

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

S. 2009--B

A. 3009--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT intentionally omitted (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); intentionally omitted (Part C); intentionally omitted (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); intentionally omitted (Part G); to amend the tax law and the administrative code of the city of New York, in relation to extending the limitation on charitable contribution deductions for certain taxpayers (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 economic development law, in relation to the eligibility of entertainment companies for the excelsior jobs program (Part K); intentionally omitted (Part L); intentionally omitted (Part M); intentionally omitted (Part N); to amend the economic development law and the tax law, in relation to establishing a tax credit for employ-

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

LBD12574-04-5

ers who procure skills training for employees necessary to cultivate a talented workforce (Part O); to amend the tax law, in relation to the metropolitan transportation business tax surcharge on utility services and excise tax on sale of telecommunication services, and the excise tax on telecommunication services imposed by article 9 of such law (Part P); intentionally omitted (Part Q); intentionally omitted (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 to repeal 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); intentionally omitted (Part W); intentionally omitted (Part X); intentionally omitted (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); intentionally omitted (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 extending the effectiveness thereof (Part DD); intentionally omitted (Part EE); intentionally omitted (Part FF); intentionally omitted (Part GG); intentionally omitted (Part HH); intentionally omitted (Part II); intentionally omitted (Part JJ); intentionally omitted (Part KK); intentionally omitted (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); intentionally omitted (Part QQ); to amend the tax law, in relation to the credit for certain alternative fuel vehicle refueling property and

electric vehicle recharging property (Part RR); to amend the tax law, in relation to sales and compensating use taxes imposed with respect to vessels by article 28 of the tax law and pursuant to the authority of article 29 of such law (Part SS); to amend the tax law, in relation to sales and compensating use taxes imposed with respect to certain aircraft by article 28 and pursuant to the authority of article 29 of such law (Part TT); to amend the tax law, in relation to exempting from sales and use taxes certain tangible personal property or services (Part UU); to amend the racing, pari-mutuel wagering and breeding law, in relation to the New York Jockey Injury Compensation Fund, Inc. (Part VV); to amend the tax law, in relation to vendor fees paid to vendor tracks (Part WW); to amend the racing, pari-mutuel wagering and breeding law, in relation to account wagering; and providing for the repeal of certain provisions upon expiration thereof (Part XX); to amend the tax law, in relation to the exemption of libraries from the imposition of the metropolitan commuter transportation mobility tax (Part YY); and to amend part CC of a chapter of the laws of 2015 amending the vehicle and traffic law relating to directing the city of Buffalo to adjudicate traffic infractions, as proposed in legislative bill numbers S.2008-B and A.3008-B, in relation to the effectiveness thereof (Part ZZ)

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 ZZ. 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 Intentionally Omitted

14 PART B

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

18 1. Except as otherwise provided by law, the provisions of this section
19 shall be utilized by the state to calculate the annual amount due to be
20 paid to the city of New York by the state to reimburse such city for tax
21 receipts foregone (a) as a result of [a] chapter THREE HUNDRED
22 EIGHTY-NINE of the laws of nineteen hundred ninety-seven [that reduced
23 the rates of tax imposed pursuant to authority granted under section
24 thirteen hundred one of the tax law and that created a new "state school
25 tax reduction credit" against liabilities imposed pursuant to the

1 authority granted the city by such section and other statutes authoriz-
2 ing the imposition of a personal income tax on the residents of such
3 city], and (b) as a result of the tax rate adjustments made by [a] chap-
4 ter FIFTY-SEVEN of the laws of two thousand ten AND BY A CHAPTER OF THE
5 LAWS OF TWO THOUSAND FIFTEEN, which amended this subdivision.

6 S 2. Paragraphs 1, 2 and 3 of subsection (a) of section 1304 of the
7 tax law, as amended by section 2 of part EE of chapter 57 of the laws of
8 2010, are amended to read as follows:

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

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

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

39 [(B) For taxable years beginning in two thousand one and two thousand
40 two and for taxable years beginning after two thousand five and before
41 two thousand ten:

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

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

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

IF THE CITY TAXABLE INCOME IS:

THE TAX IS:

NOT OVER \$14,400

2.55% OF THE CITY TAXABLE INCOME

OVER \$14,400 BUT NOT

\$367 PLUS 3.1% OF EXCESS

OVER \$30,000

OVER \$14,400

OVER \$30,000 BUT NOT

\$851 PLUS 3.15% OF EXCESS

OVER \$60,000

OVER \$30,000

OVER \$60,000 BUT NOT

\$1,796 PLUS 3.2% OF EXCESS

OVER \$500,000

OVER \$60,000

OVER \$500,000

\$16,869 PLUS 3.4% OF EXCESS

OVER \$500,000

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

If the city taxable income is:

The tax is:

Not over \$14,400

2.55% of the city taxable income

Over \$14,400 but not

\$367 plus 3.1% of excess

over \$30,000

over \$14,400

Over \$30,000 but not

\$851 plus 3.15% of excess

over \$60,000

over \$30,000

Over \$60,000 but not

\$1,796 plus 3.2% of excess

over \$500,000

over \$60,000

Over \$500,000

\$15,876 plus 3.4% of excess

Over \$500,000

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

If the city taxable income is:

The tax is:

Not over \$14,400

2.55% of the city taxable income

Over \$14,400 but not

\$367 plus 3.1% of excess

over \$30,000

over \$14,400

Over \$30,000 but not

\$851 plus 3.15% of excess

over \$60,000

over \$30,000

Over \$60,000

\$1,796 plus 3.2% of excess

over \$60,000]

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

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

1 IF THE CITY TAXABLE INCOME IS: THE TAX IS:
2 NOT OVER \$12,000 2.55% OF THE CITY TAXABLE INCOME
3 OVER \$12,000 BUT NOT \$306 PLUS 3.1% OF EXCESS
4 OVER \$25,000 OVER \$12,000
5 OVER \$25,000 BUT NOT \$709 PLUS 3.15% OF EXCESS
6 OVER \$50,000 OVER \$25,000
7 OVER \$50,000 BUT NOT \$1,497 PLUS 3.2% OF EXCESS
8 OVER \$500,000 OVER \$50,000
9 OVER \$500,000 \$16,891 PLUS 3.4%
10 OF EXCESS 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 \$12,000 2.55% of the city taxable income
15 Over \$12,000 but not \$306 plus 3.1% of excess
16 over \$25,000 over \$12,000
17 Over \$25,000 but not \$709 plus 3.15% of excess
18 over \$50,000 over \$25,000
19 Over \$50,000 but not \$1,497 plus 3.2% of excess
20 over \$500,000 over \$50,000
21 Over \$500,000 \$15,897 plus 3.4%
22 of excess 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 \$12,000 2.55% of the city taxable income
28 Over \$12,000 but not \$306 plus 3.1% of excess
29 over \$25,000 over \$12,000
30 Over \$25,000 but not \$709 plus 3.15% of excess
31 over \$50,000 over \$25,000
32 Over \$50,000 \$1,497 plus 3.2% of excess
33 over \$50,000]

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

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

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

46 IF THE CITY TAXABLE INCOME IS: THE TAX IS:
47 NOT OVER \$21,600 2.55% OF THE CITY TAXABLE INCOME
48 OVER \$21,600 BUT NOT \$551 PLUS 3.1% OF EXCESS
49 OVER \$45,000 OVER \$21,600
50 OVER \$45,000 BUT NOT \$1,276 PLUS 3.15% OF EXCESS
51 OVER \$90,000 OVER \$45,000

1 OVER \$90,000 BUT NOT \$2,694 PLUS 3.2% OF EXCESS
2 OVER \$500,000 OVER \$90,000
3 OVER \$500,000 \$16,803 PLUS 3.4% OF EXCESS
4 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 \$21,600 2.55% of the city taxable income
9 Over \$21,600 but not \$551 plus 3.1% of excess
10 over \$45,000 over \$21,600
11 Over \$45,000 but not \$1,276 plus 3.15% of excess
12 over \$90,000 over \$45,000
13 Over \$90,000 but not \$2,694 plus 3.2% of excess
14 over \$500,000 over \$90,000
15 Over \$500,000 \$15,814 plus 3.4% of excess
16 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 \$21,600 2.55% of the city taxable income
22 Over \$21,600 but not \$551 plus 3.1% of excess
23 over \$45,000 over \$21,600
24 Over \$45,000 but not \$1,276 plus 3.15% of excess
25 over \$90,000 over \$45,000
26 Over \$90,000 \$2,694 plus 3.2% of excess
27 over \$90,000]

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

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

32 IF THE CITY TAXABLE INCOME IS: THE TAX IS:
33 NOT OVER \$14,400 2.55% OF THE CITY TAXABLE INCOME
34 OVER \$14,400 BUT NOT \$367 PLUS 3.1% OF EXCESS
35 OVER \$30,000 OVER \$14,400
36 OVER \$30,000 BUT NOT \$851 PLUS 3.15% OF EXCESS
37 OVER \$60,000 OVER \$30,000
38 OVER \$60,000 BUT NOT \$1,796 PLUS 3.2% OF EXCESS
39 OVER \$500,000 OVER \$60,000
40 OVER \$500,000 \$16,869 PLUS 3.4% OF EXCESS
41 OVER \$500,000

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

44 If the city taxable income is: The tax is:
45 Not over \$14,400 2.55% of the city taxable income
46 Over \$14,400 but not \$367 plus 3.1% of excess
47 over \$30,000 over \$14,400
48 Over \$30,000 but not \$851 plus 3.15% of excess
49 over \$60,000 over \$30,000
50 Over \$60,000 but not \$1,796 plus 3.2% of excess

1	over \$500,000	over \$60,000
2	Over \$500,000	\$15,876 plus 3.4% of excess
3		over \$500,000

4 [(B) For taxable years beginning in two thousand one and two thousand
5 two and for taxable years beginning after two thousand five and before
6 two thousand ten:

7	If the city taxable income is:	The tax is:
8	Not over \$14,400	2.55% of the city taxable income
9	Over \$14,400 but not	\$367 plus 3.1% of excess
10	over \$30,000	over \$14,400
11	Over \$30,000 but not	\$851 plus 3.15% of excess
12	over \$60,000	over \$30,000
13	Over \$60,000	\$1,796
14		plus 3.2% of excess
15		over \$60,000]

16 (3) Resident unmarried individuals, resident married individuals
17 filing separate returns and resident estates and trusts. The tax under
18 this section for each taxable year on the city taxable income of every
19 city resident individual who is not a married individual who makes a
20 single return jointly with his or her spouse under subdivision (b) of
21 section 11-1751 of this chapter or a city resident head of a household
22 or a city resident surviving spouse, and on the city taxable income of
23 every city resident estate and trust shall be determined in accordance
24 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 \$12,000	2.55% OF THE CITY TAXABLE INCOME
28	OVER \$12,000 BUT NOT	\$306 PLUS 3.1% OF EXCESS
29	OVER \$25,000	OVER \$12,000
30	OVER \$25,000 BUT NOT	\$709 PLUS 3.15% OF EXCESS
31	OVER \$50,000	OVER \$25,000
32	OVER \$50,000 BUT NOT	\$1,497 PLUS 3.2% OF EXCESS
33	OVER \$500,000	OVER \$50,000
34	OVER \$500,000	\$16,891 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 \$12,000	2.55% of the city taxable income
40	Over \$12,000 but not	\$306 plus 3.1% of excess
41	over \$25,000	over \$12,000
42	Over \$25,000 but not	\$709 plus 3.15% of excess
43	over \$50,000	over \$25,000
44	Over \$50,000 but not	\$1,497 plus 3.2% of excess
45	over \$500,000	over \$50,000
46	Over \$500,000	\$15,897 plus 3.4% of excess
47		over \$500,000

1 [(B) For taxable years beginning in two thousand one and two thousand
2 two and for taxable years beginning after two thousand five and before
3 two thousand ten:

4 If the city taxable income is:	The tax is:
5 Not over \$12,000	2.55% of the city taxable income
6 Over \$12,000 but not	\$306 plus 3.1% of excess
7 over \$25,000	over \$12,000
8 Over \$25,000 but not	\$709 plus 3.15% of excess
9 over \$50,000	over \$25,000
10 Over \$50,000	\$1,497 plus 3.2% of excess
11	over \$50,000]

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

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

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

53 S 6. This act shall take effect immediately.

Intentionally Omitted

PART D

Intentionally Omitted

PART E

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

15. RECOUPMENT OF EXEMPTIONS BY COMMISSIONER. (A) GENERALLY. IF THE COMMISSIONER SHOULD DETERMINE, BASED UPON DATA COLLECTED UNDER THE STAR REGISTRATION PROGRAM, THAT PROPERTY IMPROPERLY RECEIVED THE BASIC STAR EXEMPTION ON ONE OR MORE OF THE THREE PRECEDING ASSESSMENT ROLLS, THE COMMISSIONER SHALL TREAT THE EXEMPTION AS AN IMPROPERLY GRANTED EXEMPTION AND PROCEED IN THE MANNER PROVIDED BY THIS SUBDIVISION; PROVIDED THAT FINAL ASSESSMENT ROLLS THAT WERE FILED PRIOR TO APRIL FIRST, TWO THOUSAND ELEVEN SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION.

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

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

(II) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION SIX OF THIS SECTION, NEITHER AN ASSESSOR NOR A BOARD OF ASSESSMENT REVIEW HAS THE AUTHORITY TO CONSIDER AN OBJECTION TO THE RECOUPMENT OF AN EXEMPTION PURSUANT TO THIS SUBDIVISION, NOR MAY SUCH AN ACTION BE REVIEWED IN A PROCEEDING TO REVIEW AN ASSESSMENT PURSUANT TO TITLE ONE OR ONE-A OF ARTICLE SEVEN OF THIS CHAPTER. SUCH AN ACTION MAY ONLY BE CHALLENGED BEFORE THE DEPARTMENT. IF AN OWNER IS DISSATISFIED WITH THE DEPARTMENT'S FINAL DETERMINATION, THE OWNER MAY APPEAL THAT DETERMINATION TO THE BOARD IN A FORM AND MANNER TO BE PRESCRIBED BY THE COMMISSIONER. SUCH APPEAL SHALL BE FILED WITHIN FORTY-FIVE DAYS FROM THE ISSUANCE OF THE DEPARTMENT'S FINAL DETERMINATION. IF DISSATISFIED WITH THE BOARD'S DETERMINATION, THE OWNER MAY SEEK JUDICIAL REVIEW THEREOF PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. THE OWNER SHALL OTHERWISE HAVE NO RIGHT TO CHALLENGE SUCH FINAL DETERMINATION IN A COURT ACTION, ADMINISTRATIVE PROCEEDING, INCLUDING BUT NOT LIMITED TO AN ADMINISTRATIVE PROCEEDING PURSUANT TO ARTICLE FORTY OF THE TAX LAW, OR ANY OTHER FORM OF LEGAL RECOURSE AGAINST THE COMMISSIONER,

1 THE DEPARTMENT, THE BOARD, THE ASSESSOR, OR ANY OTHER PERSON, STATE
2 AGENCY, OR LOCAL GOVERNMENT.

3 (C) THE AMOUNT TO BE RECOUPED FOR EACH IMPROPERLY RECEIVED EXEMPTION
4 SHALL HAVE INTEREST ADDED AT THE RATE PRESCRIBED BY SECTION NINE HUNDRED
5 TWENTY-FOUR-A OF THIS CHAPTER OR SUCH OTHER LAW AS MAY BE APPLICABLE FOR
6 EACH MONTH OR PORTION THEREOF SINCE THE LEVY OF SCHOOL TAXES UPON SUCH
7 ASSESSMENT ROLL.

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

13 S 2. This act shall take effect immediately.

14 PART F

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

18 3. The monies in such fund shall be appropriated for school property
19 tax exemptions [and local property tax rebates] granted pursuant to the
20 real property tax law [and the tax law] and payable pursuant to section
21 [thirty-six hundred nine] THIRTY-SIX HUNDRED NINE-E of the education
22 law, AND for payments to the city of New York pursuant to section
23 fifty-four-f of this chapter[, and pursuant to section one hundred
24 seventy-eight of the tax law].

25 S 2. One-time relief for unenrolled registrants. (1) As used in this
26 section, the term "unenrolled registrant" means a person who purchased
27 or otherwise acquired a primary residence after the taxable status date
28 for the 2013 assessment roll and who registered that property with the
29 commissioner of taxation and finance in accordance with subdivision 14
30 of section 425 of the real property tax law on or before the taxable
31 status date for the 2014 assessment roll, but who failed to file an
32 application for the STAR exemption for that property in accordance with
33 subdivision 6 of section 425 of the real property tax law on or before
34 the taxable status date for the 2014 assessment roll.

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

51 (3) The amounts payable under this act shall be paid from the account
52 established for the payment of STAR benefits to late registrants pursu-
53 ant to subparagraph (iii) of paragraph (a) of subdivision 14 of section
54 425 of the real property tax law.

1 (4) The provisions of part 6 of article 22 of the tax law relating to
2 the collection of a tax imposed by such article that has been assessed
3 and remains unpaid shall apply to the recovery authorized by subdivision
4 two of this section of a payment found to have been erroneously made
5 pursuant to this act to an ineligible property owner or owners in the
6 same manner and with the same force and effect as if the language of
7 such article had been incorporated in full into this act except to the
8 extent that any provision of such article is either inconsistent with a
9 provision of this act or is not relevant to this act as determined by
10 the commissioner of taxation and finance. Furthermore, for purposes of
11 applying the provisions of part 6 of article 22 of the tax law, where
12 the terms "tax" and "taxes" appear in such article, such terms shall be
13 construed to mean "a payment or payments erroneously made pursuant to
14 this act to an ineligible property owner or owners".

15 S 3. This act shall take effect immediately.

16 PART G

17 Intentionally Omitted

18 PART H

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

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

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

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

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

deduction allowed under section one hundred seventy of the internal revenue code for taxable years beginning in two thousand nine or after two thousand [fifteen] SEVENTEEN.

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

S 3. This act shall take effect immediately.

PART I

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (ii) In addition, the term real property tax includes taxes paid by
25 the taxpayer upon real property principally used during the taxable year
26 by the taxpayer in manufacturing where the taxpayer leases such real
27 property from an unrelated third party if the following conditions are
28 satisfied: (I) the tax must be paid by the taxpayer as lessee pursuant
29 to explicit requirements in a written lease, and (II) the taxpayer as
30 lessee has paid such taxes directly to the taxing authority and has
31 received a written receipt for payment of taxes from the taxing authori-
32 ty. In the case of a [combined group that constitutes a qualified New
33 York manufacturer] TAXPAYER THAT, DURING THE TAXABLE YEAR, IS PRINCIPAL-
34 LY ENGAGED IN THE PRODUCTION OF GOODS BY FARMING, AGRICULTURE, HORTICUL-
35 TURE, FLORICULTURE, VITICULTURE, OR COMMERCIAL FISHING, THE TAXPAYER IS
36 ELIGIBLE IF THE TAXPAYER SATISFIES the conditions in the preceding
37 sentence [are satisfied if one corporation in the combined group is the
38 lessee and another corporation in the combined group makes the payments
39 to the taxing authority] AND THE TAXPAYER LEASES SUCH REAL PROPERTY FROM
40 A RELATED OR UNRELATED PARTY.

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

44 (yy) The tax-free NY area excise tax on telecommunication services
45 credit. A taxpayer that is a business or owner of a business that is
46 located in a tax-free NY area approved pursuant to article twenty-one of
47 the economic development law shall be allowed a credit equal to the
48 excise tax on telecommunication services imposed by section one hundred
49 eighty-six-e of this chapter and passed through to such business during
50 the taxable year to the extent not otherwise deducted in computing
51 [federal] NEW YORK adjusted gross income. This credit may be claimed
52 only where any tax imposed by such section one hundred eighty-six-e has
53 been separately stated on a bill from the provider of telecommunication
54 services and paid by such taxpayer with respect to such services
55 rendered within a tax-free NY area during the taxable year. If the
56 amount of the credit allowed under this subsection for any taxable year

1 exceeds the taxpayer's tax for such year, the excess will be treated as
2 an overpayment to be credited or refunded in accordance with the
3 provisions of section six hundred eighty-six of this article, provided,
4 however, that no interest will be paid thereon.

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

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

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

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

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

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

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

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

39 (iii) section seven of this act shall be deemed to have been in full
40 force and effect on and after the effective date of part DD of chapter
41 59 of the laws of 2014;

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

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

48 (vi) section ten of this act shall be deemed to have been in full
49 force and effect on and after the effective date of part MM of chapter
50 59 of the laws of 2014; and

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

1 Section 1. Section 9 of part V of chapter 62 of the laws of 2006,
2 amending the tax law relating to the empire state commercial production
3 tax credit, is REPEALED.

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

7 (C) THE DEPARTMENT OF ECONOMIC DEVELOPMENT SHALL SUBMIT, ON OR BEFORE
8 DECEMBER FIRST OF EACH YEAR, TO THE GOVERNOR, THE DIRECTOR OF THE DIVI-
9 SION OF THE BUDGET, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE
10 SPEAKER OF THE ASSEMBLY AN ANNUAL REPORT INCLUDING, BUT NOT LIMITED TO,
11 THE FOLLOWING INFORMATION REGARDING THE PREVIOUS CALENDAR YEAR:

12 (1) THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE NAME AND ADDRESS
13 OF EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY ALLOCATED CREDITS UNDER
14 THIS SECTION, THE TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED
15 COMMERCIAL PRODUCTION COMPANY, THE TOTAL AMOUNT OF QUALIFIED PRODUCTION
16 COSTS AND PRODUCTION COSTS FOR EACH QUALIFIED COMMERCIAL PRODUCTION
17 COMPANY, AND THE ESTIMATED NUMBER OF EMPLOYEES, CREDIT-ELIGIBLE MAN
18 HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCIATED WITH EACH QUALIFIED COMMER-
19 CIAL PRODUCTION COMPANY ALLOCATED CREDITS UNDER THIS SECTION;

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

30 (3) FOR QUALIFIED COMMERCIAL PRODUCTION COMPANIES THAT WERE ALLOCATED
31 CREDIT PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH TWO OF SUBDIVISION
32 (A) OF THIS SECTION: THE NAME AND ADDRESS OF EACH QUALIFIED COMMERCIAL
33 PRODUCTION COMPANY, THE TOTAL DOLLAR AMOUNT OF CREDITS ALLOCATED, THE
34 TOTAL AMOUNT OF CREDITS ALLOCATED TO EACH QUALIFIED COMMERCIAL
35 PRODUCTION COMPANY, TOTAL QUALIFIED PRODUCTION COSTS AND PRODUCTION
36 COSTS FOR EACH QUALIFIED PRODUCTION COMPANY, AND THE ESTIMATED NUMBER OF
37 EMPLOYEES, CREDIT-ELIGIBLE MAN HOURS, AND CREDIT-ELIGIBLE WAGES ASSOCI-
38 ATED WITH EACH QUALIFIED COMMERCIAL PRODUCTION COMPANY THAT FILMED OR
39 RECORDED A QUALIFIED COMMERCIAL OUTSIDE THE DISTRICT; AND

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

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

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

50 PART K

51 Section 1. Subdivisions 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18,
52 and 19 of section 352 of the economic development law, as added by
53 section 1 of part MM of chapter 59 of the laws of 2010, subdivision 12

1 as amended by section 1 of part G of chapter 61 of the laws of 2011, are
2 amended to read as follows:

3 7. "ENTERTAINMENT COMPANY" MEANS A CORPORATION, PARTNERSHIP, LIMITED
4 PARTNERSHIP, OR OTHER ENTITY PRINCIPALLY ENGAGED IN THE PRODUCTION OR
5 POST PRODUCTION OF (I) MOTION PICTURES, WHICH SHALL INCLUDE
6 FEATURE-LENGTH FILMS AND TELEVISION FILMS, (II) INSTRUCTIONAL VIDEOS,
7 (III) TELEVISED COMMERCIAL ADVERTISEMENTS, (IV) ANIMATED FILMS OR
8 CARTOONS, (V) MUSIC VIDEOS, (VI) TELEVISION PROGRAMS, WHICH SHALL
9 INCLUDE, BUT NOT BE LIMITED TO, TELEVISION SERIES, TELEVISION PILOTS,
10 AND SINGLE TELEVISION EPISODES, OR (VII) PROGRAMS PRIMARILY INTENDED FOR
11 RADIO BROADCAST. "ENTERTAINMENT COMPANY" SHALL NOT INCLUDE AN ENTITY
12 (I) PRINCIPALLY ENGAGED IN THE LIVE PERFORMANCE OF EVENTS, INCLUDING,
13 BUT NOT LIMITED TO, THEATRICAL PRODUCTIONS, CONCERTS, CIRCUSES, AND
14 SPORTING EVENTS, (II) PRINCIPALLY ENGAGED IN THE PRODUCTION OF CONTENT
15 INTENDED PRIMARILY FOR INDUSTRIAL, CORPORATE OR INSTITUTIONAL END-USERS,
16 (III) PRINCIPALLY ENGAGED IN THE PRODUCTION OF FUNDRAISING FILMS OR
17 PROGRAMS, OR (IV) ENGAGED IN THE PRODUCTION OF CONTENT FOR WHICH RECORDS
18 ARE REQUIRED UNDER SECTION 2257 OF TITLE 18, UNITED STATES CODE, TO BE
19 MAINTAINED WITH RESPECT TO ANY PERFORMER IN SUCH PRODUCTION.

20 8. "Financial services data centers or financial services customer
21 back office operations" means operations that manage the data or
22 accounts of existing customers or provide product or service information
23 and support to customers of financial services companies, including
24 banks, other lenders, securities and commodities brokers and dealers,
25 investment banks, portfolio managers, trust offices, and insurance
26 companies.

27 [8.] 9. "Investment zone" shall mean an area within the state that had
28 been designated under paragraph (i) of subdivision (a) and subdivision
29 (d) of section nine hundred fifty-eight of the general municipal law
30 that was wholly contained within up to four distinct and separate
31 contiguous areas as of the date immediately preceding the date the
32 designation of such area expired pursuant to section nine hundred
33 sixty-nine of the general municipal law.

