAX IMPOSED BY THIS SUBCHAPTER SHALL TRANSMIT TO
53 THE COMMISSIONER OF FINANCE A REPORT ON THE DATE OF SUCH CESSATION OR AT
54 SUCH OTHER TIME AS THE COMMISSIONER OF FINANCE MAY REQUIRE COVERING EACH
55 YEAR OR PERIOD FOR WHICH NO REPORT WAS THERETOFORE FILED. EVERY TAXPAYER
56 SHALL ALSO TRANSMIT SUCH OTHER REPORTS AND SUCH FACTS AND INFORMATION AS

1 THE COMMISSIONER OF FINANCE MAY REQUIRE IN THE ADMINISTRATION OF THIS
2 SUBCHAPTER. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION
3 OF TIME FOR FILING REPORTS WHENEVER GOOD CAUSE EXISTS.

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

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

30 2-A. THE COMMISSIONER OF FINANCE MAY PRESCRIBE REGULATIONS AND
31 INSTRUCTIONS REQUIRING RETURNS OF INFORMATION TO BE MADE AND FILED IN
32 CONJUNCTION WITH THE REPORTS REQUIRED TO BE FILED PURSUANT TO THIS
33 SECTION, RELATING TO PAYMENTS MADE TO SHAREHOLDERS OWNING, DIRECTLY OR
34 INDIRECTLY, INDIVIDUALLY OR IN THE AGGREGATE, MORE THAN FIFTY PERCENT OF
35 THE ISSUED CAPITAL STOCK OF THE TAXPAYER, WHERE SUCH PAYMENTS ARE TREAT-
36 ED AS PAYMENTS OF INTEREST IN THE COMPUTATION OF ENTIRE NET INCOME
37 REPORTED ON SUCH REPORTS.

38 3. IF THE AMOUNT OF TAXABLE INCOME OR OTHER BASIS OF TAX FOR ANY YEAR
39 OF ANY TAXPAYER AS RETURNED TO THE UNITED STATES TREASURY DEPARTMENT OR
40 THE NEW YORK STATE COMMISSIONER OF TAXATION AND FINANCE IS CHANGED OR
41 CORRECTED BY THE COMMISSIONER OF INTERNAL REVENUE OR OTHER OFFICER OF
42 THE UNITED STATES OR THE NEW YORK STATE COMMISSIONER OF TAXATION AND
43 FINANCE OR OTHER COMPETENT AUTHORITY, OR WHERE A RENEGOTIATION OF A
44 CONTRACT OR SUBCONTRACT WITH THE UNITED STATES OR THE STATE OF NEW YORK
45 RESULTS IN A CHANGE IN TAXABLE INCOME OR OTHER BASIS OF TAX, OR WHERE A
46 RECOVERY OF A WAR LOSS RESULTS IN A COMPUTATION OR RECOMPUTATION OF ANY
47 TAX IMPOSED BY THE UNITED STATES OR THE STATE OF NEW YORK, OR IF A
48 TAXPAYER, PURSUANT TO SUBSECTION (D) OF SECTION SIXTY-TWO HUNDRED THIR-
49 TEEN OF THE INTERNAL REVENUE CODE, EXECUTES A NOTICE OF WAIVER OF THE
50 RESTRICTIONS PROVIDED IN SUBSECTION (A) OF SAID SECTION, OR IF A TAXPAY-
51 ER, PURSUANT TO SUBSECTION (F) OF SECTION ONE THOUSAND EIGHTY-ONE OF THE
52 TAX LAW, EXECUTES A NOTICE OF WAIVER OF THE RESTRICTIONS PROVIDED IN
53 SUBSECTION (C) OF SAID SECTION, SUCH TAXPAYER SHALL REPORT SUCH CHANGED
54 OR CORRECTED TAXABLE INCOME OR OTHER BASIS OF TAX, OR THE RESULTS OF
55 SUCH RENEGOTIATION, OR SUCH COMPUTATION, OR RECOMPUTATION, OR SUCH
56 EXECUTION OF SUCH NOTICE OF WAIVER AND THE CHANGES OR CORRECTIONS OF THE

1 TAXPAYER'S FEDERAL OR NEW YORK STATE TAXABLE INCOME OR OTHER BASIS OF
2 TAX ON WHICH IT IS BASED, WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY
3 DAYS, IN THE CASE OF A TAXPAYER MAKING A COMBINED REPORT UNDER THIS
4 SUBCHAPTER FOR SUCH YEAR) AFTER SUCH EXECUTION OR THE FINAL DETERMI-
5 NATION OF SUCH CHANGE OR CORRECTION OR RENEGOTIATION, OR SUCH COMPUTA-
6 TION, OR RECOMPUTATION, OR AS REQUIRED BY THE COMMISSIONER OF FINANCE,
7 AND SHALL CONCEDE THE ACCURACY OF SUCH DETERMINATION OR STATE WHEREIN IT
8 IS ERRONEOUS. THE ALLOWANCE OF A TENTATIVE CARRYBACK ADJUSTMENT BASED
9 UPON A NET OPERATING LOSS CARRYBACK OR NET CAPITAL LOSS CARRYBACK PURSU-
10 ANT TO SECTION SIXTY-FOUR HUNDRED ELEVEN OF THE INTERNAL REVENUE CODE
11 SHALL BE TREATED AS A FINAL DETERMINATION FOR PURPOSES OF THIS SUBDIVI-
12 SION. ANY TAXPAYER FILING AN AMENDED RETURN WITH SUCH DEPARTMENT SHALL
13 ALSO FILE WITHIN NINETY DAYS (OR ONE HUNDRED TWENTY DAYS, IN THE CASE OF
14 A TAXPAYER MAKING A COMBINED REPORT UNDER THIS SUBCHAPTER FOR SUCH YEAR)
15 THEREAFTER AN AMENDED REPORT WITH THE COMMISSIONER OF FINANCE.

