# STATE OF NEW YORK

S. 7509 A. 9509

# SENATE - ASSEMBLY

January 18, 2018

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

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

AN ACT to amend the real property tax law, in relation to the annual growth in STAR benefits (Part A); to amend the real property tax law, in relation to making the STAR income verification program mandatory; to amend the tax law, in relation to the calculation of income for basic STAR purposes; to repeal subparagraphs (v) and (vi) of paragraph (b) of subdivision 4, paragraphs (b) and (c) of subdivision 5 and paragraph (c) of subdivision 6 of section 425 of the real property tax law relating to the school tax relief (STAR) exemption; and to repeal section 171-o of the tax law relating to income verification for a city with a population of one million or more (Part B); to amend the real property law, in relation to real property transfer reports (Part C); to amend the real property law, in relation to reports of manufactured housing park owners (Part D); to amend the general municipal law, the education law, the state finance law, the real property tax law and the tax law, in relation to making technical corrections to various statutes impacting property taxes; and to repeal subsection (bbb) of section 606 of the tax law, section 3-d of the general municipal law and section 2023-b of the education law, relating thereto (Part E); to amend the real property tax law, in relation to taxable state land (Part F); to amend the real property tax law, in relation to assessment ceilings; and to amend chapter 475 of the laws of 2013, amending the real property tax law relating to assessment ceilings for local public utility mass real property, in relation to the effectiveness thereof (Part G); to amend the tax law and the administrative code of the city of New York, in relation to extending the statute of limitations for assessing tax on amended returns (Part H); to amend the tax law, in relation to providing for employee wage reporting consistency between the department of taxation and finance and the department of labor (Part I); to amend the tax law, in relation to sales and compensating use taxes imposed on food and beverages sold by

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

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restaurants and similar establishments (Part J); to amend the tax law, in relation to allowing sharing with the comptroller information regarding unwarranted fixed and final debt (Part K); to amend the social services law, in relation to the disclosure of certain information relating to a person receiving public assistance to the commissioner of taxation and finance (Part L); to amend the tax law, in relation to establishing a conditional tax on carried interest (Part M); to amend the tax law, in relation to permitting the commissioner of taxation and finance to seek judicial review of decisions of the tax appeals tribunal (Part N); to amend the tax law and the administrative code of the city of New York, in relation to the definition of resident for tax purposes of the personal income tax (Part O); to amend the tax law, in relation to the empire state child credit (Part P); to amend the tax law, in relation to extending the hire a veteran credit for an additional two years (Part Q); to amend the labor law and the tax law, in relation to enhancing the New York youth jobs program (Part R); to amend the tax law, in relation to the temporary deferral of certain tax credits (Part S); to amend the tax law, in relation to extending the real estate transfer tax statute of limitations for refunds from two to three years and providing for consistent joint liability treatment within the real estate transfer tax (Part T); to amend the tax law, in relation to the taxation of cigars (Part U); to amend the tax law and the administrative code of the city of New York, in relation to sales and use taxes on gas and electric service; and repealing section 1105-C of the tax law relating thereto (Part V); to amend the tax law, in relation to exempting from sales and use tax certain veterinary drugs and medicines and removing the refund/credit therefor (Part W); to amend the tax law, in relation to providing relief from sales tax liability for certain partners of a limited partnership and members of a limited liability company (Part X); to amend the tax law, in relation to exempting items of food and drink when sold from certain vending machines from the sales and compensating use tax (Part Y); to amend part A of chapter 61 of the laws of 2017, amending the tax law relating to the imposition of sales and compensating use taxes in certain counties, in relation to extending the revenue distribution provisions for the additional rates of sales and use tax of Genesee, Monroe, Onondaga and Orange counties (Part Z); to amend the tax law, in relation to imposing an internet fairness conformity tax and requiring non-collecting sellers to provide specified information to New York purchasers and to the commissioner of taxation and finance (Part AA); to amend the tax law, in relation to imposing a health tax on vapor products (Part BB); to amend the tax law, in relation to the imposition of an opioid epidemic surcharge; and to amend the state finance law, in relation to establishing the opioid prevention, treatment and recovery account (Part CC); to amend the tax law, in relation to establishing a healthcare insurance windfall profit fee (Part DD); to amend the racing, pari-mutuel wagering and breeding law, in relation to adjusting the franchise payment, and authorizing night races under certain circumstances; creating an equine drug testing advisory committee; and providing for the repeal of certain provisions upon the expiration thereof (Part EE); to amend the racing, pari-mutuel wagering and breeding law, in relation to providing funds for the aftercare of retired horses (Part FF); 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 GG); to amend the state finance law, in relation to the commercial gaming revenue fund; and to repeal subdivision 4 of section 97-nnnn of the state finance law relating to base year gaming revenue (Part HH); and to amend the tax law, in relation to commissions paid to the operator of a video lottery facility; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part II)

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2018-2019 state fiscal year. Each component is wholly contained within a Part identified as Parts A through II. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

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

(i) The tax savings for each parcel receiving the exemption authorized by section four hundred twenty-five of this chapter shall be computed by subtracting the amount actually levied against the parcel from the amount that would have been levied if not for the exemption, provided however, that [~~beginning with~~] **for** the two thousand eleven-two thousand twelve **through two thousand seventeen-two thousand eighteen** school [~~year~~] **years**, the tax savings applicable to any "portion" (which as used herein shall mean that part of an assessing unit located within a school district) shall not exceed the tax savings applicable to that portion in the prior school year multiplied by one hundred two percent, with the result rounded to the nearest dollar**; and provided further that beginning with the two thousand eighteen-two thousand nineteen school year, the tax savings applicable to any portion shall not exceed the tax savings for the prior year**. The tax savings attributable to the basic and enhanced exemptions shall be calculated separately. It shall be the responsibility of the commissioner to calculate tax savings limitations for purposes of this subdivision.

§ 2. This act shall take effect immediately.

PART B

Section 1. Subparagraph (ii) of paragraph (b) of subdivision 4 of section 425 of the real property tax law, as amended by section 3 of part E of chapter 83 of the laws of 2002, is amended to read as follows:

(ii) The term "income" as used herein shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity; provided that if no such return was filed for the applicable income tax year, "income" shall mean the adjusted gross income that would have been so reported if such a return had been filed. **Provided further, that effective with exemption applications for final assessment rolls to be completed in two thousand nineteen, where an income-eligibility determination is wholly or partly based upon the income of one or more individuals who did not file a return for the applicable income tax year, then in order for the application to be considered complete, each such individual must file a statement with the department showing the source or sources of his or her income for that income tax year, and the amount or amounts thereof, that would have been reported on such a return if one had been filed. Such statement shall be filed at such time, and in such form and manner, as may be prescribed by the department, and shall be subject to the secrecy provisions of the tax law to the same extent that a personal income tax return would be. The department shall make such forms and instructions available for the filing of such statements.**

§ 2. Subparagraph (iv) of paragraph (b) of subdivision 4 of section 425 of the real property tax law, as amended by chapter 451 of the laws of 2015, is amended to read as follows:

(iv) **(A)** Effective with applications for the enhanced exemption on final assessment rolls to be completed in two thousand [~~three~~] **nineteen**, the application form shall indicate that [~~the~~] **all** owners of the property and any owners' spouses residing on the premises [~~may authorize the assessor to~~] **must** have their income eligibility verified annually [~~thereafter~~] by the [~~state~~] department [~~of taxation and finance, in lieu of furnishing copies of the applicable income tax return or returns with the application. If the owners of the property and any owners' spouses residing on the premises elect to participate in this program, which shall be known as the STAR income verification program, they~~] **and** must furnish their taxpayer identification numbers in order to facilitate matching with records of the department. [~~Thereafter, their~~] **The** income eligibility **of such persons** shall be verified annually by the department**,** and the assessor shall not request income documentation from them[~~, unless such department advises the assessor that they do not satisfy the applicable income eligibility requirements, or that it is unable to determine whether they satisfy those requirements~~]. All **applicants for the enhanced exemption and all** assessing units shall be required to participate in this program**, which shall be known as the STAR income verification program**.

**(B) Where the commissioner finds that the enhanced exemption should be replaced with a basic exemption because the income limitation applicable to the enhanced exemption has been exceeded, he or she shall provide the property owners with notice and an opportunity to submit to the commissioner evidence to the contrary. Where the commissioner finds that the**

enhanced exemption should be removed or denied without being replaced with a basic exemption because the income limitation applicable to the basic exemption has also been exceeded, he or she shall provide the property owners with notice and an opportunity to submit to the commissioner evidence to the contrary. In either case, 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 property is eligible for the exemption claimed, the commissioner shall direct the assessor or other person having custody or control of the assessment roll or tax roll to either replace the enhanced exemption with a basic exemption, or to remove or deny the enhanced exemption without replacing it with a basic exemption, as appropriate. The commissioner shall further direct such person to correct the roll accordingly. Such a directive shall be binding upon the assessor or other person having custody or control of the assessment roll or tax roll, and shall be implemented by such person without the need for further documentation or approval.

(C) Notwithstanding any provision of law to the contrary, neither an assessor nor a board of assessment review has the authority to consider an objection to the replacement or removal or denial 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 a taxpayer is dissatisfied with the department's final determination, the taxpayer may appeal that determination to the state board of real property tax services 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 state board's determination, the taxpayer may seek judicial review thereof pursuant to article seventy-eight of the civil practice law and rules. The taxpayer shall otherwise have no right to challenge such final determination in a court action, administrative proceeding or any other form of legal recourse against the commissioner, the department, the state board of real property tax services, the assessor or other person having custody or control of the assessment roll or tax roll regarding such action.

§ 3. Subparagraphs (v) and (vi) of paragraph (b) of subdivision 4 of section 425 of the real property tax law are REPEALED.

§ 4. Paragraphs (b) and (c) of subdivision 5 of section 425 of the real property tax law are REPEALED.

§ 5. Paragraph (d) of subdivision 5 of section 425 of the real property tax law, as amended by section 5 of part E of chapter 83 of the laws of 2002 and subparagraph (i) as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

(d) Third party notice. (i) A senior citizen eligible for the enhanced exemption may request that a notice be sent to an adult third party. Such request shall be made on a form prescribed by the commissioner and shall be submitted to the assessor of the assessing unit in which the eligible taxpayer resides no later than sixty days before the first taxable status date to which it is to apply. Such form shall provide a section whereby the designated third party shall consent to such designation. Such request shall be effective upon receipt by the assessor. The assessor shall maintain a list of all eligible property owners who have requested notices pursuant to this paragraph and shall furnish a copy of such list to the department upon request.

(ii) [~~In the case of a senior citizen who has not elected to participate in the STAR income verification program, a notice shall be sent to the designated third party at least thirty days prior to each ensuing taxable status date; provided that no such notice need be sent in the first year if the request was not received by the assessor at least sixty days before the applicable taxable status date. Such notice shall read substantially as follows:~~

~~"On behalf of (identify senior citizen or citizens), you are advised that his, her, or their renewal application for the enhanced STAR exemption must be filed with the assessor no later than (enter date). You are encouraged to remind him, her, or them of that fact, and to offer assistance if needed, although you are under no legal obligation to do so. Your cooperation and assistance are greatly appreciated."~~

~~(iii) In the case of a senior citizen who has elected to participate in the STAR income verification program, a~~] A notice shall be sent to the designated third party whenever the assessor or department sends a notice to the senior citizen regarding the possible removal of the enhanced STAR exemption. When the exemption is subject to removal because the commissioner has determined that the income eligibility requirement is not satisfied, such notice shall be sent to the third party by the department. When the exemption is subject to removal because the assessor has determined that any other eligibility requirement is not satisfied, such notice shall be sent to the third party by the assessor. Such notice shall read substantially as follows:

"On behalf of (identify senior citizen or citizens), you are advised that his, her, or their enhanced STAR exemption is at risk of being removed. You are encouraged to make sure that he, she or they are aware of that fact, and to offer assistance if needed, although you are under no legal obligation to do so. Your cooperation and assistance are greatly appreciated."

[~~(iv)~~] (iii) The obligation to mail such notices shall cease if the eligible taxpayer cancels the request or ceases to qualify for the enhanced STAR exemption.

§ 6. Paragraph (c) of subdivision 6 of section 425 of the real property tax law is REPEALED.

§ 7. Subdivision 9-b of section 425 of the real property tax law, as added by section 8 of part E of chapter 83 of the laws of 2002 and paragraph (b) as amended by chapter 742 of the laws of 2005 and further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

9-b. Duration of exemption; enhanced exemption. (a) [~~In the case of persons who have elected to participate in the STAR income verification program, the~~] The enhanced exemption, once granted, shall remain in effect until discontinued in the manner provided in this section.

(b) [~~In the case of persons who have not elected to participate in the STAR income verification program, the enhanced exemption shall apply for a term of one year. To continue receiving such enhanced exemption, a renewal application must be filed annually with the assessor on or before the applicable taxable status date on a form prescribed by the commissioner. Provided, however, that if a renewal application is not so filed, the assessor shall discontinue the enhanced exemption but shall grant the basic exemption, subject to the provisions of subdivision eleven of this section.~~

~~(c) Whether or not the recipients of an enhanced STAR exemption have elected to participate in the STAR income verification program, the~~] The assessor [~~may review their~~] shall review the continued compliance of

recipients of the enhanced exemption with the applicable ownership and residency requirements to the same extent as if they were receiving a basic STAR exemption.

[~~(d) Notwithstanding the foregoing provisions of this subdivision, the enhanced exemption shall be continued without a renewal application as long as the property continues to be eligible for the senior citizens exemption authorized by section four hundred sixty-seven of this title.~~]

§ 8. Section 425 of the real property tax law is amended by adding a new subdivision 14-a to read as follows:

14-a. Implementation of certain eligibility determinations. When a taxpayer's eligibility for exemption under this section for a school year is affected by a determination made in accordance with subparagraph (iv) of paragraph (b) of subdivision four of this section or paragraph (c) or (d) of subdivision fourteen of this section, and the determination is made after the school district taxes for that school year have been levied, the provisions of this subdivision shall be applicable.

(a) If the determination restores or increases the taxpayer's exemption for that school year, the commissioner is authorized to remit the excess directly to the property owner upon receiving confirmation that the taxpayer's original school tax bill has been paid in full. The amounts payable by the commissioner under this paragraph shall be paid from the account established for the payment of STAR benefits to late registrants pursuant to subparagraph (iii) of paragraph (a) of subdivision fourteen of this section. When the commissioner implements the determination in this manner, he or she shall so notify the assessor and county director of real property tax services, but no correction shall be made to the assessment roll or tax roll for that school year, and no refund shall be issued by the school authorities to the property owner or his or her agent for the excessive amount of school taxes paid for that school year.

(b) If the determination removes, denies or decreases the taxpayer's exemption for that school year, the commissioner is authorized to collect the shortfall directly from the owners of the property, together with interest, 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, and any other relevant procedures referenced within the provisions of such article. When the commissioner implements the determination in this manner, he or she shall so notify the assessor and county director of real property tax services, but no correction shall be made to the assessment roll or tax roll for that school year, and no corrected school tax bill shall be sent to the taxpayer for that school year.

§ 9. Section 171-o of the tax law is REPEALED.

§ 10. Subparagraph (B) of paragraph 1 of subsection (eee) of section 606 of the tax law, as amended by section 8 of part A of chapter 73 of the laws of 2016, is amended to read as follows:

(B) "Affiliated income" shall mean for purposes of the basic STAR credit, the combined income of all of the owners of the parcel who resided primarily thereon as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as of such date, and for purposes of the enhanced STAR credit, the combined income of all of the owners of the parcel as of December thirty-first of the taxable year, and of any owners' spouses residing primarily thereon as of such date; provided that for both purposes the income to be so combined shall be the "adjusted gross income" for the taxable year as reported for federal income tax purposes, or that would be reported as

adjusted gross income if a federal income tax return were required to be filed, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity. **For taxable years beginning on and after January first, two thousand nineteen, where an income-eligibility determination is wholly or partly based upon the income of one or more individuals who did not file a return pursuant to section six hundred fifty-one of this article for the applicable income tax year, then in order to be eligible for the credit authorized by this subsection, each such individual must file a statement with the department showing the source or sources of his or her income for that income tax year, and the amount or amounts thereof, that would have been reported on such a return if one had been filed. Such statement shall be filed at such time, and in such form and manner, as may be prescribed by the department, and shall be subject to the provisions of section six hundred ninety-seven of this article to the same extent that a return would be. The department shall make such forms and instructions available for the filing of such statements.** Provided further, that if the qualified taxpayer was an owner of the property during the taxable year but did not own it on December thirty-first of the taxable year, then the determination as to whether the income of an individual should be included in "affiliated income" shall be based upon the ownership and/or residency status of that individual as of the first day of the month during which the qualified taxpayer ceased to be an owner of the property, rather than as of December thirty-first of the taxable year.

§ 11. No application for an enhanced exemption on a final assessment roll to be completed in 2019 may be approved if the applicants have not enrolled in the STAR income verification program established by subparagraph (iv) of paragraph (b) of subdivision 4 of section 425 of the real property tax law as amended by section two of this act, regardless of when the application was filed. The assessor shall notify such applicants that participation in that program has become mandatory for all applicants and that their applications cannot be approved unless they enroll therein. The commissioner of taxation and finance shall provide a form for assessors to use, at their option, when making this notification.

§ 12. This act shall take effect immediately.

PART C

Section 1. Subdivision 1-e of section 333 of the real property law is amended by adding two new paragraphs ix and x to read as follows:

**ix. Whenever there has been a transfer or acquisition of a share or shares in a cooperative housing corporation, and such share or shares come with a right to occupy a unit or apartment located in property owned by such corporation, a transfer report must be filed by the transferee or transferees directly with the department of taxation and finance, regardless of whether a deed is prepared, delivered or recorded, as set forth in this paragraph. The fee imposed by subdivision three of this section shall not apply to transfer reports filed directly with the department of taxation and finance pursuant to this paragraph. Such report shall be in a form prescribed by the commissioner of taxation and finance, must contain the information required to be included by this subdivision, and in addition, must specify the number of shares being transferred or acquired. When a real estate transfer tax return is filed with such commissioner pursuant to section fourteen hundred nine**

of the tax law in relation to such property, the report required by this paragraph shall be filed concurrently therewith, but in no event shall the report required by this paragraph be deemed to be a part of such real estate transfer tax return.

x. Whenever there has been a transfer or acquisition of a controlling interest in an entity with an interest in real property, a transfer report must be filed by the transferee or transferees directly with the department of taxation and finance, regardless of whether a deed is prepared, delivered or recorded, as set forth in this paragraph. The fee imposed by subdivision three of this section shall not apply to transfer reports filed directly with the department of taxation and finance pursuant to this paragraph. Such report shall be in a form prescribed by the commissioner of taxation and finance, must contain the information required to be included by this subdivision, and in addition, must specify the percentage of the ownership interest being transferred or acquired. The transfer report shall indicate the percentage of the transaction that is exempt from the real estate transfer tax as a mere change in identity or form of ownership or organization where there is no change in beneficial ownership pursuant to paragraph six of subdivision (b) of section fourteen hundred five of the tax law, if any. When a real estate transfer tax return is filed with such commissioner pursuant to section fourteen hundred nine of the tax law in relation to such property, the report required by this paragraph shall be filed concurrently therewith, but in no event shall the report required by this paragraph be deemed to be a part of such real estate transfer tax return. For purposes of this paragraph, the terms "controlling interest" and "interest in real property" shall have the same meaning as set forth in section fourteen hundred one of the tax law, provided, however, that the term "interest in real property" shall be limited to interests in real property subject to real property tax assessment such as lands, buildings, structures, and other improvements, and shall not include development rights, air space, or air rights.