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

42 [10.] 11. "MUSIC PRODUCTION" MEANS THE PROCESS OF CREATING SOUND
43 RECORDINGS OF AT LEAST EIGHT MINUTES, RECORDED IN PROFESSIONAL SOUND
44 STUDIOS, INTENDED FOR COMMERCIAL RELEASE. "MUSIC PRODUCTION" DOES NOT
45 INCLUDE RECORDING OF LIVE CONCERTS, OR RECORDINGS THAT ARE PRIMARILY
46 SPOKEN WORD OR WILDLIFE OR NATURE SOUNDS, OR PRODUCED FOR INSTRUCTIONAL
47 USE OR ADVERTISING OR PROMOTIONAL PURPOSES.

48 12. "Net new jobs" means [jobs created in this state that]:

49 (a) JOBS CREATED IN THIS STATE THAT (I) are new to the state[;],

50 [(b)] (II) have not been transferred from employment with another
51 business located in this state including from a related person in this
52 state[;],

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

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

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

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

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

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

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

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

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

[13.] 15. "Qualified investment" means an investment in tangible property (including a building or a structural component of a building) owned by a business enterprise which:

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

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

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

(d) has a situs in this state; and

(e) is placed in service in the state on or after the date the certificate of eligibility is issued to the business enterprise.

[14.] 16. "Regionally significant project" means (a) a manufacturer creating at least fifty net new jobs in the state and making significant capital investment in the state; (b) a business creating at least twenty net new jobs in agriculture in the state and making significant capital investment in the state, (c) a financial services firm, distribution center, or back office operation creating at least three hundred net new jobs in the state and making significant capital investment in the state, [or] (d) a scientific research and development firm creating at least twenty net new jobs in the state, and making significant capital investment in the state OR (E) AN ENTERTAINMENT COMPANY CREATING OR OBTAINING AT LEAST TWO HUNDRED NET NEW JOBS IN THE STATE AND MAKING SIGNIFICANT CAPITAL INVESTMENT IN THE STATE. Other businesses creating three hundred or more net new jobs in the state and making significant capital investment in the state may be considered eligible as a regionally significant project by the commissioner as well. The commissioner shall promulgate regulations pursuant to section three hundred fifty-six of this article to determine what constitutes significant capital investment for each of the project categories indicated in this subdivision and what additional criteria a business must meet to be eligible as a regionally significant project, including, but not limited

1 to, whether a business exports a substantial portion of its products or
2 services outside of the state or outside of a metropolitan statistical
3 area or county within the state.

4 [15.] 17. "Related person" means a "related person" pursuant to
5 subparagraph (c) of paragraph three of subsection (b) of section four
6 hundred sixty-five of the internal revenue code.

7 [16.] 18. "Remuneration" means wages and benefits paid to an employee
8 by a participant in the excelsior jobs program.

9 [17.] 19. "Research and development expenditures" mean the expenses of
10 the business enterprise that are qualified research expenses under the
11 federal research and development credit under section forty-one of the
12 internal revenue code and are attributable to activities conducted in
13 the state. If the federal research and development credit has expired,
14 then the research and development expenditures shall be calculated as if
15 the federal research and development credit structure and definition in
16 effect in federal tax year two thousand nine were still in effect.

17 [18.] 20. "Scientific research and development" means conducting
18 research and experimental development in the physical, engineering, and
19 life sciences, including but not limited to agriculture, electronics,
20 environmental, biology, botany, biotechnology, computers, chemistry,
21 food, fisheries, forests, geology, health, mathematics, medicine, ocean-
22 ography, pharmacy, physics, veterinary, and other allied subjects. For
23 the purposes of this article, scientific research and development does
24 not include medical or veterinary laboratory testing facilities.

25 [19.] 21. "Software development" means the creation of coded computer
26 instructions OR PRODUCTION OR POST-PRODUCTION OF VIDEO GAMES, AS DEFINED
27 IN SUBDIVISION ONE-A OF SECTION SIX HUNDRED ELEVEN OF THE GENERAL BUSI-
28 NESS LAW, OTHER THAN THOSE EMBEDDED AND USED EXCLUSIVELY IN ADVERTISING,
29 PROMOTIONAL WEBSITES OR MICROSITES, and ALSO includes new media as
30 defined by the commissioner in regulations.

31 S 2. Subdivisions 1, 3, and 5 of section 353 of the economic develop-
32 ment law, subdivisions 1 and 5 as amended by section 2 of part G of
33 chapter 61 of the laws of 2011 and subdivision 3 as amended by section 1
34 of part C of chapter 68 of the laws of 2013, are amended to read as
35 follows:

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

38 (a) as a financial services data center or a financial services back
39 office operation;

40 (b) in manufacturing;

41 (c) in software development and new media;

42 (d) in scientific research and development;

43 (e) in agriculture;

44 (f) in the creation or expansion of back office operations in the
45 state;

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

47 (h) in an industry with significant potential for private-sector
48 economic growth and development in this state as established by the
49 commissioner in regulations promulgated pursuant to this article. In
50 promulgating such regulations the commissioner shall include job and
51 investment criteria;

52 (I) AS AN ENTERTAINMENT COMPANY; OR

53 (J) IN MUSIC PRODUCTION.

54 3. For the purposes of this article, in order to participate in the
55 excelsior jobs program, a business entity operating predominantly in
56 manufacturing must create at least ten net new jobs; a business entity

1 operating predominately in agriculture must create at least five net new
2 jobs; a business entity operating predominantly as a financial service
3 data center or financial services customer back office operation must
4 create at least fifty net new jobs; a business entity operating predomi-
5 nantly in scientific research and development must create at least five
6 net new jobs; a business entity operating predominantly in software
7 development must create at least five net new jobs; a business entity
8 creating or expanding back office operations must create at least fifty
9 net new jobs; A BUSINESS ENTITY OPERATING PREDOMINATELY IN MUSIC
10 PRODUCTION MUST CREATE AT LEAST FIVE NET NEW JOBS; A BUSINESS ENTITY
11 OPERATING PREDOMINANTLY AS AN ENTERTAINMENT COMPANY MUST CREATE OR
12 OBTAIN AT LEAST ONE HUNDRED NET NEW JOBS; or a business entity operating
13 predominantly as a distribution center in the state must create at least
14 seventy-five net new jobs, notwithstanding subdivision five of this
15 section; or a business entity must be a regionally significant project
16 as defined in this article; or

17 5. A not-for-profit business entity, a business entity whose primary
18 function is the provision of services including personal services, busi-
19 ness services, or the provision of utilities, and a business entity
20 engaged predominantly in the retail or entertainment industry, OTHER
21 THAN A BUSINESS OPERATING AS AN ENTERTAINMENT COMPANY AS DEFINED IN THIS
22 ARTICLE AND OTHER THAN A BUSINESS ENTITY ENGAGED IN MUSIC PRODUCTION,
23 and a company engaged in the generation or distribution of electricity,
24 the distribution of natural gas, or the production of steam associated
25 with the generation of electricity are not eligible to receive the tax
26 credit described in this article.

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

30 1. A business enterprise must submit a completed application as
31 prescribed by the commissioner. AN APPLICATION MADE BY AN ENTERTAINMENT
32 COMPANY MUST BE SUBMITTED BY JUNE FIRST, TWO THOUSAND FIFTEEN, EXCEPT
33 FOR AN APPLICATION MADE BY AN ENTERTAINMENT COMPANY THAT IS ELIGIBLE TO
34 PARTICIPATE IN THE EXCELSIOR JOBS PROGRAM BASED UPON CREATING NET NEW
35 JOBS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWELVE OF SECTION THREE
36 HUNDRED FIFTY-TWO OF THIS ARTICLE. An application may be recommended by
37 entities, including but not limited to, those created pursuant to subdi-
38 vision (e) of section nine hundred fifty-seven of the general municipal
39 law.

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

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

49 S 5. This act shall take effect immediately.

50 PART L

51 Intentionally Omitted

52 PART M

Intentionally Omitted

PART N

Intentionally Omitted

PART O

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

ARTICLE 22

EMPLOYEE TRAINING INCENTIVE PROGRAM

SECTION 441. DEFINITIONS.

442. ELIGIBILITY CRITERIA.

443. APPLICATION AND APPROVAL PROCESS.

444. POWERS AND DUTIES OF THE COMMISSIONER.

445. RECORDKEEPING REQUIREMENTS.

446. CAP ON TAX CREDIT.

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

1. "APPROVED PROVIDER" MEANS AN ENTITY MEETING SUCH CRITERIA AS SHALL BE ESTABLISHED BY THE COMMISSIONER IN RULES AND REGULATIONS PROMULGATED PURSUANT TO THIS ARTICLE, THAT MAY PROVIDE ELIGIBLE TRAINING TO EMPLOYEES OF A BUSINESS ENTITY PARTICIPATING IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM; PROVIDED THAT, FOR INTERNSHIP PROGRAMS, THE BUSINESS ENTITY SHALL BE AN APPROVED PROVIDER OR AN APPROVED PROVIDER IN CONTRACT WITH SUCH BUSINESS ENTITY. SUCH CRITERIA SHALL ENSURE THAT ANY APPROVED PROVIDER POSSESS ADEQUATE CREDENTIALS TO PROVIDE THE TRAINING DESCRIBED IN AN APPLICATION BY A BUSINESS ENTITY TO THE COMMISSIONER TO PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM.

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

3. "ELIGIBLE TRAINING" MEANS (A) TRAINING PROVIDED BY AN APPROVED PROVIDER THAT IS:

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

(II) PROVIDED TO EMPLOYEES FILLING NET NEW JOBS, OR TO EXISTING EMPLOYEES IN CONNECTION WITH A SIGNIFICANT CAPITAL INVESTMENT BY A PARTICIPATING BUSINESS ENTITY;

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

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

(V) NOT TRAINING THE COMPLETION OF WHICH MAY RESULT IN THE AWARDED OF A LICENSE OR CERTIFICATE REQUIRED BY LAW IN ORDER TO PERFORM A JOB FUNCTION; AND

(VI) NOT CULTURALLY FOCUSED TRAINING; OR

(B) AN INTERNSHIP PROGRAM IN ADVANCED TECHNOLOGY APPROVED BY THE COMMISSIONER AND PROVIDED BY AN APPROVED PROVIDER, ON OR AFTER AUGUST FIRST, TWO THOUSAND FIFTEEN, TO PROVIDE EMPLOYMENT AND EXPERIENCE OPPORTUNITIES FOR CURRENT STUDENTS, RECENT GRADUATES, AND RECENT MEMBERS OF THE ARMED FORCES.

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

(A) IS NEW TO THE STATE;

(B) HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH ANOTHER BUSINESS LOCATED IN THIS STATE THROUGH AN ACQUISITION, MERGER, CONSOLIDATION OR

1 OTHER REORGANIZATION OF BUSINESSES OR THE ACQUISITION OF ASSETS OF
2 ANOTHER BUSINESS, AND HAS NOT BEEN TRANSFERRED FROM EMPLOYMENT WITH A
3 RELATED PERSON IN THIS STATE;

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

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

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

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

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

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

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

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

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

20 (D) THE POTENTIAL TO RECRUIT MINORITIES AND WOMEN TO BE TRAINED TO
21 WORK IN THE INDUSTRY IN WHICH THEY ARE TRADITIONALLY UNDERREPRESENTED;

22 (E) THE POTENTIAL TO CREATE JOBS IN ECONOMICALLY DISTRESSED AREAS,
23 WHICH SHALL BE BASED ON CRITERIA INDICATIVE OF ECONOMIC DISTRESS,
24 INCLUDING POVERTY RATES, NUMBERS OF PERSONS RECEIVING PUBLIC ASSISTANCE,
25 AND UNEMPLOYMENT RATES; OR

26 (F) SUCH OTHER CRITERIA AS SHALL BE DEVELOPED BY THE COMMISSIONER IN
27 CONSULTATION WITH THE COMMISSIONER OF LABOR.

28 S 442. ELIGIBILITY CRITERIA. IN ORDER TO PARTICIPATE IN THE EMPLOYEE
29 TRAINING INCENTIVE PROGRAM, A BUSINESS ENTITY MUST SATISFY THE FOLLOWING
30 CRITERIA:

31 1. (A) THE BUSINESS ENTITY MUST OPERATE IN THE STATE PREDOMINANTLY IN
32 A STRATEGIC INDUSTRY;

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

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

38 (D) THE BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER
39 PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, THE
40 BUSINESS ENTITY MAY NOT OWE PAST DUE STATE TAXES OR LOCAL PROPERTY
41 TAXES; OR

42 2. (A) THE BUSINESS ENTITY, OR AN APPROVED PROVIDER IN CONTRACT WITH
43 SUCH BUSINESS ENTITY, MUST BE APPROVED BY THE COMMISSIONER TO PROVIDE
44 ELIGIBLE TRAINING IN THE FORM OF AN INTERNSHIP PROGRAM IN ADVANCED TECH-
45 NOLOGY PURSUANT TO PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION FOUR
46 HUNDRED FORTY-ONE OF THIS ARTICLE;

47 (B) THE BUSINESS ENTITY MUST BE LOCATED IN THE STATE;

48 (C) THE BUSINESS ENTITY MUST BE IN COMPLIANCE WITH ALL WORKER
49 PROTECTION AND ENVIRONMENTAL LAWS AND REGULATIONS. IN ADDITION, THE
50 BUSINESS ENTITY MUST NOT HAVE PAST DUE STATE TAXES OR LOCAL PROPERTY
51 TAXES;

52 (D) THE INTERNSHIP PROGRAM SHALL NOT DISPLACE REGULAR EMPLOYEES;

53 (E) THE BUSINESS ENTITY MUST HAVE LESS THAN ONE HUNDRED EMPLOYEES; AND

54 (F) PARTICIPATION OF AN INDIVIDUAL IN AN INTERNSHIP PROGRAM SHALL NOT
55 LAST MORE THAN A TOTAL OF TWELVE MONTHS.

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

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

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

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

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

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

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

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

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

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

55 2. THE COMMISSIONER SHALL, IN CONSULTATION WITH THE DEPARTMENT OF
56 TAXATION AND FINANCE, DEVELOP A CERTIFICATE OF TAX CREDIT THAT SHALL BE

1 ISSUED BY THE COMMISSIONER TO PARTICIPATING BUSINESS ENTITIES. PARTIC-
2 IPANTS MAY BE REQUIRED BY THE COMMISSIONER OF TAXATION AND FINANCE TO
3 INCLUDE THE CERTIFICATE OF TAX CREDIT WITH THEIR TAX RETURN TO RECEIVE
4 ANY TAX BENEFITS UNDER THIS ARTICLE.

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

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

14 S 446. CAP ON TAX CREDIT. THE TOTAL AMOUNT OF TAX CREDITS LISTED ON
15 CERTIFICATES OF TAX CREDIT ISSUED BY THE COMMISSIONER FOR ANY TAXABLE
16 YEAR MAY NOT EXCEED FIVE MILLION DOLLARS, AND SHALL BE ALLOTTED FROM THE
17 FUNDS AVAILABLE FOR TAX CREDITS UNDER THE EXCELSIOR JOBS PROGRAM ACT
18 PURSUANT TO SECTION THREE HUNDRED FIFTY-NINE OF THIS CHAPTER, PROVIDED
19 HOWEVER, THAT THE PORTION OF THIS TAX CREDIT CAP ALLOCATED TO INTERNSHIP
20 PROGRAMS IN ADVANCED TECHNOLOGY SHALL BE NOT LESS THAN TWO HUNDRED FIFTY
21 THOUSAND DOLLARS NOR MORE THAN ONE MILLION DOLLARS.

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

24 50. EMPLOYEE TRAINING INCENTIVE PROGRAM TAX CREDIT. (A) A TAXPAYER
25 THAT HAS BEEN APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO
26 PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM AND HAS BEEN
27 ISSUED A CERTIFICATE OF TAX CREDIT PURSUANT TO SECTION FOUR HUNDRED
28 FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED TO CLAIM A
29 CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT SHALL EQUAL
30 FIFTY PERCENT OF A TAXPAYER'S ELIGIBLE TRAINING COSTS, UP TO A CREDIT OF
31 TEN THOUSAND DOLLARS PER EMPLOYEE COMPLETING ELIGIBLE TRAINING PURSUANT
32 TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FORTY-ONE
33 OF THE ECONOMIC DEVELOPMENT LAW. THE CREDIT SHALL EQUAL FIFTY PERCENT
34 OF THE STIPEND PAID TO AN INTERN, UP TO A CREDIT OF THREE THOUSAND
35 DOLLARS PER INTERN COMPLETING ELIGIBLE TRAINING PURSUANT TO PARAGRAPH
36 (B) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FORTY-ONE OF THE
37 ECONOMIC DEVELOPMENT LAW. IN NO EVENT SHALL A TAXPAYER BE ALLOWED A
38 CREDIT GREATER THAN THE AMOUNT OF CREDIT LISTED ON THE CERTIFICATE OF
39 TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT. THE CRED-
40 IT WILL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ELIGIBLE TRAINING IS
41 COMPLETED.

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

54 (C) THE TAXPAYER MAY BE REQUIRED TO ATTACH TO ITS TAX RETURN ITS
55 CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVEL-
56 OPMENT PURSUANT TO SECTION FOUR HUNDRED FORTY-THREE OF THE ECONOMIC

DEVELOPMENT LAW. IN NO EVENT SHALL THE TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT OF THE CREDIT LISTED IN THE CERTIFICATE OF TAX CREDIT, OR IN THE CASE OF A TAXPAYER WHO IS A PARTNER IN A PARTNERSHIP OR A MEMBER OF A LIMITED LIABILITY COMPANY, ITS PRO RATA SHARE OF THE AMOUNT OF CREDIT LISTED IN THE CERTIFICATE OF TAX CREDIT ISSUED TO THE PARTNERSHIP OR LIMITED LIABILITY COMPANY.

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

(DDD) EMPLOYEE TRAINING INCENTIVE PROGRAM TAX CREDIT. (1) A TAXPAYER THAT HAS BEEN APPROVED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT TO PARTICIPATE IN THE EMPLOYEE TRAINING INCENTIVE PROGRAM AND HAS BEEN ISSUED A CERTIFICATE OF TAX CREDIT PURSUANT TO SECTION FOUR HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW SHALL BE ALLOWED TO CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE CREDIT SHALL EQUAL FIFTY PERCENT OF A TAXPAYER'S ELIGIBLE TRAINING COSTS, UP TO A CREDIT OF TEN THOUSAND DOLLARS PER EMPLOYEE COMPLETING ELIGIBLE TRAINING PURSUANT TO PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FORTY-ONE OF THE ECONOMIC DEVELOPMENT LAW. THE CREDIT SHALL EQUAL FIFTY PERCENT OF THE STIPEND PAID TO AN INTERN, UP TO A CREDIT OF THREE THOUSAND DOLLARS PER INTERN COMPLETING ELIGIBLE TRAINING PURSUANT TO PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION FOUR HUNDRED FORTY-ONE OF THE ECONOMIC DEVELOPMENT LAW. IN NO EVENT SHALL A TAXPAYER BE ALLOWED A CREDIT GREATER THAN THE AMOUNT LISTED ON THE CERTIFICATE OF TAX CREDIT ISSUED BY THE COMMISSIONER OF ECONOMIC DEVELOPMENT. IN THE CASE OF A TAXPAYER WHO IS A PARTNER IN A PARTNERSHIP, MEMBER OF A LIMITED LIABILITY COMPANY OR SHAREHOLDER IN AN S CORPORATION, THE TAXPAYER SHALL BE ALLOWED ITS PRO RATA SHARE OF THE CREDIT EARNED BY THE PARTNERSHIP, LIMITED LIABILITY COMPANY OR S CORPORATION. THE CREDIT WILL BE ALLOWED IN THE TAXABLE YEAR IN WHICH THE ELIGIBLE TRAINING IS COMPLETED.

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

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

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

S 5. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2015 and eligible training costs incurred on or after the effective date of this act.

PART P

Section 1. Paragraph (b) of subdivision 1 of section 186-c of the tax law, as amended by section 65 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(b) (1) In addition to the surcharge imposed by paragraph (a) of this subdivision, there is hereby imposed a surcharge on the gross receipts from telecommunication services, EXCEPT FOR THE GROSS RECEIPTS FROM MOBILE TELECOMMUNICATION SERVICES THAT ARE SUBJECT TO TAX UNDER SUBPARAGRAPH TWO OF THIS PARAGRAPH, relating to the metropolitan commuter transportation district at the rate of seventeen percent of the state tax rate under section one hundred eighty-six-e of this article. All the

1 definitions and other provisions of section one hundred eighty-six-e of
2 this article shall apply to the tax imposed by this [paragraph] SUBPARA-
3 GRAPH with such modification and limitation as may be necessary (includ-
4 ing substituting the words "metropolitan commuter transportation
5 district" for "state" where appropriate) in order to adapt the language
6 of such section one hundred eighty-six-e of this article to the
7 surcharge imposed by this [paragraph] SUBPARAGRAPH within such metropol-
8 itan commuter transportation district so as to include [(1)] (I) any
9 intra-district telecommunication services[, except any telecommunication
10 services the gross receipts from which are subject to tax under subpara-
11 graph four of this paragraph], [(2)] (II) any inter-district telecommu-
12 nication services which originate or terminate in such district and are
13 charged to a service address therein regardless of where the amounts
14 charged for such services are billed or ultimately paid[, except any
15 telecommunications services the gross receipts from which are subject to
16 tax under subparagraph four of this paragraph], [(3)] AND (III) as
17 apportioned to such district, private telecommunication services[,
18 except any telecommunication services the gross receipts from which are
19 subject to tax under subparagraph four of this paragraph, and (4) mobile
20 telecommunications service provided by a home service provider where the
21 place of primary use is within such metropolitan commuter transportation
22 district]. Provided however, such tax surcharge shall be calculated as
23 if the tax imposed under section one hundred eighty-six-e of this arti-
24 cle were imposed at a rate of three and one-half percent.

25 (2) IN ADDITION TO THE SURCHARGE IMPOSED BY PARAGRAPH (A) OF THIS
26 SUBDIVISION, THERE IS HEREBY IMPOSED A SURCHARGE ON THE GROSS RECEIPTS
27 FROM MOBILE TELECOMMUNICATION SERVICES RELATING TO THE METROPOLITAN
28 COMMUTER TRANSPORTATION DISTRICT AT THE RATE OF SEVEN-TENTHS AND
29 TWO-HUNDREDTHS AND ONE-THOUSANDTH PERCENT ON AND AFTER MAY FIRST, TWO
30 THOUSAND FIFTEEN. ALL THE DEFINITIONS AND OTHER PROVISIONS OF SECTION
31 ONE HUNDRED EIGHTY-SIX-E OF THIS ARTICLE SHALL APPLY TO THE TAX IMPOSED
32 BY THIS SUBPARAGRAPH WITH SUCH MODIFICATION AND LIMITATION AS MAY BE
33 NECESSARY (INCLUDING SUBSTITUTING THE WORDS "METROPOLITAN COMMUTER
34 TRANSPORTATION DISTRICT" FOR "STATE" WHERE APPROPRIATE) IN ORDER TO
35 ADAPT THE LANGUAGE OF SUCH SECTION ONE HUNDRED EIGHTY-SIX-E OF THIS
36 ARTICLE TO THE SURCHARGE IMPOSED BY THIS SUBPARAGRAPH WITHIN SUCH METRO-
37 POLITAN COMMUTER TRANSPORTATION DISTRICT SO AS TO INCLUDE ANY MOBILE
38 TELECOMMUNICATIONS SERVICE PROVIDED BY A HOME SERVICE PROVIDER WHERE THE
39 MOBILE TELECOMMUNICATIONS CUSTOMER'S PLACE OF PRIMARY USE IS WITHIN SUCH
40 METROPOLITAN COMMUTER TRANSPORTATION DISTRICT.

41 S 2. Paragraph (a) of subdivision 2 of section 186-e of the tax law,
42 as amended by section 4 of part S of chapter 85 of the laws of 2002, is
43 amended to read as follows:

44 (a) (1) There is hereby imposed an excise tax on the sale of telecom-
45 munication services, EXCEPT FOR THE SALE OF MOBILE TELECOMMUNICATION
46 SERVICES THAT ARE SUBJECT TO TAX UNDER SUBPARAGRAPH TWO OF THIS PARA-
47 GRAPH, by any person which is a provider of telecommunication services,
48 to be paid by such person, at the rate of three and one-half percent
49 prior to October first, nineteen hundred ninety-eight, three and one-
50 quarter percent from October first, nineteen hundred ninety-eight
51 through December thirty-first, nineteen hundred ninety-nine, and two and
52 one-half percent on and after January first, two thousand of gross
53 receipt from: [(1)] (I) any intrastate telecommunication services[,
54 except any telecommunication services the gross receipt from which is
55 subject to tax under subparagraph four of this paragraph]; [(2)] (II)
56 any interstate and international telecommunication services (other than

1 interstate and international private telecommunication services [and any
2 telecommunication services the gross receipt from which is subject to
3 tax under subparagraph four of this paragraph]) which originate or
4 terminate in this state and which telecommunication services are charged
5 to a service address in this state, regardless of where the amounts
6 charged for such services are billed or ultimately paid; [(3)] AND (III)
7 interstate and international private telecommunication services, the
8 gross receipt to which the tax shall apply shall be determined as
9 prescribed in subdivision three of this section[, except any telecommu-
10 nication services the gross receipt from which is subject to tax under
11 subparagraph four of this paragraph; and (4) mobile telecommunications
12 service provided by a home service provider where the mobile telecommu-
13 nications customer's place of primary use is within this state].

14 (2) THERE IS HEREBY IMPOSED AN EXCISE TAX ON THE SALE OF MOBILE TELE-
15 COMMUNICATION SERVICES, BY ANY PERSON WHICH IS A PROVIDER OF TELECOMMU-
16 NICATION SERVICES, TO BE PAID BY SUCH PERSON, AT THE RATE OF TWO AND
17 NINE-TENTHS PERCENT ON AND AFTER MAY FIRST, TWO THOUSAND FIFTEEN OF
18 GROSS RECEIPTS FROM ANY MOBILE TELECOMMUNICATIONS SERVICE PROVIDED BY A
19 HOME SERVICE PROVIDER WHERE THE MOBILE TELECOMMUNICATIONS CUSTOMER'S
20 PLACE OF PRIMARY USE IS WITHIN THIS STATE.