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

18 5. IN CASE IT SHALL APPEAR TO THE COMMISSIONER OF FINANCE THAT ANY
19 AGREEMENT, UNDERSTANDING OR ARRANGEMENT EXISTS BETWEEN THE TAXPAYER AND
20 ANY OTHER CORPORATION OR ANY PERSON OR FIRM, WHEREBY THE ACTIVITY, BUSI-
21 NESS, INCOME OR CAPITAL OF THE TAXPAYER WITHIN THE CITY IS IMPROPERLY OR
22 INACCURATELY REFLECTED, THE COMMISSIONER OF FINANCE IS AUTHORIZED AND
23 EMPOWERED, IN ITS DISCRETION AND IN SUCH MANNER AS IT MAY DETERMINE, TO
24 ADJUST ITEMS OF INCOME, DEDUCTIONS AND CAPITAL, AND TO ELIMINATE ASSETS
25 IN COMPUTING ANY ALLOCATION PERCENTAGE PROVIDED ONLY THAT ANY INCOME
26 DIRECTLY TRACEABLE THERETO BE ALSO EXCLUDED FROM ENTIRE NET INCOME, SO
27 AS EQUITABLY TO DETERMINE THE TAX. WHERE (A) ANY TAXPAYER CONDUCTS ITS
28 ACTIVITY OR BUSINESS UNDER ANY AGREEMENT, ARRANGEMENT OR UNDERSTANDING
29 IN SUCH MANNER AS EITHER DIRECTLY OR INDIRECTLY TO BENEFIT ITS MEMBERS
30 OR STOCKHOLDERS, OR ANY OF THEM, OR ANY PERSON OR PERSONS DIRECTLY OR
31 INDIRECTLY INTERESTED IN SUCH ACTIVITY OR BUSINESS, BY ENTERING INTO ANY
32 TRANSACTION AT MORE OR LESS THAN A FAIR PRICE WHICH, BUT FOR SUCH AGREE-
33 MENT, ARRANGEMENT OR UNDERSTANDING, MIGHT HAVE BEEN PAID OR RECEIVED
34 THEREFOR, OR (B) ANY TAXPAYER, A SUBSTANTIAL PORTION OF WHOSE CAPITAL
35 STOCK IS OWNED EITHER DIRECTLY OR INDIRECTLY BY ANOTHER CORPORATION,
36 ENTERS INTO ANY TRANSACTION WITH SUCH OTHER CORPORATION ON SUCH TERMS AS
37 TO CREATE AN IMPROPER LOSS OR NET INCOME, THE COMMISSIONER OF FINANCE
38 MAY INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER THE FAIR PROFITS,
39 WHICH, BUT FOR SUCH AGREEMENT, ARRANGEMENT OR UNDERSTANDING, THE TAXPAY-
40 ER MIGHT HAVE DERIVED FROM SUCH TRANSACTION. WHERE ANY TAXPAYER OWNS,
41 DIRECTLY OR INDIRECTLY, MORE THAN FIFTY PERCENT OF THE CAPITAL STOCK OF
42 ANOTHER CORPORATION SUBJECT TO TAX UNDER SECTION FIFTEEN HUNDRED TWO-A
43 OF THE TAX LAW AND FIFTY PERCENT OR LESS OF WHOSE GROSS RECEIPTS FOR THE
44 TAXABLE YEAR CONSIST OF PREMIUMS, THE COMMISSIONER OF FINANCE MAY
45 INCLUDE IN THE ENTIRE NET INCOME OF THE TAXPAYER, AS A DEEMED DISTRIB-
46 UTION, THE AMOUNT OF THE NET INCOME OF THE OTHER CORPORATION THAT IS IN
47 EXCESS OF ITS NET PREMIUM INCOME.

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

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

53 8. WHERE THE STATE TAX COMMISSION CHANGES OR CORRECTS A TAXPAYER'S
54 SALES AND COMPENSATING USE TAX LIABILITY WITH RESPECT TO THE PURCHASE OR
55 USE OF ITEMS FOR WHICH A SALES OR COMPENSATING USE TAX CREDIT AGAINST
56 THE TAX IMPOSED BY THIS SUBCHAPTER WAS CLAIMED, THE TAXPAYER SHALL

1 REPORT SUCH CHANGE OR CORRECTION TO THE COMMISSIONER OF FINANCE WITHIN
2 NINETY DAYS OF THE FINAL DETERMINATION OF SUCH CHANGE OR CORRECTION, OR
3 AS REQUIRED BY THE COMMISSIONER OF FINANCE, AND SHALL CONCEDE THE ACCU-
4 RACY OF SUCH DETERMINATION OR STATE WHEREIN IT IS ERRONEOUS. ANY TAXPAY-
5 ER FILING AN AMENDED RETURN OR REPORT RELATING TO THE PURCHASE OR USE OF
6 SUCH ITEMS SHALL ALSO FILE WITHIN NINETY DAYS THEREAFTER A COPY OF SUCH
7 AMENDED RETURN OR REPORT WITH THE COMMISSIONER OF FINANCE.

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

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

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

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

32 (1) AN AMOUNT SO PAID SHALL BE DEEMED PROPERLY ESTIMATED IF IT IS
33 EITHER: (I) NOT LESS THAN NINETY PERCENT OF THE TAX AS FINALLY DETER-
34 MINED, OR (II) NOT LESS THAN THE TAX SHOWN ON THE TAXPAYER'S REPORT FOR
35 THE PRECEDING TAXABLE YEAR, IF SUCH PRECEDING YEAR WAS A TAXABLE YEAR OF
36 TWELVE MONTHS; AND

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

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

42 3. INTENTIONALLY OMITTED.

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

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

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

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

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

7 4. A TAXPAYER MAY AMEND A DECLARATION UNDER REGULATIONS OF THE COMMIS-
8 SIONER OF FINANCE.

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

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

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

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

26 7. IF THE PRIVILEGE PERIOD FOR WHICH A TAX IS IMPOSED BY SECTION
27 11-653 OF THIS SUBCHAPTER IS LESS THAN TWELVE MONTHS, EVERY TAXPAYER
28 REQUIRED TO MAKE A DECLARATION OF ESTIMATED TAX FOR SUCH PRIVILEGE PERI-
29 OD SHALL MAKE SUCH A DECLARATION IN ACCORDANCE WITH REGULATIONS OF THE
30 COMMISSIONER OF FINANCE.

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

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

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

45 (A) IF THE DECLARATION IS FILED ON OR BEFORE JUNE FIFTEENTH, THE ESTI-
46 MATED TAX SHOWN THEREON, AFTER APPLYING THERETO THE AMOUNT, IF ANY, PAID
47 DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF THIS
48 SECTION, SHALL BE PAID IN THREE EQUAL INSTALLMENTS. ONE OF SUCH INSTAL-
49 LMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION, ONE
50 SHALL BE PAID ON THE FOLLOWING SEPTEMBER FIFTEENTH, AND ONE ON THE
51 FOLLOWING DECEMBER FIFTEENTH.