§ 2. This act shall take effect January 1, 2019 and shall apply to transfers and acquisitions occurring on and after such date.

PART D

Section 1. Subdivision v of section 233 of the real property law, as amended by chapter 566 of the laws of 1996, is amended to read as follows:

v. 1. On and after April first, nineteen hundred eighty-nine, the commissioner of housing and community renewal shall have the power and duty to enforce and ensure compliance with the provisions of this section. However, the commissioner shall not have the power or duty to enforce manufactured home park rules and regulations established under subdivision f of this section.

2. On or before January first, nineteen hundred eighty-nine, each manufactured home park owner or operator shall file a registration statement with the commissioner and shall thereafter file an annual registration statement on or before January first of each succeeding year, up to and including two thousand eighteen. Thereafter, each manufactured home park owner or operator shall file quarterly registration statements with the commissioner no later than twenty-one days after the end of each calendar quarter. The commissioner, by regulation, shall provide that such registration statement shall include [~~only~~] the names of all persons owning an interest in the park, the names of all tenants

of the park, all services provided by the park owner to the tenants, and such other information as the commissioner shall prescribe by regulation after consultation with the commissioner of taxation and finance; provided that in the case of a registration statement for the first calendar quarter of a year, such statement shall also include a copy of all current manufactured home park rules and regulations. The commissioner shall provide the commissioner of taxation and finance with a complete copy of each quarterly report no later than fifteen days after the receipt thereof.

3. Whenever there shall be a violation of this section, an application may be made by the commissioner of housing and community renewal in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation and with respect to this subdivision, directing the filing of a registration statement. In any such proceeding, the court may make allowances to the commissioner of housing and community renewal of a sum not exceeding two thousand dollars against each defendant, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than one thousand five hundred dollars for each violation. Such penalty shall be deposited in the manufactured home cooperative fund, created pursuant to section fifty-nine-h of the private housing finance law. In connection with any such proposed application, the commissioner of housing and community renewal is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. The provisions of this subdivision shall not impair the rights granted under subdivision u of this section.

§ 2. This act shall take effect immediately.

PART E

Section 1. Subsection (bbb) of section 606 of the tax law is REPEALED.

§ 1-a. Section 3-d of the general municipal law is REPEALED.

§ 1-b. Section 2023-b of the education law is REPEALED.

§ 2. The general municipal law is amended by adding a new section 3-d to read as follows:

§ 3-d. Certification of compliance with tax levy limit. 1. Upon the adoption of the budget of a local government unit, the chief executive officer or budget officer of such local government unit shall certify to the state comptroller and the commissioner of taxation and finance that the budget so adopted does not exceed the tax levy limit prescribed in section three-c of this article and, if the governing body of the local government unit did enact a local law or approve a resolution to override the tax levy limit, that such local law or resolution was subsequently repealed. Such certification shall be made in a form and manner prescribed by the state comptroller in consultation with the commissioner of taxation and finance.

2. Notwithstanding any other law to the contrary, if such a certification has been made and the actual tax levy of the local government unit exceeds the applicable tax levy limit, the excess amount shall be placed in reserve and used in the manner prescribed by subdivision six

of section three-c of this article, even if a tax levy in excess of the tax levy limit had been authorized for the applicable fiscal year by a duly adopted local law or resolution.

3. Notwithstanding any provision of law to the contrary, every local government unit shall report both its proposed budget and its adopted budget to the office of the state comptroller at the time and in the manner as he or she may prescribe, whether or not such budget has been or will be certified as provided by this subdivision.

§ 3. The education law is amended by adding a new section 2023-b to read as follows:

§ 2023-b. Certification of compliance with tax levy limit. 1. Upon the adoption of the budget of an eligible school district, the chief executive officer of such school district shall certify to the state comptroller, the commissioner of taxation and finance and the commissioner that the budget so adopted does not exceed the tax levy limit prescribed by section two thousand twenty-three-a of this part. Such certification shall be made in a form and manner prescribed by the state comptroller in consultation with the commissioner of taxation and finance and the commissioner.

2. If such a certification has been made and the actual tax levy of the school district exceeds the applicable tax levy limit, the excess amount shall be placed in reserve and used in the manner prescribed by subdivision five of section two thousand twenty-three-a of this part, even if a tax levy in excess of the tax levy limit had been duly authorized for the applicable fiscal year by the school district voters.

3. Notwithstanding any provision of law to the contrary, every school district that is subject to the provisions of section two thousand twenty-three-a of this part shall report both its proposed budget and its adopted budget to the office of the state comptroller and the commissioner at the time and in the manner as they may prescribe, whether or not such budget has been or will be certified as provided by this subdivision.

§ 4. Subdivision 3 of section 97-rrr of the state finance law, as amended by section 1 of part F of chapter 59 of the laws of 2015, is amended to read as follows:

3. The monies in such fund shall be appropriated for school property tax exemptions granted pursuant to the real property tax law and payable pursuant to section thirty-six hundred nine-e of the education law[~~, and for payments to the city of New York pursuant to section fifty-four-f of this chapter~~].

§ 5. Section 925-b of the real property tax law, as amended by chapter 161 of the laws of 2006, is amended to read as follows:

§ 925-b. Extension; certain persons sixty-five years of age or over. Notwithstanding any contrary provision of this chapter, or any general, special or local law, code or charter, the governing body of a municipal corporation other than a county may, by resolution adopted prior to the levy of any taxes on real property located within such municipal corporation, authorize an extension of no more than five business days for the payment of taxes without interest or penalty to any resident of such municipal corporation who has received an exemption pursuant to subdivision four of section four hundred twenty-five or four hundred sixty-seven of this chapter, or a credit pursuant to subsection (eee) of section six hundred six of the tax law, related to a principal residence located within such municipal corporation. If such an extension is granted, and any taxes are not paid by the final date so provided, those taxes shall

be subject to the same interest and penalties that would have applied if no extension had been granted.

§ 6. Paragraph (d) of subdivision 1 of section 928-a of the real property tax law is relettered paragraph (f) and two new paragraphs (d) and (e) are added to read as follows:

**(d) If the taxes of a city, town, village or school district are collected by a county official, the county shall have the sole authority to establish a partial payment program pursuant to this section with respect to the taxes so collected.**

**(e) If the taxes of a city, town, village or school district are not collected by a county official, but its tax bills are prepared by the county, or its tax collection accounting software is provided by the county, then before the city, town, village or school district may implement a partial payment program pursuant to this section, it must obtain written approval of the chief executive officer of the county or the county director of real property tax services.**

§ 7. Subparagraph (B) of paragraph 7 of subsection (eee) of section 606 of the tax law, as amended by section 1 of part G of chapter 59 of the laws of 2017, is amended to read as follows:

(B) Notwithstanding any provision of law to the contrary, the names and addresses of individuals who have applied for or are receiving the credit authorized by this subsection may be disclosed to assessors [~~and~~], county directors of real property tax services**, and municipal tax collecting officers**. In addition, where an agreement is in place between the commissioner and the head of the tax department of another state, such information may be disclosed to such official or his or her designees. Such information shall be considered confidential and shall not be subject to further disclosure pursuant to the freedom of information law or otherwise.

§ 7-a. Paragraph (g) of subdivision 2 of section 425 of the real property tax law, as added by section 1 of part B of chapter 389 of the laws of 1997 and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended to read as follows:

(g) Computation and certification by commissioner. It shall be the responsibility of the commissioner to compute the exempt amount for each assessing unit in each county in the manner provided herein, and to certify the same to the assessor of each assessing unit and to the county director of real property tax services of each county. Such certification shall be made at least twenty days before the last date prescribed by law for the filing of the tentative assessment roll. **Provided, however, that where school taxes are levied on a prior year assessment roll, or on a final assessment roll that was filed more than one year after the tentative roll was filed, such certification shall be made no later than fifteen days after the publication of the data needed to compute the base figure for the enhanced STAR exemption pursuant to clause (A) of subparagraph (vi) of paragraph (b) of this subdivision, and provided further, that upon receipt of such certification, the assessor shall thereupon be authorized and directed to correct the assessment roll to reflect the exempt amount so certified, or, if another person has custody or control of the assessment roll, to direct that person to make the appropriate corrections.**

§ 8. Paragraph 6 of subsection (eee) of section 606 of the tax law is amended by adding a new subparagraph (A) to read as follows:

**(A) A married couple may not receive a credit pursuant to this subsection on more than one residence during any given taxable year, unless living apart due to legal separation. Nor may a married couple**

receive a credit pursuant to this subsection on one residence while receiving an exemption pursuant to section four hundred twenty-five of the real property tax law on another residence, unless living apart due to legal separation.

§ 9. This act shall take effect immediately; provided, however, that section 3-d of the general municipal law, as added by section two of this act, shall expire and be deemed repealed on the same date and in the same manner as section 1 of part A of chapter 97 of the laws of 2011, expires and is deemed repealed, and provided that section 2023-b of the education law, as added by section three of this act, shall expire and be deemed repealed on the same date and in the same manner as section 2 of part A of chapter 97 of the laws of 2011, expires and is deemed repealed, and provided further that the amendments to paragraph 6 of subsection (eee) of section 606 of the tax law made by section eight of this act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2016.

REPEAL NOTE: Section 606(bbb) of the Tax Law, section 3-d of the General Municipal Law and section 2023-b of the Education Law collectively constituted the enabling legislation for the tax freeze credit program. By the terms of those statutes, the tax freeze credit was only applicable to taxable years 2014, 2015 and 2016. Therefore, these provisions no longer serve a purpose, except for the reporting provisions, which facilitate the administration of the tax levy limit program and are being preserved in a reenacted section 3-d of the General Municipal Law and section 2023-b of the Education Law.

PART F

Section 1. Subdivision 1 of section 544 of the real property tax law, as amended by chapter 18 of the laws of 2008, is amended and a new subdivision 3 is added to read as follows:

1. The comptroller shall pay taxes levied on lands of the state in each county pursuant to the foregoing sections of this title, out of moneys appropriated by the legislature therefor, to the county treasurer for appropriate distribution upon submission of a statement of such taxes by him or her in such form and executed in such manner by the county treasurer as may be required by the comptroller. Provided, however, that in the case of lands which are taxable pursuant to subdivision (j) of section five hundred thirty-two of this title, the comptroller shall pay such taxes. Such payment shall be requested, processed and paid separately from all other taxes that are payable to the county treasurer pursuant to this section. Provided further, that on and after April first, two thousand eighteen, once taxes have been paid on a taxable parcel of state land pursuant to this subdivision, the amount of taxes due and payable on that parcel thereafter shall be calculated by the comptroller in accordance with the provisions of subdivision three of this section.

3. Notwithstanding any provision of law to the contrary, on and after April first, two thousand eighteen, once taxes have been paid on a taxable parcel of state land pursuant to subdivision one of this section, the comptroller shall thereafter calculate the taxes due and payable on that parcel as follows:

(a) In the case of a local government, the taxes so payable shall equal the taxes that were payable on that parcel in the prior fiscal year of the local government multiplied by the allowable levy growth factor. As used in this paragraph, the terms "local government," "prior

fiscal year" and "allowable levy growth factor" shall have the same meanings as set forth in section three-c of the general municipal law, provided that if such section is no longer in effect on the date such taxes are paid, such terms shall be deemed to have the meanings set forth in such section as it read on the last date on which it was in effect.

(b) In the case of a school district, the taxes so payable shall equal the taxes that were payable on that parcel in the prior school year of the school district multiplied by the allowable levy growth factor. As used in this paragraph, the terms "school district," "prior school year" and "allowable levy growth factor" shall have the same meanings as set forth in section two thousand twenty-three-a of the education law, provided that if such section is no longer in effect on the date such taxes are paid, such terms shall be deemed to have the meanings set forth in such section as it read on the last date on which it was in effect.

(c) On or before July first of each year, the comptroller shall calculate the amounts of taxes that are due and payable on taxable state land pursuant to this subdivision, and shall notify the commissioner of the amounts so calculated. The commissioner shall thereupon transmit that information to the affected local governments and school districts. The taxes due on such lands shall be paid by the comptroller in the manner provided by subdivision one of this section.

(d) The following provisions shall apply to state lands that are subject to the provisions of this subdivision:

(i) Such lands shall not be included on the lists of taxable state lands that must be supplied by the commissioner pursuant to section five hundred forty of this title.

(ii) The assessments of such lands shall not be reported to the commissioner pursuant to section five hundred forty-two of this title.

(iii) The assessments of such lands shall not be subject to the approval of the commissioner pursuant to such section, and shall not be taken into account in the calculation of the taxes due on such lands.

(iv) Such lands shall be entered on the exempt portion of the assessment roll, notwithstanding the fact that they are taxable pursuant to this title. Provided, that no such entry shall be made in the case of an assessment adjustment made by the commissioner pursuant to paragraph (c) of subdivision three of section five hundred forty-two of this title or section 15-2115 of the environmental conservation law, or in the case of state aid payable pursuant to section five hundred forty-five of this title due to a reduction in the assessment of taxable state land.

(v) Such lands shall be disregarded when calculating state equalization rates and tax rates.

(vi) When a school district receives payments of taxes on state lands pursuant to this subdivision, any actual valuation computed for such school district pursuant to paragraph c of subdivision one of section thirty-six hundred two of the education law shall include the actual valuation equivalent of those payments. The commissioner shall determine such actual valuation equivalent by dividing the payment made, as reported to such commissioner by the comptroller, by the school tax rate that was applied to real property on that year's assessment roll or, if applicable, the special apportionment rate determined pursuant to section twelve hundred twenty-seven of this chapter and dividing such result by the final state equalization rate for that roll. The actual valuation equivalent shall be reported to the state comptroller and the commissioner of education, and shall be used by the commissioner of

education in the determination of any state average that uses real property taxes levied against and/or actual valuation based upon the corresponding assessment roll. Each school district receiving payments of taxes on state lands pursuant to this subdivision shall annually report those payments to the commissioner of education, with a copy to the commissioner, as a condition to receiving any aid pursuant to section thirty-six hundred two of the education law.

(e) The provisions of this subdivision shall not apply to the payment of state aid pursuant to section five hundred forty-five of this title in relation to property that has become exempt from taxation due to its acquisition by the state or an agency of the state.

§ 2. This act shall take effect immediately.

PART G

Section 1. Section 4 of chapter 475 of the laws of 2013, amending the real property tax law relating to assessment ceilings for local public utility mass real property, is amended to read as follows:

§ 4. This act shall take effect on the first of January of the second calendar year commencing after this act shall have become a law and shall apply to assessment rolls with taxable status dates on or after such date; provided, however, that this act shall expire and be deemed repealed [~~four~~] eight years after such effective date; and provided, further, that no assessment of local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the first calendar year after this act shall have become a law shall be less than ninety percent or more than one hundred ten percent of the assessment of the same property on the date this act shall have become a law.

§ 2. Subdivision 3 of section 499-kkkk of the real property tax law, as added by chapter 475 of the laws of 2013, is amended to read as follows:

3. (a) For assessment rolls with taxable status dates in each of the three calendar years including and following the year in which this section shall take effect, the commissioner shall establish no assessment ceiling that is less than ninety percent or more than one hundred ten percent of the assessment of such local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the second preceding calendar year from when this section shall take effect, except that the commissioner may establish assessment ceilings below the ninety percent level or above the one hundred ten percent level to take into account any change in level of assessment and/or to take into account any additions or retirements to public utility mass real property or litigation affecting the value or taxable status of the local public utility mass real property initiated prior to the effective date of this section.

(b) For assessment rolls with taxable status dates in the years two thousand eighteen, two thousand nineteen and two thousand twenty, the commissioner shall establish no assessment ceiling that is below the lower limit or above the upper limit specified in this paragraph, except that the commissioner may establish assessment ceilings below such lower limit or above such upper limit to take into account any change in level of assessment and/or to take into account any additions or retirements to public utility mass real property or litigation affecting the value or taxable status of the local public utility mass real property initiated prior to the effective date of this section.

(i) For assessment rolls with taxable status dates in two thousand eighteen, the assessment ceiling shall not be less than seventy-five percent or more than one hundred twenty-five percent of the assessment of such local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the year two thousand fourteen.

(ii) For assessment rolls with taxable status dates in two thousand nineteen, the assessment ceiling shall not be less than fifty percent or more than one hundred fifty percent of the assessment of such local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the year two thousand fourteen.

(iii) For assessment rolls with taxable status dates in two thousand twenty, the assessment ceiling shall not be less than twenty-five percent or more than one hundred seventy-five percent of the assessment of such local public utility mass real property appearing on the municipal assessment roll with a taxable status date occurring in the year two thousand fourteen.

§ 3. This act shall take effect immediately, provided, however, that the amendments to subdivision three of section 499-kkkk of the real property tax law made by section two of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.

PART H

Section 1. Subsection (c) of section 683 of the tax law is amended by adding a new paragraph 12 to read as follows:

(12) Except as otherwise provided in paragraph three of this subsection, or as otherwise provided in this section where a longer period of time may apply, if a taxpayer files an amended return, an assessment of tax (if not deemed to have been made upon the filing of the amended return), including recovery of a previously paid refund, attributable to a change or correction on the amended return from a prior return may be made at any time within three years after such amended return is filed.

§ 2. Subsection (c) of section 1083 of the tax law is amended by adding a new paragraph 12 to read as follows:

(12) Except as otherwise provided in paragraph three of this subsection, or as otherwise provided in this section where a longer period of time may apply, if a taxpayer files an amended return, an assessment of tax (if not deemed to have been made upon the filing of the amended return), including recovery of a previously paid refund, attributable to a change or correction on the amended return from a prior return may be made at any time within three years after such amended return is filed.

§ 3. Subdivision (c) of section 11-1783 of the administrative code of the city of New York is amended by adding a new paragraph 9 to read as follows:

(9) Except as otherwise provided in paragraph three of this subdivision, or as otherwise provided in this section where a longer period of time may apply, if a taxpayer files an amended return, an assessment of tax (if not deemed to have been made upon the filing of the amended return), including recovery of a previously paid refund, attributable to a change or correction on the amended return from a prior return may be made at any time within three years after such amended return is filed.