21 S 3. Section 186-e of the tax law is amended by adding a new subdivi-
22 sion 9 to read as follows:

23 9. DISTRIBUTION. SEVEN AND SIX-TENTHS PERCENT OF THE MONIES COLLECTED
24 FROM THE EXCISE TAX IMPOSED BY THIS SECTION SHALL BE DISTRIBUTED PURSU-
25 ANT TO SUBDIVISION THREE OF SECTION TWO HUNDRED FIVE OF THIS CHAPTER.

26 S 4. Severability. If any provision of this act shall for any reason
27 be finally adjudged by any court of competent jurisdiction to be inval-
28 id, such judgment shall not affect, impair, or invalidate the remainder
29 of this act, but shall be confined in its operation to the provision
30 directly involved in the controversy in which such judgment shall have
31 been rendered. It is hereby declared to be the intent of the legislature
32 that this act would have been enacted even if such invalid provision had
33 not been included in this act. Provided further, if a court of final,
34 competent jurisdiction adjudges the tax rates imposed on the sale of
35 mobile telecommunication services, by any person which is a provider of
36 telecommunication services, pursuant to subparagraph (2) of paragraph
37 (a) of subdivision 2 of section 186-e of the tax law, to be invalid as
38 imposed on the sale of such services, such tax rates shall be imposed on
39 the sale of all telecommunication services, including the sale of mobile
40 telecommunication services.

41 S 5. This act shall take effect immediately and shall apply to gross
42 receipts from mobile telecommunication services received on and after
43 May 1, 2015, and shall apply, for purposes of subdivision 9 of section
44 186-e of the tax law, as added by section three of this act, to monies
45 collected from the excise tax imposed by section 186-e of the tax law on
46 the sale of mobile telecommunication services on and after May 1, 2015.

47 PART Q

48 Intentionally Omitted

49 PART R

50 Intentionally Omitted

1

PART S

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

5 (r) For filing a statement or amendment pursuant to section four
6 hundred eight of this chapter WITH THE DEPARTMENT OF STATE, nine
7 dollars. THIS FEE SHALL NOT APPLY TO STATEMENTS SUBMITTED THROUGH THE
8 DEPARTMENT OF TAXATION AND FINANCE PURSUANT TO PARAGRAPH EIGHT OF
9 SECTION FOUR HUNDRED EIGHT OF THIS CHAPTER.

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

13 (b) Upon the failure of the designating corporation to file a certif-
14 icate of amendment or change providing for the designation by the corpo-
15 ration of the new address after the filing of a certificate of resigna-
16 tion for receipt of process with the secretary of state, its authority
17 to do business in this state shall be suspended unless the corporation
18 has previously filed a statement [of addresses and directors] under
19 section four hundred eight of this chapter, IN WHICH CASE the address of
20 the principal executive office stated in the last filed statement [of
21 addresses and directors], shall constitute the new address for process
22 of the corporation PROVIDED SUCH ADDRESS IS DIFFERENT FROM THE PREVIOUS
23 ADDRESS FOR PROCESS, and the corporation shall not be deemed suspended.

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

29 S 3. Section 408 of the business corporation law, as added by chapter
30 55 of the laws of 1992, the section heading as amended by chapter 375 of
31 the laws of 1998, subparagraph (a) of paragraph 1 and paragraph 2 as
32 amended by chapter 172 of the laws of 1999, subparagraph (b) of para-
33 graph 3 as amended by chapter 170 of the laws of 1994, paragraph 6 as
34 added by chapter 469 of the laws of 1997, and paragraph 7 as added by
35 chapter 172 of the laws of 2000, is amended to read as follows:
36 S 408. [Biennial statement] STATEMENT; filing.

37 1. [Each] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, EACH
38 domestic corporation, and each foreign corporation authorized to do
39 business in this state, shall, during the applicable filing period as
40 determined by subdivision three of this section, file a statement
41 setting forth:

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

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

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

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

54 3. [For] EXCEPT AS PROVIDED IN PARAGRAPH EIGHT OF THIS SECTION, FOR
55 the purpose of this section the applicable filing period for a corpo-

ration shall be the calendar month during which its original certificate of incorporation or application for authority were filed or the effective date thereof if stated. The applicable filing period shall only occur: (a) annually, during the period starting on April 1, 1992 and ending on March 31, 1994; and (b) biennially, during a period starting on April 1 and ending on March 31 thereafter. Those corporations that filed between April 1, 1992 and June 30, 1994 shall not be required to file such statements again until such time as they would have filed, had this subdivision not been amended.

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

5. The provisions of this section and section 409 of this article shall not apply to a farm corporation. For the purposes of this subdivision, the term "farm corporation" shall mean any domestic corporation or foreign corporation authorized to do business in this state under this chapter engaged in the production of crops, livestock and livestock products on land used in agricultural production, as defined in section 301 of the agriculture and markets law. HOWEVER, THIS EXCEPTION SHALL NOT APPLY TO FARM CORPORATIONS THAT HAVE FILED STATEMENTS WITH THE DEPARTMENT OF STATE WHICH HAVE BEEN SUBMITTED THROUGH THE DEPARTMENT OF TAXATION AND FINANCE PURSUANT TO PARAGRAPH EIGHT OF THIS SECTION.

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

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

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

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

(C) IF THE AGREEMENT DESCRIBED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH IS MADE, THE DEPARTMENT OF TAXATION AND FINANCE SHALL DELIVER TO THE

DEPARTMENT OF STATE FOR FILING THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SECTION FOR EACH CORPORATION THAT FILES A TAX REPORT CONTAINING SUCH STATEMENT. THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE THE CURRENT NAME OF THE CORPORATION, DEPARTMENT OF STATE IDENTIFICATION NUMBER FOR SUCH CORPORATION, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE STATEMENT, AND THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT.

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

4. THIS SECTION SHALL NOT APPLY TO CORPORATIONS THAT HAVE SUBMITTED A STATEMENT PURSUANT TO PARAGRAPH EIGHT OF SECTION FOUR HUNDRED EIGHT OF THIS CHAPTER.

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

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

(2) THE COMMISSIONER OF TAXATION AND FINANCE AND THE SECRETARY OF STATE MAY AGREE TO ALLOW LIMITED LIABILITY COMPANIES TO INCLUDE THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION ON TAX REPORTS FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU OF BIENNIAL STATEMENTS AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE. IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH LIMITED LIABILITY COMPANY REQUIRED TO FILE THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION THAT IS SUBJECT TO THE FILING FEE IMPOSED BY PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT OF THE TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE PAYMENT FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU OF FILING A STATEMENT UNDER THIS SECTION WITH THE DEPARTMENT OF STATE. HOWEVER, EACH LIMITED LIABILITY COMPANY REQUIRED TO FILE A STATEMENT UNDER THIS SECTION MUST CONTINUE TO FILE THE BIENNIAL STATEMENT REQUIRED BY THIS SECTION WITH THE DEPARTMENT OF STATE UNTIL THE LIMITED LIABILITY COMPANY IN FACT HAS FILED A FILING FEE PAYMENT FORM WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT INCLUDES ALL REQUIRED INFORMATION. AFTER THAT TIME, THE LIMITED LIABILITY COMPANY SHALL CONTINUE TO PROVIDE ANNUALLY THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION ON ITS FILING FEE PAYMENT FORM IN LIEU OF THE BIENNIAL STATEMENT REQUIRED BY THIS SUBDIVISION.

(3) IF THE AGREEMENT DESCRIBED IN PARAGRAPH TWO OF THIS SUBDIVISION IS MADE, THE DEPARTMENT OF TAXATION AND FINANCE SHALL DELIVER TO THE DEPARTMENT OF STATE THE STATEMENT SPECIFIED IN PARAGRAPH ONE OF THIS SUBDIVISION CONTAINED ON FILING FEE PAYMENT FORMS. THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE THE CURRENT NAME OF THE LIMITED LIABILITY COMPANY, DEPARTMENT OF STATE IDENTIFICATION NUMBER FOR SUCH LIMITED LIABILITY COMPANY, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE STATEMENT, NAME AND STREET

1 ADDRESS OF THE FILER OF THE STATEMENT, AND THE EMAIL ADDRESS, IF ANY, OF
2 THE FILER OF THE STATEMENT.

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

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

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

14 (c) For the statement of address of the post office address to which
15 the secretary of state shall mail a copy of any process against the
16 limited liability company served upon him or her pursuant to section
17 three hundred one of this chapter, nine dollars. THIS FEE SHALL NOT
18 APPLY TO STATEMENTS SUBMITTED THROUGH THE DEPARTMENT OF TAXATION AND
19 FINANCE PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (E) OF SECTION THREE
20 HUNDRED ONE OF THIS CHAPTER.

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

24 (g) Each registered limited liability partnership shall, within sixty
25 days prior to the fifth anniversary of the effective date of its regis-
26 tration and every five years thereafter, furnish a statement to the
27 department of state setting forth: (i) the name of the registered limit-
28 ed liability partnership, (ii) the address of the principal office of
29 the registered limited liability partnership, (iii) the post office
30 address within or without this state to which the secretary of state
31 shall mail a copy of any process accepted against it served upon him or
32 her, which address shall supersede any previous address on file with the
33 department of state for this purpose, and (iv) a statement that it is
34 eligible to register as a registered limited liability partnership
35 pursuant to subdivision (a) of this section. The statement shall be
36 executed by one or more partners of the registered limited liability
37 partnership. The statement shall be accompanied by a fee of twenty
38 dollars IF SUBMITTED DIRECTLY TO THE DEPARTMENT OF STATE. THE COMMIS-
39 SIONER OF TAXATION AND FINANCE AND THE SECRETARY OF STATE MAY AGREE TO
40 ALLOW REGISTERED LIMITED LIABILITY PARTNERSHIPS TO PROVIDE THE STATEMENT
41 SPECIFIED IN THIS SUBDIVISION ON TAX REPORTS FILED WITH THE DEPARTMENT
42 OF TAXATION AND FINANCE IN LIEU OF STATEMENTS FILED DIRECTLY WITH THE
43 SECRETARY OF STATE AND IN A MANNER PRESCRIBED BY THE COMMISSIONER OF
44 TAXATION AND FINANCE. IF THIS AGREEMENT IS MADE, STARTING WITH TAXABLE
45 YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, EACH
46 REGISTERED LIMITED LIABILITY PARTNERSHIP REQUIRED TO FILE THE STATEMENT
47 SPECIFIED IN THIS SUBDIVISION THAT IS SUBJECT TO THE FILING FEE IMPOSED
48 BY PARAGRAPH THREE OF SUBSECTION (C) OF SECTION SIX HUNDRED FIFTY-EIGHT
49 OF THE TAX LAW SHALL PROVIDE SUCH STATEMENT ANNUALLY ON ITS FILING FEE
50 PAYMENT FORM FILED WITH THE DEPARTMENT OF TAXATION AND FINANCE IN LIEU
51 OF FILING A STATEMENT UNDER THIS SUBDIVISION WITH THE DEPARTMENT OF
52 STATE. HOWEVER, EACH REGISTERED LIMITED LIABILITY PARTNERSHIP REQUIRED
53 TO FILE A STATEMENT UNDER THIS SECTION MUST CONTINUE TO FILE A STATEMENT
54 WITH THE DEPARTMENT OF STATE AS REQUIRED BY THIS SECTION UNTIL THE
55 REGISTERED LIMITED LIABILITY PARTNERSHIP IN FACT HAS FILED A FILING FEE
56 PAYMENT FORM WITH THE DEPARTMENT OF TAXATION AND FINANCE THAT INCLUDES

1 ALL REQUIRED INFORMATION. AFTER THAT TIME, THE REGISTERED LIMITED
2 LIABILITY PARTNERSHIP SHALL CONTINUE TO PROVIDE ANNUALLY THE STATEMENT
3 SPECIFIED IN THIS SUBDIVISION ON ITS FILING FEE PAYMENT FORM IN LIEU OF
4 THE STATEMENT REQUIRED BY THIS SUBDIVISION. THE COMMISSIONER OF TAXATION
5 AND FINANCE SHALL DELIVER THE COMPLETED STATEMENT SPECIFIED IN THIS
6 SUBDIVISION TO THE DEPARTMENT OF STATE FOR FILING. THE DEPARTMENT OF
7 TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE, ALSO INCLUDE IN SUCH
8 DELIVERY THE CURRENT NAME OF THE REGISTERED LIMITED LIABILITY PARTNER-
9 SHIP, DEPARTMENT OF STATE IDENTIFICATION NUMBER FOR SUCH REGISTERED
10 LIMITED LIABILITY PARTNERSHIP, THE NAME, SIGNATURE AND CAPACITY OF THE
11 SIGNER OF THE STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE
12 STATEMENT, AND THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT.
13 If a registered limited liability partnership shall not timely file the
14 statement required by this subdivision, the department of state may,
15 upon sixty days' notice mailed to the address of such registered limited
16 liability partnership as shown in the last registration or statement or
17 certificate of amendment filed by such registered limited liability
18 partnership, make a proclamation declaring the registration of such
19 registered limited liability partnership to be revoked pursuant to this
20 subdivision. The department of state shall file the original proclama-
21 tion in its office and shall publish a copy thereof in the state regis-
22 ter no later than three months following the date of such proclamation.
23 THIS SHALL NOT APPLY TO REGISTERED LIMITED LIABILITY PARTNERSHIPS THAT
24 HAVE FILED A STATEMENT WITH THE DEPARTMENT OF STATE THROUGH THE DEPART-
25 MENT OF TAXATION AND FINANCE. Upon the publication of such proclamation
26 in the manner aforesaid, the registration of each registered limited
27 liability partnership named in such proclamation shall be deemed revoked
28 without further legal proceedings. Any registered limited liability
29 partnership whose registration was so revoked may file in the department
30 of state a [certificate of consent certifying that either a] statement
31 required by this subdivision [has been filed or accompanies the certif-
32 icate of consent and all fees imposed under this chapter on the regis-
33 tered limited liability partnership have been paid]. The filing of such
34 [certificate of consent] STATEMENT shall have the effect of annulling
35 all of the proceedings theretofore taken for the revocation of the
36 registration of such registered limited liability partnership under this
37 subdivision and (1) the registered limited liability partnership shall
38 thereupon have such powers, rights, duties and obligations as it had on
39 the date of the publication of the proclamation, with the same force and
40 effect as if such proclamation had not been made or published and (2)
41 such publication shall not affect the applicability of the provisions of
42 subdivision (b) of section twenty-six of this chapter to any debt, obli-
43 gation or liability incurred, created or assumed from the date of publi-
44 cation of the proclamation through the date of the filing of the
45 [certificate of consent. The filing of a certificate of consent shall be
46 accompanied by a fee of fifty dollars and if accompanied by a statement,
47 the fee required by this subdivision] STATEMENT WITH THE DEPARTMENT OF
48 STATE. If, after the publication of such proclamation, it shall be
49 determined by the department of state that the name of any registered
50 limited liability partnership was erroneously included in such proclama-
51 tion, the department of state shall make appropriate entry on its
52 records, which entry shall have the effect of annulling all of the
53 proceedings theretofore taken for the revocation of the registration of
54 such registered limited liability partnership under this subdivision and
55 (A) such registered limited liability partnership shall have such
56 powers, rights, duties and obligations as it had on the date of the

1 publication of the proclamation, with the same force and effect as if
2 such proclamation had not been made or published and (B) such publica-
3 tion shall not affect the applicability of the provisions of subdivision
4 (b) of section twenty-six of this chapter to any debt, obligation or
5 liability incurred, created or assumed from the date of publication of
6 the proclamation through the date of the making of the entry on the
7 records of the department of state. Whenever a registered limited
8 liability partnership WHOSE REGISTRATION WAS REVOKED shall have filed a
9 [certificate of consent] STATEMENT pursuant to this subdivision or if
10 the name of a registered limited liability partnership was erroneously
11 included in a proclamation and such proclamation was annulled, the
12 department of state shall publish a notice thereof in the state regis-
13 ter.

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

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

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

1 COMMISSIONER OF TAXATION AND FINANCE SHALL DELIVER THE COMPLETED STATE-
2 MENT SPECIFIED IN THIS PARAGRAPH TO THE DEPARTMENT OF STATE FOR FILING.
3 THE DEPARTMENT OF TAXATION AND FINANCE MUST, TO THE EXTENT FEASIBLE,
4 ALSO INCLUDE IN SUCH DELIVERY THE CURRENT NAME OF THE NEW YORK REGIS-
5 TERED FOREIGN LIMITED LIABILITY PARTNERSHIP, DEPARTMENT OF STATE IDEN-
6 TIFICATION NUMBER FOR SUCH NEW YORK REGISTERED FOREIGN LIMITED LIABILITY
7 PARTNERSHIP, THE NAME, SIGNATURE AND CAPACITY OF THE SIGNER OF THE
8 STATEMENT, NAME AND STREET ADDRESS OF THE FILER OF THE STATEMENT, AND
9 THE EMAIL ADDRESS, IF ANY, OF THE FILER OF THE STATEMENT. If a New York
10 registered foreign limited liability partnership shall not timely file
11 the statement required by this subdivision, the department of state may,
12 upon sixty days' notice mailed to the address of such New York regis-
13 tered foreign limited liability partnership as shown in the last notice
14 or statement or certificate of amendment filed by such New York regis-
15 tered foreign limited liability partnership, make a proclamation declar-
16 ing the status of such New York registered foreign limited liability
17 partnership to be revoked pursuant to this subdivision. THIS SHALL NOT
18 APPLY TO NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIPS THAT
19 HAVE FILED A STATEMENT WITH THE DEPARTMENT OF STATE THROUGH THE DEPART-
20 MENT OF TAXATION AND FINANCE. The department of state shall file the
21 original proclamation in its office and shall publish a copy thereof in
22 the state register no later than three months following the date of such
23 proclamation. Upon the publication of such proclamation in the manner
24 aforesaid, the status of each New York registered foreign limited
25 liability partnership named in such proclamation shall be deemed revoked
26 without further legal proceedings. Any New York registered foreign
27 limited liability partnership whose status was so revoked may file in
28 the department of state a [certificate of consent certifying that either
29 a] statement required by this subdivision [has been filed or accompanies
30 the certificate of consent and all fees imposed under this chapter on
31 the New York registered foreign limited liability partnership have been
32 paid]. The filing of such [certificate of consent] STATEMENT shall have
33 the effect of annulling all of the proceedings theretofore taken for the
34 revocation of the status of such New York registered foreign limited
35 liability partnership under this subdivision and (1) the New York regis-
36 tered foreign limited liability partnership shall thereupon have such
37 powers, rights, duties and obligations as it had on the date of the
38 publication of the proclamation, with the same force and effect as if
39 such proclamation had not been made or published and (2) such publica-
40 tion shall not affect the applicability of the laws of the jurisdiction
41 governing the agreement under which such New York registered foreign
42 limited liability partnership is operating (including laws governing the
43 liability of partners) to any debt, obligation or liability incurred,
44 created or assumed from the date of publication of the proclamation
45 through the date of the filing of the [certificate of consent. The
46 filing of a certificate of consent shall be accompanied by a fee of
47 fifty dollars and if accompanied by a statement, the fee required by
48 this subdivision] STATEMENT WITH THE DEPARTMENT OF STATE. If, after the
49 publication of such proclamation, it shall be determined by the depart-
50 ment of state that the name of any New York registered foreign limited
51 liability partnership was erroneously included in such proclamation, the
52 department of state shall make appropriate entry on its records, which
53 entry shall have the effect of annulling all of the proceedings thereto-
54 fore taken for the revocation of the status of such New York registered
55 foreign limited liability partnership under this subdivision and (1)
56 such New York registered foreign limited liability partnership shall

1 have such powers, rights, duties and obligations as it had on the date
2 of the publication of the proclamation, with the same force and effect
3 as if such proclamation had not been made or published and (2) such
4 publication shall not affect the applicability of the laws of the juris-
5 diction governing the agreement under which such New York registered
6 foreign limited liability partnership is operating (including laws
7 governing the liability of partners) to any debt, obligation or liabil-
8 ity incurred, created or assumed from the date of publication of the
9 proclamation through the date of the making of the entry on the records
10 of the department of state. Whenever a New York registered foreign
11 limited liability partnership WHOSE STATUS WAS REVOKED shall have filed
12 a [certificate of consent] STATEMENT pursuant to this subdivision or if
13 the name of a New York registered foreign limited liability partnership
14 was erroneously included in a proclamation and such proclamation was
15 annulled, the department of state shall publish a notice thereof in the
16 state register.

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

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

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

27 5. NOTWITHSTANDING THE PROVISIONS OF SECTION TWO HUNDRED TWO OF THIS
28 ARTICLE, THE COMMISSIONER SHALL PROVIDE THE STATEMENTS AND OTHER
29 REQUIRED INFORMATION REQUESTED ON TAX REPORTS UNDER SECTION FOUR HUNDRED
30 EIGHT OF THE BUSINESS CORPORATION LAW TO THE SECRETARY OF STATE FOR
31 FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY OR IMAGE OF THAT PORTION
32 OF THE REPORT SOLELY PERTINENT TO SUCH INFORMATION TO THE EXTENT FEASI-
33 BLE. THE COMMISSIONER MAY ALSO PROVIDE INFORMATION ON NONCOMPLIANCE.

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

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

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

45 (E) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (E) OF SECTION SIX
46 HUNDRED NINETY-SEVEN OF THIS ARTICLE, THE COMMISSIONER SHALL PROVIDE THE
47 STATEMENTS AND OTHER REQUIRED INFORMATION INCLUDED ON THE FILING FEE
48 PAYMENT FORM UNDER SECTION THREE HUNDRED ONE OF THE LIMITED LIABILITY
49 COMPANY LAW, SUBDIVISION (G) OF SECTION 121-1500 OF THE PARTNERSHIP LAW,
50 AND SUBDIVISION (F) OF SECTION 121-1502 OF THE PARTNERSHIP LAW, TO THE
51 SECRETARY OF STATE FOR FILING. SUCH PROVISION MAY ALSO INCLUDE A COPY
52 OR IMAGE OF THAT PORTION OF THE REPORT SOLELY PERTINENT TO SUCH INFORMA-
53 TION TO THE EXTENT FEASIBLE. THE COMMISSIONER MAY ALSO PROVIDE INFORMA-
54 TION ON NONCOMPLIANCE.

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

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

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

(DD) FAILURE TO SUPPLY ALL THE INFORMATION REQUIRED OR TO PROVIDE CORRECT INFORMATION IN SECRETARY OF STATE STATEMENTS. UNLESS IT IS SHOWN THAT SUCH FAILURE TO PROVIDE THE STATEMENT AND INFORMATION REQUIRED BY SUBDIVISION (E) OF SECTION THREE HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW, SUBDIVISION (G) OF SECTION 121-1500 OF THE PARTNERSHIP LAW, AND SUBDIVISION (F) OF SECTION 121-1502 OF THE PARTNERSHIP LAW IS DUE TO REASONABLE CAUSE AND NOT TO WILLFUL NEGLECT, THERE SHALL, UPON NOTICE AND DEMAND BY THE COMMISSIONER AND IN THE SAME MANNER AS TAX, BE PAID BY THE ENTITY FAILING TO SUPPLY COMPLETE AND CORRECT INFORMATION, A PENALTY OF TWO HUNDRED AND FIFTY DOLLARS PER LIMITED LIABILITY COMPANY, REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP REQUIRED TO PROVIDE SUCH INFORMATION ON ITS FILING FEE PAYMENT FORM.

S 16. This act shall take effect immediately.

PART T

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

(a) The term "investment capital" means investments in stocks that (I) SATISFY THE DEFINITION OF A CAPITAL ASSET UNDER SECTION 1221 OF THE INTERNAL REVENUE CODE AT ALL TIMES THE TAXPAYER OWNED SUCH STOCK DURING THE TAXABLE YEAR, (II) are held by the taxpayer FOR INVESTMENT for more than [six consecutive months but are not] ONE YEAR, (III) THE DISPOSITIONS OF WHICH ARE, OR WOULD BE, TREATED BY THE TAXPAYER AS GENERATING LONG-TERM CAPITAL GAINS OR LOSSES UNDER THE INTERNAL REVENUE CODE, (IV) FOR STOCKS ACQUIRED ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, AT ANY TIME AFTER THE CLOSE OF THE DAY IN WHICH THEY ARE ACQUIRED, HAVE NEVER BEEN held for sale to customers in the regular course of business[, or, if the taxpayer makes the election provided for in subparagraph one of paragraph (a) of subdivision five of section two hundred ten-A of this article, are not qualified financial instruments as described in subdivision five of section two hundred ten-A of this article], AND (V) BEFORE THE CLOSE OF THE DAY ON WHICH THE STOCK WAS ACQUIRED, ARE CLEARLY IDENTIFIED IN THE TAXPAYER'S RECORDS AS STOCK HELD FOR INVESTMENT IN THE SAME MANNER AS REQUIRED UNDER SECTION 1236(A)(1) OF THE INTERNAL REVENUE CODE FOR THE STOCK OF A DEALER IN SECURITIES TO BE ELIGIBLE FOR CAPITAL GAIN TREATMENT (WHETHER OR NOT THE TAXPAYER IS A DEALER OF SECURITIES SUBJECT TO SECTION 1236), PROVIDED, HOWEVER, THAT FOR STOCK ACQUIRED PRIOR TO OCTOBER FIRST, TWO THOUSAND FIFTEEN THAT WAS NOT SUBJECT TO SECTION 1236(A) OF THE INTERNAL REVENUE CODE, SUCH IDENTIFICATION IN THE TAXPAYER'S RECORDS MUST OCCUR BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN. Stock in a corporation that is conducting a unitary business with the taxpayer, stock in a corporation that is

1 included in a combined report with the taxpayer pursuant to the commonly
2 owned group election in subdivision three of section two hundred ten-C
3 of this article, and stock issued by the taxpayer shall not constitute
4 investment capital. For purposes of this subdivision, if the taxpayer
5 owns or controls, directly or indirectly, less than twenty percent of
6 the voting power of the stock of a corporation, that corporation will be
7 presumed to be conducting a business that is not unitary with the busi-
8 ness of the taxpayer.