52 (B) IF THE DECLARATION IS FILED AFTER JUNE FIFTEENTH AND NOT AFTER
53 SEPTEMBER FIFTEENTH OF SUCH PRIVILEGE PERIOD, AND IS NOT REQUIRED TO BE
54 FILED ON OR BEFORE JUNE FIFTEENTH OF SUCH PERIOD, THE ESTIMATED TAX
55 SHOWN ON SUCH DECLARATION, AFTER APPLYING THERETO THE AMOUNT, IF ANY,
56 PAID DURING THE SAME PRIVILEGE PERIOD PURSUANT TO SUBDIVISION ONE OF

1 THIS SECTION, SHALL BE PAID IN TWO EQUAL INSTALLMENTS. ONE OF SUCH
2 INSTALLMENTS SHALL BE PAID AT THE TIME OF THE FILING OF THE DECLARATION
3 AND ONE SHALL BE PAID ON THE FOLLOWING DECEMBER FIFTEENTH.

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

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

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

23 4. ANY AMOUNT PAID SHALL BE APPLIED AFTER PAYMENT AS A FIRST INSTALL-
24 MENT AGAINST THE ESTIMATED TAX OF THE TAXPAYER FOR THE CURRENT PRIVILEGE
25 PERIOD SHOWN ON THE DECLARATION REQUIRED TO BE FILED PURSUANT TO SECTION
26 11-657 OF THIS SUBCHAPTER OR, IF NO DECLARATION OF ESTIMATED TAX IS
27 REQUIRED TO BE FILED BY THE TAXPAYER PURSUANT TO SUCH SECTION, ANY SUCH
28 AMOUNT SHALL BE CONSIDERED A PAYMENT ON ACCOUNT OF THE TAX SHOWN ON THE
29 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR SUCH PRIVILEGE PERIOD.

30 5. NOTWITHSTANDING THE PROVISIONS OF SECTION 11-679 OF THIS CHAPTER OR
31 OF SECTION THREE-A OF THE GENERAL MUNICIPAL LAW, IF AN AMOUNT PAID
32 PURSUANT TO SUBDIVISION ONE OF THIS SECTION EXCEEDS THE TAX SHOWN ON THE
33 REPORT REQUIRED TO BE FILED BY THE TAXPAYER FOR THE PRIVILEGE PERIOD
34 DURING WHICH THE AMOUNT WAS PAID, INTEREST SHALL BE ALLOWED AND PAID ON
35 THE AMOUNT BY WHICH THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION
36 EXCEEDS SUCH TAX, AT THE OVERPAYMENT RATE SET BY THE COMMISSIONER OF
37 FINANCE PURSUANT TO SECTION 11-687 OF THIS CHAPTER, OR, IF NO RATE IS
38 SET, AT THE RATE OF FOUR PERCENT PER ANNUM FROM THE DATE OF PAYMENT OF
39 THE AMOUNT SO PAID PURSUANT TO SUCH SUBDIVISION TO THE FIFTEENTH DAY OF
40 THE THIRD MONTH FOLLOWING THE CLOSE OF THE PRIVILEGE PERIOD, PROVIDED,
41 HOWEVER, THAT NO INTEREST SHALL BE ALLOWED OR PAID UNDER THIS SUBDIVI-
42 SION IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR OR IF SUCH INTEREST
43 BECOMES PAYABLE SOLELY BECAUSE OF A CARRYBACK OF A NET OPERATING LOSS IN
44 A SUBSEQUENT PRIVILEGE PERIOD.

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

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

55 8. THE PROVISIONS OF THIS SECTION SHALL APPLY TO PRIVILEGE PERIODS OF
56 TWELVE MONTHS OTHER THAN A CALENDAR YEAR BY THE SUBSTITUTION OF THE

1 MONTHS OF SUCH FISCAL YEAR FOR THE CORRESPONDING MONTHS SPECIFIED IN
2 SUCH PROVISIONS.

3 9. THE COMMISSIONER OF FINANCE MAY GRANT A REASONABLE EXTENSION OF
4 TIME, NOT TO EXCEED SIX MONTHS, FOR PAYMENT OF ANY INSTALLMENT OF ESTI-
5 MATED TAX REQUIRED PURSUANT TO THIS SECTION, ON SUCH TERMS AND CONDI-
6 TIONS AS THE COMMISSIONER OF FINANCE MAY REQUIRE INCLUDING THE FURNISH-
7 ING OF A BOND OR OTHER SECURITY BY THE TAXPAYER IN AN AMOUNT NOT
8 EXCEEDING TWICE THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT
9 IS GRANTED, PROVIDED HOWEVER THAT INTEREST AT THE UNDERPAYMENT RATE SET
10 BY THE COMMISSIONER OF FINANCE PURSUANT TO SECTION 11-687 OF THIS
11 SUBCHAPTER, OR, IF NO RATE IS SET, AT THE RATE OF SEVEN AND ONE-HALF
12 PERCENT PER ANNUM FOR THE PERIOD OF THE EXTENSION SHALL BE CHARGED AND
13 COLLECTED ON THE AMOUNT FOR WHICH ANY EXTENSION OF TIME FOR PAYMENT IS
14 GRANTED UNDER THIS SUBDIVISION.

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

17 11. INTENTIONALLY OMITTED.