§ 4. This act shall take effect immediately and shall apply to amended returns filed on or after the effective date of this act.

PART I

Section 1. Paragraph 1 of subdivision (d) of section 658 of the tax law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

(1) The commissioner of taxation and finance may prescribe regulations and instructions requiring returns of information to be made and filed on or before February twenty-eighth of each year as to the payment or crediting in any calendar year of amounts of six hundred dollars or more to any taxpayer under this article. Such returns may be required of any person, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of this state, or of any municipal corporation or political subdivision of this state, having the control, receipt, custody, disposal or payment of interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits or income, except interest coupons payable to bearer. Information required to be furnished pursuant to paragraph four of subsection (a) of section six hundred seventy-four on a quarterly combined withholding and wage reporting return covering [~~the last~~] **each** calendar quarter of each year and relating to tax withheld on wages paid by an employer to an employee for [~~the full~~] **each** calendar [~~year~~] **quarter**, shall constitute the return of information required to be made under this section with respect to such wages.

§ 2. Subparagraph (A) of paragraph 4 of subsection (a) of section 674 of the tax law, as amended by section 1 of subpart E of part VI of chapter 57 of the laws of 2009, is amended to read as follows:

(A) All employers described in paragraph one of subsection (a) of section six hundred seventy-one of this part, including those whose wages paid are not sufficient to require the withholding of tax from the wages of any of their employees, all employers required to provide the wage reporting information for the employees described in subdivision one of section one hundred seventy-one-a of this chapter, and all employers liable for unemployment insurance contributions or for payments in lieu of such contributions pursuant to article eighteen of the labor law, shall file a quarterly combined withholding, wage reporting and unemployment insurance return detailing the preceding calendar quarter's withholding tax transactions, such quarter's wage reporting information, **such quarter's withholding reconciliation information,** such quarter's unemployment insurance contributions, and such other related information as the commissioner of taxation and finance or the commissioner of labor, as applicable, may prescribe. [~~In addition, the return covering the last calendar quarter of each year shall also include withholding reconciliation information for such calendar year.~~] Such returns shall be filed no later than the last day of the month following the last day of each calendar quarter.

§ 3. Paragraph 3 of subsection (v) of section 685 of the tax law, as amended by chapter 477 of the laws of 1998, is amended to read as follows:

(3) Failure to provide complete and correct employee withholding reconciliation information. In the case of a failure by an employer to provide complete and correct [~~annual~~] **quarterly** withholding information relating to individual employees on a quarterly combined withholding,

wage reporting and unemployment insurance return covering [~~the last~~] **each** calendar quarter of a year, such employer shall, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, pay a penalty equal to the product of fifty dollars multiplied by the number of employees for whom such information is incomplete or incorrect; provided, however, that if the number of such employees cannot be determined from the quarterly combined withholding, wage reporting and unemployment insurance return, the commissioner may utilize any information in the commissioner's possession in making such determination. The total amount of the penalty imposed pursuant to this paragraph on an employer for any such failure for [~~the last~~] **each** calendar quarter of a year shall not exceed ten thousand dollars.

§ 4. This act shall take effect immediately and shall apply to calendar quarters beginning on or after January 1, 2019.

PART J

Section 1. Paragraph (i) of subdivision (d) of section 1105 of the tax law, as amended by chapter 405 of the laws of 1971 and subparagraph 3 as amended by section 1 of part DD of chapter 407 of the laws of 1999, is amended to read as follows:

(i) The receipts from every sale**, other than sales for resale,** of beer, wine or other alcoholic beverages or any other drink of any nature, or from every sale**, other than sales for resale,** of food and drink of any nature or of food alone, when sold in or by restaurants, taverns or other establishments in this state, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers (except those receipts taxed pursuant to subdivision (f) of this section):

(1) in all instances where the sale is for consumption on the premises where sold;

(2) in those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink; and

(3) in those instances where the sale is made through a vending machine that is activated by use of coin, currency, credit card or debit card (except the sale of drinks in a heated state made through such a vending machine) or is for consumption off the premises of the vendor, except where food (other than sandwiches) or drink or both are (A) sold in an unheated state and, (B) are of a type commonly sold for consumption off the premises and in the same form and condition, quantities and packaging, in establishments which are food stores other than those principally engaged in selling foods prepared and ready to be eaten.

§ 2. This act shall take effect June 1, 2018 and shall apply to sales made on and after such date.

PART K

Section 1. The tax law is amended by adding a new section 171-z to read as follows:

**§ 171-z. Information sharing with the comptroller regarding unclaimed funds. 1. Notwithstanding any other law, the commissioner is authorized to release to the comptroller information regarding fixed and final unwarranted debts of taxpayers for purposes of collecting unclaimed**

**funds from the comptroller to satisfy fixed and final unwarranted debts owed by taxpayers. For purposes of this section, the term "unwarranted debt" shall mean past-due tax liabilities, including unpaid tax, interest and penalty, that the commissioner is required by law to collect and that have become fixed and final such that the taxpayer no longer has any right to administrative or judicial review and a warrant has not been filed; and the term "taxpayer" shall mean any individual, corporation, partnership, limited liability partnership or company, partner, member, manager, sole proprietorship, estate, trust, fiduciary or entity, who or which has been identified as owing taxes to the state. This section shall not be deemed to abrogate or limit in any way the powers and authority of the comptroller to set off debts owed the state from unclaimed funds, under the constitution of the state or any other law.**

**2. The comptroller shall keep all information he or she obtains from the commissioner confidential, and any employee, agent or representative of the comptroller is prohibited from disclosing any taxpayer information received under this section to anyone other than the commissioner or staff of the department or staff of the department of audit and control for the purposes described in this section.**

§ 2. This act shall take effect immediately.

PART L

Section 1. Subdivision 2 of section 136 of the social services law, as amended by section 24 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

2. All communications and information relating to a person receiving public assistance or care obtained by any social services official, service officer, or employee in the course of his or her work shall be considered confidential and, except as otherwise provided in this section, shall be disclosed only to the commissioner, or his or her authorized representative, the commissioner of labor, or his or her authorized representative, the commissioner of health, or his or her authorized representative, **the commissioner of taxation and finance, or his or her authorized representative (other than the disclosure of information that has been prohibited by federal law),** the welfare inspector general, or his or her authorized representative, the county board of supervisors, city council, town board or other board or body authorized and required to appropriate funds for public assistance and care in and for such county, city or town or its authorized representative or, by authority of the county, city or town social services official, to a person or agency considered entitled to such information. Nothing herein shall preclude a social services official from reporting to an appropriate agency or official, including law enforcement agencies or officials, known or suspected instances of physical or mental injury, sexual abuse or exploitation, sexual contact with a minor or negligent treatment or maltreatment of a child of which the official becomes aware in the administration of public assistance and care nor shall it preclude communication with the federal immigration and naturalization service regarding the immigration status of any individual.

§ 2. This act shall take effect immediately.

PART M

Section 1. The tax law is amended by adding a new section 44 to read as follows:

§ 44. Investment management services. (a) For purposes of this section, the term "investment management services" to a partnership, S corporation or entity includes (1) rendering investment advice regarding the purchase or sale of securities as defined in paragraph two of subsection (c) of section four hundred seventy-five of the internal revenue code without regard to the last sentence thereof, real estate held for rental or investment, interests in partnerships, commodities as defined in paragraph two of subsection (e) of section four hundred seventy-five of the internal revenue code, or options or derivative contracts with respect to any of the foregoing; (2) managing, acquiring, or disposing of any such asset; (3) arranging financing with respect to the acquisition of any such asset; and (4) related activities in support of any service described in paragraphs one, two, or three of this subdivision.

(b) Special rule for partnerships and S corporations. Notwithstanding any state or federal law to the contrary:

(1) where a partner performs investment management services for the partnership, the partner will not be treated as a partner for purposes of this chapter with respect to the amount of the partner's distributive share of income, gain, loss and deduction, including any guaranteed payments, that is in excess of the amount such distributive share would have been if the partner had performed no investment management services for the partnership. Instead, such excess amount shall be treated for purposes of article nine-A of this chapter as a business receipt for services and for purposes of article twenty-two of this chapter as income attributable to a trade, business, profession or occupation. Provided, however, the amount of the distributive share that would have been determined if the partner performed no investment management services shall not be less than zero.

(2) where a shareholder performs investment management services for the S corporation, the shareholder will not be treated as a shareholder for purposes of this chapter with respect to the amount of the shareholder's pro rata share of income, gain, loss and deduction that is in excess of the amount such pro rata share would have been if the shareholder had performed no investment management services. Instead, such excess amount shall be treated for purposes of article twenty-two of this chapter as income attributable to a trade, business, profession or occupation. Provided, however, the amount of the pro rata share that would have been determined if the shareholder performed no services shall not be less than zero.

(3) A partner or shareholder will not be deemed to be providing investment management services under this section if at least eighty percent of the average fair market value of the assets of the partnership or S corporation during the taxable year consist of real estate held for rental or investment.

(c) In addition to any other taxes or surcharges imposed pursuant to article nine-A or twenty-two of this chapter, any corporation, partner or shareholder providing investment management services shall be subject to an additional tax, referred to as the "carried interest fairness fee". Such carried interest fairness fee shall be equal to seventeen percent of the excess amount determined pursuant to subdivision (b) of this section; provided, however, (i) in the case of a corporation or shareholder of an S corporation providing such investment management services, such fee shall be equal to seventeen percent of the excess amount apportioned to the state by applying the corporation's or S corporation's apportionment factor determined under section two hundred

ten-A of this chapter; (ii) in the case of a nonresident partner providing such investment management services, such fee shall be equal to seventeen percent of the excess amount derived from New York sources as determined under section six hundred thirty-two of this chapter. Such carried interest fairness fee shall be administered in accordance with article nine-A or twenty-two of this chapter, as applicable, until such time as the commissioner of taxation and finance has notified the legislative bill drafting commission that federal legislation has been enacted that treats the provision of investment management services for federal tax purposes substantially the same as provided in this section.

§ 2. Paragraph (a) of subdivision 6 of section 208 of the tax law, as amended by section 5 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(a) (i) The term "investment income" means income, including capital gains in excess of capital losses, from investment capital, to the extent included in computing entire net income, less, (A) in the discretion of the commissioner, any interest deductions allowable in computing entire net income which are directly or indirectly attributable to investment capital or investment income, and (B) any net capital gain included in federal taxable income that must be recharacterized as a business receipt pursuant to section forty-four of this chapter; provided, however, that in no case shall investment income exceed entire net income. (ii) If the amount of interest deductions subtracted under subparagraph (i) of this paragraph exceeds investment income, the excess of such amount over investment income must be added back to entire net income. (iii) If the taxpayer's investment income determined without regard to the interest deductions subtracted under subparagraph (i) of this paragraph comprises more than eight percent of the taxpayer's entire net income, investment income determined without regard to such interest deductions cannot exceed eight percent of the taxpayer's entire net income.

§ 3. Subsection (b) of section 617 of the tax law, as amended by chapter 606 of the laws of 1984, is amended to read as follows:

(b) Character of items. [~~Each~~] Except as provided in section forty-four of this chapter, each item of partnership and S corporation income, gain, loss, or deduction shall have the same character for a partner or shareholder under this article as for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner or shareholder as if realized directly from the source from which realized by the partnership or S corporation or incurred in the same manner as incurred by the partnership or S corporation.

§ 4. Subsection (d) of section 631 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(d) Purchase and sale for own account.-- A nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of his or her trade or business or a partner or shareholder performing investment management services as described in section forty-four of this chapter, shall not be deemed to carry on a business, trade, profession or occupation in this state solely by reason of the purchase and sale of property or the purchase, sale or writing of stock option contracts, or both, for his own account.

§ 5. The opening paragraph of subsection (b) of section 632 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

[~~In~~] **Except as otherwise provided in section forty-four of this chapter, in** determining the sources of a nonresident partner's income, no effect shall be given to a provision in the partnership agreement which--

§ 6. For taxable years beginning on or after January 1, 2018 and before January 1, 2019, (i) no addition to tax under subsection (c) of section 685 or subsection (c) of section 1085 of the tax law shall be imposed with respect to any underpayment attributable to the amendments made by this act of any estimated taxes that are required to be paid prior to the effective date of this act, provided that the taxpayer timely made those payments; and (ii) the required installment of estimated tax described in clause (ii) of subparagraph (B) of paragraph 3 of subsection (c) of section 685 of the tax law, and the exception to addition for underpayment of estimated tax described in paragraph 1 or 2 of subsection (d) of section 1085 of the tax law, in relation to the preceding year's return, shall be calculated as if the amendments made by this act had been in effect for that entire preceding year.

§ 7. This act shall take effect upon the enactment into law by the states of Connecticut, New Jersey, Massachusetts and Pennsylvania of legislation having substantially the same effect as this act and the enactments by such states have taken effect in each state and shall apply for taxable years beginning on or after such date; provided, however, if the states of Connecticut, New Jersey, Massachusetts and Pennsylvania have already enacted such legislation, this act shall take effect immediately and shall apply for taxable years beginning on or after January 1, 2018; provided further that the commissioner of taxation and finance shall notify the legislative bill drafting commission upon the enactment of such legislation by the states of Connecticut, New Jersey, Massachusetts and Pennsylvania in order that such 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.

## PART N

Section 1. Section 2016 of the tax law, as amended by chapter 401 of the laws of 1987, is amended to read as follows:

§ 2016. Judicial review. A decision of the tax appeals tribunal, which is not subject to any further administrative review, shall finally and irrevocably decide all the issues which were raised in proceedings before the division of tax appeals upon which such decision is based unless, within four months after notice of such decision is served by the tax appeals tribunal upon every party to the proceeding before such tribunal by certified mail or personal service, the petitioner who commenced the proceeding [~~petitions~~] **or the commissioner, or both, petition** for judicial review in the manner provided by article seventy-eight of the civil practice law and rules, except as otherwise provided in this [~~section~~] **chapter**. Such service by certified mail shall be complete upon deposit of such notice, enclosed in a post-paid properly addressed wrapper, in a post office or official depository under the exclusive care and custody of the United States postal service. [~~The~~] **Where the** petitioner **who commenced the proceeding before the division of tax appeals files a petition for judicial review, the petition** shall designate the tax appeals tribunal and the commissioner [~~of taxation and finance~~] as respondents in the proceeding for judicial review. **Where**

**the commissioner files a petition for judicial review, the petition shall designate the tax appeals tribunal and the petitioner who commenced the proceeding before the division of tax appeals as respondents in the proceeding for judicial review.** The tax appeals tribunal shall not participate in proceedings for judicial review of its decisions and such proceedings for judicial review shall be commenced in the appellate division of the supreme court, third department. In all other respects the provisions and standards of article seventy-eight of the civil practice law and rules shall apply. The record to be reviewed in such proceedings for judicial review shall include the determination of the administrative law judge, the decision of the tax appeals tribunal, the stenographic transcript of the hearing before the administrative law judge, the transcript of any oral proceedings before the tax appeals tribunal and any exhibit or document submitted into evidence at any proceeding in the division of tax appeals upon which such decision is based.

§ 2. This act shall take effect immediately and shall apply to decisions and orders issued by the tax appeals tribunal on or after such date.

PART O

Section 1. Subparagraph (B) of paragraph 1 of subsection (b) of section 605 of the tax law, as amended by chapter 28 of the laws of 1987, is amended to read as follows:

(B) who [~~is not domiciled in this state but~~] maintains a permanent place of abode in this state and spends in the aggregate more than one hundred eighty-three days of the taxable year in this state, **whether or not domiciled in this state for any portion of the taxable year,** unless such individual is in active service in the armed forces of the United States.

§ 2. Paragraph 2 of subsection (a) of section 1305 of the tax law, as amended by chapter 225 of the laws of 1977, is amended to read as follows:

(2) who [~~is not domiciled in such city but~~] maintains a permanent place of abode in such city and spends in the aggregate more than one hundred eighty-three days of the taxable year in such city, **whether or not domiciled in this city for any portion of the taxable year,** unless such individual is in active service in the armed forces of the United States.

§ 3. Subparagraph (B) of paragraph 1 of subdivision (b) of section 11-1705 of the administrative code of the city of New York, as amended by chapter 333 of the laws of 1987, is amended to read as follows:

(B) who [~~is not domiciled in this city but~~] maintains a permanent place of abode in this city and spends in the aggregate more than one hundred eighty-three days of the taxable year in this city, **whether or not domiciled in this city for any portion of the taxable year,** unless such individual is in active service in the armed forces of the United States.

§ 4. This act shall take effect immediately and shall apply to all taxable years for which the statute of limitations for seeking a refund or assessing additional tax is still open.

PART P

Section 1. Paragraph (1) of subsection (c-1) of section 606 of the tax law, as amended by section 1 of part L1 of chapter 109 of the laws of 2006, is amended to read as follows:

(1) A resident taxpayer shall be allowed a credit as provided herein equal to the greater of one hundred dollars times the number of qualifying children of the taxpayer or the applicable percentage of the child tax credit allowed the taxpayer under section twenty-four of the internal revenue code for the same taxable year for each qualifying child. Provided, however, in the case of a taxpayer whose federal adjusted gross income exceeds the applicable threshold amount set forth by section 24(b)(2) of the Internal Revenue Code, the credit shall only be equal to the applicable percentage of the child tax credit allowed the taxpayer under section 24 of the Internal Revenue Code for each qualifying child. For the purposes of this subsection, a qualifying child shall be a child who meets the definition of qualified child under section 24(c) of the internal revenue code and is at least four years of age. The applicable percentage shall be thirty-three percent. **For purposes of this subsection, any reference to section 24 of the Internal Revenue Code shall be a reference to such section as it existed immediately prior to the enactment of Public Law 115-97.**

§ 2. This act shall take effect immediately and shall apply to taxable years commencing on or after January 1, 2018.

PART Q

Section 1. Paragraphs (a) and (b) of subdivision 29 of section 210-B of the tax law, as amended by section 1 of part I of chapter 60 of the laws of 2016, are amended to read as follows:

(a) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~nineteen~~] **twenty-one**, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(b) Qualified veteran. A qualified veteran is an individual:

(1) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who was released from active duty by general or honorable discharge after September eleventh, two thousand one;

(2) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~eighteen~~] **twenty**; and

(3) who certifies by signed affidavit, under penalty of perjury, that he or she has not been employed for thirty-five or more hours during any week in the one hundred eighty day period immediately prior to his or her employment by the taxpayer.

§ 2. Paragraphs 1 and 2 of subsection (a-2) of section 606 of the tax law, as amended by section 2 of part I of chapter 60 of the laws of 2016, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~nineteen~~] twenty-one, a taxpayer shall be allowed a credit, to be computed as provided in this subsection, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subsection, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(2) Qualified veteran. A qualified veteran is an individual:

(A) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who was released from active duty by general or honorable discharge after September eleventh, two thousand one;

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~eighteen~~] twenty; and

(C) who certifies by signed affidavit, under penalty of perjury, that he or she has not been employed for thirty-five or more hours during any week in the one hundred eighty day period immediately prior to his or her employment by the taxpayer.