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

12 (d) If a taxpayer acquires stock THAT IS A CAPITAL ASSET UNDER SECTION
13 1221 OF THE INTERNAL REVENUE CODE during the [second half of its] taxa-
14 ble year and owns that stock on the last day of the taxable year, it
15 will be presumed, SOLELY FOR PURPOSES OF DETERMINING WHETHER THAT STOCK
16 SHOULD BE CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED, that
17 the taxpayer held that stock for more than [six consecutive months
18 during the taxable] ONE year. However, if the taxpayer does not in fact
19 [hold] OWN that stock [for more than six consecutive months,] AT THE
20 TIME IT ACTUALLY FILES ITS ORIGINAL REPORT FOR THE TAXABLE YEAR IN WHICH
21 IT ACQUIRED THE STOCK, THEN THE PRESUMPTION IN THE PRECEDING SENTENCE
22 SHALL NOT APPLY AND THE ACTUAL PERIOD OF TIME DURING WHICH THE TAXPAYER
23 OWNED THE STOCK SHALL BE USED TO DETERMINE WHETHER THE STOCK SHOULD BE
24 CLASSIFIED AS INVESTMENT CAPITAL AFTER IT IS ACQUIRED. IF THE TAXPAYER
25 RELIES ON THE PRESUMPTION IN THE FIRST SENTENCE OF THIS PARAGRAPH BUT
26 DOES NOT OWN THE STOCK FOR MORE THAN ONE YEAR, the taxpayer must
27 increase its total business capital in the immediately succeeding taxa-
28 ble year by the amount included in investment capital for that stock,
29 net of any liabilities attributable to that stock computed as provided
30 in paragraph (b) of this subdivision and must increase its business
31 income in the immediately succeeding taxable year by the amount of
32 income and net gains (but not less than zero) from that stock included
33 in investment income, less any interest deductions directly or indirect-
34 ly attributable to that stock, as provided in subdivision six of this
35 section.

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

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

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

47 S 5. Paragraphs (a) and (b) of subdivision 6 of section 208 of the tax
48 law, paragraph (a) as amended and paragraph (b) as added by section 4 of
49 part A of chapter 59 of the laws of 2014, are amended to read as
50 follows:

51 (a) (I) The term "investment income" means income, including capital
52 gains in excess of capital losses, from investment capital, to the
53 extent included in computing entire net income, less, [(i)] in the
54 discretion of the commissioner, any interest deductions allowable in
55 computing entire net income which are directly or indirectly attribut-
56 able to investment capital or investment income, [and (ii)] the taxpay-

1 er's loss, deduction and/or expense attributable to any transaction, or
2 series of transactions, entered into to manage the risk of price changes
3 or currency fluctuations with respect to any item of investment capital
4 that is held or to be held by the taxpayer, or the aggregate investment
5 capital that is held or to be held by the taxpayer, if all of the risk,
6 or all but a de minimis amount of the risk, is with respect to invest-
7 ment capital,] provided, however, that in no case shall investment
8 income exceed entire net income. (II) If the amount OF INTEREST
9 DEDUCTIONS subtracted under subparagraph (i) [or subparagraph (ii)] of
10 this paragraph [or under both of those subparagraphs] exceeds investment
11 income, the excess of such amount over investment income must be added
12 back to entire net income. (III) IF THE TAXPAYER'S INVESTMENT INCOME
13 DETERMINED WITHOUT REGARD TO THE INTEREST DEDUCTIONS SUBTRACTED UNDER
14 SUBPARAGRAPH (I) OF THIS PARAGRAPH COMPRISES MORE THAN EIGHT PERCENT OF
15 THE TAXPAYER'S ENTIRE NET INCOME, INVESTMENT INCOME DETERMINED WITHOUT
16 REGARD TO SUCH INTEREST DEDUCTIONS CANNOT EXCEED EIGHT PERCENT OF THE
17 TAXPAYER'S ENTIRE NET INCOME.

18 (b) In lieu of subtracting from investment income the amount of those
19 interest deductions, the taxpayer may [elect] MAKE A REVOCABLE ELECTION
20 to reduce its total investment income, DETERMINED AFTER APPLYING THE
21 LIMITATION IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION,
22 by forty percent. If the taxpayer makes this election, the taxpayer must
23 also make the elections provided for in paragraphs (b) and (c) of subdi-
24 vision six-a of this section. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS
25 ELECTION, THE TAXPAYER MUST REVOKE THE ELECTIONS PROVIDED FOR IN PARA-
26 GRAPHS (B) AND (C) OF SUBDIVISION SIX-A OF THIS SECTION. A taxpayer
27 [which] THAT does not make this election because it has no investment
28 capital will not be precluded from making those other elections.

29 S 5-a. Paragraphs (b) and (c) of subdivision 6-a of section 208 of the
30 tax law, as added by section 4 of chapter 59 of the laws of 2014, are
31 amended to read as follows:

32 (b) "Exempt CFC income" means the income required to be included in
33 the taxpayer's federal gross income pursuant to subsection (a) of
34 section 951 of the internal revenue code, received from a corporation
35 that is conducting a unitary business with the taxpayer but is not
36 included in a combined report with the taxpayer, less, in the discretion
37 of the commissioner, any interest deductions directly or indirectly
38 attributable to that income. In lieu of subtracting from its exempt CFC
39 income the amount of those interest deductions, the taxpayer may [elect]
40 MAKE A REVOCABLE ELECTION to reduce its total exempt CFC income by forty
41 percent. If the taxpayer makes this election, the taxpayer must also
42 make the elections provided for in paragraph (b) of subdivision six of
43 this section and paragraph (c) of this subdivision. IF THE TAXPAYER
44 SUBSEQUENTLY REVOKES THIS ELECTION, THE TAXPAYER MUST REVOKE THE
45 ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVISION SIX OF THIS
46 SECTION AND PARAGRAPH (C) OF THIS SUBDIVISION. A taxpayer which does not
47 make this election because it has no exempt CFC income will not be
48 precluded from making those other elections.

49 (c) "Exempt unitary corporation dividends" means those dividends from
50 a corporation that is conducting a unitary business with the taxpayer
51 but is not included in a combined report with the taxpayer, less, in the
52 discretion of the commissioner, any interest deductions directly or
53 indirectly attributable to such income. Other than dividend income
54 received from corporations that are taxable under a franchise tax
55 imposed by article nine or article thirty-three of this chapter or would
56 be taxable under a franchise tax imposed by article nine or article

1 thirty-three of this chapter if subject to tax, in lieu of subtracting
2 from this dividend income those interest deductions, the taxpayer may
3 [elect] MAKE A REVOCABLE ELECTION to reduce the total amount of this
4 dividend income by forty percent. If the taxpayer makes this election,
5 the taxpayer must also make the elections provided for in paragraph (b)
6 of subdivision six of this section and paragraph (b) of this subdivi-
7 sion. IF THE TAXPAYER SUBSEQUENTLY REVOKES THIS ELECTION, THE TAXPAYER
8 MUST ALSO REVOKE THE ELECTIONS PROVIDED FOR IN PARAGRAPH (B) OF SUBDIVI-
9 SION SIX OF THIS SECTION AND PARAGRAPH (B) OF THIS SUBDIVISION. A
10 taxpayer which does not make this election because it has not received
11 any exempt unitary corporation dividends or is precluded from making
12 this election for dividends received from corporations taxable under a
13 franchise tax imposed by article nine or article thirty-three of this
14 chapter or would be taxable under a franchise tax imposed by article
15 nine or article thirty-three of this chapter if subject to tax will not
16 be precluded from making those other elections.

17 S 5-b. Clause (i) of subparagraph 5 of paragraph (a) of subdivision 9
18 of section 208 of the tax law, as amended by section 4 of part A of
19 chapter 59 of the laws of 2014, is amended to read as follows:

20 (i) any refund or credit of a tax imposed under this article, article
21 twenty-three, or former article thirty-two of this chapter, for which
22 tax no exclusion or deduction was allowed in determining the taxpayer's
23 entire net income under this article, article twenty-three, or former
24 article thirty-two of this chapter for any prior year, OR (ii) [a refund
25 or credit of general corporation tax allowed by subdivision eleven of
26 section 11-604 of the administrative code of the city of New York, or
27 (iii)] any refund or credit of a tax imposed under sections one hundred
28 eighty-three, one hundred eighty-three-a, one hundred eighty-four or one
29 hundred eighty-four-a of this chapter[, and];

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

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

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

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

48 (IV) Intercompany stockholdings and bills, notes and accounts
49 receivable, and other intercompany indebtedness between the corpo-
50 rations included in the combined report shall be eliminated.

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

54 S 7. Clause (B) of subparagraph 2 and clause (B) of subparagraph 2-a
55 of paragraph (s) of subdivision 9 of section 208 of the tax law, as

added by section 4 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

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

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

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

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

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

(III) FOR PURPOSES OF THIS PARAGRAPH, ANY CORPORATION DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TEN-C OF THIS ARTICLE SHALL NOT BE CONSIDERED.

S 8-a. Subdivision 2-a of section 209 of the tax law, as amended by section 5 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

2-a. An alien corporation shall not be deemed to be doing business, employing capital, owning or leasing property, [or] maintaining an office in this state, OR DERIVING RECEIPTS FROM ACTIVITY IN THIS STATE, for the purposes of this article, if its activities in this state are limited solely to (a) investing or trading in stocks and securities for its own account within the meaning of clause (ii) of subparagraph (A) of paragraph (2) of subsection (b) of section eight hundred sixty-four of the internal revenue code or (b) investing or trading in commodities for its own account within the meaning of clause (ii) of subparagraph (B) of paragraph (2) of subsection (b) of section eight hundred sixty-four of the internal revenue code or (c) any combination of activities described in paragraphs (a) and (b) of this subdivision. An alien corporation that under any provision of the internal revenue code is not treated as a "domestic corporation" as defined in section seven thousand seven hundred one of such code and has no effectively connected income for the taxable year pursuant to clause (iv) of the opening paragraph of subdivision nine of section two hundred eight of this article shall not be

1 subject to tax under this article for that taxable year. For purposes of
2 this article, an alien corporation is a corporation organized under the
3 laws of a country, or any political subdivision thereof, other than the
4 United States, or organized under the laws of a possession, territory or
5 commonwealth of the United States.

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

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

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

32 (III) FOR PURPOSES OF THIS PARAGRAPH, ANY CORPORATION DESCRIBED IN
33 PARAGRAPH (C) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TEN-C OF THIS
34 ARTICLE SHALL NOT BE CONSIDERED.

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

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

1 S 11. Subparagraph (vi) of paragraph (a) of subdivision 1 of section
2 210 of the tax law, as amended by section 12 of part A of chapter 59 of
3 the laws of 2014, is amended to read as follows:

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

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

43 (vii) For a taxpayer that is defined as a qualified emerging technolo-
44 gy company under paragraph (c) of subdivision one of section thirty-one
45 hundred two-e of the public authorities law regardless of the ten
46 million dollar limitation expressed in subparagraph one of such para-
47 graph (c) the AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED AT
48 THE rate [at which the tax is computed in effect for taxable years
49 beginning on or after January first, two thousand thirteen and before
50 January first, two thousand fourteen for such qualified emerging tech-
51 nology companies shall be reduced by nine and two-tenths percent for
52 taxable years commencing on or after January first, two thousand four-
53 teen and before January first, two thousand fifteen, twelve and three-
54 tenths percent for taxable years commencing on or after January first,
55 two thousand fifteen and before January first, two thousand sixteen,
56 fifteen and four-tenths percent for taxable years commencing on or after

January first, two thousand sixteen and before January first, two thousand eighteen, and twenty-five percent for taxable years beginning on or after January first, two thousand eighteen] OF 5.7 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, 5.5 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST TWO THOUSAND SIXTEEN AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, AND 4.875 PERCENT FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND EIGHTEEN.

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

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

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

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

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

In computing the business income base, a net operating loss deduction shall be allowed. A net operating loss deduction is the amount of net operating loss or losses from one or more taxable years that are carried forward OR CARRIED BACK to a particular [income] TAXABLE year. A net operating loss is the amount of a business loss incurred in a particular tax year multiplied by the apportionment factor for that year as determined under section two hundred ten-A of this article. The maximum net

operating LOSS deduction that is allowed in a taxable year is the amount that reduces the taxpayer's tax on [allocated] THE APPORTIONED business income BASE to the higher of the tax on the capital base or the fixed dollar minimum. Such deduction and loss are determined in accordance with the following:

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

(4) [A net operating loss may be carried forward to each of the twenty taxable years following the taxable year of the loss. A net operating loss may be carried back to each of the three taxable years preceding the taxable year of the loss; provided, however no loss can be carried back to a tax year prior to a tax year beginning on or after January, first, two thousand fifteen. A taxpayer must apply both of these limitations in computing such net operating loss deduction.] A NET OPERATING LOSS MAY BE CARRIED BACK THREE TAXABLE YEARS PRECEDING THE TAXABLE YEAR OF THE LOSS ("THE LOSS YEAR"). HOWEVER NO LOSS CAN BE CARRIED BACK TO A TAXABLE YEAR BEGINNING BEFORE JANUARY FIRST, TWO THOUSAND FIFTEEN. THE LOSS IS FIRST CARRIED TO THE EARLIEST OF THE THREE TAXABLE YEARS. IF IT IS NOT ENTIRELY USED IN THAT YEAR, IT IS CARRIED TO THE SECOND TAXABLE YEAR PRECEDING THE LOSS YEAR, AND ANY REMAINING AMOUNT IS CARRIED TO THE TAXABLE YEAR IMMEDIATELY PRECEDING THE LOSS YEAR. ANY UNUSED AMOUNT OF LOSS THEN REMAINING MAY BE CARRIED FORWARD FOR AS MANY AS TWENTY TAXABLE YEARS FOLLOWING THE LOSS YEAR. LOSSES CARRIED FORWARD ARE CARRIED FORWARD FIRST TO THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE LOSS YEAR, THEN TO THE SECOND TAXABLE YEAR FOLLOWING THE LOSS YEAR, AND THEN TO THE NEXT IMMEDIATELY SUBSEQUENT TAXABLE YEAR OR YEARS UNTIL THE LOSS IS USED UP OR THE TWENTIETH TAXABLE YEAR FOLLOWING THE LOSS YEAR, WHICHEVER COMES FIRST.

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

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

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

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

(b) Capital base. (1) (I) The amount prescribed by this paragraph shall be computed at .15 percent for each dollar of the taxpayer's total business capital, or the portion thereof [allocated] APPORTIONED within the state as hereinafter provided for taxable years beginning before January first, two thousand sixteen. However, in the case of a cooperative housing corporation as defined in the internal revenue code, the applicable rate shall be .04 percent until taxable years beginning on or after January first, two thousand twenty. The rate of tax for subsequent

1 tax years shall be as follows: .125 percent for taxable years beginning
2 on or after January first, two thousand sixteen and before January
3 first, two thousand seventeen; .100 percent for taxable years beginning
4 on or after January first, two thousand seventeen and before January
5 first, two thousand eighteen; .075 percent for taxable years beginning
6 on or after January first, two thousand eighteen and before January
7 first, two thousand nineteen; .050 percent for taxable years beginning
8 on or after January first, two thousand nineteen and before January
9 first, two thousand twenty; .025 percent for taxable years beginning on
10 or after January first, two thousand twenty and before January first,
11 two thousand twenty-one; and zero percent for years beginning on or
12 after January first, two thousand twenty-one. The rate of tax for a
13 qualified New York manufacturer [for tax years subsequent to taxable
14 years beginning on or after January first, two thousand fifteen and
15 before January first, two thousand sixteen] shall be .132 PERCENT FOR
16 TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN
17 AND BEFORE JANUARY FIRST, TWO THOUSAND SIXTEEN, .106 percent for taxable
18 years beginning on or after January first, two thousand sixteen and
19 before January first, two thousand seventeen, .085 percent for taxable
20 years beginning on or after January first, two thousand seventeen and
21 before January first, two thousand eighteen; .056 percent for taxable
22 years beginning on or after January first, two thousand eighteen and
23 before January first, two thousand nineteen; .038 percent for taxable
24 years beginning on or after January first, two thousand nineteen and
25 before January first, thousand twenty; .019 percent for taxable years
26 beginning on or after January first, two thousand twenty and before
27 January first, two thousand twenty-one; and zero percent for years
28 beginning on or after January first, two thousand twenty-one. (II) In no
29 event shall the amount prescribed by this paragraph exceed three hundred
30 fifty thousand dollars for qualified New York manufacturers and for all
31 other taxpayers five million dollars.

32 (2) For purposes of subparagraph one of this paragraph, the term
33 "manufacturer" shall mean a taxpayer which during the taxable year is
34 principally engaged in the production of goods by manufacturing, proc-
35 essing, assembling, refining, mining, extracting, farming, agriculture,
36 horticulture, floriculture, viticulture or commercial fishing. Moreover,
37 for purposes of computing the capital base in a combined report, the
38 combined group shall be considered a "manufacturer" for purposes of this
39 subparagraph only if the combined group during the taxable year is prin-
40 cipally engaged in the activities set forth in this subparagraph, or any
41 combination thereof. A taxpayer or, IN THE CASE OF A COMBINED REPORT, a
42 combined group shall be "principally engaged" in activities described
43 above if, during the taxable year, more than fifty percent of the gross
44 receipts of the taxpayer or combined group, respectively, are derived
45 from receipts from the sale of goods produced by such activities. In
46 computing a combined group's gross receipts, intercorporate receipts
47 shall be eliminated. A "qualified New York manufacturer" is a manufac-
48 turer that has property in New York that is described in CLAUSE (A) OF
49 SUBPARAGRAPH (I) OF PARAGRAPH (B) OF subdivision one of section [210-B]
50 TWO HUNDRED TEN-B of this article and either (i) the adjusted basis of
51 that property for federal income tax purposes at the close of the taxa-
52 ble year is at least one million dollars or (ii) all of its real and
53 personal property is located in New York. In addition, a "qualified New
54 York manufacturer" means a taxpayer that is defined as a qualified
55 emerging technology company under paragraph (c) of subdivision one of
56 section thirty-one hundred two-e of the public authorities law regard-

less of the ten million dollar limitation expressed in subparagraph one of such paragraph. A taxpayer or, in the case of a combined report, a combined group, that does not satisfy the principally engaged test may be a qualified New York manufacturer if the taxpayer or the combined group employs during the taxable year at least two thousand five hundred employees in manufacturing in New York and the taxpayer or the combined group has property in the state used in manufacturing, the adjusted basis of which for federal income tax purposes at the close of the taxable year is at least one hundred million dollars.

S 19. Subparagraphs 1 and 2 of paragraph (d) of subdivision 1 of section 210 of the tax law, as amended by section 12 of part A of chapter 59 of the laws of 2014, are amended to read as follows:

(1) (A) The amount prescribed by this paragraph for New York S corporations, OTHER THAN NEW YORK S CORPORATIONS THAT ARE QUALIFIED NEW YORK MANUFACTURERS OR QUALIFIED EMERGING TECHNOLOGY COMPANIES, will be determined in accordance with the following table:

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

(B) PROVIDED FURTHER, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH FOR NEW YORK S CORPORATIONS THAT ARE QUALIFIED NEW YORK MANUFACTURERS, AS DEFINED IN SUBPARAGRAPH (VI) OF PARAGRAPH (A) OF THIS SUBDIVISION, AND FOR NEW YORK S CORPORATIONS THAT ARE QUALIFIED EMERGING TECHNOLOGY COMPANIES UNDER PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION THIRTY-ONE HUNDRED TWO-E OF THE PUBLIC AUTHORITIES LAW REGARDLESS OF THE TEN MILLION DOLLAR LIMITATION EXPRESSED IN SUBPARAGRAPH ONE OF SUCH PARAGRAPH (C), WILL BE DETERMINED IN ACCORDANCE WITH THE FOLLOWING TABLES.

FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2015 AND BEFORE JANUARY 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	\$ 44
MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 153
MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 263
MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 877
MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,631
OVER \$25,000,000	\$3,947

FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2016 AND BEFORE JANUARY 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	\$ 42
MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 148
MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 254

1	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 846
2	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,538
3	OVER \$25,000,000	\$3,807

4 FOR TAXABLE 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	\$ 38
8	MORE THAN \$250,000 BUT NOT OVER \$500,000	\$ 131
9	MORE THAN \$500,000 BUT NOT OVER \$1,000,000	\$ 225
10	MORE THAN \$1,000,000 BUT NOT OVER \$5,000,000	\$ 750
11	MORE THAN \$5,000,000 BUT NOT OVER \$25,000,000	\$2,250
12	OVER \$25,000,000	\$3,375

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

25 [For tax years beginning on or after January 1, 2014 and before January
 26 1, 2015:

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

35 For tax years beginning on or after January 1, 2015 and before January
 36 1, 2016:

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

45 For tax years beginning on or after January 1, 2016 and before January
 46 1, 2018:

47	If New York receipts are:	The fixed dollar minimum tax is:
----	---------------------------	----------------------------------

1	not more than \$100,000	\$ 21
2	more than \$100,000 but not over \$250,000	\$ 63
3	more than \$250,000 but not over \$500,000	\$ 148
4	more than \$500,000 but not over \$1,000,000	\$ 423
5	more than \$1,000,000 but not over \$5,000,000	\$1,269
6	more than \$5,000,000 but not over \$25,000,000	\$2,961
7	Over \$25,000,000	\$4,230

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

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

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

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

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

36 (2) If the taxable year is less than twelve months, the amount of New
 37 York receipts is determined by dividing the amount of the receipts for
 38 the taxable year by the number of months in the taxable year and multi-
 39 plying the result by twelve, AND THE AMOUNT PRESCRIBED BY THIS PARAGRAPH
 40 SHALL BE REDUCED BY TWENTY-FIVE PERCENT OF THE PERIOD FOR WHICH THE
 41 TAXPAYER IS SUBJECT TO TAX IS MORE THAN SIX MONTHS BUT NOT MORE THAN
 42 NINE MONTHS AND BY FIFTY PERCENT IF THE PERIOD FOR WHICH THE TAXPAYER IS
 43 SUBJECT TO TAX IS NOT MORE THAN SIX MONTHS. In the case of a termination
 44 year of a New York S corporation, the sum of the tax computed under this
 45 paragraph for the S short year and for the C short year shall not be
 46 less than the amount computed under this paragraph as if the corporation
 47 were a New York C corporation for the entire taxable year.

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

1 (f) For purposes of this section, the term "small business taxpayer"
2 shall mean a taxpayer (i) which has an entire net income of not more
3 than three hundred ninety thousand dollars for the taxable year; (ii)
4 the aggregate amount of money and other property received by the corpo-
5 ration for stock, as a contribution to capital, and as paid-in surplus,
6 does not exceed one million dollars; (iii) which is not part of an
7 affiliated group, as defined in section 1504 of the internal revenue
8 code, unless such group, if it had filed a report under this article on
9 a combined basis, would have itself qualified as a "small business
10 taxpayer" pursuant to this subdivision; and (iv) which has an average
11 number of individuals, excluding general executive officers, employed
12 full-time in the state during the taxable year of one hundred or fewer.
13 If the taxable period to which subparagraph (i) of this paragraph
14 applies is less than twelve months, entire net income under such subpar-
15 agraph shall be placed on an annual basis by multiplying the entire net
16 income by twelve and dividing the result by the number of months in the
17 period. For purposes of subparagraph (ii) of this paragraph, the amount
18 taken into account with respect to any property other than money shall
19 be the amount equal to the adjusted basis to the corporation of such
20 property for determining gain, reduced by any liability to which the
21 property was subject or which was assumed by the corporation. The deter-
22 mination under the preceding sentence shall be made as of the time the
23 property was received by the corporation. For purposes of subparagraph
24 [(iii)] (IV) of this [section] PARAGRAPH, "average number of individ-
25 uals, excluding general executive officers, employed full-time" shall be
26 computed by ascertaining the number of such individuals employed by the
27 taxpayer on the thirty-first day of March, the thirtieth day of June,
28 the thirtieth day of September and the thirty-first day of December
29 during each taxable year or other applicable period, by adding together
30 the number of such individuals ascertained on each of such dates and
31 dividing the sum so obtained by the number of such dates occurring with-
32 in such taxable year or other applicable period. An individual employed
33 full-time means an employee in a job consisting of at least thirty-five
34 hours per week, or two or more employees who are in jobs that together
35 constitute the equivalent of a job at least thirty-five hours per week
36 (full-time equivalent). Full-time equivalent employees in the state
37 [includes] INCLUDE all employees regularly connected with or working out
38 of an office or place of business of the taxpayer within the state.

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

42 1. General. Business income and capital shall be apportioned to the
43 state by the apportionment factor determined pursuant to this section.
44 The apportionment factor is a fraction, determined by including only
45 those receipts, net income, net gains, and other items described in this
46 section that are included in the computation of the taxpayer's business
47 income (DETERMINED WITHOUT REGARD TO THE MODIFICATION PROVIDED IN
48 SUBPARAGRAPH NINETEEN OF PARAGRAPH (A) OF SUBDIVISION NINE OF SECTION
49 TWO HUNDRED EIGHT OF THIS ARTICLE) for the taxable year. The numerator
50 of the apportionment fraction shall be equal to the sum of all the
51 amounts required to be included in the numerator pursuant to the
52 provisions of this section and the denominator of the apportionment
53 fraction shall be equal to the sum of all the amounts required to be
54 included in the denominator pursuant to the provisions of this section.