18 S 11-659 COLLECTION OF TAXES. EVERY FOREIGN CORPORATION (OTHER THAN A
19 MONEYED CORPORATION) SUBJECT TO THE PROVISIONS OF THIS SUBCHAPTER,
20 EXCEPT A CORPORATION HAVING AUTHORITY TO DO BUSINESS BY VIRTUE OF
21 SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS CORPORATION LAW, SHALL
22 FILE IN THE DEPARTMENT OF STATE A CERTIFICATE OF DESIGNATION IN ITS
23 CORPORATE NAME, SIGNED AND ACKNOWLEDGED BY ITS PRESIDENT OR A VICE-PRE-
24 SIDENT OR ITS SECRETARY OR TREASURER, UNDER ITS CORPORATE SEAL, DESIG-
25 NATING THE SECRETARY OF STATE AS ITS AGENT UPON WHOM PROCESS IN ANY
26 ACTION PROVIDED FOR BY THIS SUBCHAPTER MAY BE SERVED WITHIN THIS STATE,
27 AND SETTING FORTH AN ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL
28 A COPY OF ANY SUCH PROCESS AGAINST THE CORPORATION WHICH MAY BE SERVED
29 UPON THE SECRETARY OF STATE. IN CASE ANY SUCH CORPORATION SHALL HAVE
30 FAILED TO FILE SUCH CERTIFICATE OF DESIGNATION, IT SHALL BE DEEMED TO
31 HAVE DESIGNATED THE SECRETARY OF STATE AS ITS AGENT UPON WHOM SUCH PROC-
32 ESS AGAINST IT MAY BE SERVED; AND UNTIL A CERTIFICATE OF DESIGNATION
33 SHALL HAVE BEEN FILED THE CORPORATION SHALL BE DEEMED TO HAVE DIRECTED
34 THE SECRETARY OF STATE TO MAIL COPIES OF PROCESS SERVED UPON HIM OR HER
35 TO THE CORPORATION AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT
36 THE STATE. WHEN A CERTIFICATE OF DESIGNATION HAS BEEN FILED BY SUCH
37 CORPORATION THE SECRETARY OF STATE SHALL MAIL COPIES OF PROCESS THERE-
38 AFTER SERVED UPON THE SECRETARY OF STATE TO THE ADDRESS SET FORTH IN
39 SUCH CERTIFICATE. ANY SUCH CORPORATION, FROM TIME TO TIME, MAY CHANGE
40 THE ADDRESS TO WHICH THE SECRETARY OF STATE IS DIRECTED TO MAIL COPIES
41 OF PROCESS, BY FILING A CERTIFICATE TO THAT EFFECT EXECUTED, SIGNED AND
42 ACKNOWLEDGED IN LIKE MANNER AS A CERTIFICATE OF DESIGNATION AS HEREIN
43 PROVIDED. SERVICE OF PROCESS UPON ANY SUCH CORPORATION OR UPON ANY
44 CORPORATION HAVING A CERTIFICATE OF AUTHORITY UNDER SECTION EIGHT
45 HUNDRED FIVE OF THE LIMITED LIABILITY COMPANY LAW OR HAVING AUTHORITY TO
46 DO BUSINESS BY VIRTUE OF SECTION THIRTEEN HUNDRED FIVE OF THE BUSINESS
47 CORPORATION LAW, IN ANY ACTION COMMENCED AT ANY TIME PURSUANT TO THE
48 PROVISIONS OF THIS SUBCHAPTER, MAY BE MADE BY EITHER: (A) PERSONALLY
49 DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE, A DEPUTY SECRE-
50 TARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE TO
51 RECEIVE SUCH SERVICE DUPLICATE COPIES THEREOF AT THE OFFICE OF THE
52 DEPARTMENT OF STATE IN THE CITY OF ALBANY, IN WHICH EVENT THE SECRETARY
53 OF STATE SHALL FORTHWITH SEND BY REGISTERED MAIL, RETURN RECEIPT
54 REQUESTED, ONE OF SUCH COPIES TO THE CORPORATION AT THE ADDRESS DESIG-
55 NATED BY IT OR AT ITS LAST KNOWN OFFICE ADDRESS WITHIN OR WITHOUT THE
56 STATE, OR (B) PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF

1 STATE, A DEPUTY SECRETARY OF STATE OR WITH ANY PERSON AUTHORIZED BY THE
2 SECRETARY OF STATE TO RECEIVE SUCH SERVICE, A COPY THEREOF AT THE OFFICE
3 OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY AND BY DELIVERING A
4 COPY THEREOF TO, AND LEAVING SUCH COPY WITH, THE PRESIDENT, VICE-PRESI-
5 DENT, SECRETARY, ASSISTANT SECRETARY, TREASURER, ASSISTANT TREASURER, OR
6 CASHIER OF SUCH CORPORATION, OR THE OFFICER PERFORMING CORRESPONDING
7 FUNCTIONS UNDER ANOTHER NAME, OR A DIRECTOR OR MANAGING AGENT OF SUCH
8 CORPORATION, PERSONALLY WITHOUT THE STATE. PROOF OF SUCH PERSONAL
9 SERVICE WITHOUT THE STATE SHALL BE FILED WITH THE CLERK OF THE COURT IN
10 WHICH THE ACTION IS PENDING WITHIN THIRTY DAYS AFTER SUCH SERVICE, AND
11 SUCH SERVICE SHALL BE COMPLETE TEN DAYS AFTER PROOF THEREOF IS FILED.

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

29 S 2. Subparagraph (A) of paragraph 2 of subdivision (f) of section
30 11-508 of the administrative code of the city of New York, as added by
31 chapter 485 of the laws of 1994, is amended to read as follows:

32 (A) In the case of an issuer or obligor subject to tax under subchap-
33 ter two OR THREE-A of chapter six of this title, or subject to tax as a
34 utility corporation under chapter eleven of this title, the issuer's
35 allocation percentage shall be the percentage of the appropriate measure
36 (as defined hereinafter) which is required to be allocated within the
37 city on the report or reports, if any, required of the issuer or obligor
38 under chapter six or eleven of this title for the preceding year. The
39 appropriate measure referred to in the preceding sentence shall be: in
40 the case of an issuer or obligor subject to subchapter two OR THREE-A of
41 chapter six of this title, entire capital; and in the case of an issuer
42 or obligor subject to chapter eleven of this title as a utility corpo-
43 ration, gross income.

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

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

54 2. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND
55 FIFTEEN, THE TAX IMPOSED UNDER THIS SUBCHAPTER SHALL NOT APPLY TO A

1 CORPORATION THAT IS NOT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION
2 EXCEPT TO THE EXTENT PROVIDED IN SUBCHAPTER THREE-A OF THIS CHAPTER.