§ 3. Paragraphs 1 and 2 of subdivision (g-1) of section 1511 of the tax law, as amended by section 3 of part I of chapter 60 of the laws of 2016, are amended to read as follows:

(1) Allowance of credit. For taxable years beginning on or after January first, two thousand fifteen and before January first, two thousand [~~nineteen~~] twenty-one, a taxpayer shall be allowed a credit, to be computed as provided in this subdivision, against the tax imposed by this article, for hiring and employing, for not less than one year and for not less than thirty-five hours each week, a qualified veteran within the state. The taxpayer may claim the credit in the year in which the qualified veteran completes one year of employment by the taxpayer. If the taxpayer claims the credit allowed under this subdivision, the taxpayer may not use the hiring of a qualified veteran that is the basis for this credit in the basis of any other credit allowed under this article.

(2) Qualified veteran. A qualified veteran is an individual:

(A) who served on active duty in the United States army, navy, air force, marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who was released from active duty by general or honorable discharge after September eleventh, two thousand one;

(B) who commences employment by the qualified taxpayer on or after January first, two thousand fourteen, and before January first, two thousand [~~eighteen~~] twenty; and

(C) who certifies by signed affidavit, under penalty of perjury, that he or she has not been employed for thirty-five or more hours during any

week in the one hundred eighty day period immediately prior to his or her employment by the taxpayer.

§ 4. This act shall take effect immediately.

PART R

Section 1. Subdivision (c) of section 25-a of the labor law, as amended by section 1 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

(c) A qualified employer shall be entitled to a tax credit equal to (1) [~~five~~] **seven** hundred **fifty** dollars per month for up to six months for each qualified employee the employer employs in a full-time job or [~~two~~] **three** hundred [~~fifty~~] **seventy-five** dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, (2) [~~one thousand~~] **fifteen hundred** dollars for each qualified employee who is employed for at least an additional six **consecutive** months by the qualified employer in a full-time job or [~~five~~] **seven** hundred **fifty** dollars for each qualified employee who is employed for at least an additional six **consecutive** months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (3) an additional [~~one thousand~~] **fifteen hundred** dollars for each qualified employee who is employed for at least an additional year after the [~~first year of the employee's employment~~] **completion of the time periods and satisfaction of the conditions set forth in paragraphs one and two of this subdivision** by the qualified employer in a full-time job or [~~five~~] **seven** hundred **fifty** dollars for each qualified employee who is employed for at least an additional year after the [~~first year of the employee's employment~~] **completion of the time periods and satisfaction of the conditions set forth in paragraphs one and two of this subdivision** by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full time. The tax credits shall be claimed by the qualified employer as specified in subdivision thirty-six of section two hundred ten-B and subsection (tt) of section six hundred six of the tax law.

§ 2. Subdivisions (d), (e) and (f) of section 25-a of the labor law, subdivisions (d) and (e) as amended by section 1 of subpart A of part N of chapter 59 of the laws of 2017 and subdivision (f) as amended by section 1 of part AA of chapter 56 of the laws of 2015, are amended to read as follows:

(d) To participate in the program established under this section, an employer must submit an application (in a form prescribed by the commissioner) to the commissioner after January first, two thousand twelve but no later than November thirtieth, two thousand twelve for program one, after January first, two thousand fourteen but no later than November thirtieth, two thousand fourteen for program two, after January first, two thousand fifteen but no later than November thirtieth, two thousand fifteen for program three, after January first, two thousand sixteen but no later than November thirtieth, two thousand sixteen for program four, after January first, two thousand seventeen but no later than November thirtieth, two thousand seventeen for program five, after January first, two thousand eighteen but no later than November thirtieth, two thousand eighteen for program six, after January first, two thousand nineteen but no later than November thirtieth, two thousand nineteen for program

seven, after January first, two thousand twenty but no later than November thirtieth, two thousand twenty for program eight, after January first, two thousand twenty-one but no later than November thirtieth, two thousand twenty-one for program nine, and after January first, two thousand twenty-two but no later than November thirtieth, two thousand twenty-two for program ten. The qualified employees must start their employment on or after January first, two thousand twelve but no later than December thirty-first, two thousand twelve for program one, on or after January first, two thousand fourteen but no later than December thirty-first, two thousand fourteen for program two, on or after January first, two thousand fifteen but no later than December thirty-first, two thousand fifteen for program three, on or after January first, two thousand sixteen but no later than December thirty-first, two thousand sixteen for program four, on or after January first, two thousand seventeen but no later than December thirty-first, two thousand seventeen for program five, on or after January first, two thousand eighteen but no later than December thirty-first, two thousand eighteen for program six, on or after January first, two thousand nineteen but no later than December thirty-first, two thousand nineteen for program seven, on or after January first, two thousand twenty but no later than December thirty-first, two thousand twenty for program eight, on or after January first, two thousand twenty-one but no later than December thirty-first, two thousand twenty-one for program nine, and on or after January first, two thousand twenty-two but no later than December thirty-first, two thousand twenty-two for program ten. [~~The commissioner shall establish guidelines and criteria that specify requirements for employers to participate in the program including criteria for certifying qualified employees, ensuring that the process established will minimize any undue delay in issuing the certificate of eligibility. Any regulations that the commissioner determines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state administrative procedure act. Such requirements may include the types of industries that the employers are engaged in. The commissioner may give preference to employers that are engaged in demand occupations or industries, or in regional growth sectors, including but not limited to those identified by the regional economic development councils, such as clean energy, healthcare, advanced manufacturing and conservation. In addition, the commissioner shall give preference to employers who offer advancement and employee benefit packages to the qualified individuals.~~] **As part of such application, an employer must:**

**(1) agree to allow the department of taxation and finance to share its tax information with the commissioner. However, any information shared as a result of this agreement shall not be available for disclosure or inspection under the state freedom of information law, and**

**(2) allow the commissioner and its agents and the department of taxation and finance and its agents access to any and all books and records of employees the commissioner may require to monitor compliance.**

(e) If, after reviewing the application submitted by an employer, the commissioner determines that such employer is eligible to participate in the program established under this section, the commissioner shall issue the employer a **preliminary** certificate of eligibility that establishes the employer as a qualified employer. The **preliminary** certificate of eligibility shall specify the maximum amount of tax credit that the employer [~~will~~] **may** be allowed to claim and the program year under which it [~~can~~] **may** be claimed. **The maximum amount of tax credit the employer**

is allowed to claim shall be computed as prescribed in subdivision (c) of this section.

(f) The commissioner shall annually publish a report. Such report must contain the names and addresses of any employer issued a preliminary certificate of eligibility under this section, [~~and~~] the [~~maximum~~] amount of New York youth works tax credit allowed to the qualified employer as specified on [~~such~~] an annual final certificate of [~~eligibility~~] tax credit and any other information as determined by the commissioner.

§ 3. Section 25-a of the labor law is amended by adding three new subdivisions (e-1), (e-2) and (e-3) to read as follows:

(e-1)(1) To receive an annual final certificate of tax credit, the qualified employer must annually submit, on or before January thirty-first of the calendar year subsequent to the payment of wages paid to an eligible employee, a report to the commissioner, in a form prescribed by the commissioner. The report must demonstrate that the employer has satisfied all eligibility requirements and provided all the information necessary for the commissioner to compute an actual amount of credit allowed.

(2) After reviewing the report and finding it sufficient, the commissioner shall issue an annual final certificate of tax credit. Such certificate shall include, in addition to any other information the commissioner determines is necessary, the following information:

(i) The name and employer identification number of the qualified employer;

(ii) The program year for the corresponding credit award;

(iii) The actual amount of credit to which the qualified employer is entitled for that calendar year or the fiscal year in which the annual final certificate is issued, which actual amount cannot exceed the amount of credit listed on the preliminary certificate but may be less than such amount; and

(iv) A unique certificate number identifying the annual final certificate of tax credit.

(e-2) In determining the amount of credit for purposes of the annual final certificate of tax credit, the portion of the credit described in paragraph one of subdivision (c) of this section shall be allowed for the calendar year in which the wages are paid to the qualified employee, the portion of the credit described in paragraph two of subdivision (c) of this section shall be allowed for the calendar year in which the additional six consecutive month period ends, and the portion of the credit described in paragraph three of subdivision (c) of this section shall be allowed for the calendar year in which the additional year of consecutive employment ends after the completion of the time periods and satisfaction of the conditions set forth in paragraphs one and two of subdivision (c) of this section. If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the calendar year return for which the annual final certificate of tax credit was issued. If the qualified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the return for the fiscal year that encompasses the date on which the annual final certificate of tax credit is issued.

(e-3) The commissioner shall establish guidelines and criteria that specify requirements for employers to participate in the program including criteria for certifying qualified employees, and issuing the prelim-

inary certificate of eligibility and annual final certificate of tax credit. Any regulations that the commissioner determines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state administrative procedure act. Such requirements may include the types of industries that the employers are engaged in. The commissioner may give preference to employers that are engaged in demand occupations or industries, or in regional growth sectors, including but not limited to those identified by the regional economic development councils, such as clean energy, healthcare, advanced manufacturing and conservation. In addition, the commissioner shall give preference to employers who offer advancement and employee benefit packages to the qualified individuals.

§ 4. Paragraph (a) of subdivision 36 of section 210-B of the tax law, as amended by section 2 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

(a) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (i) [~~five~~] seven hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or [~~two~~] three hundred [~~fifty~~] seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, (ii) [~~one thousand~~] fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or [~~five~~] seven hundred fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (iii) an additional [~~one thousand~~] fifteen hundred dollars for each qualified employee who is employed for at least an additional year after the [~~first year of the employee's employment~~] completion of the time periods and satisfaction of the conditions set forth in subparagraphs (i) and (ii) of this paragraph by the qualified employer in a full-time job or [~~five~~] seven hundred fifty dollars for each qualified employee who is employed for at least an additional year after the [~~first year of the employee's employment~~] completion of the time periods and satisfaction of the conditions set forth in subparagraphs (i) and (ii) of this paragraph by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time. For purposes of this subdivision, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (i) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, the portion of the credit described in subparagraph (ii) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (iii) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.

§ 5. Paragraph (a) of subdivision 36 of section 210-B of the tax law, as amended by section 4 of this act, is amended to read as follows:

(a) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law

and received an annual final certificate of tax credit from such commissioner shall be allowed a credit against the tax imposed by this article equal to [~~(i) seven hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or three hundred seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, (ii) fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or seven hundred fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (iii) an additional fifteen hundred dollars for each qualified employee who is employed for at least an additional year after the completion of the time periods and satisfaction of the conditions set forth in subparagraphs (i) and (ii) of this paragraph by the qualified employer in a full-time job or seven hundred fifty dollars for each qualified employee who is employed for at least an additional year after the completion of the time periods and satisfaction of the conditions set forth in subparagraphs (i) and (ii) of this paragraph by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time. For purposes of this subdivision, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (i) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, the portion of the credit described in subparagraph (ii) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (iii) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends~~] the amount listed on the annual final certificate of tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the calendar year return for which the annual final certificate of tax credit was issued. If the qualified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the return for the fiscal year that encompasses the date on which the annual final certificate of tax credit is issued. For the purposes of this subdivision, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law.

§ 6. Paragraph (c) of subdivision 36 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(c) The taxpayer [~~may~~] shall be required to attach to its tax return its annual final certificate of [~~eligibility~~] tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the annual final certificate of [~~eligibility~~] tax credit. Notwithstanding any provision of this chapter to

the contrary, the commissioner and the commissioner's designees may release the names and addresses of any taxpayer claiming this credit and the amount of the credit earned by the taxpayer. Provided, however, if a taxpayer claims this credit because it is a member of a limited liability company or a partner in a partnership, only the amount of credit earned by the entity and not the amount of credit claimed by the taxpayer may be released.

§ 7. Paragraph 1 of subsection (tt) of section 606 of the tax law, as amended by section 3 of part AA of chapter 56 of the laws of 2015, is amended to read as follows:

(1) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed a credit against the tax imposed by this article equal to (A) [~~five~~] seven hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or [~~two~~] three hundred [~~fifty~~] seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (B) [~~one thousand~~] fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or [~~five~~] seven hundred fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (C) an additional [~~one thousand~~] fifteen hundred dollars for each qualified employee who is employed for at least an additional year after the [~~first year of the employee's employment~~] completion of the time periods and satisfaction of the conditions set forth in subparagraphs A and B of this subsection by the qualified employer in a full-time job or [~~five~~] seven hundred fifty dollars for each qualified employee who is employed for at least an additional year after the [~~first year of the employee's employment~~] completion of the time periods and satisfaction of the conditions set forth in subparagraphs A and B of this subsection by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation. For purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (A) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, the portion of the credit described in subparagraph (B) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (C) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.

§ 8. Paragraph 1 of subsection (tt) of section 606 of the tax law, as amended by section 7 of this act, is amended to read as follows:

(1) A taxpayer that has been certified by the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law

and received an annual final certificate of tax credit from such commissioner shall be allowed a credit against the tax imposed by this article equal to [~~(A) seven hundred fifty dollars per month for up to six months for each qualified employee the employer employs in a full-time job or three hundred seventy-five dollars per month for up to six months for each qualified employee the employer employs in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (B) fifteen hundred dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a full-time job or seven hundred fifty dollars for each qualified employee who is employed for at least an additional six consecutive months by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time, and (C) an additional fifteen hundred dollars for each qualified employee who is employed for at least an additional year after the completion of the time periods and satisfaction of the conditions set forth in subparagraphs A and B of this subsection by the qualified employer in a full-time job or seven hundred fifty dollars for each qualified employee who is employed for at least an additional year after the completion of the time periods and satisfaction of the conditions set forth in subparagraphs A and B of this subsection by the qualified employer in a part-time job of at least twenty hours per week or ten hours per week when the qualified employee is enrolled in high school full-time~~] the amount listed on the annual final certificate of tax credit issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. A taxpayer that is a partner in a partnership, member of a limited liability company or shareholder in an S corporation that has [~~been certified by~~] received its annual final certificate of tax credit from the commissioner of labor as a qualified employer pursuant to section twenty-five-a of the labor law shall be allowed its pro rata share of the credit earned by the partnership, limited liability company or S corporation. [~~For purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law. The portion of the credit described in subparagraph (A) of this paragraph shall be allowed for the taxable year in which the wages are paid to the qualified employee, the portion of the credit described in subparagraph (B) of this paragraph shall be allowed in the taxable year in which the additional six month period ends, and the portion of the credit described in subparagraph (C) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.~~] If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the calendar year return for which the annual final certificate of tax credit was issued. If the qualified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the return for the fiscal year that encompasses the date on which the annual final certificate of tax credit is issued. For the purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law.

§ 9. Paragraph 3 of subsection (tt) of section 606 of the tax law, as added by section 3 of part D of chapter 56 of the laws of 2011, is amended to read as follows:

(3) The taxpayer [~~may~~] **shall** be required to attach to its tax return its **annual final** certificate of [~~eligibility~~] **tax credit** issued by the commissioner of labor pursuant to section twenty-five-a of the labor law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the **annual final** certificate of [~~eligibility~~] **tax credit**. Notwithstanding any provision of this chapter to the contrary, the commissioner and the commissioner's designees may release the names and addresses of any taxpayer claiming this credit and the amount of the credit earned by the taxpayer. Provided, however, if a taxpayer claims this credit because it is a member of a limited liability company, a partner in a partnership, or a shareholder in a subchapter S corporation, only the amount of credit earned by the entity and not the amount of credit claimed by the taxpayer may be released.

§ 10. This act shall take effect immediately, provided however that (i) section one of this act shall apply to tax years beginning on or after January 1, 2018; (ii) sections four and seven of this act shall apply to tax years beginning on or after January 1, 2018 and before January 1, 2019; and (iii) sections two, three, five, six, eight, and nine of this act shall take effect January 1, 2019 and shall apply to tax years beginning on or after January 1, 2019.

PART S

Section 1. Section 33 of the tax law, as added by section 1 of part Y of chapter 57 of the laws of 2010, is amended to read as follows:

§ 33. Temporary deferral of certain tax credits. 1. (a) For taxable years beginning on or after January first, two thousand [~~ten~~] **eighteen** and before January first, two thousand [~~thirteen~~] **twenty-one**, the excess over two million dollars of the total amount of the tax credits specified in subdivision three of this section that in each of those taxable years would otherwise be used to reduce the taxpayer's tax liability to the amount otherwise specified in this chapter or be refunded or credited as an overpayment will be deferred to and used or refunded in taxable years beginning on or after January first, two thousand [~~thirteen~~] **twenty-one** in accordance with the provisions of section thirty-four of this article. Interest shall not be paid on the amounts of credit deferred.

(b) To determine the amount of each tax credit allowed for the taxable year to be used, refunded or credited as an overpayment the taxpayer shall multiply the amount of each credit subject to deferral that would have been used, refunded or credited as an overpayment in the absence of this section by a fraction, the numerator of which is two million dollars, and the denominator of which is the total amount of the taxpayer's credits subject to deferral pursuant to subdivision three of this section that would have been used, refunded or credited as an overpayment for the taxable year in the absence of this section. The product is the amount of such credit that is not subject to deferral and thus allowed to be used, refunded or credited as an overpayment for the taxable year.

2. Taxpayers shall calculate and make any estimated tax payments required to be made by taking into account the deferral of credits required by this section. Taxpayers shall calculate any mandatory first installment payments made on or after the effective date of this section as if the deferral of credits required by this section had been in effect for the taxable year upon which that installment is based. In addition, for taxable years beginning on or after January first, two thousand [~~ten~~] **eighteen** and before January first, two thousand [~~eleven~~]

nineteen, (a) no addition to tax under subsection (c) of section six hundred eighty-five of this chapter or subsection (c) of section one thousand eighty-five of this chapter shall be imposed with respect to any underpayment attributable to the deferral required by this section of any estimated taxes that are required to be paid prior to the enactment of this section, provided that the taxpayer timely made those payments; and (b) the required installment of estimated tax described in clause (ii) of subparagraph (B) of paragraph three of subsection (c) of section six hundred eighty-five of this chapter, and the exception to addition for underpayment of estimated tax described in paragraph one or two of subsection (d) of section one thousand eighty-five of this chapter, in relation to the preceding year's return, shall be calculated as if the deferral required by this section had been in effect for that entire preceding year.