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

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

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

12 [A financial instrument is a "qualified financial instrument" if it is
13 marked to market under section 475 or section 1256 of the internal
14 revenue code, provided that loans secured by real property shall not be
15 qualified financial instruments.] A financial instrument is a "nonquali-
16 fied financial instrument" if it is not a qualified financial instru-
17 ment. A QUALIFIED FINANCIAL INSTRUMENT MEANS A FINANCIAL INSTRUMENT
18 THAT IS OF A TYPE DESCRIBED IN ANY OF CLAUSES (A), (B), (C), (D), (G),
19 (H) OR (I) OF SUBPARAGRAPH TWO OF THIS PARAGRAPH AND THAT HAS BEEN
20 MARKED TO MARKET IN THE TAXABLE YEAR BY THE TAXPAYER UNDER SECTION 475
21 OR SECTION 1256 OF THE INTERNAL REVENUE CODE. FURTHER, IF THE TAXPAYER
22 HAS IN THE TAXABLE YEAR MARKED TO MARKET A FINANCIAL INSTRUMENT OF THE
23 TYPE DESCRIBED IN ANY OF THE CLAUSES (A), (B), (C), (D), (G), (H) OR (I)
24 OF SUBPARAGRAPH TWO OF THIS PARAGRAPH, THEN ANY FINANCIAL INSTRUMENT
25 WITHIN THAT TYPE DESCRIBED IN THE ABOVE SPECIFIED CLAUSE OR CLAUSES THAT
26 HAS NOT BEEN MARKED TO MARKET BY THE TAXPAYER UNDER SECTION 475 OR
27 SECTION 1256 OF THE INTERNAL REVENUE CODE IS A QUALIFIED FINANCIAL
28 INSTRUMENT IN THE TAXABLE YEAR. NOTWITHSTANDING THE TWO PRECEDING
29 SENTENCES, (I) A LOAN SECURED BY REAL PROPERTY SHALL NOT BE A QUALIFIED
30 FINANCIAL INSTRUMENT, (II) IF THE ONLY LOANS THAT ARE MARKED TO MARKET
31 BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVEN-
32 UE CODE ARE LOANS SECURED BY REAL PROPERTY, THEN NO LOANS SHALL BE QUAL-
33 IFIED FINANCIAL INSTRUMENTS, AND (III) STOCK THAT IS INVESTMENT CAPITAL
34 AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO HUNDRED
35 EIGHT OF THIS ARTICLE SHALL NOT BE A QUALIFIED FINANCIAL INSTRUMENT. IF
36 A CORPORATION IS INCLUDED IN A COMBINED REPORT, THE DEFINITION OF QUALI-
37 FIED FINANCIAL INSTRUMENT SHALL BE DETERMINED ON A COMBINED BASIS.

38 (1) Fixed percentage method for qualified financial instruments. In
39 determining the inclusion of receipts and net gains from qualified
40 financial instruments in the apportionment fraction, taxpayers may elect
41 to use the fixed percentage method described in this subparagraph for
42 qualified financial instruments. The election is irrevocable, applies to
43 all qualified financial instruments, and must be made on an annual basis
44 on the taxpayer's original, timely filed return, DETERMINED WITH REGARD
45 TO EXTENSIONS OF TIME FOR FILING. If the taxpayer elects the fixed
46 percentage method, then all income, gain or loss, INCLUDING MARKED TO
47 MARKET NET GAINS AS DEFINED IN CLAUSE (J) OF SUBPARAGRAPH TWO OF THIS
48 PARAGRAPH, from qualified financial instruments constitutes business
49 income, gain or loss. If the taxpayer does not elect to use the fixed
50 percentage method, then receipts and net gains are included in the
51 apportionment fraction in accordance with the customer sourcing method
52 described in subparagraph two of this paragraph. Under the fixed
53 percentage method, eight percent of all net income (not less than zero)
54 from qualified financial instruments is included in the numerator of the
55 apportionment fraction. All net income (not less than zero) from quali-

fied financial instruments is included in the denominator of the apportionment fraction.

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

(iv) Net gains (not less than zero) from sales of loans not secured by real property are included in the numerator of the apportionment fraction as provided in this subclause. The amount of net gains from the sale of loans not secured by real property included in the numerator of the apportionment fraction is determined by multiplying the net gains by a fraction, the numerator of which is the amount of gross proceeds from sales of loans not secured by real property to purchasers located within the state and the denominator of which is the amount of gross [receipts] PROCEEDS from sales of loans not secured by real property to purchasers located within and without the state. Gross proceeds shall be determined after the deduction of any cost incurred to acquire the loans but shall not be less than zero. Net gains (not less than zero) from sales of loans not secured by real property are included in the denominator of the apportionment fraction.

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

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

S 25-a. Clause (I) of subparagraph 2 of paragraph (a) of subdivision 5 of section 210-A of the tax law, as added by section 16 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(I) Physical commodities. Net income (not less than zero) from sales of physical commodities are included in the numerator of the apportionment fraction as provided in this [subparagraph] CLAUSE. The amount of net income from sales of physical commodities included in the numerator of the apportionment fraction is determined by multiplying the net income from sales of physical commodities by a fraction, the numerator of which is the amount of receipts from sales of physical commodities actually delivered to points within the state or, if there is no actual delivery of the physical commodity, sold to purchasers located in the state, and the denominator of which is the amount of receipts from sales of physical commodities actually delivered to points within and without the state or, IF THERE IS NO ACTUAL DELIVERY OF THE PHYSICAL COMMODITY, sold to purchasers located within and without the state. Net income (not less [that] THAN zero) from sales of physical commodities is included in the denominator of the apportionment fraction. Net income (not less than zero) from sales of physical commodities is determined after the deduction of the cost to acquire or produce the physical commodities.

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

(J) MARKED TO MARKET NET GAINS. (I) FOR PURPOSES OF THIS SUBDIVISION, "MARKED TO MARKET" MEANS THAT A FINANCIAL INSTRUMENT IS, UNDER SECTION 475 OR SECTION 1256 OF THE INTERNAL REVENUE CODE, TREATED BY THE TAXPAYER AS SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXPAYER'S TAXABLE YEAR. "MARKED TO MARKET GAIN OR LOSS" MEANS THE GAIN OR LOSS RECOGNIZED BY THE TAXPAYER UNDER SECTION 475 OR SECTION 1256 OF

1 THE INTERNAL REVENUE CODE BECAUSE THE FINANCIAL INSTRUMENT IS TREATED AS
2 SOLD FOR ITS FAIR MARKET VALUE ON THE LAST BUSINESS DAY OF THE TAXPAY-
3 ER'S TAXABLE YEAR.

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

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

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

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

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

50 6-A. RECEIPTS FROM THE OPERATION OF VESSELS. RECEIPTS FROM THE OPERA-
51 TION OF VESSELS ARE INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRAC-
52 TION AS FOLLOWS. THE AMOUNT OF RECEIPTS FROM THE OPERATION OF VESSELS
53 INCLUDED IN THE NUMERATOR OF THE APPORTIONMENT FRACTION IS DETERMINED BY
54 MULTIPLYING THE AMOUNT OF SUCH RECEIPTS BY A FRACTION, THE NUMERATOR OF
55 WHICH IS THE AGGREGATE NUMBER OF WORKING DAYS OF THE VESSELS OWNED OR
56 LEASED BY THE TAXPAYER IN TERRITORIAL WATERS OF THE STATE DURING THE

1 PERIOD COVERED BY THE TAXPAYER'S REPORT AND THE DENOMINATOR OF WHICH IS
2 THE AGGREGATE NUMBER OF WORKING DAYS OF ALL VESSELS OWNED OR LEASED BY
3 THE TAXPAYER DURING SUCH PERIOD. RECEIPTS FROM THE OPERATION OF VESSELS
4 ARE INCLUDED IN THE DENOMINATOR OF THE APPORTIONMENT FRACTION.

5 S 29. The opening paragraph of clause (A) of subparagraph 1 of para-
6 graph (b) of subdivision 7 of section 210-A of the tax law, as added by
7 section 16 of part A of chapter 59 of the laws of 2014, is amended to
8 read as follows:

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

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

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

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

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

29 S 30-a. Paragraph (b) of subdivision 8 of section 210-A of the tax
30 law, as added by section 16 of part A of chapter 59 of the laws of 2014,
31 is amended to read as follows:

32 (b) The amount of receipts from sales of advertising on television or
33 radio included in the NUMERATOR OF THE apportionment fraction is deter-
34 mined by multiplying the total of such receipts by a fraction, the
35 numerator of which is the number of viewers or listeners within the
36 state and the denominator of which is the number of viewers or listeners
37 within and without the state. The total of such receipts from sales of
38 advertising on television and radio is included in the denominator of
39 the apportionment fraction.

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

43 (i) A credit shall be allowed under this subdivision with respect to
44 tangible personal property and other tangible property, including build-
45 ings and structural components of buildings, which are: depreciable
46 pursuant to section one hundred sixty-seven of the internal revenue
47 code, have a useful life of four years or more, are acquired by purchase
48 as defined in section one hundred seventy-nine (d) of the internal
49 revenue code, have a situs in this state and are (A) principally used by
50 the taxpayer in the production of goods by manufacturing, processing,
51 assembling, refining, mining, extracting, farming, agriculture, horti-
52 culture, floriculture, viticulture or commercial fishing, (B) industrial
53 waste treatment facilities or air pollution control facilities, used in
54 the taxpayer's trade or business, (C) research and development property,
55 or (D) principally used in the ordinary course of the taxpayer's trade
56 or business as a broker or dealer in connection with the purchase or

1 sale (which shall include but not be limited to the issuance, entering
2 into, assumption, offset, assignment, termination, or transfer) of
3 stocks, bonds or other securities as defined in section four hundred
4 seventy-five (c)(2) of the Internal Revenue Code, or of commodities as
5 defined in section four hundred seventy-five (e) of the Internal Revenue
6 Code, (E) principally used in the ordinary course of the taxpayer's
7 trade or business of providing investment advisory services for a regu-
8 lated investment company as defined in section eight hundred fifty-one
9 of the Internal Revenue Code, or lending, loan arrangement or loan orig-
10 ination services to customers in connection with the purchase or sale
11 (which shall include but not be limited to the issuance, entering into,
12 assumption, offset, assignment, termination, or transfer) of securities
13 as defined in section four hundred seventy-five (c)(2) of the Internal
14 Revenue Code, (F) [originally] PRINCIPALLY used in the ordinary course
15 of the taxpayer's business as an exchange registered as a national secu-
16 rities exchange within the meaning of sections 3(a)(1) and 6(a) of the
17 Securities Exchange Act of 1934 or a board of trade as defined in
18 [section 1410(a)(1) of the New York Not-for-Profit Corporation Law]
19 SUBPARAGRAPH ONE OF PARAGRAPH (A) OF SECTION FOURTEEN HUNDRED TEN OF THE
20 NOT-FOR-PROFIT CORPORATION LAW or as an entity that is wholly owned by
21 one or more such national securities exchanges or boards of trade and
22 that provides automation or technical services thereto, or (G) princi-
23 pally used as a qualified film production facility including qualified
24 film production facilities having a situs in an empire zone designated
25 as such pursuant to article eighteen-B of the general municipal law,
26 where the taxpayer is providing three or more services to any qualified
27 film production company using the facility, including such services as a
28 studio lighting grid, lighting and grip equipment, multi-line phone
29 service, broadband information technology access, industrial scale elec-
30 trical capacity, food services, security services, and heating, venti-
31 lation and air conditioning. FOR PURPOSES OF CLAUSES (D), (E) AND (F) OF
32 THIS SUBPARAGRAPH, PROPERTY PURCHASED BY A TAXPAYER AFFILIATED WITH A
33 REGULATED BROKER, DEALER, REGISTERED INVESTMENT ADVISOR, NATIONAL SECU-
34 RITIES EXCHANGE OR BOARD OF TRADE, IS ALLOWED A CREDIT UNDER THIS SUBDI-
35 VISION IF THE PROPERTY IS USED BY ITS AFFILIATED REGULATED BROKER, DEAL-
36 ER, REGISTERED INVESTMENT ADVISOR, NATIONAL SECURITIES EXCHANGE OR BOARD
37 OF TRADE IN ACCORDANCE WITH THIS SUBDIVISION. FOR PURPOSES OF DETERMIN-
38 ING IF THE PROPERTY IS PRINCIPALLY USED IN QUALIFYING USES, THE USES BY
39 THE TAXPAYER DESCRIBED IN CLAUSES (D) AND (E) OF THIS SUBPARAGRAPH MAY
40 BE AGGREGATED. IN ADDITION, THE USES BY THE TAXPAYER, ITS AFFILIATED
41 REGULATED BROKER, DEALER AND REGISTERED INVESTMENT ADVISOR UNDER EITHER
42 OR BOTH OF THOSE CLAUSES MAY BE AGGREGATED. Provided, however, a taxpay-
43 er shall not be allowed the credit provided by clauses (D), (E) and (F)
44 of this subparagraph unless THE PROPERTY IS FIRST PLACED IN SERVICE
45 BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN AND (i) eighty percent or
46 more of the employees performing the administrative and support func-
47 tions resulting from or related to the qualifying uses of such equipment
48 are located in this state or (ii) the average number of employees that
49 perform the administrative and support functions resulting from or
50 related to the qualifying uses of such equipment and are located in this
51 state during the taxable year for which the credit is claimed is equal
52 to or greater than ninety-five percent of the average number of employ-
53 ees that perform these functions and are located in this state during
54 the thirty-six months immediately preceding the year for which the cred-
55 it is claimed, or (iii) the number of employees located in this state
56 during the taxable year for which the credit is claimed is equal to or

1 greater than ninety percent of the number of employees located in this
2 state on December thirty-first, nineteen hundred ninety-eight or, if the
3 taxpayer was not a calendar year taxpayer in nineteen hundred ninety-
4 eight, the last day of its first taxable year ending after December
5 thirty-first, nineteen hundred ninety-eight. If the taxpayer becomes
6 subject to tax in this state after the taxable year beginning in nine-
7 teen hundred ninety-eight, then the taxpayer is not required to satisfy
8 the employment test provided in the preceding sentence of this subpara-
9 graph for its first taxable year. For purposes of clause (iii) of this
10 subparagraph the employment test will be based on the number of employ-
11 ees located in this state on the last day of the first taxable year the
12 taxpayer is subject to tax in this state. If the uses of the property
13 must be aggregated to determine whether the property is principally used
14 in qualifying uses, then either each affiliate using the property must
15 satisfy this employment test or this employment test must be satisfied
16 through the aggregation of the employees of the taxpayer, its affiliated
17 regulated broker, dealer, and registered investment adviser using the
18 property. For purposes of this subdivision, the term "goods" shall not
19 include electricity.

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

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

48 27. Credits of New York S corporations. (a) General. Notwithstanding
49 the provisions of this section, no carryover of credit allowable in a
50 New York C year shall be deducted from the tax otherwise due under this
51 article in a New York S year, and no credit allowable in a New York S
52 year, or carryover of such credit, shall be deducted from the tax
53 imposed by this article. However, a New York S year shall be treated as
54 a taxable year for purposes of determining the number of taxable years
55 to which a credit may be carried over under this section. Notwithstand-
56 ing the first sentence of this subdivision, however, the credit for the

1 special additional mortgage recording tax shall be allowed as provided
2 in subdivision [fifteen] NINE of this section, and the carryover of any
3 such credit shall be determined without regard to whether the credit is
4 carried from a New York C year to a New York S year or vice-versa.

5 S 32-a. Subdivision 42 of section 210-b of the tax law, as added by
6 section 17 of part A of chapter 59 of the laws of 2014, is amended to
7 read as follows:

8 42. Alternative base credit. (a) If the tax imposed on a taxpayer by
9 subdivision one of section two hundred nine of this article is the
10 amount prescribed in CLAUSE (II) OF SUBPARAGRAPH ONE OF paragraph (b) of
11 subdivision one of section two hundred ten of this article, the taxpayer
12 shall be allowed a credit against the tax imposed under this article
13 equal to the amount of tax paid to another state computed on a tax base
14 identical to the tax base prescribed in such paragraph (b). If the tax
15 imposed on a taxpayer by subdivision one of section two hundred nine of
16 this article is the HIGHEST amount prescribed in paragraph (d) of subdi-
17 vision one of section two hundred ten of this article APPLICABLE TO THE
18 TAXPAYER, the taxpayer shall be allowed a credit against the tax imposed
19 under this article equal to the amount of tax paid to another state
20 computed on a tax base identical to the tax base prescribed in such
21 paragraph (d).

22 S 33. Subdivision 1, subparagraphs (i) and (ii) of paragraph (d) and
23 paragraphs (d-1) and (e) of subdivision 4, and subdivision 7 of section
24 210-C of the tax law, as added by section 18 of part A of chapter 59 of
25 the laws of 2014, are amended to read as follows:

26 1. Tax. (A) The tax on a combined report shall be the highest of (i)
27 the combined business income base multiplied by the tax rate specified
28 in paragraph (a) of subdivision one of section two hundred ten of this
29 article; (ii) the combined capital base multiplied by the tax rate spec-
30 ified in paragraph (b) of subdivision one of section two hundred ten of
31 this article, but not exceeding the limitation provided for in that
32 paragraph (b); or (iii) the fixed dollar minimum that is attributable to
33 the designated agent of the combined group. In addition, the tax on a
34 combined report shall include the fixed dollar minimum tax specified in
35 paragraph (d) of subdivision one of section two hundred ten of this
36 article for each member of the combined group, other than the designated
37 agent, that is a taxpayer.

38 (b) The combined business income base is the amount of the combined
39 business income of the combined group that is apportioned to the state,
40 reduced by any PRIOR NET OPERATING LOSS CONVERSION SUBTRACTION AND ANY
41 net operating loss deduction for the combined group. The combined capi-
42 tal base is the amount of the combined capital of the combined group
43 that is apportioned to the state.

44 (i) A net operating loss deduction is allowed in computing the
45 combined business income base. Such deduction may reduce the tax on the
46 combined business income base to the higher of the tax on the combined
47 capital base or the fixed dollar minimum amount that is attributable to
48 the designated agent of the combined group. A combined net operating
49 loss deduction is equal to the amount of combined net operating loss or
50 losses from one or more taxable years that are carried forward OR
51 CARRIED BACK to a particular [income] TAXABLE year. A combined net oper-
52 ating loss is the combined business loss incurred in a particular taxa-
53 ble year multiplied by the combined apportionment factor for that year
54 determined as provided in subdivision five of this section.

55 (ii) The combined net operating loss deduction and combined net oper-
56 ating loss are also subject to the provisions contained in clauses one

1 through [six] SEVEN of subparagraph (ix) of paragraph (a) of subdivision
2 one of section two hundred ten of this article.

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

10 (e) (I) Any election made pursuant to paragraph (b) of subdivision
11 six, [and] paragraphs (b) and (c) of subdivision six-a of section two
12 hundred eight, AND ITEM (IV) OF SUBCLAUSE TWO OF CLAUSE (B) OF SUBPARA-
13 GRAPH (VIII) AND CLAUSE SEVEN OF SUBPARAGRAPH (IX) OF PARAGRAPH (A) OF
14 SUBDIVISION ONE OF SECTION TWO HUNDRED TEN of this article shall apply
15 to all members of the combined group.

16 (II) THE DETERMINATION OF WHETHER OR NOT THE LIMITATION ON INVESTMENT
17 INCOME PROVIDED IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION
18 SIX OF SECTION TWO HUNDRED EIGHT OF THIS ARTICLE APPLIES TO THE COMBINED
19 GROUP SHALL BE BASED ON THE INVESTMENT INCOME OF THE COMBINED GROUP,
20 DETERMINED WITHOUT REGARD TO INTEREST EXPENSES ATTRIBUTABLE TO INVEST-
21 MENT CAPITAL OR INVESTMENT INCOME, AND THE ENTIRE NET INCOME OF THE
22 COMBINED GROUP.

23 7. Designated agent. Each combined group shall have one designated
24 agent FOR THE COMBINED GROUP, which shall be a taxpayer. [The designated
25 agent is the parent corporation of the combined group. If there is no
26 such parent corporation, or the parent corporation is not a taxpayer,
27 then another member of the combined group that is a taxpayer may be
28 appointed as the designated agent.] Only the designated agent may act on
29 behalf of the members of the combined group for matters relating to the
30 combined report.

31 S 33-a. Paragraph (b) of subdivision 3 of section 210-C of the tax
32 law, as added by section 18 of part A of chapter 59 of the laws of 2014,
33 is amended to read as follows:

34 (b) The election under this subdivision shall be made on an original,
35 timely filed return of the combined group, DETERMINED WITH REGARD TO
36 EXTENSIONS OF TIME FOR FILING. Any corporation entering a commonly owned
37 group subsequent to the year of election shall be included in the
38 combined group and is considered to have waived any objection to its
39 inclusion in the combined group.

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

43 (1) ascertaining the percentage that the average value of the busi-
44 ness's real and tangible personal property, whether owned or rented to
45 it, in the tax-free NY area in which the business was located during the
46 period covered by the taxpayer's report or return bears to the average
47 value of the business's real and tangible personal property, whether
48 owned or rented to it, within the state during such period; provided
49 that the term "value of the business's real and tangible personal prop-
50 erty" shall have the same meaning as such term has in [subparagraph one
51 of] paragraph (a) of subdivision [three] TWO of section [two hundred
52 ten] TWO HUNDRED NINE-B of this chapter; and

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

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

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

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

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

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

47 (II) THE WAGE FACTOR SHALL BE DETERMINED BY ASCERTAINING THE PERCENT-
48 AGE THAT THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPEN-
49 SATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT
50 GENERAL EXECUTIVE OFFICERS, EMPLOYED AT THE BUSINESS'S LOCATION OR
51 LOCATIONS WITHIN THE STATE, BEARS TO THE TOTAL WAGES, SALARIES AND OTHER
52 PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD,
53 OF ALL THE BUSINESS'S EMPLOYEES WITHIN AND WITHOUT THE STATE, EXCEPT
54 GENERAL EXECUTIVE OFFICERS.

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

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

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

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

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

16 (1) Notwithstanding the provisions in subsection (a) of this section,
17 in the case of an eligible S corporation for which the election under
18 subsection (a) of this section is not in effect for the current taxable
19 year, the shareholders of an eligible S corporation are deemed to have
20 made that election effective for the eligible S corporation's entire
21 current taxable year, if the eligible S corporation's investment income
22 for the current taxable year is more than fifty percent of its federal
23 gross income for such year. In determining WHETHER an eligible S [corpo-
24 ration's investment income] CORPORATION IS DEEMED TO HAVE MADE THAT
25 ELECTION, the [investment] income of a qualified subchapter S subsidiary
26 owned directly or indirectly by the eligible S corporation shall be
27 included WITH THE INCOME OF THE ELIGIBLE S CORPORATION.

28 S 40. Subdivision 41 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 41. The tax-free NY area tax elimination credit. A taxpayer shall be
32 allowed a credit to be computed as provided in section forty of this
33 chapter, against the tax imposed by this article. Unless the taxpayer
34 has a tax-free NY area allocation factor of one hundred percent, the
35 credit allowed under this subdivision for any taxable year shall not
36 reduce the tax due for such year to less than the amount prescribed in
37 paragraph (d) of subdivision one of section two hundred ten of this
38 article. However, IF THE AMOUNT OF THE CREDIT ALLOWABLE UNDER THIS
39 SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT OR IF
40 THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR MINIMUM
41 AMOUNT, any amount of credit not deductible in such taxable year shall
42 be treated as an overpayment of tax to be credited or refunded in
43 accordance with the provisions of section one thousand eighty-six of
44 this chapter. Provided, however, the provisions of subsection (c) of
45 section one thousand eighty-eight of this chapter notwithstanding, no
46 interest shall be paid thereon.

47 S 41. Subdivision 44 of section 210-B of the tax law, as added by
48 section 17 of part A of chapter 59 of the laws of 2014, is amended to
49 read as follows:

50 44. The tax-free NY area excise tax on telecommunication services
51 credit. A taxpayer that is a business or owner of a business that is
52 located in a tax-free NY area approved pursuant to article twenty-one of
53 the economic development law shall be allowed a credit equal to the
54 excise tax on telecommunication services imposed by section one hundred
55 eighty-six-e of this chapter and passed through to such business during
56 the taxable year to the extent not otherwise deducted in computing

1 entire net income under this article. However, EXCEPT AS OTHERWISE
2 PROVIDED FOR IN THIS SUBDIVISION, IF THE AMOUNT OF THE CREDIT ALLOWABLE
3 UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO THE
4 AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION TWO
5 HUNDRED TEN OF THIS CHAPTER OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED
6 ON THE FIXED DOLLAR MINIMUM AMOUNT, any amount of credit not deductible
7 in such taxable year shall be treated as an overpayment of tax to be
8 credited or refunded in accordance with the provisions of section one
9 thousand eighty-six of this chapter. This credit may be claimed only
10 where any tax imposed by such section one hundred eighty-six-e has been
11 separately stated on a bill from the provider of telecommunication
12 services and paid by such business with respect to such services
13 rendered within a tax-free NY area during the taxable year. Unless the
14 taxpayer has a tax-free NY area allocation factor of one hundred
15 percent, the credit allowed under this subdivision for any taxable year
16 shall not reduce the tax due for such year to less than the amount
17 prescribed in paragraph (d) of subdivision one of section two hundred
18 ten of this chapter. Provided, however, the provisions of subsection (c)
19 of section one thousand eighty-eight of this chapter notwithstanding, no
20 interest shall be paid thereon.

21 S 42. Paragraph (b) of subdivision 47 of section 210-B of the tax law,
22 as added by section 2 of part HH of chapter 59 of the laws of 2014, is
23 amended to read as follows:

24 (b) Application of credit. The credit allowed under this subdivision
25 for any taxable year shall not reduce the tax due for such year to less
26 than the amount prescribed in paragraph (d) of subdivision one of [this]
27 section TWO HUNDRED TEN OF THIS ARTICLE. Provided, however, that if the
28 amount of the credit allowable under this subdivision for any taxable
29 year reduces the tax to such amount OR IF THE TAXPAYER OTHERWISE PAYS
30 TAX BASED ON THE FIXED DOLLAR MINIMUM AMOUNT, the excess shall be treat-
31 ed as an overpayment of tax to be credited or refunded in accordance
32 with the provisions of section one thousand eighty-six of this chapter.
33 Provided, further, the provisions of subsection (c) of section one thou-
34 sand eighty-eight of this chapter notwithstanding, no interest shall be
35 paid thereon.