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

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

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

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

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

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

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

34 (2) taxes on or measured by income or profits paid or accrued within
35 the taxable year to the United States, or any of its possessions or to
36 any foreign country and taxes imposed under article nine, nine-A, thir-
37 teen-A or thirty-two of the tax law AS IN EFFECT ON DECEMBER
38 THIRTY-FIRST, TWO THOUSAND FOURTEEN and any tax imposed under this part
39 or subchapter two OR THREE-A of this chapter;

40 S 7. Subdivision 1 and paragraph (a) of subdivision 2 of section
41 11-671 of the administrative code of the city of New York are amended to
42 read as follows:

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

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

48 S 8. Paragraph (a) of subdivision 5 and subdivisions 7, 8 and 9 of
49 section 11-672 of the administrative code of the city of New York, para-
50 graph (a) of subdivision 5 as amended by chapter 525 of the laws of
51 1988, and paragraph (b) of subdivision 9 as amended by chapter 808 of
52 the laws of 1992, are amended to read as follows:

53 (a) If the taxpayer fails to comply with subchapter two [or], three OR
54 THREE-A of this chapter in not reporting a change or correction or rene-
55 gotiation, or computation or recomputation of tax, increasing or
56 decreasing its federal or New York state taxable income, alternative

1 minimum taxable income or other basis of tax as reported on its federal
2 or New York state income tax return or in not reporting a change or
3 correction or renegotiation, or computation or recomputation of tax,
4 which is treated in the same manner as if it were a deficiency for
5 federal or New York state income tax purposes or in not filing an
6 amended return or in not reporting the execution of a notice of waiver
7 executed pursuant to subsection (d) of section six thousand two hundred
8 thirteen of the internal revenue code or pursuant to subdivision (f) of
9 section one thousand eighty-one of the tax law, instead of the mode and
10 time of assessment provided for in subdivision two of this section, the
11 commissioner of finance may assess a deficiency based upon such
12 increased or decreased federal or New York state taxable income, alter-
13 native minimum taxable income or other basis of tax by mailing to the
14 taxpayer a notice of additional tax due specifying the amount of the
15 deficiency, and such deficiency, together with the interest, additions
16 to tax and penalties stated in such notice, shall be deemed assessed on
17 the date such notice is mailed unless within thirty days after the mail-
18 ing of such notice a report of the federal or New York state change or
19 correction or renegotiation, or computation or recomputation of tax, or
20 an amended return, where such return was required by subchapter two
21 [or], three OR THREE-A, is filed accompanied by a statement showing
22 wherein such federal or New York state determination and such notice of
23 additional tax due are erroneous.

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

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

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

51 (a) If a taxpayer fails to comply with subchapter two OR THREE-A of
52 this chapter in not reporting a change or correction of its sales and
53 compensating use tax liability or in not filing a copy of an amended
54 return or report relating to its sales and compensating use tax liabil-
55 ity, instead of the mode and time of assessment provided for in subdivi-
56 sion two of this section, the commissioner of finance may assess a defi-

1 deficiency based upon such changed or corrected sales and compensating use
2 tax liability, as same relates to credits claimed under subchapter two
3 OR THREE-A of this chapter, by mailing to the taxpayer a notice of addi-
4 tional tax due specifying the amount of the deficiency, and such defi-
5 ciency, together with the interest, additions to tax and penalties stat-
6 ed in such notice, shall be deemed assessed on the date such notice is
7 mailed unless within thirty days after the mailing of such notice a
8 report of the state change or correction or a copy of an amended return
9 or report, where such copy was required by subchapter two OR THREE-A, is
10 filed accompanied by a statement showing wherein such state determi-
11 nation and such notice of additional tax due are erroneous.

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

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

25 S 9. Subdivisions 1 and 3 of section 11-673 of the administrative code
26 of the city of New York, the first undesignated paragraph of subdivision
27 1 as amended by chapter 808 of the laws of 1992, are amended to read as
28 follows:

29 1. Assessment date. The amount of tax which a return shows to be due,
30 or the amount of tax which a return would have shown to be due but for a
31 mathematical error, shall be deemed to be assessed on the date of filing
32 of the return (including any amended return showing an increase of tax).
33 If a notice of deficiency has been mailed, the amount of the deficiency
34 shall be deemed to be assessed on the date specified in subdivision two
35 of section 11-672 of this subchapter if no petition is both served on
36 the commissioner of finance and filed with the tax appeals tribunal, or
37 if a petition is so served and filed, then upon the date when a decision
38 of the tax appeals tribunal establishing the amount of the deficiency
39 becomes final. If a report or an amended return filed pursuant to
40 subchapter two [or], three OR THREE-A of this chapter concedes the accu-
41 racy of a federal or New York state adjustment or change or correction
42 or renegotiation or computation or recomputation of tax, any deficiency
43 in tax under subchapter two [or], three OR THREE-A of this chapter
44 resulting therefrom shall be deemed to be assessed on the date of filing
45 such report or amended return, and such assessment shall be timely
46 notwithstanding section 11-674 of this chapter.

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

53 If a notice of additional tax due, as prescribed in subdivision five
54 of section 11-672 of this chapter, has been mailed, the amount of the
55 deficiency shall be deemed to be assessed on the date specified in such
56 subdivision unless within thirty days after the mailing of such notice a

1 report of the federal or New York state adjustment or change or
2 correction or renegotiation or computation or recomputation of tax, or
3 an amended return, where such return was required by subchapter two
4 [or], three OR THREE-A of this chapter, is filed accompanied by a state-
5 ment showing wherein such federal or New York state determination and
6 such notice of additional tax due are erroneous.

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

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

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

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

25 3. Exceptions.

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

27 (1) no return is filed,

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

29 (3) in the case of the tax imposed under subchapter two [or], three OR
30 THREE-A of this chapter, the taxpayer fails to file a report or amended
31 return required thereunder, in respect of an increase or decrease in
32 federal or New York state taxable income, alternative minimum taxable
33 income or other basis of tax or federal or New York state tax, or in
34 respect of a change or correction or renegotiation or in respect of the
35 execution of a notice of waiver report of which is required thereunder,
36 or computation or recomputation of tax, which is treated in the same
37 manner as if it were a deficiency for federal or New York state income
38 tax purposes, or

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

45 (b) Extension by agreement. Where, before the expiration of the time
46 prescribed in this section for the assessment of tax, both the commis-
47 sioner of finance and the taxpayer have consented in writing to its
48 assessment after such time, the tax may be assessed at any time prior to
49 the expiration of the period agreed upon. The period so agreed upon may
50 be extended by subsequent agreements in writing made before the expira-
51 tion of the period previously agreed upon.