3. (a) This section shall apply to the credits allowed under the following provisions in article nine-a of this chapter and any applicable counterpart provisions in articles nine, twenty-two, [~~thirty-two~~] and thirty-three of this chapter:

Section [~~210(12)~~] 210-B(1) investment tax credit

Section [~~210(12-B)~~] 210-B(3) empire zone investment tax credit

Section [~~210(12-C)~~] 210-B(4) empire zone employment incentive credit

Section [~~210(12-D)~~] 210-B(2) employment incentive credit

Section [~~210(12-E)~~] 210-B(7) QETC employment credit

Section [~~210(12-F)~~] 210-B(8) QETC capital tax credit

[~~Section 210(12-G) QETC facilities, operations, and training credit~~]

Section [~~210(17)~~] 210-B(9) special additional mortgage recording tax credit

[~~Section 210(19) empire zone wage tax credit~~

~~Section 210(20) empire zone capital tax credit~~]

Section [~~210(21-a)~~] 210-B(10) credit for servicing certain mortgages

Section [~~210(23)~~] 210-B(12) credit for employment of persons with disabilities

Section [~~210(24)~~] 210-B(30) alternative fuels and electric vehicle recharging property credit

Section [~~210(25)~~] 210-B(13) credit for purchase of an automated external defibrillator

Section [~~210(27)~~] 210-B(5) QEZE credit for real property taxes

Section [~~210(28)~~] 210-B(6) QEZE tax reduction credit

Section [~~210(30)~~] 210-B(15) low income housing credit

Section [~~210(31)~~] 210-B(16) green building credit

Section [~~210(33)~~] 210-B(17) brownfield redevelopment tax credit

Section [~~210(34)~~] 210-B(18) remediated brownfield credit for real property taxes for qualified sites

Section [~~210(35)~~] 210-B(19) environmental remediation insurance credit

Section [~~210(37)~~] 210-B(21) security training tax credit

[~~Section 210(37) credit for fuel cell electric generating equipment expenditures~~]

Section [~~210(38)~~] 210-B(22) conservation easement tax credit

[~~Section 210(38) empire state commercial production credit~~]

Section [~~210(38)~~] 210-B(24) biofuel production credit

Section [~~210(39)~~] 210-B(25) clean heating fuel credit

Section [~~210(40)~~] 210-B(26) credit for rehabilitation of historic properties

Section [~~210(40)~~] 210-B(38) credit for companies who provide transportation to individuals with disabilities

Section 210-B(11) agricultural property tax credit

Section 210-B(35) economic transformation and facility redevelopment credit
Section 210-B(39) alcoholic beverage production credit
Section 210-B(40) minimum wage reimbursement credit
Section 210-B(41) the tax-free NY area tax elimination credit
Section 210-B(43) real property tax credit for manufacturers
Section 210-B(44) the tax-free NY area excise tax on telecommunication services credit
Section 210-B(47) musical and theatrical production credit
Section 210-B(48) workers with disabilities tax credit
Section 210-B(51) farm workforce retention credit

(b) This section shall also apply to the credits allowed by the following sections:

[~~Section 186-a(9) power for jobs credit~~]
Section 606(g-1) solar energy system equipment credit
Section 606(pp) historic homeownership rehabilitation credit
Section 1511(k) credit for certain investments in certified capital companies

§ 2. Subdivisions 1 and 2 of section 34 of the tax law, as added by section 2 of part Y of chapter 57 of the laws of 2010, are amended to read as follows:

1. The amounts of nonrefundable credits that are deferred pursuant to section thirty-three of this article in taxable years beginning on or after January first, two thousand [~~ten~~] eighteen and before January first, two thousand [~~thirteen~~] twenty-one shall be accumulated and constitute the taxpayer's temporary deferral nonrefundable payout credit. The taxpayer may first claim this credit in the taxable year beginning on or after January first, two thousand [~~thirteen~~] twenty-one and before January first, two thousand [~~fourteen~~] twenty-two. The taxpayer shall be allowed to claim this credit until the accumulated amounts are exhausted. The credit shall be allowed against the taxpayer's tax as provided in the provisions referenced in paragraph (a) of subdivision three of this section.

2. The amounts of refundable credits that are deferred pursuant to section thirty-three of this article in taxable years beginning on or after January first, two thousand [~~ten~~] eighteen and before January first, two thousand [~~thirteen~~] twenty-one shall be accumulated and constitute the taxpayer's temporary deferral refundable payout credit. In the taxable year beginning on or after January first, two thousand [~~thirteen~~] twenty-one and before January first, two thousand [~~fourteen~~] twenty-two, the taxpayer shall be allowed to claim a credit equal to fifty percent of the amount accumulated. In the taxable year beginning on or after January first, two thousand [~~fourteen~~] twenty-two and before January first, two thousand [~~fifteen~~] twenty-three, the taxpayer shall be allowed to claim a credit equal to seventy-five percent of the balance of the amount accumulated. In the taxable year beginning on or after January first, two thousand [~~fifteen~~] twenty-three and before January first, two thousand [~~sixteen~~] twenty-four, the taxpayer shall be allowed to claim a credit equal to the remaining balance of the amount accumulated. The credit shall be allowed against the taxpayer's tax as provided in the provisions referenced in paragraph (b) of subdivision three of this section.

§ 3. This act shall take effect immediately.

PART T

Section 1. Subdivision (a) of section 1412 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(a) A grantor or grantee claiming to have erroneously paid the tax imposed by this article or some other person designated by such grantor or grantee may file an application for refund within [~~two~~] three years from the date of payment. Such application shall be filed with the commissioner [~~of taxation and finance~~] on a form which he shall prescribe.

§ 2. Subdivision (b) of section 1402-a of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) Notwithstanding the provisions of subdivision (a) of section fourteen hundred four of this article, the additional tax imposed by this section shall be paid by the grantee. If the grantee [~~is exempt from such tax, the grantor shall have the duty to pay the tax~~] has failed to pay the tax imposed by this article at the time required by section fourteen hundred ten of this article or if the grantee is exempt from such tax, the grantor shall have the duty to pay the tax. Where the grantor has the duty to pay the tax because the grantee has failed to pay, such tax shall be the joint and several liability of the grantor and the grantee.

§ 3. This act shall take effect immediately; provided, however, that section two of this act shall apply to conveyances occurring on or after the fifteenth day after this act shall have become a law.

PART U

Section 1. Subdivision 6 of section 470 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

6. "Wholesale price." The [~~established~~] invoice price for which a manufacturer or other person sells tobacco products to a distributor, including the federal excise taxes paid by the manufacturer or other person, before the allowance of any discount, trade allowance, rebate or other reduction.

[~~In the absence of such an established price, a manufacturer's invoice price of any tobacco product shall be presumptive evidence of the wholesale price of such tobacco product, and in its absence the price at which such tobacco products were purchased shall be presumed to be the wholesale price, unless evidence of a lower wholesale price shall be established or any industry standard of markups relating to the purchase price in relation to the wholesale price shall be established.~~]

§ 2. This act shall take effect on September 1, 2018 and shall apply to all tobacco products possessed in this state for sale on or after such date.

PART V

Section 1. Subparagraph (A) of paragraph 1 of subdivision (b) of section 1105 of the tax law, as amended by section 9 of part S of chapter 85 of the laws of 2002, is amended to read as follows:

(A) gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature, including the transportation, transmission or distribution of gas or electricity, even if sold separately;

§ 2. Section 1105-C of the tax law is REPEALED.

§ 3. Subparagraph (xi) of paragraph 4 of subdivision (a) of section 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of the laws of 2016, is amended to read as follows:

(xi) [~~shall provide that section eleven hundred five-C of this chapter does not apply to such taxes, and~~] shall tax receipts from every sale, other than sales for resale, of gas service or electric service of whatever nature, including the transportation, transmission or distribution of gas or electricity, even if sold separately, at the rate set forth in clause one of subparagraph (i) of the opening paragraph of this section;

§ 4. Paragraph 8 of subdivision (b) of section 11-2001 of the administrative code of the city of New York, as amended by chapter 200 of the laws of 2009, is amended to read as follows:

(8) [~~makes inapplicable section eleven hundred five-C of the tax law, and~~] imposes tax on receipts from every sale, other than sales for resale, of gas service or electric service of whatever nature, including the transportation, transmission or distribution of gas or electricity, even if sold separately, at the rate set forth in subdivision (a) of this section.

§ 5. This act shall take effect immediately; provided however that this act shall apply to sales made and services rendered on and after June 1, 2018 whether or not such sales and services are rendered under a prior contract.

PART W

Section 1. Subdivision (f) of section 1115 of the tax law, as amended by chapter 205 of the laws of 1968, is amended to read as follows:

(f) **(1)** Services rendered by a veterinarian licensed and registered as required by the education law which constitute the practice of veterinary medicine as defined in said law, including hospitalization for which no separate boarding charge is made, shall not be subject to tax under paragraph (3) of subdivision (c) of section eleven hundred five, but the exemption allowed by this subdivision shall not apply to other services provided by a veterinarian to pets and other animals, including, but not limited to, boarding, grooming and clipping. Articles of tangible personal property designed for use in some manner relating to domestic animals or poultry, when sold by such a veterinarian, shall not be subject to tax under subdivision (a) of section eleven hundred five or under section eleven hundred ten. However, the sale of any such articles of tangible personal property to a veterinarian shall not be deemed a sale for resale within the meaning of [~~pargraph~~] **paragraph** (4) of subdivision (b) of section eleven hundred one and shall not be exempt from retail sales tax.

**(2) Drugs or medicine sold to or used by a veterinarian for use in rendering services that are exempt pursuant to paragraph one of this subdivision to livestock or poultry used in the production for sale of tangible personal property by farming, or sold to a person qualifying for the exemption provided for in paragraph six of subdivision (a) of this section for use by such person on such livestock or poultry.**

§ 2. Subdivision (a) of section 1119 of the tax law, as amended by chapter 686 of the laws of 1986 and as further amended by section 15 of part GG of chapter 63 of the laws of 2000, is amended to read as follows:

(a) Subject to the conditions and limitations provided for herein, a refund or credit shall be allowed for a tax paid pursuant to subdivision (a) of section eleven hundred five or section eleven hundred ten (1) on

the sale or use of tangible personal property if the purchaser or user, in the performance of a contract, later incorporates that tangible personal property into real property located outside this state, (2) on the sale or use of tangible personal property purchased in bulk, or any portion thereof, which is stored and not used by the purchaser or user within this state if that property is subsequently reshipped by such purchaser or user to a point outside this state for use outside this state, (3) on the sale to or use by a contractor or subcontractor of tangible personal property if that property is used by him solely in the performance of a pre-existing lump sum or unit price construction contract, (4) on the sale or use within this state of tangible personal property, not purchased for resale, if the use of such property in this state is restricted to fabricating such property (including incorporating it into or assembling it with other tangible personal property), processing, printing or imprinting such property and such property is then shipped to a point outside this state for use outside this state, [~~(5) on the sale to or use by a veterinarian of drugs or medicine if such drugs or medicine are used by such veterinarian in rendering services, which are exempt pursuant to subdivision (f) of section eleven hundred fifteen of this chapter, to livestock or poultry used in the production for sale of tangible personal property by farming or if such drugs or medicine are sold to a person qualifying for the exemption provided for in paragraph (6) of subdivision (a) of section eleven hundred fifteen of this chapter for use by such person on such livestock or poultry,~~] or (6) on the sale of tangible personal property purchased for use in constructing, expanding or rehabilitating industrial or commercial real property (other than property used or to be used exclusively by one or more registered vendors primarily engaged in the retail sale of tangible personal property) located in an area designated as an empire zone pursuant to article eighteen-B of the general municipal law, but only to the extent that such property becomes an integral component part of the real property. (For the purpose of clause (3) of the preceding sentence, the term "pre-existing lump sum or unit price construction contract" shall mean a contract for the construction of improvements to real property under which the amount payable to the contractor or subcontractor is fixed without regard to the costs incurred by him in the performance thereof, and which (i) was irrevocably entered into prior to the date of the enactment of this article or the enactment of a law increasing the rate of tax imposed under this article, or (ii) resulted from the acceptance by a governmental agency of a bid accompanied by a bond or other performance guaranty which was irrevocably submitted prior to such date.) Where the tax on the sale or use of such tangible personal property has been paid to the vendor, to qualify for such refund or credit, such tangible personal property must be incorporated into real property as required in clause (1) above, reshipped as required in clause (2) above, used in the manner described in clauses (3), (4)[~~, (5)~~] and (6) above within three years after the date such tax was payable to the tax commission by the vendor pursuant to section eleven hundred thirty-seven. Where the tax on the sale or use of such tangible personal property was paid by the applicant for the credit or refund directly to the tax commission, to qualify for such refund or credit, such tangible personal property must be incorporated into real property as required in clause (1) above, reshipped as required in clause (2) above, used in the manner described in clauses (3), (4)[~~, (5)~~] and (6) above within three years after the date such tax was payable to the tax commission by such applicant pursuant to this article. An

application for a refund or credit pursuant to this section must be filed with such commission within the time provided by subdivision (a) of section eleven hundred thirty-nine. Such application shall be in such form as the tax commission may prescribe. Where an application for credit has been filed, the applicant may immediately take such credit on the return which is due coincident with or immediately subsequent to the time that he files his application for credit. However, the taking of the credit on the return shall be deemed to be part of the application for credit and shall be subject to the provisions in respect to applications for credit in section eleven hundred thirty-nine as provided in subdivision (e) of such section. With respect to a sale or use described in clause (3) above where a pre-existing lump sum or unit price construction contract was irrevocably entered into prior to the date of the enactment of this article or the bid accompanied by the performance guaranty was irrevocably submitted to the governmental agency prior to such date, the purchaser or user shall be entitled to a refund or credit only of the amount by which the tax on such sale or use imposed under this article plus any tax imposed under the authority of article twenty-nine exceeds the amount computed by applying against such sale or use the local rate of tax, if any, in effect at the time such contract was entered into or such bid was submitted.

In the case of the enactment of a law increasing the rate of tax imposed by this article, the purchaser or user shall be entitled only to a refund or credit of the amount by which the increased tax on such sale or use imposed under this article plus any tax imposed under the authority of article twenty-nine exceeds the amount computed by applying against such sale or use the state and local rates of tax in effect at the time such contract was entered into or such bid was submitted.

§ 3. This act shall take effect June 1, 2018, and shall apply to sales made and uses occurring on and after such date.

PART X

Section 1. Subdivision 1 of section 1131 of the tax law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; and every operator of a hotel. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article**, or has so acted**; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of section eleven hundred one **of this article** shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four **of this part**.

§ 2. Subdivision (a) of section 1133 of the tax law, as amended by chapter 621 of the laws of 1967, is amended to read as follows:

(a) (1) Except as otherwise provided in paragraph two of this subdivision and in section eleven hundred thirty-seven of this part, every person required to collect any tax imposed by this article shall be personally liable for the tax imposed, collected or required to be collected under this article. Any such person shall have the same right in respect to collecting the tax from his customer or in respect to nonpayment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided, however, that the tax commission shall be joined as a party in any action or proceeding brought to collect the tax.

(2) Notwithstanding any other provision of this article: (i) The commissioner shall grant the relief described in subparagraph (iii) of this paragraph to a limited partner of a limited partnership (but not a partner of a limited liability partnership) or a member of a limited liability company if such limited partner or member demonstrates to the satisfaction of the commissioner that such limited partner's or member's ownership interest and the percentage of the distributive share of the profits and losses of such limited partnership or limited liability company are each less than fifty percent, and such limited partner or member was not under a duty to act for such limited partnership or limited liability company in complying with any requirement of this article. Provided, however, the commissioner may deny an application for relief to any such limited partner or member who the commissioner finds has acted on behalf of such limited partnership or limited liability company in complying with any requirement of this article or has been convicted of a crime provided in this chapter or who has a past-due liability, as such term is defined in section one hundred seventy-one-v of this chapter.

(ii) Such limited partner or member must submit an application for relief, on a form prescribed by the commissioner, and the information provided in such application must be true and complete in all material respects. Providing materially false or fraudulent information on such application shall disqualify such limited partner or member for the relief described in subparagraph (iii) of this paragraph, shall void any agreement with the commissioner with respect to such relief, and shall result in such limited partner or member bearing strict liability for the total amount of tax, interest and penalty owed by their respective limited partnership or limited liability company pursuant to this subdivision.

(iii) A limited partner of a limited partnership or member of a limited liability company, who meets the requirements set forth in this paragraph and whose application for relief is approved by the commissioner, shall be liable for the percentage of the original sales and use tax liability of their respective limited partnership or limited liability company that reflects such limited partner's or member's ownership interest of distributive share of the profits and losses of such limited partnership or limited liability company, whichever is higher. Such original liability shall include any interest accrued thereon up to and including the date of payment by such limited partner or member at the underpayment rate set by the commissioner pursuant to section eleven hundred forty-two of this part, and shall be reduced by the sum of any payments made by (A) the limited partnership or limited liability company; (B) any person required to collect tax not eligible for relief; and (C) any person required to collect tax who was eligible for relief but had not been approved for relief by the commissioner at the time such

payment was made. Provided, however, such limited partner or member shall not be liable for any penalty owed by such limited partnership or limited liability company or any other partner or member of such limited partnership or limited liability company. Any payment made by a limited partner or member pursuant to the provisions of this paragraph shall not be credited against the liability of other limited partners or members of their respective limited partnership or limited liability company who are eligible for the same relief; provided, however that the sum of the amounts owed by all of the persons required to collect tax of a limited partnership or limited liability company shall not exceed the total liability of such limited partnership or limited liability company.

§ 3. This act shall take effect immediately.

PART Y

Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax law, as amended by section 1 of part II of chapter 59 of the laws of 2014, is amended to read as follows:

(1) (A) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including (i) candy and confectionery, (ii) fruit drinks which contain less than seventy percent of natural fruit juice, (iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and (iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form. Nothing in this subparagraph shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five of this article.

[~~The~~] (B) Until May thirty first, two thousand twenty, the food and drink excluded from the exemption provided by [~~this paragraph under subparagraphs~~] clauses (i), (ii) and (iii) of subparagraph (A) of this paragraph, and bottled water, shall be exempt under this [~~paragraph~~] subparagraph when sold for one dollar and fifty cents or less through any vending machine [~~activated by the use of~~] that accepts coin[~~,~~] or currency[~~, credit card or debit card~~] only or when sold for two dollars or less through any vending machine that accepts any form of payment other than coin or currency, whether or not it also accepts coin or currency. [~~With the exception of the provision in this paragraph providing for an exemption for certain food or drink sold for one dollar and fifty cents or less through vending machines, nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five of this article.~~]

§ 2. This act shall take effect June 1, 2018, and shall apply to sales made and uses occurring on and after such date.

PART Z

Section 1. Section 2 of subpart R of part A of chapter 61 of the laws of 2017, amending the tax law relating to extending the expiration of the authorization to the county of Genesee to impose an additional one percent of sales and compensating use taxes, is amended to read as follows:

§ 2. Notwithstanding any other provision of law to the contrary, the one percent increase in sales and compensating use taxes authorized for the county of Genesee until November 30, [~~2019~~] 2020 pursuant to clause

(20) of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section one of this act, shall be divided in the same manner and proportion as the existing three percent sales and compensating use taxes in such county are divided.