36 S 43. Paragraph (b) of subdivision 48 of section 210-B of the tax law,
37 as added by section 2 of part MM of chapter 59 of the laws of 2014, is
38 amended to read as follows:

39 (b) Carryover. The credit allowed under this subdivision for any taxa-
40 ble year shall not reduce the tax due for such year to less than the
41 amount prescribed in paragraph (d) of subdivision one of [this] section
42 TWO HUNDRED TEN OF THIS ARTICLE. However, if the amount of credit allow-
43 able under this subdivision for any taxable year reduces the tax to such
44 amount OR IF THE TAXPAYER OTHERWISE PAYS TAX BASED ON THE FIXED DOLLAR
45 MINIMUM AMOUNT, any amount of credit not deductible in such taxable year
46 may be carried over to the following three years, and may be deducted
47 from the qualified employer's tax for such years.

48 S 44. This act shall take effect immediately and shall be deemed to be
49 in full force and effect on the same date as part A of chapter 59 of the
50 laws of 2014, provided, however, that the amendments to paragraph (b) of
51 subdivision 47 and paragraph (b) of subdivision 48 of section 210-B of
52 the tax law made by sections forty-two and forty-three of this act shall
53 not affect the repeal of such subdivisions and shall be deemed to repeal
54 therewith.

1 Section 1. Paragraph 33 of subdivision (a) of section 1115 of the tax
2 law, as added by section 99 of part A of chapter 389 of the laws of
3 1997, is amended to read as follows:

4 (33) Wine or wine product, AND THE BOTTLES, CORKS, CAPS, AND LABELS
5 USED TO PACKAGE SUCH WINE OR WINE PRODUCT, furnished by the official
6 agent of a farm winery, winery, wholesaler, or importer at a wine tast-
7 ing held in accordance with [section eighty of] the alcoholic beverage
8 control law to a customer or prospective customer who consumes such wine
9 at such wine tasting.

10 S 2. Section 1118 of the tax law is amended by adding a new subdivi-
11 sion (13) to read as follows:

12 (13) IN RESPECT TO THE USE OF THE FOLLOWING ITEMS AT A TASTING HELD BY
13 A LICENSED BREWERY, FARM BREWERY, CIDER PRODUCER, FARM CIDERY, DISTIL-
14 LERY OR FARM DISTILLERY IN ACCORDANCE WITH THE ALCOHOLIC BEVERAGE
15 CONTROL LAW: (I) THE ALCOHOLIC BEVERAGE OR BEVERAGES AUTHORIZED BY THE
16 ALCOHOLIC BEVERAGE CONTROL LAW TO BE FURNISHED AT NO CHARGE TO A CUSTOM-
17 ER OR PROSPECTIVE CUSTOMER AT SUCH TASTING FOR CONSUMPTION AT SUCH TAST-
18 ING; AND (II) BOTTLES, CORKS, CAPS AND LABELS USED TO PACKAGE SUCH ALCO-
19 HOLIC BEVERAGES.

20 S 3. This act shall take effect immediately, provided, however,
21 section two of this act shall take effect June 1, 2015 and shall apply
22 in accordance with the transition provisions of section 1106 and 1217 of
23 the tax law.

24 PART V

25 Section 1. Paragraph 22 of subdivision (b) of section 1101 of the tax
26 law, as amended by chapter 651 of the laws of 1999, is amended to read
27 as follows:

28 (22) (A) "Prepaid telephone calling service" means the right to exclu-
29 sively purchase telecommunication services, that must be paid for in
30 advance and enable the origination of one or more intrastate, interstate
31 or international telephone calls using an access number (such as a toll
32 free network access number) and/or authorization code, whether manually
33 or electronically dialed, for which payment to a vendor must be made in
34 advance, whether or not that right is represented by the transfer by the
35 vendor to the purchaser of an item of tangible personal property. SUCH
36 TERM, EXCEPT WITH RESPECT TO THE TAX IMPOSED BY SECTION ONE HUNDRED
37 EIGHTY-SIX-E OF ARTICLE NINE OF THIS CHAPTER, INCLUDES A PREPAID MOBILE
38 CALLING SERVICE. In no event shall a credit card constitute a prepaid
39 telephone calling service. If the sale or recharge of a prepaid tele-
40 phone calling service does not take place at the vendor's place of busi-
41 ness, it shall be conclusively determined to take place at the purchas-
42 er's shipping address or, if there is no item shipped, at the
43 purchaser's billing address or the location associated with the purchas-
44 er's mobile telephone number, OR, IF THE VENDOR DOES NOT HAVE THE
45 ADDRESS OR THE LOCATION ASSOCIATED WITH THE CUSTOMER'S MOBILE TELEPHONE
46 NUMBER, AT SUCH ADDRESS, AS APPROVED BY THE COMMISSIONER, THAT REASON-
47 ABLY REFLECTS THE CUSTOMER'S LOCATION AT THE TIME OF THE SALE OR
48 RECHARGE.

49 (B) "PREPAID MOBILE CALLING SERVICE" MEANS THE RIGHT TO USE A COMMER-
50 CIAL MOBILE RADIO SERVICE, WHETHER OR NOT SOLD WITH OTHER PROPERTY OR
51 SERVICES, THAT MUST BE PAID FOR IN ADVANCE AND IS SOLD FOR USE OVER A
52 SPECIFIED PERIOD OF TIME OR IN PREDETERMINED UNITS OR DOLLARS THAT
53 DECLINE WITH USE IN A KNOWN AMOUNT, WHETHER OR NOT THAT RIGHT IS REPRES-

1 ENTED BY OR INCLUDES THE TRANSFER TO THE PURCHASER OF AN ITEM OF TANGI-
2 BLE PERSONAL PROPERTY.

3 S 2. This act shall take effect immediately.

4 PART W

5 Intentionally Omitted

6 PART X

7 Intentionally Omitted

8 PART Y

9 Intentionally Omitted

10 PART Z

11 Section 1. Subdivision (ee) of section 1115 of the tax law, as added
12 by chapter 306 of the laws of 2005, is amended to read as follows:

13 (ee) THE FOLLOWING SHALL BE EXEMPT FROM TAX UNDER THIS ARTICLE: (1)
14 Receipts from the retail sale of, AND CONSIDERATION GIVEN OR CONTRACTED
15 TO BE GIVEN FOR, OR FOR THE USE OF, residential solar energy systems
16 equipment and [of] the service of installing such systems [shall be
17 exempt from tax under this article]. For the purposes of this subdivi-
18 sion, "residential solar energy systems equipment" shall mean an
19 arrangement or combination of components installed in a residence that
20 utilizes solar radiation to produce energy designed to provide heating,
21 cooling, hot water and/or electricity. Such arrangement or components
22 shall not include equipment that is part of a non-solar energy system or
23 which uses any sort of recreational facility or equipment as a storage
24 medium.

25 (2) RECEIPTS FROM THE SALE OF ELECTRICITY BY A PERSON PRIMARILY
26 ENGAGED IN THE SALE OF SOLAR ENERGY SYSTEM EQUIPMENT AND/OR ELECTRICITY
27 GENERATED BY SUCH EQUIPMENT PURSUANT TO A WRITTEN AGREEMENT UNDER WHICH
28 SUCH ELECTRICITY IS GENERATED BY RESIDENTIAL SOLAR ENERGY SYSTEM EQUIP-
29 MENT THAT IS: (A) OWNED BY A PERSON OTHER THAN THE PURCHASER OF SUCH
30 ELECTRICITY; (B) INSTALLED ON RESIDENTIAL PROPERTY OF THE PURCHASER OF
31 SUCH ELECTRICITY; AND (C) USED TO PROVIDE HEATING, COOLING, HOT WATER OR
32 ELECTRICITY TO SUCH PROPERTY.

33 S 2. Subdivision (ii) of section 1115 of the tax law, as amended by
34 chapter 13 of the laws of 2013, is amended to read as follows:

35 (ii) THE FOLLOWING SHALL BE EXEMPT FROM TAX UNDER THIS ARTICLE: (1)
36 Receipts from the retail sale of, AND CONSIDERATION GIVEN OR CONTRACTED
37 TO BE GIVEN FOR, OR FOR THE USE OF, commercial solar energy systems
38 equipment and [of] the service of installing such systems [shall be
39 exempt from taxes imposed by sections eleven hundred five and eleven
40 hundred ten of this article]. For the purposes of this subdivision,
41 "commercial solar energy systems equipment" shall mean an arrangement or
42 combination of components installed upon non-residential premises that
43 utilize solar radiation to produce energy designed to provide heating,
44 cooling, hot water and/or electricity. Such arrangement or components
45 shall not include equipment that is part of a non-solar energy system.

(2) RECEIPTS FROM THE SALE OF ELECTRICITY BY A PERSON PRIMARILY ENGAGED IN THE SALE OF SOLAR ENERGY SYSTEM EQUIPMENT AND/OR ELECTRICITY GENERATED BY SUCH EQUIPMENT PURSUANT TO A WRITTEN AGREEMENT UNDER WHICH THE ELECTRICITY IS GENERATED BY COMMERCIAL SOLAR ENERGY SYSTEM EQUIPMENT THAT IS: (A) OWNED BY A PERSON OTHER THAN THE PURCHASER OF SUCH ELECTRICITY; (B) INSTALLED ON THE NON-RESIDENTIAL PREMISES OF THE PURCHASER OF SUCH ELECTRICITY; AND (C) USED TO PROVIDE HEATING, COOLING, HOT WATER OR ELECTRICITY TO SUCH PREMISES.

S 3. Paragraphs 1 and 4 of subdivision (a) of section 1210 of the tax law, paragraph 1 as amended by chapter 13 of the laws of 2013, and paragraph 4 as amended by chapter 200 of the laws of 2009, are amended to read as follows:

(1) Either, all of the taxes described in article twenty-eight of this chapter, at the same uniform rate, as to which taxes all provisions of the local laws, ordinances or resolutions imposing such taxes shall be identical, except as to rate and except as otherwise provided, with the corresponding provisions in such article twenty-eight, including the definition and exemption provisions of such article, so far as the provisions of such article twenty-eight can be made applicable to the taxes imposed by such city or county and with such limitations and special provisions as are set forth in this article. The taxes authorized under this subdivision may not be imposed by a city or county unless the local law, ordinance or resolution imposes such taxes so as to include all portions and all types of receipts, charges or rents, subject to state tax under sections eleven hundred five and eleven hundred ten of this chapter, except as otherwise provided. (i) Any local law, ordinance or resolution enacted by any city of less than one million or by any county or school district, imposing the taxes authorized by this subdivision, shall, notwithstanding any provision of law to the contrary, exclude from the operation of such local taxes all sales of tangible personal property for use or consumption directly and predominantly in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, generating, assembly, refining, mining or extracting; and all sales of tangible personal property for use or consumption predominantly either in the production of tangible personal property, for sale, by farming or in a commercial horse boarding operation, or in both; and, unless such city, county or school district elects otherwise, shall omit the provision for credit or refund contained in clause six of subdivision (a) or subdivision (d) of section eleven hundred nineteen of this chapter. (ii) Any local law, ordinance or resolution enacted by any city, county or school district, imposing the taxes authorized by this subdivision, shall omit the residential solar energy systems equipment AND ELECTRICITY exemption provided for in subdivision (ee), the commercial solar energy systems equipment AND ELECTRICITY exemption provided for in subdivision (ii) and the clothing and footwear exemption provided for in paragraph thirty of subdivision (a) of section eleven hundred fifteen of this chapter, unless such city, county or school district elects otherwise as to either such residential solar energy systems equipment AND ELECTRICITY exemption, such commercial solar energy systems equipment AND ELECTRICITY exemption or such clothing and footwear exemption.

(4) Notwithstanding any other provision of law to the contrary, any local law enacted by any city of one million or more that imposes the taxes authorized by this subdivision (i) may omit the exception provided in subparagraph (ii) of paragraph three of subdivision (c) of section

1 eleven hundred five of this chapter for receipts from laundering, dry-
2 cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining;
3 (ii) may impose the tax described in paragraph six of subdivision (c) of
4 section eleven hundred five of this chapter at a rate in addition to the
5 rate prescribed by this section not to exceed two percent in multiples
6 of one-half of one percent; (iii) shall provide that the tax described
7 in paragraph six of subdivision (c) of section eleven hundred five of
8 this chapter does not apply to facilities owned and operated by the city
9 or an agency or instrumentality of the city or a public corporation the
10 majority of whose members are appointed by the chief executive officer
11 of the city or the legislative body of the city or both of them; (iv)
12 shall not include any tax on receipts from, or the use of, the services
13 described in paragraph seven of subdivision (c) of section eleven
14 hundred five of this chapter; (v) shall provide that, for purposes of
15 the tax described in subdivision (e) of section eleven hundred five of
16 this chapter, "permanent resident" means any occupant of any room or
17 rooms in a hotel for at least one hundred eighty consecutive days with
18 regard to the period of such occupancy; (vi) may omit the exception
19 provided in paragraph one of subdivision (f) of section eleven hundred
20 five of this chapter for charges to a patron for admission to, or use
21 of, facilities for sporting activities in which the patron is to be a
22 participant, such as bowling alleys and swimming pools; (vii) may
23 provide the clothing and footwear exemption in paragraph thirty of
24 subdivision (a) of section eleven hundred fifteen of this chapter, and,
25 notwithstanding any provision of subdivision (d) of this section to the
26 contrary, any local law providing for such exemption or repealing such
27 exemption, may go into effect on any one of the following dates: March
28 first, June first, September first or December first; (viii) shall omit
29 the exemption provided in paragraph forty-one of subdivision (a) of
30 section eleven hundred fifteen of this chapter; (ix) shall omit the
31 exemption provided in subdivision (c) of section eleven hundred fifteen
32 of this chapter insofar as it applies to fuel, gas, electricity, refriger-
33 eration and steam, and gas, electric, refrigeration and steam service of
34 whatever nature for use or consumption directly and exclusively in the
35 production of gas, electricity, refrigeration or steam; (x) shall omit,
36 unless such city elects otherwise, the provision for refund or credit
37 contained in clause six of subdivision (a) or in subdivision (d) of
38 section eleven hundred nineteen of this chapter; [and] (xi) shall
39 provide that section eleven hundred five-C of this chapter does not
40 apply to such taxes, and shall tax receipts from every sale, other than
41 sales for resale, of gas service or electric service of whatever nature,
42 including the transportation, transmission or distribution of gas or
43 electricity, even if sold separately, at the rate set forth in clause
44 one of subparagraph (i) of the opening paragraph of this section; (XII)
45 SHALL OMIT, UNLESS SUCH CITY ELECTS OTHERWISE, THE EXEMPTION FOR RESI-
46 DENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN
47 SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER; AND
48 (XIII) SHALL OMIT, UNLESS SUCH CITY ELECTS OTHERWISE, THE EXEMPTION FOR
49 COMMERCIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN
50 SUBDIVISION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER. ANY
51 REFERENCE IN THIS CHAPTER OR IN ANY LOCAL LAW, ORDINANCE OR RESOLUTION
52 ENACTED PURSUANT TO THE AUTHORITY OF THIS ARTICLE TO FORMER SUBDIVISIONS
53 (N) OR (P) OF THIS SECTION SHALL BE DEEMED TO BE A REFERENCE TO CLAUSES
54 (XII) OR (XIII) OF THIS PARAGRAPH, RESPECTIVELY, AND ANY SUCH LOCAL LAW,
55 ORDINANCE OR RESOLUTION THAT PROVIDES THE EXEMPTIONS PROVIDED IN SUCH
56 FORMER SUBDIVISIONS (N) AND/OR (P) SHALL BE DEEMED INSTEAD TO PROVIDE

1 THE EXEMPTIONS PROVIDED IN CLAUSES (XII) AND/OR (XIII) OF THIS
2 PARAGRAPH.

3 S 4. Paragraph 1 and subparagraph (i) of paragraph 3 of subdivision
4 (b) of section 1210 of the tax law, paragraph 1 as amended by section 36
5 of part S-1 of chapter 57 of the laws of 2009, and subparagraph (i) of
6 paragraph 3 as amended by section 3 of part B of chapter 35 of the laws
7 of 2006, are amended to read as follows:

8 (1) Or, one or more of the taxes described in subdivisions (b), (d),
9 (e) and (f) of section eleven hundred five of this chapter, at the same
10 uniform rate, including the transitional provisions in section eleven
11 hundred six of this chapter covering such taxes, but not the taxes
12 described in subdivisions (a) and (c) of section eleven hundred five of
13 this chapter. Provided, further, that where the tax described in subdi-
14 vision (b) of section eleven hundred five of this chapter is imposed,
15 the compensating use taxes described in clauses (E), (G) and (H) of
16 subdivision (a) of section eleven hundred ten of this chapter shall also
17 be imposed. Provided, further, that where the taxes described in subdi-
18 vision (b) of section eleven hundred five are imposed, such taxes shall
19 omit: (A) the provision for refund or credit contained in subdivision
20 (d) of section eleven hundred nineteen of this chapter with respect to
21 such taxes described in such subdivision (b) of section eleven hundred
22 five unless such city or county elects to provide such provision or, if
23 so elected, to repeal such provision; (B) THE EXEMPTION PROVIDED IN
24 PARAGRAPH TWO OF SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF
25 THIS CHAPTER UNLESS SUCH COUNTY OR CITY ELECTS OTHERWISE; AND (C) THE
26 EXEMPTION PROVIDED IN PARAGRAPH TWO OF SUBDIVISION (II) OF SECTION ELEV-
27 EN HUNDRED FIFTEEN OF THIS CHAPTER, UNLESS SUCH COUNTY OR CITY ELECTS
28 OTHERWISE.

29 (i) Notwithstanding any other provision of law to the contrary but not
30 with respect to cities subject to the provisions of section eleven
31 hundred eight of this chapter, any city or county, except a county whol-
32 ly contained within a city, may provide that the tax imposed, pursuant
33 to this subdivision, by such city or county on the sale, other than for
34 resale, of propane (except when sold in containers of less than one
35 hundred pounds), natural gas, electricity, steam and gas, electric and
36 steam services of whatever nature used for residential purposes and on
37 the use of gas or electricity used for residential purposes may be
38 imposed at a lower rate than the uniform local rate imposed pursuant to
39 the opening paragraph of this section, as long as such rate is one of
40 the rates authorized by such paragraph or such sale or use may be
41 exempted from such taxes. Provided, however, such lower rate must apply
42 to all such energy sources and services and at the same rate and no such
43 exemption, OTHER THAN THE EXEMPTION PROVIDED FOR IN SUBDIVISION (EE) OF
44 SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER, IF SUCH EXEMPTION IS
45 ELECTED BY SUCH CITY OR COUNTY, may be enacted unless such exemption
46 applies to all such energy sources and services.

47 S 4-a. Subdivision (d) of section 1210 of the tax law, as amended by
48 section 37 of part S-1 of chapter 57 of the laws of 2009, is amended to
49 read as follows:

50 (d) A local law, ordinance or resolution imposing any tax pursuant to
51 this section, increasing or decreasing the rate of such tax, repealing
52 or suspending such tax, exempting from such tax the energy sources and
53 services described in paragraph three of subdivision (a) or of subdivi-
54 sion (b) of this section or changing the rate of tax imposed on such
55 energy sources and services or providing for the credit or refund
56 described in clause six of subdivision (a) of section eleven hundred

19 nineteen of this chapter, OR ELECTING OR REPEALING THE EXEMPTION FOR
2 RESIDENTIAL SOLAR EQUIPMENT AND ELECTRICITY IN SUBDIVISION (EE) OF
3 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE, OR THE EXEMPTION FOR
4 COMMERCIAL SOLAR EQUIPMENT AND ELECTRICITY IN SUBDIVISION (II) OF
5 SECTION ELEVEN HUNDRED FIFTEEN OF THIS ARTICLE must go into effect only
6 on one of the following dates: March first, June first, September first
7 or December first; provided, that a local law, ordinance or resolution
8 providing for the exemption described in paragraph thirty of subdivision
9 (a) of section eleven hundred fifteen of this chapter or repealing any
10 such exemption or a local law, ordinance or resolution providing for a
11 refund or credit described in subdivision (d) of section eleven hundred
12 nineteen of this chapter or repealing such provision so provided must go
13 into effect only on March first. No such local law, ordinance or resolu-
14 tion shall be effective unless a certified copy of such law, ordinance
15 or resolution is mailed by registered or certified mail to the commis-
16 sioner at the commissioner's office in Albany at least ninety days prior
17 to the date it is to become effective. However, the commissioner may
18 waive and reduce such ninety-day minimum notice requirement to a mailing
19 of such certified copy by registered or certified mail within a period
20 of not less than thirty days prior to such effective date if the commis-
21 sioner deems such action to be consistent with the commissioner's duties
22 under section twelve hundred fifty of this article and the commissioner
23 acts by resolution. Where the restriction provided for in section twelve
24 hundred twenty-three of this article as to the effective date of a tax
25 and the notice requirement provided for therein are applicable and have
26 not been waived, the restriction and notice requirement in section
27 twelve hundred twenty-three of this article shall also apply.

28 S 5. Subdivisions (n) and (p) of section 1210 of the tax law are
29 REPEALED.

30 S 6. Subdivision (a) of section 1212 of the tax law, as amended by
31 section 40 of part S-1 of chapter 57 of the laws of 2009, is amended to
32 read as follows:

33 (a) Any school district which is coterminous with, partly within or
34 wholly within a city having a population of less than one hundred twen-
35 ty-five thousand, is hereby authorized and empowered, by majority vote
36 of the whole number of its school authorities, to impose for school
37 district purposes, within the territorial limits of such school district
38 and without discrimination between residents and nonresidents thereof,
39 the taxes described in subdivision (b) of section eleven hundred five
40 (but excluding the tax on prepaid telephone calling services) and the
41 taxes described in clauses (E) and (H) of subdivision (a) of section
42 eleven hundred ten, including the transitional provisions in subdivision
43 (b) of section eleven hundred six of this chapter, so far as such
44 provisions can be made applicable to the taxes imposed by such school
45 district and with such limitations and special provisions as are set
46 forth in this article, such taxes to be imposed at the rate of one-half,
47 one, one and one-half, two, two and one-half or three percent which rate
48 shall be uniform for all portions and all types of receipts and uses
49 subject to such taxes. In respect to such taxes, all provisions of the
50 resolution imposing them, except as to rate and except as otherwise
51 provided herein, shall be identical with the corresponding provisions in
52 such article twenty-eight of this chapter, including the applicable
53 definition and exemption provisions of such article, so far as the
54 provisions of such article twenty-eight of this chapter can be made
55 applicable to the taxes imposed by such school district and with such
56 limitations and special provisions as are set forth in this article. The

1 taxes described in subdivision (b) of section eleven hundred five (but
2 excluding the tax on prepaid telephone calling service) and clauses (E)
3 and (H) of subdivision (a) of section eleven hundred ten, including the
4 transitional provision in subdivision (b) of such section eleven hundred
5 six of this chapter, may not be imposed by such school district unless
6 the resolution imposes such taxes so as to include all portions and all
7 types of receipts and uses subject to tax under such subdivision (but
8 excluding the tax on prepaid telephone calling service) and clauses.
9 Provided, however, that, where a school district imposes such taxes,
10 such taxes shall omit the provision for refund or credit contained in
11 subdivision (d) of section eleven hundred nineteen of this chapter with
12 respect to such taxes described in such subdivision (b) of section elev-
13 en hundred five unless such school district elects to provide such
14 provision or, if so elected, to repeal such provision, AND SHALL OMIT
15 THE EXEMPTIONS PROVIDED IN PARAGRAPH TWO OF SUBDIVISION (EE) AND PARA-
16 GRAPH TWO OF SUBDIVISION (II) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS
17 CHAPTER UNLESS SUCH SCHOOL DISTRICT ELECTS OTHERWISE.

18 S 7. Section 1224 of the tax law is amended by adding a new subdivi-
19 sion (c-1) to read as follows:

20 (C-1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (1) WHERE A COUNTY
21 CONTAINING ONE OR MORE CITIES WITH A POPULATION OF LESS THAN ONE MILLION
22 HAS ELECTED THE EXEMPTION FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT
23 AND ELECTRICITY PROVIDED IN SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED
24 FIFTEEN OF THIS CHAPTER, THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY
25 SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED IN SUBDIVISION (II) OF SUCH
26 SECTION ELEVEN HUNDRED FIFTEEN, OR BOTH SUCH EXEMPTIONS, A CITY WITHIN
27 SUCH COUNTY SHALL HAVE THE PRIOR RIGHT TO IMPOSE TAX ON SUCH EXEMPT
28 EQUIPMENT AND/OR ELECTRICITY TO THE EXTENT OF ONE HALF OF THE MAXIMUM
29 RATES AUTHORIZED UNDER SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF
30 THIS ARTICLE;

31 (2) WHERE A CITY OF LESS THAN ONE MILLION HAS ELECTED THE EXEMPTION
32 FOR RESIDENTIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELECTRICITY PROVIDED
33 IN SUBDIVISION (EE) OF SECTION ELEVEN HUNDRED FIFTEEN OF THIS CHAPTER,
34 THE EXEMPTION FOR COMMERCIAL SOLAR ENERGY SYSTEMS EQUIPMENT AND ELEC-
35 TRICITY PROVIDED IN SUBDIVISION (II) OF SUCH SECTION ELEVEN HUNDRED
36 FIFTEEN, OR BOTH SUCH EXEMPTIONS, THE COUNTY IN WHICH SUCH CITY IS
37 LOCATED SHALL HAVE THE PRIOR RIGHT TO IMPOSE TAX ON SUCH EXEMPT EQUIP-
38 MENT AND/OR ELECTRICITY TO THE EXTENT OF ONE HALF OF THE MAXIMUM RATES
39 AUTHORIZED UNDER SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN OF THIS
40 ARTICLE.

41 S 8. This act shall take effect December 1, 2015 and shall apply in
42 accordance with the applicable transitional provisions in sections 1106
43 and 1217 of the tax law.