52 (c) Report of federal or New York state change or correction. In the
53 case of the tax imposed under subchapter two [or], three OR THREE-A of
54 this chapter, if the taxpayer files a report or amended return required
55 thereunder, in respect of an increase or decrease in federal or New York
56 state taxable income, alternative minimum taxable income or other basis

1 of tax or federal or New York state tax, or in respect of a change or
2 correction or renegotiation, or in respect of the execution of a notice
3 of waiver report of which is required thereunder, or computation or
4 recomputation of tax, which is treated in the same manner as if it were
5 a deficiency for federal or New York state income tax purposes, the
6 assessment (if not deemed to have been made upon the filing of the
7 report or amended return) may be made at any time within two years after
8 such report or amended return was filed. The amount of such assessment
9 of tax shall not exceed the amount of the increase in city tax attribut-
10 able to such federal or New York state change or correction or renegoti-
11 ation, or computation or recomputation of tax. The provisions of this
12 paragraph shall not affect the time within which or the amount for which
13 an assessment may otherwise be made.

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

19 (e) Recovery of erroneous refund. An erroneous refund shall be consid-
20 ered an underpayment of tax on the date made, and an assessment of a
21 deficiency arising out of an erroneous refund may be made at any time
22 within two years from the making of the refund, except that the assess-
23 ment may be made within five years from the making of the refund if it
24 appears that any part of the refund was induced by fraud or misrepresen-
25 tation of a material fact.

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

32 (1) (A) such written request notifies the commissioner of finance that
33 the taxpayer contemplates dissolution at or before the expiration of
34 such eighteen-month period, (B) the dissolution is in good faith begun
35 before the expiration of such eighteen-month period, (C) the dissolution
36 is completed;

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

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

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

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

54 (2) WITH REGARD TO TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST,
55 TWO THOUSAND FIFTEEN, NO CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL
56 UPON WHICH THE TAXPAYER'S RETURN (OR ANY ADDITIONAL ASSESSMENT) WAS

1 BASED SHALL BE MADE WHERE AN ASSESSMENT OF TAX IS MADE DURING THE ADDI-
2 TIONAL PERIOD OF LIMITATION UNDER SUBPARAGRAPH THREE OR FOUR OF PARA-
3 GRAPH (A) OR UNDER PARAGRAPH (C), (D) OR (I), EXCEPT TO THE EXTENT SUCH
4 ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW YORK STATE TAXABLE
5 INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX, OR BASED ON A
6 CHANGE, CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON THE EXECUTION OF
7 A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER, OR COMPUTATION
8 OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME MANNER AS IF IT
9 WERE A DEFICIENCY FOR NEW YORK STATE INCOME TAX PURPOSES; AND WHERE ANY
10 SUCH ASSESSMENT HAS BEEN MADE, OR WHERE A NOTICE OF DEFICIENCY HAS BEEN
11 MAILED TO THE TAXPAYER ON THE BASIS OF ANY SUCH PROPOSED ASSESSMENT, NO
12 CHANGE OF THE ALLOCATION OF INCOME OR CAPITAL SHALL BE MADE IN A
13 PROCEEDING ON THE TAXPAYER'S CLAIM FOR REFUND OF SUCH ASSESSMENT OR ON
14 THE TAXPAYER'S PETITION FOR REDETERMINATION OF SUCH DEFICIENCY, EXCEPT
15 TO THE EXTENT SUCH ASSESSMENT IS BASED ON AN INCREASE OR DECREASE IN NEW
16 YORK STATE TAXABLE INCOME OR OTHER BASIS OF TAX OR NEW YORK STATE TAX,
17 OR BASED ON A CHANGE OR CORRECTION OR RENEGOTIATION OF TAX, OR BASED ON
18 THE EXECUTION OF A NOTICE OF WAIVER REPORT WHICH IS REQUIRED THEREUNDER,
19 OR COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE SAME
20 MANNER AS IF IT WERE AN OVERPAYMENT FOR NEW YORK STATE INCOME TAX
21 PURPOSES.

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

28 (i) Report of changed or corrected sales and compensating use tax
29 liability. In the case of a tax imposed under subchapter two OR THREE-A
30 of this chapter, if the taxpayer files a report or amended return or
31 report required thereunder, in respect of a change or correction of
32 sales and compensating use tax liability, the assessment (if not deemed
33 to have been made upon the filing of the report) may be made at any time
34 within two years after such report or amended return or report was
35 filed. The amount of such assessment of tax shall not exceed the amount
36 of the increase in city tax attributable to such state change or
37 correction. The provisions of this paragraph shall not affect the time
38 within which or the amount for which an assessment may otherwise be
39 made.

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

46 For the purposes of this subdivision:

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

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

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

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

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

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

18 3. Failure to file declaration or underpayment of estimated tax. If
19 any taxpayer fails to file a declaration of estimated tax under subchap-
20 ter two [or], three OR THREE-A of this chapter, or fails to pay all or
21 any part of an amount which is applied as an installment against such
22 estimated tax, it shall be deemed to have made an underpayment of esti-
23 mated tax. There shall be added to the tax for the taxable year an
24 amount at the underpayment rate set by the commissioner of finance
25 pursuant to section 11-687 of this subchapter, or, if no rate is set, at
26 the rate of seven and one-half percent per annum upon the amount of the
27 underpayment for the period of the underpayment but not beyond the
28 fifteenth day of the third month following the close of the taxable
29 year. The amount of the underpayment shall be, with respect to any
30 installment of estimated tax computed on the basis of the preceding
31 year's tax, the excess of the amount required to be paid over the
32 amount, if any, paid on or before the last day prescribed for such
33 payment or, with respect to any other installment of estimated tax, the
34 excess of the amount of the installment which would be required to be
35 paid if the estimated tax were equal to ninety percent of the tax shown
36 on the return for the taxable year (or if no return was filed, ninety
37 percent of the tax for such year) over the amount, if any, of the
38 installment paid on or before the last day prescribed for such payment.
39 In any case in which there would be no underpayment if "eighty percent"
40 were substituted for "ninety percent" each place it appears in this
41 subdivision, the addition to the tax shall be equal to seventy-five
42 percent of the amount otherwise determined. No underpayment shall be
43 deemed to exist with respect to a declaration or installment otherwise
44 due on or after the termination of existence of the taxpayer.