§ 2. Section 2 of subpart Z of part A of chapter 61 of the laws of 2017, amending the tax law relating to the imposition of sales and compensating use taxes by the county of Monroe, is amended to read as follows:

§ 2. Notwithstanding the provisions of subdivisions (b) and (c) of section 1262 and section 1262-g of the tax law, net collections, as such term is defined in section 1262 of the tax law, derived from the imposition of sales and compensating use taxes by the county of Monroe at the additional rate of one percent as authorized pursuant to clause (25) of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section one of this act, which are in addition to the current net collections derived from the imposition of such taxes at the three percent rate authorized by the opening paragraph of section 1210 of the tax law, shall be distributed and allocated as follows: for the period of December 1, 2017 through November 30, [~~2019~~] **2020** in cash, five percent to the school districts in the area of the county outside the city of Rochester, three percent to the towns located within the county, one and one-quarter percent to the villages located within the county, and ninety and three-quarters percent to the city of Rochester and county of Monroe. The amount of the ninety and three-quarters percent to be distributed and allocated to the city of Rochester and county of Monroe shall be distributed and allocated to each so that the combined total distribution and allocation to each from the sales tax revenues pursuant to sections 1262 and 1262-g of the tax law and this section shall result in the same total amount being distributed and allocated to the city of Rochester and county of Monroe. The amount so distributed and allocated to the county shall be used for county purposes. The foregoing cash payments to the school districts shall be allocated on the basis of the enrolled public school pupils, thereof, as such term is used in subdivision (b) of section 1262 of the tax law, residing in the county of Monroe. The cash payments to the towns located within the county of Monroe shall be allocated on the basis of the ratio which the population of each town, exclusive of the population of any village or portion thereof located within a town, bears to the total population of the towns, exclusive of the population of the villages located within such towns. The cash payments to the villages located within the county shall be allocated on the basis of the ratio which the population of each village bears to the total population of the villages located within the county. The term population as used in this section shall have the same meaning as used in subdivision (b) of section 1262 of the tax law.

§ 3. Section 3 of subpart EE of part A of chapter 61 of the laws of 2017, amending the tax law relating to extending the authorization of the county of Onondaga to impose an additional rate of sales and compensating use taxes, is amended to read as follows:

§ 3. Notwithstanding any contrary provision of law, net collections from the additional one percent rate of sales and compensating use taxes which may be imposed by the county of Onondaga during the period commencing December 1, 2018 and ending November 30, [~~2019~~] **2020**, pursuant to the authority of section 1210 of the tax law, shall not be subject to any revenue distribution agreement entered into under subdivision (c) of section 1262 of the tax law, but shall be allocated and

distributed or paid, at least quarterly, as follows: (i) 1.58% to the county of Onondaga for any county purpose; (ii) 97.79% to the city of Syracuse; and (iii) .63% to the school districts in accordance with subdivision (a) of section 1262 of the tax law.

§ 4. Section 2 of subpart GG of part A of chapter 61 of the laws of 2017, amending the tax law relating to extending the authority of the county of Orange to impose an additional rate of sales and compensating use taxes, is amended to read as follows:

§ 2. Notwithstanding subdivision (c) of section 1262 of the tax law, net collections from any additional rate of sales and compensating use taxes which may be imposed by the county of Orange during the period commencing December 1, 2017, and ending November 30, [~~2019~~] 2020, pursuant to the authority of section 1210 of the tax law, shall be paid to the county of Orange and shall be used by such county solely for county purposes and shall not be subject to any revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section 1262 of the tax law.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on June 29, 2017.

PART AA

Section 1. Section 1101 of the tax law is amended by adding a new subdivision (e) to read as follows:

(e) When used in this article for the purposes of the taxes imposed under subdivision (a) of section eleven hundred five and by section eleven hundred ten of this article, the following terms shall mean:

(1) Marketplace provider. A person who, pursuant to an agreement with a marketplace seller, facilitates sales of tangible personal property by such marketplace seller or sellers. A person "facilitates a sale of tangible personal property" for purposes of this paragraph when the person meets both of the following conditions: (i) such person provides the forum in which, or by means of which, the sale takes place or the offer of sale is accepted, including a shop, store, booth, catalog, an internet website, or similar forum; and (ii) such person or an affiliate of such person collects the receipts paid by a customer to a marketplace seller for a sale of tangible personal property, or contracts with a third party to collect such receipts. For purposes of this paragraph, two persons are affiliated if one person has an ownership interest of more than five percent, whether direct or indirect, in the other, or where an ownership interest of more than five percent, whether direct or indirect, is held in each of such persons by another person or by a group of other persons that are affiliated persons with respect to each other. Notwithstanding anything in this paragraph, a person who facilitates sales exclusively by means of the internet is not a marketplace provider for a sales tax quarter when such person can show that it has facilitated less than one hundred million dollars of sales annually for every calendar year after two thousand sixteen.

(2) Marketplace seller. Any person, whether or not such person is required to obtain a certificate of authority under section eleven hundred thirty-four of this article, who has an agreement with a marketplace provider under which the marketplace provider will facilitate sales of tangible personal property by such person within the meaning of paragraph one of this subdivision.

§ 2. Subdivision 1 of section 1131 of the tax law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

(1) "Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; [~~and~~] every operator of a hotel**, and every marketplace provider with respect to sales of tangible personal property it facilitates as described in paragraph one of subdivision (e) of section eleven hundred one of this article**. Said terms shall also include any officer, director or employee of a corporation or of a dissolved corporation, any employee of a partnership, any employee or manager of a limited liability company, or any employee of an individual proprietorship who as such officer, director, employee or manager is under a duty to act for such corporation, partnership, limited liability company or individual proprietorship in complying with any requirement of this article; and any member of a partnership or limited liability company. Provided, however, that any person who is a vendor solely by reason of clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision (b) of section eleven hundred one shall not be a "person required to collect any tax imposed by this article" until twenty days after the date by which such person is required to file a certificate of registration pursuant to section eleven hundred thirty-four **of this part**.

§ 3. Section 1132 of the tax law is amended by adding a new subdivision (l) to read as follows:

**(l)(1) A marketplace provider with respect to a sale of tangible personal property it facilitates: (i) shall have all the obligations and rights of a vendor under this article and article twenty-nine of this chapter and under any regulations adopted pursuant thereto, including, but not limited to, the duty to obtain a certificate of authority, to collect tax, file returns, remit tax, and the right to accept a certificate or other documentation from a customer substantiating an exemption or exclusion from tax, the right to receive the refund authorized by subdivision (e) of this section and the credit allowed by subdivision (f) of section eleven hundred thirty-seven of this part subject to the provisions of such subdivisions; and (ii) shall keep such records and information and cooperate with the commissioner to ensure the proper collection and remittance of tax imposed, collected or required to be collected under this article and article twenty-nine of this chapter.**

**(2) A marketplace seller who is a vendor is relieved from the duty to collect tax in regard to a particular sale of tangible personal property subject to tax under subdivision (a) of section eleven hundred five of this article and shall not include the receipts from such sale in its taxable receipts for purposes of section eleven hundred thirty-six of this part if, in regard to such sale: (i) the marketplace seller can show that such sale was facilitated by a marketplace provider from whom such seller has received in good faith a properly completed certificate of collection in a form prescribed by the commissioner, certifying that the marketplace provider is registered to collect sales tax and will collect sales tax on all taxable sales of tangible personal property by the marketplace seller facilitated by such marketplace provider, and with such other information as the commissioner may prescribe; and (ii) any failure of the marketplace provider to collect the proper amount of tax in regard to such sale was not the result of such marketplace seller providing the marketplace provider with incorrect information. This provision shall be administered in a manner consistent with subparagraph (i) of paragraph one of subdivision (c) of this section as if a certificate of collection were a resale or exemption certificate for purposes of such subparagraph, including with regard to the completeness of such**

certificate of collection and the timing of its acceptance by the marketplace seller. Provided that, with regard to any sales of tangible personal property by a marketplace seller that are facilitated by a marketplace provider who is affiliated with such marketplace seller within the meaning of paragraph one of subdivision (e) of section eleven hundred one of this article, the marketplace seller shall be deemed liable as a person under a duty to act for such marketplace provider for purposes of subdivision one of section eleven hundred thirty-one of this part.

(3) The commissioner may, in his or her discretion: (i) develop a standard provision, or approve a provision developed by a marketplace provider, in which the marketplace provider obligates itself to collect the tax on behalf of all the marketplace sellers for whom such marketplace provider facilitates sales of tangible personal property, with respect to all sales that it facilitates for such sellers where delivery occurs in the state; and (ii) provide by regulation or otherwise that the inclusion of such provision in the publicly-available agreement between the marketplace provider and marketplace seller will have the same effect as a marketplace seller's acceptance of a certificate of collection from such marketplace provider under paragraph two of this subdivision.

§ 4. Section 1133 of the tax law is amended by adding a new subdivision (f) to read as follows:

(f) A marketplace provider is relieved of liability under this section for failure to collect the correct amount of tax to the extent that the marketplace provider can show that the error was due to incorrect information given to the marketplace provider by the marketplace seller. Provided, however, this subdivision shall not apply if the marketplace seller and the marketplace provider are affiliated within the meaning of paragraph one of subdivision (e) of section eleven hundred one of this article.

§ 5. Paragraph 4 of subdivision (a) of section 1136 of the tax law, as amended by section 46 of part K of chapter 61 of the laws of 2011, is amended to read as follows:

(4) The return of a vendor of tangible personal property or services shall show such vendor's receipts from sales and the number of gallons of any motor fuel or diesel motor fuel sold and also the aggregate value of tangible personal property and services and number of gallons of such fuels sold by the vendor, the use of which is subject to tax under this article, and the amount of tax payable thereon pursuant to the provisions of section eleven hundred thirty-seven of this part. The return of a recipient of amusement charges shall show all such charges and the amount of tax thereon, and the return of an operator required to collect tax on rents shall show all rents received or charged and the amount of tax thereon. The return of a marketplace seller shall exclude the receipts from a sale of tangible personal property facilitated by a marketplace provider if, in regard to such sale: (A) the marketplace seller has timely received in good faith a properly completed certificate of collection from the marketplace provider or the marketplace provider has included a provision approved by the commissioner in the publicly-available agreement between themselves and such marketplace seller as described in subdivision (l) of section eleven hundred thirty-two of this part, and (B) the information provided by the marketplace seller to the marketplace provider about such tangible personal property is accurate.

§ 6. Section 1142 of the tax law is amended by adding two new subdivisions 15 and 16 to read as follows:

**15. To publish a list on the department's website of marketplace providers whose certificates of authority has been revoked and, if necessary to protect sales tax revenue, provide by regulation or otherwise that a marketplace seller who is a vendor will be relieved of the duty to collect tax for sales of tangible personal property facilitated by a marketplace provider only if, in addition to the conditions prescribed by paragraph two of subdivision (l) of section eleven hundred thirty-two of this part being met, such marketplace provider is not on such list at the commencement of the quarterly period covered thereby.**

**16. To enforce the penalties imposed on non-collecting sellers and non-collecting marketplace providers provided by subdivision (i) of section eleven hundred forty-five of this part by commencing a proceeding under article seventy-two of the civil practice law and rules. This means enforcing such penalties is in addition to any other lawful means the commissioner may use to enforce such penalties. The venue for such proceeding shall be Albany county.**

§ 7. The tax law is amended by adding a new section 1135-a to read as follows:

**§ 1135-a. Reporting requirements. (a) (1) The following definitions apply to the taxes imposed by this article and pursuant to the authority of article twenty-nine of this chapter:**

**(A) Non-collecting seller means a person who makes sales of tangible personal property, the use of which is taxed by this article, but who is not required to obtain a certificate of authority under section eleven hundred thirty-four of this part and who does not collect tax or money purportedly as tax imposed by this article in regard to tangible personal property delivered to a location in this state.**

**(B) Non-collecting marketplace provider means a marketplace provider, as defined by section eleven hundred one of this article, who is not required to obtain a certificate of authority under section eleven hundred thirty-four of this part and who does not collect tax or money purportedly as tax imposed by this article in regard to tangible personal property delivered to a location in this state.**

**(C) New York purchaser means any person who purchases tangible personal property for delivery to a location in this state.**

**(D) Last known address of a New York purchaser means, for purposes of this subdivision, subdivision sixteen of section eleven hundred forty-two, and subdivision (i) of section eleven hundred forty-five of this part, the purchaser's billing address or, if unknown, the purchaser's shipping address. If no billing or shipping address is known, this term shall mean the purchaser's last known e-mail address.**

**(2) The following requirements apply to a non-collecting seller:**

**(A) A non-collecting seller's records shall be made available to the commissioner upon request. These records shall include, but are not limited to, each New York purchaser's name and last known address as defined by subparagraph (D) of paragraph one of this subdivision, and the total of the non-collecting seller's receipts from the purchases of the New York purchaser.**

**(B) Except as provided in paragraphs four and five of this subdivision, a non-collecting seller shall file an annual information return with the commissioner. Such return shall include the total of the non-collecting seller's receipts from purchases of tangible personal property that was delivered to a location in this state for the calendar year covered by the return, together with such other information the commis-**

sioner may prescribe. Such return shall be filed on or before January thirty-first of each year and shall cover the prior calendar year, with the first such return due on January thirty-first, two thousand twenty for the calendar year two thousand nineteen.

(C) Except as provided in paragraphs four and five of this subdivision, a non-collecting seller shall provide an annual statement of purchases to each New York purchaser for purchases of tangible personal property delivered to a location in this state from such seller during the calendar year covered by the statement. Such annual statement shall include: (i) a statement that sales or use tax was not collected on the purchaser's transactions in the prior calendar year and that the purchaser may be required to remit such tax directly to the commissioner; (ii) a list of transactions entered into during the prior calendar year by such purchaser for delivery to a location into this state showing, the date of each purchase, a general description of each item purchased, and the amount paid for each item, including any shipping or delivery charges; (iii) instructions for obtaining additional information regarding whether and how to remit the sales or use tax to the commissioner; and (iv) a statement that such sellers may be required to annually report the aggregate dollar value of the purchaser's purchases to the commissioner. Such statement shall be sent to each New York purchaser on or before January thirty-first of each year, starting in the year two thousand twenty, covering sales made in the prior calendar year. Such statement shall be sent by mail in an envelope bearing the statement "important tax information" to the New York purchaser's last known address as defined by subparagraph (D) of paragraph one of this subdivision, unless the purchaser's last known address is an e-mail address, in which case the statement is to be sent by e-mail, the subject line of which shall state "important tax information".

(D) Except as provided in paragraphs four and five of this subdivision, a non-collecting seller shall prominently display a notice on all order forms, and upon each sales receipt or other memorandum of the price, whether electronic or on paper, provided to a New York purchaser making a purchase of tangible personal property to be delivered to a location in this state, including any screen that summarizes the transaction prior to the completion of the sale. Such notice shall indicate that neither New York state and local sales nor use tax is being collected or remitted upon the transaction, and that the purchaser may be required to remit such tax directly to the commissioner.

(3) A non-collecting seller shall keep records of the information described in subparagraphs (A), (B) and (C) of paragraph two of this subdivision, along with proof that it has provided purchasers with any per-purchase notices or annual statements of purchases required. The non-collecting seller shall keep such records for such periods and in such manner as prescribed for records required to be maintained under subdivisions (a) and (g) of section eleven hundred thirty-five of this part, or as the commissioner may otherwise require by regulation. The non-collecting seller shall make those records available for inspection and examination at any time upon demand by the commissioner.

(4) The requirements in subparagraphs (B), (C) and (D) of paragraph two of this subdivision do not apply to a non-collecting seller for any calendar year in which the non-collecting seller's receipts from all New York purchasers are less than five million dollars during the prior calendar year.

(5) The requirements in subparagraphs (B), (C) and (D) of paragraph two of this subdivision do not apply to a non-collecting seller in

regard to a particular sale of tangible personal property subject to tax under subdivision (a) of section eleven hundred five of this article if, the non-collecting seller can show that such sale was facilitated by: (A) a marketplace provider from whom such non-collecting seller has received in good faith a properly completed certificate of collection as described in paragraph two of subdivision (l) of section eleven hundred thirty-two of this part; or (B) a non-collecting marketplace provider who fulfilled the requirements of subparagraphs (B), (C) and (D) of paragraph two of this subdivision on its behalf.

(b) (1) A non-collecting marketplace provider shall perform the requirements in paragraph two of subdivision (a) of this section on behalf of a non-collecting seller for all sales it facilitates for such non-collecting seller.

(2) Non-collecting marketplace providers shall also provide notice to all non-collecting sellers for whom they facilitate sales of tangible personal property that is delivered to a location in this state, such notice shall include the following information:

(A) such sellers may be required to obtain a certificate of authority under section eleven hundred thirty-four of this part and collect the taxes imposed by this article and pursuant to the authority of article twenty-nine of this chapter, or, where such sellers are not required to obtain a certificate and collect tax, that such sellers are required to comply with the requirements of this paragraph;

(B) the non-collecting marketplace provider will provide each seller's name, address and aggregate amount of sales delivered to a location in this state to the commissioner upon request; and

(C) the non-collecting marketplace provider is reporting the information and sending the notices required by subparagraphs (B), (C) and (D) of paragraph two of subdivision (a) of this section on behalf of the non-collecting seller for such sale if it was facilitated by such non-collecting marketplace provider.

(c) The commissioner may, in their discretion, modify, without adding to, the information otherwise required to be included in the information return, annual statement of purchases, or per-purchase notice required by this subdivision if other states impose similar requirements, in order to facilitate the compliance of non-collecting sellers.

§ 8. Subdivision (i) of section 1145 of the tax law, as added by section 2 of subpart G of part V-1 of chapter 57 of the laws of 2009, is amended to read as follows:

(i)(1) Every person required to file an information return by section eleven hundred thirty-five-a or subdivision (i) of section eleven hundred thirty-six of this part, or an annual statement or notice required by section eleven hundred thirty-five-a of this part who [~~(A)~~] fails to provide any of the information required [~~by paragraph one or two of subdivision (i) of section eleven hundred thirty-six of this part for a vendor, operator, or recipient~~] to be provided in such information return or notice, or who fails to perform the requirements of paragraph two of subdivision (b) of section eleven hundred thirty-five-a of this part, or who fails to include any such information that is true and correct [~~(whether or not such a report is filed) for a vendor, operator, or recipient, or (B) fails to provide the information required by paragraph four of subdivision (i) of section eleven hundred thirty-six of this part to a vendor, operator, or recipient specified in paragraph four of subdivision (i) of section eleven hundred thirty-six of this part~~], will, in addition to any other penalty provided in this article or otherwise imposed by law, be subject to a penalty of five hundred

dollars for ten or fewer failures, and up to fifty dollars for each additional failure.