44

PART AA

45 Section 1. Subdivision (f) of section 301-c of the tax law, as amended
46 by section 23 of part K of chapter 61 of the laws of 2011, is amended to
47 read as follows:

48 (f) Motor fuel AND HIGHWAY DIESEL MOTOR FUEL used for farm production.
49 No more than one thousand five hundred gallons of motor fuel AND NO MORE
50 THAN FOUR THOUSAND FIVE HUNDRED GALLONS OF HIGHWAY DIESEL MOTOR FUEL
51 purchased in this state in a thirty-day period or a greater amount which
52 has been given prior clearance by the commissioner, by a consumer for
53 use or consumption directly and exclusively in the production for sale
54 of tangible personal property by farming, but only if all of such MOTOR

1 fuel OR HIGHWAY DIESEL MOTOR FUEL is delivered on the farm site and is
 2 consumed other than on the public highways of this state (except for the
 3 use of the public highway to reach adjacent farmlands). This reimburse-
 4 ment to such purchaser who used such motor fuel OR HIGHWAY DIESEL MOTOR
 5 FUEL in the manner specified in this subdivision may be claimed only
 6 where, (i) the tax imposed pursuant to this article has been paid with
 7 respect to such motor fuel OR HIGHWAY DIESEL MOTOR FUEL and the entire
 8 amount of such tax has been absorbed by such purchaser, and (ii) such
 9 purchaser possesses documentary proof satisfactory to the commissioner
 10 evidencing the absorption by it of the entire amount of the tax imposed
 11 pursuant to this article. Provided, however, that the commissioner shall
 12 require such documentary proof to qualify for any reimbursement of tax
 13 provided by this subdivision as the commissioner deems appropriate. The
 14 commissioner is hereby empowered to make such provisions as deemed
 15 necessary to define the procedures for granting prior clearance for
 16 purchases of more than one thousand five hundred gallons OF MOTOR FUEL
 17 OR FOUR THOUSAND FIVE HUNDRED GALLONS OF HIGHWAY DIESEL MOTOR FUEL in a
 18 thirty-day period.

19 S 2. This act shall take effect immediately.

20

PART BB

21 Section 1. Subsection (b) of section 952 of the tax law, as amended by
 22 section 2 of part X of chapter 59 of the laws of 2014, is amended to
 23 read as follows:

24 (b) Computation of tax. The tax imposed by this section shall be
 25 computed on the deceased resident's New York taxable estate as follows:
 26 [In the case of decedents dying on or after April 1, 2014 and before
 27 April 1, 2015]

28 If the New York taxable estate is:	The tax is:
29 Not over \$500,000	3.06% of taxable estate
30 Over \$500,000 but not over \$1,000,000	\$15,300 plus 5.0% of excess over
31	\$500,000
32 Over \$1,000,000 but not over \$1,500,000	\$40,300 plus 5.5% of excess over
33	\$1,000,000
34 Over \$1,500,000 but not over \$2,100,000	\$67,800 plus 6.5% of excess over
35	\$1,500,000
36 Over \$2,100,000 but not over \$2,600,000	\$106,800 plus 8.0% of excess
37	over \$2,100,000
38 Over \$2,600,000 but not over \$3,100,000	\$146,800 plus 8.8% of excess over
39	\$2,600,000
40 Over \$3,100,000 but not over \$3,600,000	\$190,800 plus 9.6% of excess over
41	\$3,100,000
42 Over \$3,600,000 but not over \$4,100,000	\$238,800 plus 10.4% of excess
43	over \$3,600,000
44 Over \$4,100,000 but not over \$5,100,000	\$290,800 plus 11.2% of excess
45	over \$4,100,000
46 Over \$5,100,000 but not over \$6,100,000	\$402,800 plus 12.0% of excess
47	over \$5,100,000
48 Over \$6,100,000 but not over \$7,100,000	\$522,800 plus 12.8% of excess
49	over \$6,100,000
50 Over \$7,100,000 but not over \$8,100,000	\$650,800 plus 13.6% of excess
51	over \$7,100,000
52 Over \$8,100,000 but not over \$9,100,000	\$786,800 plus 14.4% of excess
53	over \$8,100,000
54 Over \$9,100,000 but not over	\$930,800 plus 15.2% of excess over

1	\$10,100,000	\$9,100,000
2	Over \$10,100,000	\$1,082,800 plus 16.0% of excess
3		over \$10,100,000

4 S 2. Paragraph 3 of subsection (a) of section 954 of the tax law, as
5 added by section 3 of part X of chapter 59 of the laws of 2014, is
6 amended to read as follows:

7 (3) Increased by the amount of any taxable gift under section 2503 of
8 the internal revenue code not otherwise included in the decedent's
9 federal gross estate, made during the three year period ending on the
10 decedent's date of death, but not including any gift made: [(1)] (A)
11 when the decedent was not a resident of New York state; [(2)] OR (B)
12 before April first, two thousand fourteen[; or (3)]; OR (C) THAT IS REAL
13 OR TANGIBLE PERSONAL PROPERTY HAVING AN ACTUAL SITUS OUTSIDE NEW YORK
14 STATE AT THE TIME THE GIFT WAS MADE. PROVIDED, HOWEVER THAT THIS PARA-
15 GRAPH SHALL NOT APPLY TO THE ESTATE OF A DECEDENT DYING on or after
16 January first, two thousand nineteen.

17 S 3. Subsection (b) of section 960 of the tax law, as amended by
18 section 5 of part X of chapter 59 of the laws of 2014, is amended to
19 read as follows:

20 (b) Computation of tax.--The tax imposed under subsection (a) shall be
21 the same as the tax that would be due, if the decedent had died a resi-
22 dent, under subsection (a) of section nine hundred fifty-two, except
23 that for purposes of computing the tax under subsection (b) of section
24 nine hundred fifty-two, "New York taxable estate" shall not include the
25 value of, OR ANY DEDUCTION ALLOWABLE UNDER THE INTERNAL REVENUE CODE
26 RELATED TO, any intangible personal property otherwise includible in the
27 deceased individual's New York gross estate, and shall not include the
28 amount of any gift unless such gift consists of real or tangible
29 personal property having an actual situs in New York state or intangible
30 personal property employed in a business, trade or profession carried on
31 in this state.

32 S 4. This act shall take effect immediately and shall be deemed to
33 have been in full force and effect on and after April 1, 2014.

34 PART CC

35 Intentionally Omitted

36 PART DD

37 Section 1. Section 2 of part Q of chapter 59 of the laws of 2013,
38 amending the tax law relating to serving an income execution with
39 respect to individual tax debtors without filing a warrant, is amended
40 to read as follows:

41 S 2. This act shall take effect immediately and shall expire and be
42 deemed repealed on and after April 1, [2015] 2017.

43 S 2. This act shall take effect immediately.

44 PART EE

45 Intentionally Omitted

46 PART FF

Intentionally Omitted

PART GG

Intentionally Omitted

PART HH

Intentionally Omitted

PART II

Intentionally Omitted

PART JJ

Intentionally Omitted

PART KK

Intentionally Omitted

PART LL

Intentionally Omitted

PART MM

Section 1. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 1 of part BB of chapter 59 of the laws of 2014, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall

1 be no vendor's capital awards. Except for tracks having less than one
2 thousand one hundred video gaming machines, and except for a vendor
3 track located west of State Route 14 from Sodus Point to the Pennsylvana-
4 nia border within New York, each track operator shall be required to
5 co-invest an amount of capital expenditure equal to its cumulative
6 vendor's capital award. For all tracks, except for Aqueduct racetrack,
7 the amount of any vendor's capital award that is not used during any one
8 year period may be carried over into subsequent years ending before
9 April first, two thousand [fifteen] SIXTEEN. Any amount attributable to
10 a capital expenditure approved prior to April first, two thousand
11 [fifteen] SIXTEEN and completed before April first, two thousand [seven-
12 teen] EIGHTEEN; or approved prior to April first, two thousand [nine-
13 teen] TWENTY and completed before April first, two thousand [twenty-one]
14 TWENTY-TWO for a vendor track located west of State Route 14 from Sodus
15 Point to the Pennsylvania border within New York, shall be eligible to
16 receive the vendor's capital award. In the event that a vendor track's
17 capital expenditures, approved by the division prior to April first, two
18 thousand [fifteen] SIXTEEN and completed prior to April first, two thou-
19 sand [seventeen] EIGHTEEN, exceed the vendor track's cumulative capital
20 award during the five year period ending April first, two thousand
21 [fifteen] SIXTEEN, the vendor shall continue to receive the capital
22 award after April first, two thousand [fifteen] SIXTEEN until such
23 approved capital expenditures are paid to the vendor track subject to
24 any required co-investment. In no event shall any vendor track that
25 receives a vendor fee pursuant to clause (F) or (G) of this subparagraph
26 be eligible for a vendor's capital award under this section. Any opera-
27 tor of a vendor track which has received a vendor's capital award,
28 choosing to divest the capital improvement toward which the award was
29 applied, prior to the full depreciation of the capital improvement in
30 accordance with generally accepted accounting principles, shall reim-
31 burse the state in amounts equal to the total of any such awards. Any
32 capital award not approved for a capital expenditure at a video lottery
33 gaming facility by April first, two thousand [fifteen] SIXTEEN shall be
34 deposited into the state lottery fund for education aid; and
35 S 2. This act shall take effect immediately.

36

PART NN

37 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the
38 racing, pari-mutuel wagering and breeding law, as amended by section 1
39 of part AA of chapter 59 of the laws of 2014, is amended to read as
40 follows:
41 (a) Any racing association or corporation or regional off-track
42 betting corporation, authorized to conduct pari-mutuel wagering under
43 this chapter, desiring to display the simulcast of horse races on which
44 pari-mutuel betting shall be permitted in the manner and subject to the
45 conditions provided for in this article may apply to the commission for
46 a license so to do. Applications for licenses shall be in such forms as
47 may be prescribed by the commission and shall contain such information
48 or other material or evidence as the commission may require. No license
49 shall be issued by the commission authorizing the simulcast transmission
50 of thoroughbred races from a track located in Suffolk county. The fee
51 for such licenses shall be five hundred dollars per simulcast facility
52 and for account wagering licensees that do not operate either a simul-
53 cast facility that is open to the public within the state of New York or
54 a licensed racetrack within the state, twenty thousand dollars per year

1 payable by the licensee to the commission for deposit into the general
2 fund. Except as provided in this section, the commission shall not
3 approve any application to conduct simulcasting into individual or group
4 residences, homes or other areas for the purposes of or in connection
5 with pari-mutuel wagering. The commission may approve simulcasting into
6 residences, homes or other areas to be conducted jointly by one or more
7 regional off-track betting corporations and one or more of the follow-
8 ing: a franchised corporation, thoroughbred racing corporation or a
9 harness racing corporation or association; provided (i) the simulcasting
10 consists only of those races on which pari-mutuel betting is authorized
11 by this chapter at one or more simulcast facilities for each of the
12 contracting off-track betting corporations which shall include wagers
13 made in accordance with section one thousand fifteen, one thousand
14 sixteen and one thousand seventeen of this article; provided further
15 that the contract provisions or other simulcast arrangements for such
16 simulcast facility shall be no less favorable than those in effect on
17 January first, two thousand five; (ii) that each off-track betting
18 corporation having within its geographic boundaries such residences,
19 homes or other areas technically capable of receiving the simulcast
20 signal shall be a contracting party; (iii) the distribution of revenues
21 shall be subject to contractual agreement of the parties except that
22 statutory payments to non-contracting parties, if any, may not be
23 reduced; provided, however, that nothing herein to the contrary shall
24 prevent a track from televising its races on an irregular basis primari-
25 ly for promotional or marketing purposes as found by the commission. For
26 purposes of this paragraph, the provisions of section one thousand thir-
27 teen of this article shall not apply. Any agreement authorizing an
28 in-home simulcasting experiment commencing prior to May fifteenth, nine-
29 teen hundred ninety-five, may, and all its terms, be extended until June
30 thirtieth, two thousand [fifteen] SIXTEEN; provided, however, that any
31 party to such agreement may elect to terminate such agreement upon
32 conveying written notice to all other parties of such agreement at least
33 forty-five days prior to the effective date of the termination, via
34 registered mail. Any party to an agreement receiving such notice of an
35 intent to terminate, may request the commission to mediate between the
36 parties new terms and conditions in a replacement agreement between the
37 parties as will permit continuation of an in-home experiment until June
38 thirtieth, two thousand [fifteen] SIXTEEN; and (iv) no in-home simul-
39 casting in the thoroughbred special betting district shall occur without
40 the approval of the regional thoroughbred track.

41 S 2. Subparagraph (iii) of paragraph d of subdivision 3 of section
42 1007 of the racing, pari-mutuel wagering and breeding law, as amended by
43 section 2 of part AA of chapter 59 of the laws of 2014, is amended to
44 read as follows:

45 (iii) Of the sums retained by a receiving track located in Westchester
46 county on races received from a franchised corporation, for the period
47 commencing January first, two thousand eight and continuing through June
48 thirtieth, two thousand [fifteen] SIXTEEN, the amount used exclusively
49 for purses to be awarded at races conducted by such receiving track
50 shall be computed as follows: of the sums so retained, two and one-half
51 percent of the total pools. Such amount shall be increased or decreased
52 in the amount of fifty percent of the difference in total commissions
53 determined by comparing the total commissions available after July twen-
54 ty-first, nineteen hundred ninety-five to the total commissions that
55 would have been available to such track prior to July twenty-first,
56 nineteen hundred ninety-five.

1 S 3. The opening paragraph of subdivision 1 of section 1014 of the
2 racing, pari-mutuel wagering and breeding law, as amended by section 3
3 of part AA of chapter 59 of the laws of 2014, is amended to read as
4 follows:

5 The provisions of this section shall govern the simulcasting of races
6 conducted at thoroughbred tracks located in another state or country on
7 any day during which a franchised corporation is conducting a race meet-
8 ing in Saratoga county at Saratoga thoroughbred racetrack until June
9 thirtieth, two thousand [fifteen] SIXTEEN and on any day regardless of
10 whether or not a franchised corporation is conducting a race meeting in
11 Saratoga county at Saratoga thoroughbred racetrack after June thirtieth,
12 two thousand [fifteen] SIXTEEN. On any day on which a franchised corpo-
13 ration has not scheduled a racing program but a thoroughbred racing
14 corporation located within the state is conducting racing, every off-
15 track betting corporation branch office and every simulcasting facility
16 licensed in accordance with section one thousand seven (that have
17 entered into a written agreement with such facility's representative
18 horsemen's organization, as approved by the commission), one thousand
19 eight, or one thousand nine of this article shall be authorized to
20 accept wagers and display the live simulcast signal from thoroughbred
21 tracks located in another state or foreign country subject to the
22 following provisions:

23 S 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering
24 and breeding law, as amended by section 4 of part AA of chapter 59 of
25 the laws of 2014, is amended to read as follows:

26 1. The provisions of this section shall govern the simulcasting of
27 races conducted at harness tracks located in another state or country
28 during the period July first, nineteen hundred ninety-four through June
29 thirtieth, two thousand [fifteen] SIXTEEN. This section shall supersede
30 all inconsistent provisions of this chapter.

31 S 5. The opening paragraph of subdivision 1 of section 1016 of the
32 racing, pari-mutuel wagering and breeding law, as amended by section 5
33 of part AA of chapter 59 of the laws of 2014, is amended to read as
34 follows:

35 The provisions of this section shall govern the simulcasting of races
36 conducted at thoroughbred tracks located in another state or country on
37 any day during which a franchised corporation is not conducting a race
38 meeting in Saratoga county at Saratoga thoroughbred racetrack until June
39 thirtieth, two thousand [fifteen] SIXTEEN. Every off-track betting
40 corporation branch office and every simulcasting facility licensed in
41 accordance with section one thousand seven that have entered into a
42 written agreement with such facility's representative horsemen's organ-
43 ization as approved by the commission, one thousand eight or one thou-
44 sand nine of this article shall be authorized to accept wagers and
45 display the live full-card simulcast signal of thoroughbred tracks
46 (which may include quarter horse or mixed meetings provided that all
47 such wagering on such races shall be construed to be thoroughbred races)
48 located in another state or foreign country, subject to the following
49 provisions; provided, however, no such written agreement shall be
50 required of a franchised corporation licensed in accordance with section
51 one thousand seven of this article:

52 S 6. The opening paragraph of section 1018 of the racing, pari-mutuel
53 wagering and breeding law, as amended by section 6 of part AA of chapter
54 59 of the laws of 2014, is amended to read as follows:

55 Notwithstanding any other provision of this chapter, for the period
56 July twenty-fifth, two thousand one through September eighth, two thou-

1 sand [fourteen] FIFTEEN, when a franchised corporation is conducting a
2 race meeting within the state at Saratoga Race Course, every off-track
3 betting corporation branch office and every simulcasting facility
4 licensed in accordance with section one thousand seven (that has entered
5 into a written agreement with such facility's representative horsemen's
6 organization as approved by the commission), one thousand eight or one
7 thousand nine of this article shall be authorized to accept wagers and
8 display the live simulcast signal from thoroughbred tracks located in
9 another state, provided that such facility shall accept wagers on races
10 run at all in-state thoroughbred tracks which are conducting racing
11 programs subject to the following provisions; provided, however, no such
12 written agreement shall be required of a franchised corporation licensed
13 in accordance with section one thousand seven of this article.

14 S 7. Section 32 of chapter 281 of the laws of 1994, amending the
15 racing, pari-mutuel wagering and breeding law and other laws relating
16 to simulcasting, as amended by section 7 of part AA of chapter 59 of the
17 laws of 2014, is amended to read as follows:

18 S 32. This act shall take effect immediately and the pari-mutuel tax
19 reductions in section six of this act shall expire and be deemed
20 repealed on July 1, [2015] 2016; provided, however, that nothing
21 contained herein shall be deemed to affect the application, qualifica-
22 tion, expiration, or repeal of any provision of law amended by any
23 section of this act, and such provisions shall be applied or qualified
24 or shall expire or be deemed repealed in the same manner, to the same
25 extent and on the same date as the case may be as otherwise provided by
26 law; provided further, however, that sections twenty-three and twenty-
27 five of this act shall remain in full force and effect only until May 1,
28 1997 and at such time shall be deemed to be repealed.

29 S 8. Section 54 of chapter 346 of the laws of 1990, amending the
30 racing, pari-mutuel wagering and breeding law and other laws relating to
31 simulcasting and the imposition of certain taxes, as amended by section
32 8 of part AA of chapter 59 of the laws of 2014, is amended to read as
33 follows:

34 S 54. This act shall take effect immediately; provided, however,
35 sections three through twelve of this act shall take effect on January
36 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-
37 ing law, as added by section thirty-eight of this act, shall expire and
38 be deemed repealed on July 1, [2015] 2016; and section eighteen of this
39 act shall take effect on July 1, 2008 and sections fifty-one and fifty-
40 two of this act shall take effect as of the same date as chapter 772 of
41 the laws of 1989 took effect.

42 S 9. Paragraph (a) of subdivision 1 of section 238 of the racing,
43 pari-mutuel wagering and breeding law, as amended by section 9 of part
44 AA of chapter 59 of the laws of 2014, is amended to read as follows:

45 (a) The franchised corporation authorized under this chapter to
46 conduct pari-mutuel betting at a race meeting or races run thereat shall
47 distribute all sums deposited in any pari-mutuel pool to the holders of
48 winning tickets therein, provided such tickets be presented for payment
49 before April first of the year following the year of their purchase,
50 less an amount which shall be established and retained by such fran-
51 chised corporation of between twelve to seventeen per centum of the
52 total deposits in pools resulting from on-track regular bets, and four-
53 teen to twenty-one per centum of the total deposits in pools resulting
54 from on-track multiple bets and fifteen to twenty-five per centum of the
55 total deposits in pools resulting from on-track exotic bets and fifteen
56 to thirty-six per centum of the total deposits in pools resulting from

1 on-track super exotic bets, plus the breaks. The retention rate to be
2 established is subject to the prior approval of the gaming commission.
3 Such rate may not be changed more than once per calendar quarter to be
4 effective on the first day of the calendar quarter. "Exotic bets" and
5 "multiple bets" shall have the meanings set forth in section five
6 hundred nineteen of this chapter. "Super exotic bets" shall have the
7 meaning set forth in section three hundred one of this chapter. For
8 purposes of this section, a "pick six bet" shall mean a single bet or
9 wager on the outcomes of six races. The breaks are hereby defined as the
10 odd cents over any multiple of five for payoffs greater than one dollar
11 five cents but less than five dollars, over any multiple of ten for
12 payoffs greater than five dollars but less than twenty-five dollars,
13 over any multiple of twenty-five for payoffs greater than twenty-five
14 dollars but less than two hundred fifty dollars, or over any multiple of
15 fifty for payoffs over two hundred fifty dollars. Out of the amount so
16 retained there shall be paid by such franchised corporation to the
17 commissioner of taxation and finance, as a reasonable tax by the state
18 for the privilege of conducting pari-mutuel betting on the races run at
19 the race meetings held by such franchised corporation, the following
20 percentages of the total pool for regular and multiple bets five per
21 centum of regular bets and four per centum of multiple bets plus twenty
22 per centum of the breaks; for exotic wagers seven and one-half per
23 centum plus twenty per centum of the breaks, and for super exotic bets
24 seven and one-half per centum plus fifty per centum of the breaks. For
25 the period June first, nineteen hundred ninety-five through September
26 ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be
27 three per centum and such tax on multiple wagers shall be two and one-
28 half per centum, plus twenty per centum of the breaks. For the period
29 September tenth, nineteen hundred ninety-nine through March thirty-
30 first, two thousand one, such tax on all wagers shall be two and six-
31 tenths per centum and for the period April first, two thousand one
32 through December thirty-first, two thousand [fifteen] SIXTEEN, such tax
33 on all wagers shall be one and six-tenths per centum, plus, in each such
34 period, twenty per centum of the breaks. Payment to the New York state
35 thoroughbred breeding and development fund by such franchised corpo-
36 ration shall be one-half of one per centum of total daily on-track pari-
37 mutuel pools resulting from regular, multiple and exotic bets and three
38 per centum of super exotic bets provided, however, that for the period
39 September tenth, nineteen hundred ninety-nine through March thirty-
40 first, two thousand one, such payment shall be six-tenths of one per
41 centum of regular, multiple and exotic pools and for the period April
42 first, two thousand one through December thirty-first, two thousand
43 [fifteen] SIXTEEN, such payment shall be seven-tenths of one per centum
44 of such pools.

45 S 10. This act shall take effect immediately.

46 PART 00

47 Section 1. Section 1602 of the tax law is amended by adding a new
48 subdivision 6 to read as follows:

49 6. "VIDEO LOTTERY GAMING" MEANS ANY LOTTERY GAME PLAYED ON A VIDEO
50 LOTTERY TERMINAL THAT ISSUES ELECTRONIC TICKETS, ALLOWS MULTIPLE PLAYERS
51 TO PARTICIPATE IN THE SAME GAME AND DETERMINES WINNERS TO A MATERIAL
52 DEGREE UPON THE ELEMENT OF CHANCE, NOTWITHSTANDING THAT THE SKILL OF A
53 PLAYER MAY INFLUENCE SUCH PLAYER'S CHANCE OF WINNING A GAME. VIDEO

1 LOTTERY GAMING MAY INCLUDE ELEMENTS OF PLAYER INTERACTION AFTER A PLAYER
2 RECEIVES AN INITIAL CHANCE.

3 S 2. Subdivision 28 of section 225.00 of the penal law, as added by
4 chapter 174 of the laws of 2013, is amended to read as follows:

5 28. "Video lottery gaming" [means any lottery game played on a video
6 lottery terminal, which consists of multiple players competing for a
7 chance to win a random drawn prize pursuant to section sixteen hundred
8 seventeen-a and paragraph five of subdivision a of section sixteen
9 hundred twelve of the tax law, as amended and implemented] HAS THE MEAN-
10 ING SET FORTH IN SUBDIVISION SIX OF SECTION SIXTEEN HUNDRED TWO OF THE
11 TAX LAW.

12 S 3. This act shall take effect on the thirtieth day after it shall
13 have become a law.

14 PART PP

15 Section 1. Paragraph d of subdivision 1 of section 207 of the racing,
16 pari-mutuel wagering and breeding law, as added by chapter 457 of the
17 laws of 2012, is amended to read as follows:

18 d. The board, which shall become effective upon appointment of a
19 majority of public members, shall terminate [three] FOUR years from its
20 date of creation. The board shall propose, no less than one hundred
21 eighty days prior to its termination, recommendations to the governor
22 and the state legislature representing a statutory plan for the prospec-
23 tive not-for-profit governing structure of The New York Racing Associ-
24 ation, Inc.

25 S 2. This act shall take effect immediately.

26 PART QQ

27 Intentionally Omitted

28 PART RR

29 Section 1. Subdivision 2 of section 187-b of the tax law, as amended
30 by section 1 of part G of chapter 59 of the laws of 2013, is amended to
31 read as follows:

32 2. (A) Alternative fuel vehicle refueling property and electric vehi-
33 cle recharging property. The credit under this section for alternative
34 fuel vehicle refueling and electric vehicle recharging property shall
35 equal for each installation of property the lesser of five thousand
36 dollars or THE PRODUCT OF fifty percent [of the cost of any such proper-
37 ty:

38 (a) which is] AND THE COST OF ANY SUCH PROPERTY LESS ANY COSTS PAID
39 FROM THE PROCEEDS OF GRANTS.

40 (B) TO QUALIFY FOR THE CREDIT, THE PROPERTY MUST:

41 (I) BE located in this state;

42 [(b) which constitutes] (II) CONSTITUTE alternative fuel vehicle refu-
43 eling property or electric vehicle recharging property; and

44 [(c) for which none of the cost has been] (III) NOT BE paid for from
45 the proceeds of grants AWARDED BEFORE JANUARY FIRST, TWO THOUSAND
46 FIFTEEN, including grants from the New York state energy research and
47 development authority or the New York power authority.