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

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

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

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

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

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

25 S 16. Subdivisions 3, 4, 9 and 11 of section 11-678 of the administra-
26 tive code of the city of New York, subdivision 3 as amended by chapter
27 241 of the laws of 1989 and subdivision 4 as amended by local law number
28 57 of the city of New York for the year 2001, are amended to read as
29 follows:

30 3. Notice of change or correction of federal or New York state income
31 or other basis of tax. If a taxpayer is required by subchapter two [or],
32 three OR THREE-A of this chapter to file a report or amended return in
33 respect of (a) a decrease or increase in federal or New York state taxa-
34 ble income, alternative minimum taxable income or other basis of tax or
35 federal or New York state tax, (b) a federal or New York state change or
36 correction or renegotiation, or computation or recomputation of tax,
37 which is treated in the same manner as if it were an overpayment for
38 federal or New York state income tax purposes, claim for credit or
39 refund of any resulting overpayment of tax shall be filed by the taxpay-
40 er within two years from the time such report or amended return was
41 required to be filed with the commissioner of finance. If the report or
42 amended return required by subchapter two [or], three OR THREE-A of this
43 chapter is not filed within the ninety day period therein specified, no
44 interest shall be payable on any claim for credit or refund of the over-
45 payment attributable to the federal or New York state change or
46 correction. The amount of such credit or refund:

47 (c) shall, (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY FIRST, TWO
48 THOUSAND FIFTEEN, be computed without change of the allocation of income
49 or capital upon which the taxpayer's return (or any additional assess-
50 ment) was based, and, (II) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANU-
51 ARY FIRST, TWO THOUSAND FIFTEEN, BE COMPUTED WITHOUT CHANGE OF THE ALLO-
52 CATION OF INCOME OR CAPITAL UPON WHICH THE TAXPAYER'S RETURN (OR ANY
53 ADDITIONAL ASSESSMENT) WAS BASED TO THE EXTENT THAT THE CLAIM FOR REFUND
54 ARISES FROM A DECREASE OR INCREASE IN FEDERAL TAXABLE INCOME OR OTHER
55 BASIS OF TAX OR FEDERAL TAX, OR FROM A FEDERAL CHANGE, CORRECTION, RENE-
56 GOTIATION, COMPUTATION OR RECOMPUTATION OF TAX, WHICH IS TREATED IN THE

1 SAME MANNER AS IF IT WERE AN OVERPAYMENT FOR FEDERAL INCOME TAX
2 PURPOSES, AND

3 (d) shall not exceed the amount of the reduction in tax attributable
4 to such decrease or increase in federal or New York state taxable
5 income, alternative minimum taxable income or other basis of tax or
6 federal or New York state tax or to such federal or New York state
7 change or correction or renegotiation, or computation or recomputation
8 of tax.

9 This subdivision shall not affect the time within which or the amount
10 for which a claim for credit or refund may be filed apart from this
11 subdivision.

12 4. Overpayment attributable to net operating loss carry back or capi-
13 tal loss carry back. A claim for credit or refund of so much of an over-
14 payment under subchapter two OR THREE-A of this chapter as is attribut-
15 able to the application to the taxpayer of a net operating loss carry
16 back or a capital loss carry back shall be filed within three years from
17 the time the return was due (including extensions thereof) for the taxa-
18 ble year of the loss, or within the period prescribed in subdivision two
19 in respect of such taxable year, or within the period prescribed in
20 subdivision three, where applicable, in respect to the taxable year to
21 which the net operating loss or capital loss is carried back, whichever
22 expires the latest. Where such claim for credit or refund is filed after
23 the expiration of the period prescribed in subdivision one or in subdivi-
24 sion two where applicable, in respect to the taxable year to which the
25 net operating loss or capital loss is carried back, the amount of such
26 credit or refund shall be computed without change of the allocation of
27 income or capital upon which the taxpayer's return (or any additional
28 assessment) was based.

29 9. Prepaid tax. For purposes of this section, any tax paid by the
30 taxpayer before the last day prescribed for its payment (including any
31 amount paid by the taxpayer as estimated tax for a taxable year) shall
32 be deemed to have been paid by it on the fifteenth day of the third
33 month following the close of the taxable year the income of which is the
34 basis for tax under subchapter two [or], three OR THREE-A of this chap-
35 ter, or on the last day prescribed in part one of subchapter three or
36 subchapter four for the filing of a final return for such taxable year,
37 or portion thereof, determined in all cases without regard to any exten-
38 sion of time granted the taxpayer.

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

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

54 S 17. Subdivisions 4 and 6 of section 11-679 of the administrative
55 code of the city of New York, subdivision 4 as amended by local law
56 number 57 of the city of New York for the year 2001 and subdivision 6 as

1 amended by chapter 241 of the laws of 1989, are amended to read as
2 follows:

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

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

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

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

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

39 (c) whether the petitioner is liable for any increase in a deficiency
40 where such increase is asserted initially after a notice of deficiency
41 was mailed and a petition under this section filed, unless such increase
42 in deficiency is the result of an increase or decrease in federal or New
43 York state taxable income, alternative minimum taxable income or other
44 basis of tax or federal or New York state tax or a federal or New York
45 state change or correction or renegotiation, or computation or recompu-
46 tation of tax, which is treated in the same manner as if it were a defi-
47 ciency for federal or New York state income tax purposes, required to be
48 reported under subchapter two [or], three OR THREE-A of this chapter,
49 and of which increase, decrease, change or correction or renegotiation,
50 or computation or recomputation, the commissioner of finance had no
51 notice at the time he or she mailed the notice of deficiency or unless
52 such increase in deficiency is the result of a change or correction of
53 sales and compensating use tax liability required to be reported under
54 subchapter two OR THREE-A of this chapter, and of which change or
55 correction the commissioner of finance had no notice at the time he or
56 she mailed the notice of deficiency; and

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

4 (a) Authority to set interest rates. The commissioner of finance shall
5 set the overpayment and underpayment rates of interest to be paid pursu-
6 ant to sections 11-606, 11-608, 11-645, 11-647, 11-656, 11-658, 11-675,
7 11-676, and 11-679 of this chapter, but if no such rate or rates of
8 interest are set, such overpayment rate shall be deemed to be set at six
9 percent per annum and such underpayment rate shall be deemed to be set
10 at seven and one-half percent per annum. Such overpayment and underpay-
11 ment rates shall be the rates prescribed in paragraph (b) of this subdivi-
12 sion but the underpayment rate shall not be less than seven and one-
13 half percent per annum. Any such rates set by the commissioner of
14 finance shall apply to taxes, or any portion thereof, which remain or
15 become due or overpaid on or after the date on which such rates become
16 effective and shall apply only with respect to interest computed or
17 computable for periods or portions of periods occurring in the period
18 during which such rates are in effect.