(2) Every person failing to file an information return required by **section eleven hundred thirty-five-a or** subdivision (i) of section eleven hundred thirty-six **of this part or an annual statement or notice by section eleven hundred thirty-five-a** of this part within the time required [~~**by subdivision (i) of section eleven hundred thirty-six of this part**~~]**,** will, in addition to any other penalty provided for in this article or otherwise imposed by law, be subject to a penalty in an amount not to exceed two thousand dollars for each such failure, provided that the minimum penalty under this paragraph is five hundred dollars.

(3) In no event will the penalty imposed by paragraph one of this subdivision, or the aggregate of the penalties imposed under paragraphs one and two of this subdivision, exceed ten thousand dollars for any annual filing period [~~**as described by paragraph three of subdivision (i) of section eleven hundred thirty-six of this part**~~].

(4) If the commissioner determines that any of the failures that are subject to penalty under this subdivision was entirely due to reasonable cause and not due to willful neglect, the commissioner must remit the penalty imposed under this subdivision. These penalties will be determined, assessed, collected, paid, disposed of and enforced in the same manner as taxes imposed by this article and all the provisions of this article relating thereto will be deemed also to refer to these penalties.

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

§ 10. This act shall take effect immediately and shall apply to sales made on or after September 1, 2018; provided, however, that the requirements in subparagraphs (B) and (C) of paragraph 2 of subdivision (a) of section 1135-a as added by section two of this act shall apply to sales made on or after January 1, 2019.

## PART BB

Section 1. Subdivision 2 of section 470 of the tax law, as amended by section 15 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

2. "Tobacco products." Any cigar, including [~~**a**~~] little [~~**cigar**~~] **cigars, vapor products,** or tobacco, other than cigarettes, intended for consumption by smoking, chewing, **inhaling vapors** or as snuff.

§ 2. Subdivision 12 of section 470 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

12. "Distributor." Any person who imports or causes to be imported into this state any tobacco product (in excess of fifty cigars [~~**or**~~]**,** one pound of tobacco **or one hundred milliliters of vapor product**) for sale, or who manufactures any tobacco product in this state, and any person within or without the state who is authorized by the commissioner of

taxation and finance to make returns and pay the tax on tobacco products sold, shipped or delivered by him to any person in the state.

§ 3. Section 470 of the tax law is amended by adding a new subdivision 20 to read as follows:

**20. "Vapor product." Any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, vaping pen, hookah pen or other similar device. "Vapor product" shall not include any product approved by the United States food and drug administration as a drug or medical device, or approved for use pursuant to section three thirty-three hundred sixty-two of the public health law.**

§ 4. Paragraph (a) of subdivision 1 of section 471-b of the tax law, as amended by section 18 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

(a) Such tax on tobacco products other than snuff [~~and~~], little cigars **and vapor products** shall be at the rate of seventy-five percent of the wholesale price, and is intended to be imposed only once upon the sale of any tobacco products other than snuff [~~and~~], little cigars **and vapor products**.

§ 5. Subdivision 1 of section 471-b of the tax law is amended by adding a new paragraph (d) to read as follows:

**(d) Such tax on vapor products shall be at a rate of ten cents per fluid milliliter, or part thereof, of the vapor product. All invoices for vapor products issued by distributors and wholesalers must state the amount of vapor product in milliliters.**

§ 6. Subdivision (a) of section 471-c of the tax law, as amended by section 2 of part I-1 of chapter 57 of the laws of 2009, paragraphs (i) and (ii) as amended by section 20 and paragraph (iii) as added by section 21 of part D of chapter 134 of the laws of 2010, is amended to read as follows:

(a) There is hereby imposed and shall be paid a tax on all tobacco products used in the state by any person, except that no such tax shall be imposed (1) if the tax provided in section four hundred seventy-one-b of this article is paid, or (2) on the use of tobacco products which are exempt from the tax imposed by said section, or (3) on the use of two hundred fifty cigars or less, [~~or~~] five pounds or less of tobacco other than roll-your-own tobacco, [~~or~~] thirty-six ounces or less of roll-your-own tobacco **or five hundred milliliters or less of vapor product** brought into the state on, or in the possession of, any person.

(i) Such tax on tobacco products other than snuff [~~and~~], little cigars **and vapor products** shall be at the rate of seventy-five percent of the wholesale price.

(ii) Such tax on snuff shall be at the rate of two dollars per ounce and a proportionate rate on any fractional parts of an ounce, provided that cans or packages of snuff with a net weight of less than one ounce shall be taxed at the equivalent rate of cans or packages weighing one ounce. Such tax shall be computed based on the net weight as listed by the manufacturer.

(iii) Such tax on little cigars shall be at the same rate imposed on cigarettes under this article and is intended to be imposed only once upon the sale of any little cigars.

**(iv) Such tax on vapor products shall be at a rate of ten cents per fluid milliliter of the vapor product. All invoices for vapor products issued by distributors and wholesalers must state the amount of vapor product in milliliters.**

§ 7. Subdivision 2 of section 474 of the tax law, as amended by chapter 552 of the laws of 2008, is amended to read as follows:

2. Every person who shall possess or transport more than two hundred fifty cigars, [~~or~~] more than five pounds of tobacco other than roll-your-own tobacco, [~~or~~] more than thirty-six ounces of roll-your-own tobacco **or more than five hundred milliliters of vapor product** upon the public highways, roads or streets of the state, shall be required to have in his actual possession invoices or delivery tickets for such tobacco products. Such invoices or delivery tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the tobacco products transported, and the name and address of the person who has or shall assume the payment of the tax and the wholesale price or the tax paid or payable. The absence of such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in tobacco products in this state and subject to the requirements of this article.

§ 8. Subdivision 3 of section 474 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

3. Every dealer or distributor or employee thereof, or other person acting on behalf of a dealer or distributor, who shall possess or transport more than fifty cigars [~~or~~], more than one pound of tobacco **or more than one hundred milliliters of vapor product** upon the public highways, roads or streets of the state, shall be required to have in his actual possession invoices or delivery tickets for such tobacco products. Such invoices or delivery tickets shall show the name and address of the consignor or seller, the name and address of the consignee or purchaser, the quantity and brands of the tobacco products transported, and the name and address of the person who has or shall assume the payment of the tax and the wholesale price or the tax paid or payable. The absence of such invoices or delivery tickets shall be prima facie evidence that the tax imposed by this article on tobacco products has not been paid and is due and owing.

§ 9. Subparagraph (i) of paragraph (b) of subdivision 1 of section 481 of the tax law, as amended by section 1 of part O of chapter 59 of the laws of 2013, is amended to read as follows:

(i) In addition to any other penalty imposed by this article, the commissioner may (A) impose a penalty of not more than six hundred dollars for each two hundred cigarettes, or fraction thereof, in excess of one thousand cigarettes in unstamped or unlawfully stamped packages in the possession or under the control of any person or (B) impose a penalty of not more than two hundred dollars for each ten unaffixed false, altered or counterfeit cigarette tax stamps, imprints or impressions, or fraction thereof, in the possession or under the control of any person. In addition, the commissioner may impose a penalty of not more than seventy-five dollars for each fifty cigars [~~or~~] one pound of tobacco[~~,~~] **or one hundred milliliters of vapor product,** or fraction thereof, in excess of two hundred fifty cigars [~~or~~], five pounds of tobacco **or five hundred milliliters of vapor product** in the possession or under the control of any person and a penalty of not more than one hundred fifty dollars for each fifty cigars [~~or~~], pound of tobacco **or one hundred milliliters of vapor product**, or fraction thereof, in excess of five hundred cigars [~~or~~], ten pounds of tobacco **or one thousand milliliters of vapor product** in the possession or under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products dealer; provided, however, that any such penalty imposed shall not exceed seven thousand

five hundred dollars in the aggregate. The commissioner may impose a penalty of not more than seventy-five dollars for each fifty cigars [~~or~~], one pound of tobacco **or one hundred milliliters of vapor product**, or fraction thereof, in excess of fifty cigars [~~or~~], one pound of tobacco **or one hundred milliliters of vapor product** in the possession or under the control of any tobacco products dealer or distributor appointed by the commissioner, and a penalty of not more than one hundred fifty dollars for each fifty cigars [~~or~~], pound of tobacco, **or one hundred milliliters of vapor product,** or fraction thereof, in excess of two hundred fifty cigars [~~or~~], five pounds of tobacco **or five hundred milliliters of vapor product** in the possession or under the control of any such dealer or distributor, with respect to which the tobacco products tax has not been paid or assumed by a distributor or a tobacco products dealer; provided, however, that any such penalty imposed shall not exceed fifteen thousand dollars in the aggregate.

§ 10. Items (I) and (II) of clause (B) and items (I) and (II) of clause (C) of subparagraph (ii) of paragraph (b) of subdivision 1 of section 481 of the tax law, as added by chapter 262 of the laws of 2000, are amended to read as follows:

(I) not less than twenty-five dollars but not more than one hundred dollars for each fifty cigars [~~or~~], one pound of tobacco **or one hundred milliliters of vapor product**, or fraction thereof, in excess of two hundred fifty cigars [~~or~~], five pounds of tobacco **or five hundred milliliters of vapor product** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products dealer; and (II) not less than fifty dollars but not more than two hundred dollars for each fifty cigars [~~or~~], pound of tobacco **or one hundred milliliters of vapor product**, or fraction thereof, in excess of five hundred cigars [~~or~~], ten pounds of tobacco **or one thousand milliliters of vapor product** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products dealer; provided, however, that any such penalty imposed under this clause shall not exceed ten thousand dollars in the aggregate.

(I) not less than twenty-five dollars but not more than one hundred dollars for each fifty cigars [~~or~~], one pound of tobacco **or one hundred milliliters of vapor product**, or fraction thereof, in excess of fifty cigars [~~or~~], one pound of tobacco **or one hundred milliliters of vapor product** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or tobacco products dealer; and (II) not less than fifty dollars but not more than two hundred dollars for each fifty cigars [~~or~~], pound of tobacco **or one hundred milliliters of vapor product**, or fraction thereof, in excess of two hundred fifty cigars [~~or~~], five pounds of tobacco **or five hundred milliliters of vapor product** knowingly in the possession or knowingly under the control of any person, with respect to which the tobacco products tax has not been paid or assumed by a distributor or a tobacco products dealer; provided, however, that any such penalty imposed under this clause shall not exceed twenty thousand dollars in the aggregate.

§ 11. Paragraph (a) of subdivision 2 of section 481 of the tax law, as amended by chapter 552 of the laws of 2008, is amended to read as follows:

(a) The possession within this state of more than four hundred cigarettes in unstamped or unlawfully stamped packages [~~or~~], more than two

hundred fifty cigars, [~~or~~] more than five pounds of tobacco other than roll-your-own tobacco, [~~or~~] more than thirty-six ounces of roll-your-own tobacco by any person other than an agent or distributor, as the case may be, **or five hundred milliliters or more of vapor product** at any one time shall be presumptive evidence that such cigarettes or tobacco products are subject to tax as provided by this article.

§ 12. Subdivisions (a) and (h) of section 1814 of the tax law, as amended by section 28 of subpart I of part V-1 of chapter 57 of the laws of 2009, are amended to read as follows:

(a) Any person who willfully attempts in any manner to evade or defeat the taxes imposed by article twenty of this chapter or payment thereof on (i) ten thousand cigarettes or more, (ii) twenty-two thousand cigars or more, [~~or~~] (iii) four hundred forty pounds of tobacco or more, **(iv) forty-four thousand milliliters of vapor product or more** or has previously been convicted two or more times of a violation of paragraph one of this subdivision shall be guilty of a class E felony.

(h) (1) Any dealer, other than a distributor appointed by the commissioner [~~of taxation and finance~~] under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control more than ten pounds of tobacco [~~or~~], more than five hundred cigars **or more than one thousand milliliters of vapor product** upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner [~~of taxation and finance~~] under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by a term of imprisonment not to exceed thirty days.

(2) Any person, other than a dealer or a distributor appointed by the commissioner under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control more than fifteen pounds of tobacco [~~or~~], more than seven hundred fifty cigars **or more than fifteen hundred milliliters or more of vapor product** upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by a term of imprisonment not to exceed thirty days.

(3) Any person, other than a distributor appointed by the commissioner under article twenty of this chapter, who shall knowingly transport or have in his custody, possession or under his control twenty-five hundred or more cigars [~~or~~], fifty or more pounds of tobacco **or five thousand milliliters or more of vapor product** upon which the taxes imposed by article twenty of this chapter have not been assumed or paid by a distributor appointed by the commissioner under article twenty of this chapter, or other person treated as a distributor pursuant to section four hundred seventy-one-d of this chapter shall be guilty of a misdemeanor. Provided further, that any person who has twice been convicted under this subdivision shall be guilty of a class E felony for any subsequent violation of this section, regardless of the amount of tobacco products involved in such violation.

(4) For purposes of this subdivision, such person shall knowingly transport or have in his custody, possession or under his control tobacco [~~or~~], cigars **or vapor products** on which such taxes have not been

assumed paid by a distributor appointed by the commissioner where such person has knowledge of the requirement of the tax on tobacco products and, where to his knowledge, such taxes have not been assumed or paid on such tobacco products by a distributor appointed by the commissioner of taxation and finance.

§ 13. Subdivisions (a) and (b) of section 1814-a of the tax law, as added by chapter 61 of the laws of 1989, are amended to read as follows:

(a) Any person who, while not appointed as a distributor of tobacco products pursuant to the provisions of article twenty of this chapter, imports or causes to be imported into the state more than fifty cigars [~~or~~], more than one pound of tobacco[~~,~~] **or more than one hundred milliliters of vapor product** for sale within the state, or produces, manufactures or compounds tobacco products within the state shall be guilty of a misdemeanor punishable by a fine of not more than five thousand dollars or by a term of imprisonment not to exceed thirty days. If, within any ninety day period, one thousand or more cigars [~~or five hundred~~]**, twenty** pounds or more of tobacco **or two thousand milliliters or more of vapor product** are imported or caused to be imported into the state for sale within the state or are produced, manufactured or compounded within the state by any person while not appointed as a distributor of tobacco products, such person shall be guilty of a misdemeanor. Provided further, that any person who has twice been convicted under this section shall be guilty of a class E felony for any subsequent violation of this section, regardless of the amount of tobacco products involved in such violation.

(b) For purposes of this section, the possession or transportation within this state by any person, other than a tobacco products distributor appointed by the commissioner of taxation and finance, at any one time of seven hundred fifty or more cigars [~~or~~], fifteen pounds or more of tobacco **or fifteen hundred milliliters or more of vapor product** shall be presumptive evidence that such tobacco products are possessed or transported for the purpose of sale and are subject to the tax imposed by section four hundred seventy-one-b of this chapter. With respect to such possession or transportation, any provisions of article twenty of this chapter providing for a time period during which the tax imposed by such article may be paid shall not apply.

§ 14. Subdivision (a) of section 1846-a of the tax law, as amended by chapter 556 of the laws of 2011, is amended to read as follows:

(a) Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer designated in subdivision four of section 2.10 of such law, acting pursuant to his special duties, shall discover any tobacco products in excess of five hundred cigars [~~or~~], ten pounds of tobacco **or one thousand milliliters of vapor product** which are being imported for sale in the state where the person importing or causing such tobacco products to be imported has not been appointed as a distributor pursuant to section four hundred seventy-two of this chapter, such police officer or peace officer is hereby authorized and empowered forthwith to seize and take possession of such tobacco products. Such tobacco products seized by a police officer or peace officer shall be turned over to the commissioner. Such seized tobacco products shall be forfeited to the state. All tobacco products forfeited to the state shall be destroyed or used for law enforcement purposes, except that tobacco products that violate, or are suspected of violating, federal trademark laws or import laws shall not be used for law enforcement purposes. If the commissioner determines the tobacco products may not be used for law enforcement purposes, the commissioner

must, within a reasonable time thereafter, upon publication in the state registry of a notice to such effect before the day of destruction, destroy such forfeited tobacco products. The commissioner may, prior to any destruction of tobacco products, permit the true holder of the trademark rights in the tobacco products to inspect such forfeited products in order to assist in any investigation regarding such tobacco products.

§ 15. Subdivision (b) of section 1847 of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(b) Any peace officer designated in subdivision four of section 2.10 of the criminal procedure law, acting pursuant to his special duties, or any police officer designated in section 1.20 of the criminal procedure law may seize any vehicle or other means of transportation used to import tobacco products in excess of five hundred cigars [~~or~~], ten pounds of tobacco **or one thousand milliliters of vapor product** for sale where the person importing or causing such tobacco products to be imported has not been appointed a distributor pursuant to section four hundred seventy-two of this chapter, other than a vehicle or other means of transportation used by any person as a common carrier in transaction of business as such common carrier, and such vehicle or other means of transportation shall be subject to forfeiture as hereinafter in this section provided.

§ 16. This act shall take effect on the one hundred eightieth day after it shall have become a law, and shall apply to vapor products that first become subject to taxation under article 20 of the tax law on or after such date.

PART CC

Section 1. The tax law is amended by adding a new article 20-C to read as follows:

**ARTICLE 20-C**
**OPIOID EPIDEMIC SURCHARGE**

**Section 492. Definitions.**
**493. Imposition of surcharge.**
**494. Returns to be secret.**

**§ 492. Definitions. When used in this article, the following terms shall have the following meanings:**

**1. "Opioid" shall mean an "opiate" as defined by subdivision twenty-three of section thirty-three hundred two of the public health law, and any natural, synthetic, or semisynthetic "narcotic drug" as defined by subdivision twenty-two of such section, that has agonist, partial agonist, or agonist/antagonist morphine-like activities or effects similar to natural opium alkaloids and any derivative, congener, or combination thereof, listed in schedules II-IV of section thirty-three hundred six of the public health law.**

**2. "Unit" shall mean the dosage form of an opioid-containing drug including, but not limited to, tablets, capsules, suppositories, topical (transdermal), buccal or any other dosage form, such as weight or volume.**

**3. "Unit strength" shall mean the amount of opioid in a unit, as measured by weight, volume, concentration or other metric.**

**4. "Morphine milligram equivalent conversion factor" shall mean that reference standard of a particular opioid as it relates in potency to morphine as determined by the commissioner of health.**

5. "Morphine milligram equivalent" shall mean a unit multiplied by its unit strength multiplied by the morphine milligram equivalent conversion factor of the opioid contained in such unit.

6. "Establishment" shall mean any person, firm, corporation or association required to be registered with the education department pursuant to section sixty-eight hundred eight or section sixty-eight hundred eight-b of the education law, as well as any person, firm, corporation or association that would be required to be registered with the education department pursuant to such section sixty-eight hundred eight-b but for the exception in subdivision two of such section.

7. "Invoice" shall mean the invoice, sales slip, memorandum of sale, or other document evidencing a sale of an opioid.