1 S 2. Paragraph (b) of subdivision 30 of section 210-B of the tax law,
2 as added by section 17 of part A of chapter 59 of the laws of 2014, is
3 amended to read as follows:

4 (b) (I) Alternative fuel vehicle refueling property and electric vehi-
5 cle recharging property. The credit under this subdivision for alterna-
6 tive fuel vehicle refueling property and electric vehicle recharging
7 property shall equal for each installation of property the lesser of
8 five thousand dollars or THE PRODUCT OF fifty percent [of the cost of
9 any such property:

10 (i) which is] AND THE COST OF ANY SUCH PROPERTY LESS ANY COSTS PAID
11 FROM THE PROCEEDS OF GRANTS.

12 (II) TO QUALIFY FOR THE CREDIT, THE PROPERTY MUST:

13 (A) BE located in this state;

14 [(ii) which constitutes] (B) MUST CONSTITUTE alternative fuel vehicle
15 refueling property or electric vehicle recharging property; and

16 [(iii) for which none of the cost has been] (C) NOT BE paid for from
17 the proceeds of grants AWARDED BEFORE JANUARY FIRST, TWO THOUSAND
18 FIFTEEN, including grants from the New York state energy research and
19 development authority or the New York power authority.

20 S 3. Paragraph 2 of subsection (p) of section 606 of the tax law, as
21 amended by section 3 of part G of chapter 59 of the laws of 2013, is
22 amended to read as follows:

23 (2) (A) Alternative fuel vehicle refueling property and electric vehi-
24 cle recharging property. The credit under this subsection for alterna-
25 tive fuel vehicle refueling property or electric vehicle recharging
26 property shall equal for each installation of property the lesser of
27 five thousand dollars or THE PRODUCT OF fifty percent [of the cost of
28 any such property

29 (A) which is] AND THE COST OF ANY SUCH PROPERTY LESS ANY COSTS PAID
30 FROM THE PROCEEDS OF GRANTS.

31 (B) TO QUALIFY FOR THE CREDIT, THE PROPERTY MUST:

32 (I) BE located in this state;

33 [(B) which constitutes] (II) CONSTITUTE alternative fuel vehicle refu-
34 eling property or electric vehicle recharging property; and

35 [(C) for which none of the cost has been] (III) NOT BE paid for from
36 the proceeds of grants AWARDED BEFORE JANUARY FIRST, TWO THOUSAND
37 FIFTEEN, including grants from the New York state energy research and
38 development authority or the New York power authority.

39 S 4. This act shall take effect immediately, and shall apply to taxa-
40 ble years beginning on or after January 1, 2015.

41 PART SS

42 Section 1. Section 1115 of the tax law is amended by adding a new
43 subdivision (jj) to read as follows:

44 (JJ) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE: (1) RECEIPTS
45 IN EXCESS OF TWO HUNDRED THIRTY THOUSAND DOLLARS FROM EVERY SALE OF, AND
46 CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN FOR, OR FOR THE USE OF, A
47 VESSEL SHALL BE EXEMPT FROM THE TAXES IMPOSED BY THIS ARTICLE. FOR
48 PURPOSES OF THIS SUBDIVISION, "VESSEL" SHALL HAVE THE SAME MEANING AS
49 SUCH TERM IS DEFINED IN SECTION TWENTY-TWO HUNDRED FIFTY OF THE VEHICLE
50 AND TRAFFIC LAW AND ANY OUTBOARD MOTOR OR TRAILER, AS DEFINED IN SECTION
51 ONE HUNDRED FIFTY-SIX OF SUCH LAW, WHEN SOLD IN CONJUNCTION WITH SUCH
52 VESSEL.

53 (2) FOR PURPOSES OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ELEVEN
54 OF THIS ARTICLE, THE PURCHASE PRICE, CURRENT MARKET VALUE, OR FAIR

1 RENTAL VALUE, AS THE CASE MAY BE, OF A VESSEL PURCHASED BY A RESIDENT OF
2 NEW YORK STATE OUTSIDE OF THIS STATE FOR USE OUTSIDE OF THIS STATE THAT
3 SUBSEQUENTLY BECOMES SUBJECT TO THE COMPENSATING USE TAX IMPOSED UNDER
4 THIS ARTICLE SHALL BE DEEMED NOT TO EXCEED TWO HUNDRED THIRTY THOUSAND
5 DOLLARS.

6 (3) FOR PURPOSES OF SUBDIVISION (I) OF SECTION ELEVEN HUNDRED ELEVEN
7 OF THIS ARTICLE, RECEIPTS FROM, OR CONSIDERATION GIVEN OR CONTRACTED TO
8 BE GIVEN FOR, THE LEASE OF A VESSEL THAT IS SUBJECT TO SUCH SUBDIVISION
9 (I) IN EXCESS OF TWO HUNDRED THIRTY THOUSAND DOLLARS SHALL BE EXEMPT
10 FROM THE CALCULATION OF TAX DUE UNDER SUCH SUBDIVISION (I).

11 (4) FOR PURPOSES OF PARAGRAPH ONE OF SUBDIVISION (Q) OF SECTION ELEVEN
12 HUNDRED ELEVEN OF THIS ARTICLE, THE LIMITATIONS ON EXCLUSIONS FROM THE
13 DEFINITION OF RETAIL SALE IN PARAGRAPH ONE OF SUCH SUBDIVISION SHALL
14 APPLY ONLY TO THE FIRST TWO HUNDRED THIRTY THOUSAND DOLLARS OF RECEIPTS
15 FROM EVERY SALE OF, OR CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN
16 FOR, OR FOR THE USE OF, A VESSEL.

17 (5) FOR PURPOSES OF PARAGRAPH TWO OF SUBDIVISION (Q) OF SECTION ELEVEN
18 HUNDRED ELEVEN OF THIS ARTICLE, THE PURCHASE PRICE OR MARKET VALUE, AS
19 THE CASE MAY BE, OF A VESSEL SUBJECT TO TAX UNDER PARAGRAPH TWO OF SUCH
20 SUBDIVISION (Q) SHALL BE DEEMED NOT TO EXCEED TWO HUNDRED THIRTY THOU-
21 SAND DOLLARS.

22 (6) FOR PURPOSES OF SUBDIVISION TWO OF SECTION ELEVEN HUNDRED EIGHTEEN
23 OF THIS ARTICLE, THE LIMITATION ON THE EXCLUSION FROM COMPENSATING USE
24 TAX IN SUCH SUBDIVISION TWO WITH RESPECT TO QUALIFIED PROPERTY, AS
25 DEFINED IN SUCH SUBDIVISION, SHALL APPLY ONLY TO THE FIRST TWO HUNDRED
26 THIRTY THOUSAND DOLLARS OF CONSIDERATION GIVEN OR CONTRACTED TO BE GIVEN
27 FOR, OR FOR THE USE OF, A VESSEL.

28 (7) FOR PURPOSES OF PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION
29 ELEVEN HUNDRED EIGHTEEN OF THIS ARTICLE, THE REFUND OR CREDIT ALLOWABLE
30 UNDER PARAGRAPH (A) OF SUCH SUBDIVISION SEVEN SHALL BE COMPUTED ONLY
31 WITH REGARD TO TAX LEGALLY DUE AND PAID TO ANOTHER STATE ON THE FIRST
32 TWO HUNDRED THIRTY THOUSAND DOLLARS OF THE PURCHASE PRICE.

33 (8) EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS SUBDIVISION SHALL NOT BE
34 DEEMED TO LIMIT ANY OTHER EXEMPTION, EXCLUSION OR CREDIT IN THIS ARTICLE
35 RELATING TO A VESSEL.

36 S 2. Section 1118 of the tax law is amended by adding new subdivision
37 13 to read as follows:

38 (13) IN RESPECT TO THE USE WITHIN THE STATE OF A VESSEL, AS DEFINED IN
39 SECTION TWENTY-TWO HUNDRED FIFTY OF THE VEHICLE AND TRAFFIC LAW, UNTIL
40 THE FIRST OF THE FOLLOWING EVENTS OCCUR:

41 (A) THE USE OF SUCH VESSEL WITHIN THIS STATE BY THE PURCHASER THEREOF
42 FOR A PERIOD IN EXCESS OF NINETY CONSECUTIVE DAYS;

43 (B) THE DATE UPON WHICH SUCH VESSEL IS FIRST REQUIRED TO BE REGISTERED
44 PURSUANT TO SECTION TWENTY-TWO HUNDRED FIFTY-ONE OF THE VEHICLE AND
45 TRAFFIC LAW; OR

46 (C) THE DATE UPON WHICH SUCH VESSEL IS SO REGISTERED.

47 S 3. This act shall take effect June 1, 2015 and shall apply in
48 accordance with the applicable transitional provisions in sections 1106
49 and 1217 of the tax law.

50 PART TT

51 Section 1. Paragraph (A) of subdivision (i) of section 1111 of the tax
52 law, as amended by chapter 20 of the laws of 1992, is amended to read as
53 follows:

1 (A) Notwithstanding any contrary provisions of this article or other
2 law, with respect to any lease for a term of one year or more of (1) a
3 motor vehicle, as defined in section one hundred twenty-five of the
4 vehicle and traffic law, with a gross vehicle weight of ten thousand
5 pounds or less, OR (2) a vessel, as defined in section twenty-two
6 hundred fifty of such law (including any inboard or outboard motor and
7 any trailer, as defined in section one hundred fifty-six of such law,
8 leased in conjunction with such a vessel) [and (3) noncommercial
9 aircraft having a seating capacity of less than twenty passengers and a
10 maximum payload capacity of less than six thousand pounds], or an option
11 to renew such a lease or a similar contractual provision, all receipts
12 due or consideration given or contracted to be given for such property
13 under and for the entire period of such lease, option to renew or simi-
14 lar provision, or combination of them, shall be deemed to have been paid
15 or given and shall be subject to tax, and any such tax due shall be
16 collected, as of the date of first payment under such lease, option to
17 renew or similar provision, or combination of them, or as of the date of
18 registration of such property with the commissioner of motor vehicles,
19 whichever is earlier. Notwithstanding any inconsistent provisions of
20 subdivision (b) of this section or of section eleven hundred seventeen
21 of this article or of other law, for purposes of such a lease, option to
22 renew or similar provision originally entered into outside this state,
23 by a lessee (1) who was a resident of this state, and leased such prop-
24 erty for use outside the state and who subsequently brings such property
25 into this state for use here or (2) who was a nonresident and subse-
26 quently becomes a resident and brings the property into this state for
27 use here, any remaining receipts due or consideration to be given after
28 such lessee brings such property into this state shall be subject to tax
29 as if the lessee had entered into or exercised such lease, option to
30 renew or similar provision, or combination thereof, for the first time
31 in this state and the relevant provisions of sections eleven hundred ten
32 concerning imposition and computation of tax, eleven hundred eighteen
33 concerning exemption from use tax for tax paid to another jurisdiction,
34 eleven hundred thirty-two concerning presumption of taxability and
35 conditions for registration and eleven hundred thirty-nine concerning
36 refunds, of this article, shall be applicable to any sales or compensat-
37 ing use tax paid by the lessee before the lessee brought the property
38 into this state, except to the extent that any such provision is incon-
39 sistent with a provision of this subdivision. For purposes of this
40 subdivision, (1) a lease for a term of one year or more shall include
41 any lease for a shorter term which includes an option to renew or other
42 like provision (or more than one of such option or other provision)
43 where the cumulative period that the lease, with or without such option
44 or provision, may be in effect upon exercise of such option or provision
45 is one year or more and (2) receipts due and consideration given or
46 contracted to be given under any such lease or other provision for
47 excess mileage charges shall be subject to tax as and when paid or due.

48 S 2. Subdivision (q) of section 1111 of the tax law, as added by
49 section 3 of subpart B of part S of chapter 57 of the laws of 2010, is
50 amended to read as follows:

51 (q) (1) The exclusions from the definition of retail sale in subpara-
52 graph (iv) of paragraph four of subdivision (b) of section eleven
53 hundred one of this article shall not apply to transfers, distributions,
54 or contributions of [an aircraft or] A vessel, except where, in the case
55 of the exclusion in subclause (I) of clause (A) of such subparagraph
56 (iv), the two corporations to be merged or consolidated are not affil-

1 iated persons with respect to each other. For purposes of this subdivi-
2 sion, corporations are affiliated persons with respect to each other
3 where (i) more than five percent of their combined shares are owned by
4 members of the same family, as defined by paragraph four of subsection
5 (c) of section two hundred sixty-seven of the internal revenue code of
6 nineteen hundred eighty-six; (ii) one of the corporations has an owner-
7 ship interest of more than five percent, whether direct or indirect, in
8 the other; or (iii) another person or a group of other persons that are
9 affiliated persons with respect to each other hold an ownership interest
10 of more than five percent, whether direct or indirect, in each of the
11 corporations.

12 (2) Notwithstanding any contrary provision of law, in relation to any
13 transfer, distribution, or contribution of [an aircraft or] A vessel
14 that qualifies as a retail sale as a result of paragraph one of this
15 subdivision, the sales tax imposed by subdivision (a) of section eleven
16 hundred five of this part shall be computed based on the price at which
17 the seller purchased the tangible personal property, provided that where
18 the seller or purchaser affirmatively shows that the seller owned the
19 property for six months prior to making the transfer, distribution or
20 contribution covered by paragraph one of this subdivision, such
21 [aircraft or] vessel shall be taxed on the basis of the current market
22 value of the [aircraft or] vessel at the time of that transfer, distrib-
23 ution, or contribution. For the purposes of the prior sentence, "current
24 market value" shall not exceed the cost of the [aircraft or] vessel. See
25 subdivision (b) of this section for a similar rule on the computation of
26 any compensating use tax due under section eleven hundred ten of this
27 part on such transfers, distributions, or contributions.

28 (3) A purchaser of [an aircraft or] A vessel covered by paragraph one
29 of this subdivision will be entitled to a refund or credit against the
30 sales or compensating use tax due as a result of a transfer, distrib-
31 ution, or contribution of such [aircraft or] vessel in the amount of any
32 sales or use tax paid to this state or any other state on the seller's
33 purchase or use of the [aircraft or] vessel so transferred, distributed
34 or contributed, but not to exceed the tax due on the transfer, distrib-
35 ution, or contribution of the [aircraft or] vessel or on the purchaser's
36 use in the state of the [aircraft or] vessel so transferred, distributed
37 or contributed. An application for a refund or credit under this subdivi-
38 sion must be filed and shall be in such form as the commissioner may
39 prescribe. Where an application for credit has been filed, the applicant
40 may immediately take such credit on the return which is due coincident
41 with or immediately subsequent to the time the application for credit is
42 filed. However, the taking of the credit on the return shall be deemed
43 to be part of the application for credit. Provided that the commission-
44 er may, in his or her discretion and notwithstanding any other law,
45 waive the application requirement for any or all classes of persons
46 where the amount of the credit or refund is equal to the amount of the
47 tax due from the purchaser. The provisions of subdivisions (a), (b), and
48 (c) of section eleven hundred thirty-nine of this article shall apply to
49 applications for refund or credit under this subdivision. No interest
50 shall be allowed or paid on any refund made or credit allowed under this
51 subdivision. If a refund is granted or a credit allowed under this para-
52 graph, the seller or purchaser shall not be eligible for a refund or
53 credit pursuant to subdivision seven of section eleven hundred eighteen
54 of this article with regard to the same purchase or use.

55 S 3. Subdivision (a) of section 1115 of the tax law is amended by
56 adding a new paragraph 21-a to read as follows:

(21-A) GENERAL AVIATION AIRCRAFT, AND MACHINERY OR EQUIPMENT TO BE INSTALLED ON SUCH AIRCRAFT. FOR PURPOSES OF THIS SUBDIVISION, "GENERAL AVIATION AIRCRAFT" MEANS AN AIRCRAFT THAT IS USED IN CIVIL AVIATION, THAT IS NOT A COMMERCIAL AIRCRAFT AS DEFINED IN PARAGRAPH SEVENTEEN OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS ARTICLE, MILITARY AIRCRAFT, UNMANNED AERIAL VEHICLE OR DRONE.

S 4. This act shall take effect September 1, 2015, and shall apply in accordance with applicable transitional provisions of sections 1106 and 1217 of the tax law.

PART UU

Section 1. Section 1115 of the tax law is amended by adding a new subdivision (jj) to read as follows:

(JJ) TANGIBLE PERSONAL PROPERTY OR SERVICES OTHERWISE TAXABLE UNDER THIS ARTICLE SOLD TO A RELATED PERSON SHALL NOT BE SUBJECT TO THE TAXES IMPOSED BY SECTION ELEVEN HUNDRED FIVE OF THIS ARTICLE OR THE COMPENSATING USE TAX IMPOSED UNDER SECTION ELEVEN HUNDRED TEN OF THIS ARTICLE WHERE THE PURCHASER CAN SHOW THAT THE FOLLOWING CONDITIONS HAVE BEEN MET TO THE EXTENT THEY ARE APPLICABLE: (1)(I) THE VENDOR AND THE PURCHASER ARE REFERENCED AS EITHER A "COVERED COMPANY" AS DESCRIBED IN SECTION 243.2(F) OR A "MATERIAL ENTITY" AS DESCRIBED IN SECTION 243.2(L) OF THE CODE OF FEDERAL REGULATIONS IN A RESOLUTION PLAN THAT HAS BEEN SUBMITTED TO AN AGENCY OF THE UNITED STATES FOR THE PURPOSE OF SATISFYING SUBPARAGRAPH 1 OF PARAGRAPH (D) OF SECTION ONE HUNDRED SIXTY-FIVE OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT (THE "ACT") OR ANY SUCCESSOR LAW, OR (II) THE VENDOR AND THE PURCHASER ARE SEPARATE LEGAL ENTITIES PURSUANT TO A DIVESTITURE DIRECTED PURSUANT TO SUBPARAGRAPH 5 OF PARAGRAPH (D) OF SECTION ONE HUNDRED SIXTY-FIVE OF SUCH ACT OR ANY SUCCESSOR LAW; (2) THE SALE WOULD NOT HAVE OCCURRED BETWEEN SUCH RELATED ENTITIES WERE IT NOT FOR SUCH RESOLUTION PLAN OR DIVESTITURE; AND (3) IN ACQUIRING SUCH PROPERTY OR SERVICES, THE VENDOR DID NOT CLAIM AN EXEMPTION FROM THE TAX IMPOSED BY THIS STATE OR ANOTHER STATE BASED ON THE VENDOR'S INTENT TO RESELL SUCH SERVICES OR PROPERTY. A PERSON IS RELATED TO ANOTHER PERSON FOR PURPOSES OF THIS SUBDIVISION IF THE PERSON BEARS A RELATIONSHIP TO SUCH PERSON DESCRIBED IN SECTION TWO HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE. THE EXEMPTION PROVIDED BY THIS SUBDIVISION SHALL NOT APPLY TO SALES MADE, SERVICES RENDERED, OR USES OCCURRING AFTER JUNE THIRTIETH, TWO THOUSAND NINETEEN, EXCEPT WITH RESPECT TO SALES MADE, SERVICES RENDERED, OR USES OCCURRING PURSUANT TO BINDING CONTRACTS ENTERED INTO ON OR BEFORE SUCH DATE; BUT IN NO CASE SHALL SUCH EXEMPTION APPLY AFTER JUNE THIRTIETH, TWO THOUSAND TWENTY-FOUR.

S 2. This act shall take effect on the first day of a sales tax quarterly period, as described in subdivision (b) of section 1136 of the tax law, next commencing at least ninety days after the date this act shall have become a law and shall apply in accordance with the applicable transitional provisions of sections 1106 and 1217 of the tax law.

PART VV

Section 1. The opening paragraph of subdivision 7 of section 221 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

In order to pay the costs of the insurance required by this section and by the workers' compensation law and to carry out its other powers

1 and duties and to pay for any of its liabilities under section four-
2 teen-a of the workers' compensation law, the New York Jockey Injury
3 Compensation Fund, Inc. shall ascertain the total funding necessary and
4 establish the sums that are to be paid by all owners and trainers
5 licensed or required to be licensed under section two hundred twenty of
6 this article, to obtain the total funding amount required annually. In
7 order to provide that any sum required to be paid by an owner or trainer
8 is equitable, the fund shall establish payment schedules which reflect
9 such factors as are appropriate, including where applicable, the
10 geographic location of the racing corporation at which the owner or
11 trainer participates, the duration of such participation, the amount of
12 any purse earnings, the number of horses involved, or such other factors
13 as the fund shall determine to be fair, equitable and in the best inter-
14 ests of racing. In no event shall the amount deducted from an owner's
15 share of purses exceed [one] TWO per centum. THE AMOUNT DEDUCTED FROM AN
16 OWNER'S SHARE OF PURSES SHALL NOT EXCEED ONE PER CENTUM AFTER APRIL
17 FIRST, TWO THOUSAND SEVENTEEN. In the cases of multiple ownerships and
18 limited racing appearances, the fund shall equitably adjust the sum
19 required.

20 S 2. This act shall take effect immediately.

21 PART WW

22 Section 1. Clause (F) of subparagraph (ii) of paragraph 1 of subdivi-
23 sion b of section 1612 of the tax law, as amended by section 1 of part Z
24 of chapter 59 of the laws of 2014, is amended to read as follows:

25 (F) notwithstanding clauses (A), (B), (C), (D) and (E) of this subpar-
26 agraph, when a vendor track, is located in Sullivan county and within
27 sixty miles from any gaming facility in a contiguous state such vendor
28 fee shall, for a period of [seven] EIGHT years commencing April first,
29 two thousand eight, be at a rate of forty-one percent of the total
30 revenue wagered at the vendor track after payout for prizes pursuant to
31 this chapter, after which time such rate shall be as for all tracks in
32 clause (C) of this subparagraph.

33 S 2. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after April 1, 2015.

35 PART XX

36 Section 1. Subdivision 1 of section 1012 of the racing, pari-mutuel
37 wagering and breeding law, as amended by chapter 174 of the laws of
38 2013, is amended to read as follows:

39 1. Racing associations and corporations, franchised corporations,
40 off-track betting corporations and multi-jurisdictional account wagering
41 providers may form partnerships, joint ventures, or any other affil-
42 iations or contractual arrangement in order to further the purposes of
43 this section. Multi-jurisdictional account wagering providers involved
44 in such joint affiliations or contractual arrangements shall follow the
45 same distributional policy with respect to retained commissions as
46 [their in-state affiliate or contractual partner] A MULTI-JURISDICTIONAL
47 ACCOUNT WAGERING PROVIDER DEFINED IN THIS ARTICLE.

48 S 2. Section 1012 of the racing, pari-mutuel wagering and breeding law
49 is amended by adding a new subdivision 1-a to read as follows:

50 1-A. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, ANY MULTI-JURIS-
51 DICTIONAL ACCOUNT WAGERING PROVIDERS INVOLVED IN SUCH JOINT AFFILIATIONS
52 OR CONTRACTUAL ARRANGEMENTS AUTHORIZED IN SUBDIVISION ONE OF THIS

SECTION WHICH WAS ENTERED INTO ON OR BEFORE THE FIRST OF JANUARY, TWO THOUSAND FOURTEEN MAY CONTINUE TO FOLLOW THE SAME DISTRIBUTIONAL POLICY WITH RESPECT TO RETAINED COMMISSIONS AS THEIR IN-STATE AFFILIATE OR CONTRACTUAL PARTNER THROUGH THE THIRTY-FIRST OF DECEMBER, TWO THOUSAND SIXTEEN.

S 3. This act shall take effect immediately; provided, however, that the provisions of section two of this act shall expire January 1, 2017 when upon such date the provisions of such section shall be deemed repealed.

PART YY

Section 1. Paragraph 4 of subsection (b) of section 800 of the tax law, as added by section 1 of part B of chapter 56 of the laws of 2011, is amended to read as follows:

(4) Any eligible educational institution. An "eligible educational institution" shall mean any public school district, a board of cooperative educational services, a public elementary or secondary school, a school approved pursuant to article eighty-five or eighty-nine of the education law to serve students with disabilities of school age, or a nonpublic elementary or secondary school that provides instruction in grade one or above, ALL PUBLIC LIBRARY SYSTEMS AS DEFINED IN SUBDIVISION ONE OF SECTION TWO HUNDRED SEVENTY-TWO OF THE EDUCATION LAW, AND ALL PUBLIC AND FREE ASSOCIATION LIBRARIES AS SUCH TERMS ARE DEFINED IN SUBDIVISION TWO OF SECTION TWO HUNDRED FIFTY-THREE OF THE EDUCATION LAW.

S 2. This act shall take effect immediately and apply to taxable periods beginning on or after January 1, 2016.

PART ZZ

Section 1. Section 19 of part CC of a chapter of the laws of 2015 amending the vehicle and traffic law relating to directing the city of Buffalo to adjudicate traffic infractions, as proposed in legislative bill numbers S.2008-B and A.3008-B, is amended to read as follows:

S 19. This act shall take effect on [May] JULY 1, 2015; provided, however, that effective immediately the city of Buffalo is authorized to enact a local law establishing a traffic violations agency in the city of Buffalo; provided, however, that the provisions of sections four and five of this act shall take effect on the same date as the enactment of such local law, herein authorized, establishing a traffic violations agency; provided, further, that if established, such agency and the city of Buffalo shall comply with all the provisions of law set forth in this act; provided, however, that the amendments made to section 371 of the general municipal law, made by sections six, seven and eight of this act, shall not affect the expiration of such section and be deemed to expire therewith; and provided, further, that the city of Buffalo shall notify the legislative bill drafting commission upon the occurrence of the enactment of the local law provided for in this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

S 2. This act shall take effect on the same date as such chapter of the laws of 2015 takes effect.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of

1 competent jurisdiction to be invalid, such judgment shall not affect,
2 impair, or invalidate the remainder thereof, but shall be confined in
3 its operation to the clause, sentence, paragraph, subdivision, section
4 or part thereof directly involved in the controversy in which such judg-
5 ment shall have been rendered. It is hereby declared to be the intent of
6 the legislature that this act would have been enacted even if such
7 invalid provisions had not been included herein.

8 S 3. This act shall take effect immediately provided, however, that
9 the applicable effective date of Parts A through ZZ of this act shall be
10 as specifically set forth in the last section of such Parts.