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

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

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

34 (4) No tenant shall be authorized to receive a reduction in base rent
35 subject to tax under the provisions of this subdivision, until the prem-
36 ises with respect to which it is claiming a reduction in base rent meet
37 the requirements in the definition of eligible premises and until it has
38 obtained a certification of eligibility from the mayor or an agency
39 designated by the mayor, and an annual certification from the mayor or
40 an agency designated by the mayor as to the number of eligible aggregate
41 employment shares maintained by such tenant which may qualify for
42 obtaining a base rent reduction for the tenant's tax year. Any written
43 documentation submitted to the mayor or such agency or agencies in order
44 to obtain any such certification shall be deemed a written instrument
45 for purposes of section 175.00 of the penal law. Application fees for
46 such certifications shall be determined by the mayor or such agency or
47 agencies. No certification of eligibility shall be issued to an eligible
48 business on or after July first, nineteen hundred ninety-nine unless
49 such business meets the requirements of either subparagraph (a) or (b)
50 below:

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

55 (2) prior to such date improvements have been commenced on such prem-
56 ises or parcel which improvements will meet the requirements of subdivi-

1 sion (e) of section 22-621 of this code relating to expenditures for
2 improvements;

3 (3) prior to such date such business submits a preliminary application
4 for a certification of eligibility to such mayor or such agency or agen-
5 cies with respect to a proposed relocation to such particular premises;
6 and

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

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

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

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

28 Any tenant subject to a tax imposed under chapter five, or subchapter
29 two [or], three OR THREE-A of chapter six, of this title obtaining a
30 certification of eligibility pursuant to subdivision (b) of section
31 22-622 of the code shall be deemed to have obtained the certification of
32 eligibility required by this paragraph.

33 S 23. Subdivision (a) and the opening paragraph of subdivision (o) of
34 section 22-621 of the administrative code of the city of New York,
35 subdivision (a) as amended by chapter 149 of the laws of 1999 and the
36 opening paragraph of subdivision (o) as added by chapter 143 of the laws
37 of 2004, are amended to read as follows:

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

55 "Total attributed eligible aggregate employment shares" means, for any
56 relocation, the sum of the number of eligible aggregate employment

1 shares apportioned to such relocation pursuant to paragraph one of this
2 subdivision, less any excess shares determined with respect to such
3 relocation pursuant to paragraph two of this subdivision, plus any
4 excess shares attributed to such relocation pursuant to paragraph three
5 of this subdivision. Except as provided in paragraph four of this subdivi-
6 sion, any eligible aggregate employment shares that are attributed to
7 a relocation to particular premises pursuant to paragraph three of this
8 subdivision shall be treated as eligible aggregate employment shares
9 that are maintained with respect to such premises and shall be subject
10 to all provisions of this chapter and the provisions for a credit
11 against a tax imposed under chapter five or subchapter two [or], three
12 OR THREE-A of chapter six or chapter eleven of title eleven of the code
13 as such provisions pertain to such relocation.

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

18 (a) An eligible business that relocates as defined in subdivision (j)
19 of section 22-621 of the code shall be allowed to receive a credit
20 against a tax imposed by chapter five, or subchapter two [or], three OR
21 THREE-A of chapter six, or chapter eleven, of title eleven of the code,
22 as described in subdivision (i) of section 11-503, subdivision seventeen
23 of section 11-604, SUBDIVISION SEVENTEEN OF SECTION 11-654, section
24 11-643.7 and section 11-1105.2 of the code, and a reduction in base rent
25 subject to tax as described in subdivision f of section 11-704 of the
26 code, provided, however, notwithstanding any other provision of law to
27 the contrary, no such credit shall be allowed against the tax imposed
28 under such chapter eleven for a relocation taking place prior to January
29 first, nineteen hundred ninety-nine.

30 (d) An eligible business other than a utility company subject to the
31 supervision of the department of public service shall not be authorized
32 to receive a credit against the gross receipts tax imposed under chapter
33 eleven of title eleven of the code, unless such eligible business elects
34 to take the credit authorized by this section against the tax imposed by
35 such chapter on an application filed with respect to the first relo-
36 cation of such business that qualifies or will qualify under this
37 section, with the mayor or the agency designated by such mayor pursuant
38 to subdivision (b) of this section. The election authorized by this
39 subdivision may not be withdrawn after the issuance of such certif-
40 ication of eligibility. No taxpayer that has previously received a
41 certification of eligibility to receive such credit against any tax
42 imposed by chapter five or subchapter two [or], three OR THREE-A of
43 chapter six of title eleven of the code may make the election authorized
44 by this subdivision. No taxpayer that makes the election provided in
45 this subdivision shall be authorized to take such credit against any tax
46 imposed by chapter five or subchapter two [or], three OR THREE-A of
47 chapter six of title eleven of the code.

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

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

55 (1) has been conducting substantial business operations at one or more
56 business locations outside the city of New York for the twenty-four

1 consecutive months immediately preceding the taxable year during which
2 such eligible business relocates as defined in subdivision (j) of this
3 section but has not maintained employment shares at premises in the city
4 of New York at any time during the period beginning January first, two
5 thousand two and ending on the date it enters into a lease or a contract
6 to purchase the premises that will qualify as eligible premises pursuant
7 to this chapter; and

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

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

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

29 (a) An eligible business that relocates as defined in subdivision (j)
30 of section 22-623 of this chapter or a special eligible business that
31 relocates as defined in subdivision (m) of section 22-623 of this chap-
32 ter shall be allowed to receive a credit against a tax imposed by chap-
33 ter five, or subchapter two [or], three OR THREE-A of chapter six, or
34 chapter eleven, of title eleven of the code, as described in subdivision
35 (l) of section 11-503, subdivision nineteen of section 11-604, SUBDIVI-
36 SION NINETEEN OF SECTION 11-654, section 11-643.9 or section 11-1105.3
37 of the code.

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

55 S 27. This act shall take effect immediately and shall apply to taxa-
56 ble years beginning on or after January 1, 2015.

1 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

10 S 3. This act shall take effect immediately provided, however, that
11 the applicable effective date of Parts A through QQ of this act shall be
12 as specifically set forth in the last section of such Parts.