§ 493. Imposition of surcharge. 1. There is hereby imposed a surcharge on the sale of any opioid of two cents per morphine milligram equivalent sold. Such surcharge shall be imposed on the first sale of such opioid in the state, except that such surcharge shall not apply when such sale is to any program operated pursuant to article thirty-two of the mental hygiene law. This surcharge shall be charged against, and be paid by, the establishment making the first sale of such opioid in the state, and shall not be added as a separate charge or line item on any invoice given to the customer or otherwise passed down to the customer. However, an establishment liable for the surcharge imposed by this article shall clearly note on the invoice for the first sale of an opioid in the state its liability for the surcharge, along with its name, address, and taxpayer identification number. All sales of an opioid in this state shall be presumed to be the first sale of such, and shall also be presumed to be subject to the surcharge imposed by this article, unless the contrary is established by the seller.

2. Every establishment liable for the surcharge imposed by this article shall file with the commissioner a return, on forms prescribed by the commissioner, indicating the total morphine milligram equivalent of opioids it sold in the state, the total morphine milligram equivalent of such opioids that are subject to the surcharge imposed by this article, the amount of surcharge due thereon, and such further information as the commissioner may require. Such returns shall be due on or before the twentieth day of each month, and shall cover all opioid sales in the state made in the month prior, except that the first return required to be filed pursuant to this section shall be due on or before January twentieth, two thousand nineteen and shall cover all opioid sales occurring in the period between the effective date of this article and December thirty-first, two thousand eighteen. Every establishment required to file a return under this section shall, at the time of filing such return, pay to the commissioner the total amount of surcharge due for the period covered by such return. If a return is not filed when due, the surcharge shall be due on the day on which the return is required to be filed. The commissioner may require that the returns and payments required by this article be filed or paid electronically.

3. Establishments making sales of opioids in this state shall maintain all invoices pertaining to such sales for six years after the return reporting such sales is filed with the commissioner, unless the commissioner provides for a different retention period by rule or regulation. The establishment shall produce such records upon demand by the commissioner.

4. Whenever the commissioner shall determine that any moneys received under the provisions of this article were paid in error, he or she may cause the same to be refunded, with interest, except that no interest

shall be allowed or paid if the amount thereof would be less than one dollar. Such interest shall be at the overpayment rate set by the commissioner pursuant to subdivision twenty-sixth of section one hundred seventy-one of this chapter, or if no rate is set, at the rate of six percent per annum, from the date when the surcharge, penalty or interest to be refunded was paid to a date preceding the date of the refund check by not more than thirty days. Provided, however, that for the purposes of this subdivision, any surcharge paid before the last day prescribed for its payment shall be deemed to have been paid on such last day. Such moneys received under the provisions of this article that the commissioner shall determine were paid in error, may be refunded out of funds in the custody of the comptroller to the credit of such surcharges provided an application therefor is filed with the commissioner within two years from the time the erroneous payment was made.

5. The provisions of article twenty-seven of this chapter shall apply to the surcharge imposed by this article in the same manner and with the same force and effect as if the language of such article had been incorporated in full into this section and had expressly referred to the surcharge imposed by this article, except to the extent that any provision of such article is either inconsistent with a provision of this article or is not relevant to this article.

6. (a) The surcharges, interest, and penalties imposed by this article and collected or received by the commissioner shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the state comptroller, to the credit of the opioid prevention, treatment and recovery account established pursuant to section ninety-seven-aaaaa of the state finance law. An account may be established in one or more of such depositories. Such deposits will be kept separate and apart from all other money in the possession of the state comptroller. The state comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this article, the state comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. The commissioner is authorized and directed to deduct from the amounts it receives under this article, before deposit into the trust accounts designated by the state comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect and distribute the surcharge imposed by this article.

(b) On or before the twelfth and twenty-sixth day of each succeeding month, after reserving such amount for such refunds and deducting such amounts for such costs, as provided for in paragraph (a) of this subdivision, the commissioner shall certify to the state comptroller the amount of all revenues so received during the prior month because of the surcharges, interest and penalties so imposed. The amount of revenues so certified shall be paid over by the fifteenth and the final business day of each succeeding month from such account into the opioid prevention, treatment and recovery account established pursuant to section ninety-seven-aaaaa of the state finance law.

7. The commissioners of education and health shall cooperate with the commissioner in administering this surcharge, including sharing with the commissioner pertinent information about establishments upon the request of the commissioner.

§ 494. Returns to be secret. 1. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the commissioner, any officer or employee of the depart-

ment, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, or any person engaged or retained by such department on an independent contract basis or any person who in any manner may acquire knowledge of the contents of a return or report filed pursuant to this article to divulge or make known in any manner the contents or any other information relating to the business of an establishment contained in any return or report required under this article. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the state, the state department of health, the state department of education or the commissioner in an action or proceeding under the provisions of this chapter or on behalf of the state or the commissioner in any other action or proceeding involving the collection of a tax due under this chapter to which the state or the commissioner is a party or a claimant or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the commissioner, in his or her discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this article, or from providing any information contained in any such return or report, by or to a duly authorized officer or employee of the state department of health or the state department of education; nor to prohibit the inspection or delivery of a certified copy of any return or report filed under this article, or the provision of any information contained therein, by or to the attorney general or other legal representatives of the state when an action shall have been recommended or commenced pursuant to this chapter in which such returns or reports or the facts shown thereby are directly involved; nor to prohibit the commissioner from providing or certifying to the division of budget or the comptroller the total number of returns or reports filed under this article in any reporting period and the total collections received therefrom; nor to prohibit the inspection of the returns or reports required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any surcharge paid by an establishment or other person under this article; nor to prohibit the delivery to an establishment, or a duly authorized representative of such establishment, a certified copy of any return or report filed by such establishment pursuant to this article, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof.

2. (a) Any officer or employee of the state who willfully violates the provisions of subdivision one of this section shall be dismissed from office and be incapable of holding any public office in this state for a period of five years thereafter.

(b) A violation of this article shall be considered a violation of secrecy provisions under article thirty-seven of this chapter.

§ 2. Section 1825 of the tax law, as amended by section 20 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

§ 1825. Violation of secrecy provisions of the tax law.--Any person who violates the provisions of [~~subdivision (b) of section twenty-one,~~] subdivision one of section two hundred two, subdivision eight of section two hundred eleven, subdivision (a) of section three hundred fourteen, subdivision one or two of section four hundred thirty-seven, section four hundred eighty-seven, section four hundred ninety-four, subdivision one or two of section five hundred fourteen, subsection (e) of section six hundred ninety-seven, subsection (a) of section nine hundred ninety-four, subdivision (a) of section eleven hundred forty-six, section twelve hundred eighty-seven, section twelve hundred ninety-six, subdivision (a) of section fourteen hundred eighteen, subdivision (a) of section fifteen hundred eighteen, subdivision (a) of section fifteen hundred fifty-five of this chapter, and subdivision (e) of section 11-1797 of the administrative code of the city of New York shall be guilty of a misdemeanor.

§ 3. The state finance law is amended by adding a new section 97-aaaaa to read as follows:

§ 97-aaaaa. Opioid prevention, treatment and recovery account. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance an account of the miscellaneous special revenue account to be known as the "opioid prevention, treatment and recovery account".

2. Moneys in the opioid prevention, treatment and recovery account shall be kept separate and shall not be commingled with any other moneys in the custody of the state comptroller and the commissioner of taxation and finance.

3. The opioid prevention, treatment and recovery account shall consist of moneys appropriated for the purpose of such account, moneys transferred to such account pursuant to law, contributions consisting of promises or grants of any money or property of any kind or value, or any other thing of value, including grants or other financial assistance from any agency of government and moneys required by the provisions of this section or any other law to be paid into or credited to this account. The account shall also consist of moneys received from any litigation or enforcement actions initiated against opioid pharmaceutical manufacturers, distributors and wholesalers.

4. Moneys of the opioid prevention, treatment and recovery account, when allocated, shall be available, subject to the approval of the director of the budget, to support programs operated by the New York state office of alcoholism and substance abuse services or agencies certified, authorized, approved or otherwise funded by the New York state office of alcoholism and substance abuse services to provide opioid treatment, recovery and prevention and education services; and to provide support for the prescription monitoring program registry if established.

5. At the request of the budget director, the state comptroller shall transfer moneys to support the costs of opioid treatment, recovery, prevention, education services, and other related programs, from the opioid prevention, treatment and recovery account to any other fund of the state.

6. Notwithstanding the provisions of any general or special law, no moneys shall be available from the opioid prevention, treatment and recovery account until a certificate of allocation and a schedule of amounts to be available therefor shall have been issued by the director of the budget, upon the recommendation of the commissioner of the office of alcoholism and substance abuse services, and a copy of such certif-

icate filed with the comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time by the director of the budget, upon the recommendation of the commissioner of the office of alcoholism and substance abuse services, and a copy of such amendment shall be filed with the comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

7. The moneys, when allocated, shall be paid out of the opioid prevention, treatment and recovery account, pursuant to subdivision four of this section, and subject to the approval of the director of the budget, on the audit and warrant of the comptroller on vouchers certified or approved by (a) the commissioner of the office of alcoholism and substance abuse services or his or her designee; or (b) the commissioner of the department of health or his or her designee.

§ 4. This act shall take effect July 1, 2018.

PART DD

Section 1. The tax law is amended by adding a new section 1521 to read as follows:

§ 1521. Healthcare insurance windfall profit fee. (a) In addition to all taxes, surcharges, and fees imposed under this chapter, the insurance law, the financial services law, and the public health law, there is hereby imposed for each taxable year beginning after December thirty-first, two thousand seventeen, a fourteen percent surcharge on the net underwriting gain from the sale of health insurance written on risks located or resident within this state of every corporation (1) authorized to transact an insurance business in this state, or (2) that is a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law.

(b) For purposes of this section, the term "health insurance" shall mean comprehensive hospital and medical expense insurance including, without limitation, comprehensive coverage issued by a health maintenance organization, disability income insurance, accident insurance, medicare supplement insurance, specified disease insurance, dental insurance, vision insurance, stop-loss insurance, fixed indemnity insurance, and hospital indemnity insurance.

(c)(1) For each taxable year, the "net underwriting gain from the sale of health insurance written on risks located or resident within this state" shall equal a corporation's gross receipts from the sale of health insurance written on risks located or resident within New York less the corporation's claims and administrative expenses related to the gross receipts. The computation of "gross receipts from the sale of health insurance written on risks located or resident within New York" and "claims and administrative expenses related to gross receipts" shall be made pursuant to the rules set forth in regulations to be promulgated by the superintendent of financial services.

(2) For each taxable year, the "net underwriting gain from the operation of a managed care organization business regulated by the department of health" shall equal a corporation's gross receipts from the operation of a managed care organization business regulated by the department of health less the corporation's claims and administrative expenses related to such gross receipts. The computation of "gross receipts from the operation of a managed care organization business regulated by the department of health" and "claims and administrative expenses related to

gross receipts" shall be made pursuant to the rules set forth in regulations to be promulgated by the superintendent of financial services.

(d) Notwithstanding any law to the contrary, the surcharge imposed by this section shall not be deductible by a corporation in determining its liability for any other tax, surcharge, or fee imposed under any law.

(e) Notwithstanding any law to the contrary, the surcharge imposed by this section shall not be considered by any corporation, and shall not be deemed to be an expense, cost, or liability, for purposes of establishing or setting the rate to be charged for any health insurance policy.

(f) The surcharge imposed by this section shall be calculated by each corporation on an annual basis without regard to the items of gain or loss from any other period.

(g) (1) The superintendent of financial services shall have the power, duty and responsibility to examine returns of a corporation filed with him or her pursuant to this section and, together with any other information within his or her possession or that may come into his or her possession, to ascertain the correct amount of surcharge imposed under this section of any corporation. For the purpose of ascertaining the correctness of any such surcharge imposed under this section or for the purpose of making an estimate of the surcharge liability under this section of any corporation, the superintendent of financial services shall have the power to examine or cause to have examined by any agent or representative designated by him or her for that purpose, any books, papers, records or memoranda bearing upon the matters required to be included in the return.

(2) If the superintendent of financial services ascertains that the amount of surcharge imposed under this section as shown on the return of any corporation is less than the amount of surcharge disclosed by his or her examination, he or she shall propose, in writing, to the commissioner the issuance of a notice of deficiency for the amount due. If a corporation fails to file a return with the superintendent of financial services within the time required for the filing of such return (with regard to any extension of time for the filing thereof), the superintendent of financial services shall make an estimate of the amount of surcharge due for the period in respect to which such corporation failed to file the return. The estimate shall be made from any available information which is in the possession or may come into the possession of the superintendent of financial services and he or she shall propose, in writing, to the commissioner the issuance of a notice of deficiency for the amount of such estimated surcharge. Any proposal pursuant to this paragraph shall set forth the basis thereof and the details of its computation.

(3) The commissioner shall, on receipt of a proposal from the superintendent of financial services pursuant to paragraph two of this subdivision, take appropriate action under this chapter for the assessment and collection of the amount of surcharge, together with interest and penalties, shown by such proposal to be due. The superintendent of financial services shall be required to assist the commissioner in defending the correctness of the amount assessed at any conference at the bureau of conciliation and mediation services and at the division of tax appeals.

(4) Subject to the consent of the superintendent of financial services and notwithstanding any other provisions of law to the contrary, the commissioner may delegate such other of his or her powers and duties with respect to the administration and collection of the taxes imposed

under this section to the superintendent of financial services, as the commissioner finds necessary in order to facilitate such administration and collection.

(5) The superintendent of financial services shall have the authority to issue such rules and regulations that are necessary to implement the provisions of this section.

(h) (1) Every corporation subject to the surcharge in subdivision (a) of this section, shall annually, on or before the fifteenth day of the third month following the close of its taxable year, transmit to the superintendent of financial services a return in a form prescribed by the superintendent of financial services setting forth such information as such superintendent may prescribe and every corporation which ceases to be subject to the surcharge imposed by this section shall transmit to the superintendent of financial services a return on the date of such cessation or at such other time as such superintendent may require covering each year or period for which no return was theretofore filed. A copy of each return required under this subdivision shall also be transmitted to the commissioner at or before the times specified for filing such returns with the commissioner.

(2) Every corporation shall also transmit such other returns and such facts and information as the superintendent of financial services may require in the administration of this section.

(3) The superintendent of financial services may grant a reasonable extension of time for filing returns whenever good cause exists. An automatic extension of four months for the filing of its return shall be allowed any corporation, if within the time prescribed by paragraph one of this subdivision, such corporation files with the superintendent of financial services an application for extension in such form as the superintendent of financial services may prescribe and pays on or before the date of such filing the amount properly estimated as its surcharge.

(4) Every return shall have annexed thereto a certification by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer of the corporation duly authorized so to act to the effect that the statements contained therein are true. The fact that an individual's name is signed on a certification of the return shall be prima facie evidence that such individual is authorized to sign and certify the return on behalf of the corporation.

(5) Each corporation subject to the surcharge in subdivision (a) of this section shall file a separate return for each year such corporation is subject to the surcharge.

(6) In case it shall appear to the superintendent of financial services that any agreement, understanding or arrangement exists between the corporation and any other entity, person or firm whereby the activity, business, income or capital of the corporation is improperly or inaccurately reflected, the superintendent of financial services is authorized and empowered in his or her discretion and in such manner as he or she may determine, to adjust items of income, deductions and capital so as equitably to determine the surcharge. Where (A) any corporation conducts its activity or business under any agreement, arrangement or understanding in such manner as either directly or indirectly to benefit its members or stockholders, or any of them, or any person or persons directly or indirectly interested in such activity or business, by entering into any transaction at more or less than a fair price which, but for such agreement, arrangement or understanding, might have been paid or received therefor, or (B) any corporation, a substantial portion of whose capital stock is owned either directly or indirectly by

another corporation, enters into any transaction with such other corporation on such terms as to create an improper gain or loss amount, the superintendent of financial services may include in the corporation's gain subject to the surcharge the fair amounts, which, but for such agreement, arrangement or understanding, the corporation might have derived from such transaction.

(i) (1) To the extent the surcharge imposed by this section shall not have been previously paid, the surcharge, or the balance thereof, shall be payable to the superintendent of financial services in full at the time the corporation's return is required to be filed.

(2) If the corporation, within the time prescribed by subdivision (f) of this section, shall have applied for an automatic extension of time to file its annual return and shall have paid to the superintendent of financial services on or before the date such application is filed an amount properly estimated as provided by said subdivision, the only amount payable in addition to the surcharge shall be interest at the underpayment rate set by the commissioner pursuant to subsection (e) of section one thousand ninety-six of this chapter or, if no rate is set, at the rate of six percent per annum upon the amount by which the surcharge, or portion thereof payable on or before the date the return was required to be filed, exceeds the amount so paid. For the purposes of the preceding sentence:

(A) an amount so paid shall be deemed properly estimated if it is either (i) not less than ninety percent of the surcharge as finally determined, or (ii) not less than the surcharge shown on the corporation's return for the preceding taxable year, if such preceding year was a taxable year of twelve months; and

(B) the time when a return is required to be filed shall be determined without regard to any extension of time for filing such return.

(3) The superintendent of financial services may grant a reasonable extension of time for payment of any surcharge imposed by this section under such conditions as he or she deems just and proper.

(j) All surcharges, interest and penalties collected or received by the superintendent of financial services under this section shall be deposited into the health care reform act (HCRA) resources fund pursuant to section ninety-two-dd of the state finance law.

(k) The provisions of article twenty-seven of this chapter shall apply to the provisions of this section in the same manner and with the same force and effect as if the language of such article twenty-seven had been incorporated in full into this article and had expressly referred to the surcharge under this section, except to the extent that any such provision is either inconsistent with a provision of this section or is not relevant to this section. The superintendent of financial services shall have the same power and authority that the commissioner has under article twenty-seven of this chapter.

§ 2. This act shall take effect immediately.

PART EE

Section 1. Subdivision 1 of Section 208 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 140 of the laws of 2008, is amended to read as follows:

1. In consideration of the franchise and in accordance with its franchise agreement, the franchised corporation shall remit to the state, each year, no later than April fifth, a franchise fee payment. The franchise fee shall be calculated and equal to the lesser of paragraph (a)

or (b) of this subdivision as follows: (a) adjusted net income, including all sources of audited generally accepted accounting principles net income as of December thirty-first (i) plus the amount of depreciation and amortization for such year as set forth on the statement of cash flows (ii) less the amount received by the franchised corporation for capital expenditures and (iii) less principal payments made for the repayment of debt; or (b) operating cash which is defined as cash available on December thirty-first (i) which excludes all restricted cash accounts, segregated accounts as per audited financial statements and cash on hand needed to fund the on-track pari-mutuel operations through the vault, (ii) less [~~forty-five~~] ninety days of operating expenses pursuant to generally accepted accounting principles which shall be an average calculated by dividing the current year's annual budget by the number of days in such year and multiplying that number by [~~forty-five~~] ninety.

§ 2. Section 203 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:

§ 203. Right to hold race meetings and races. 1. Any corporation formed under the provisions of this article, if so claimed in its certificate of organization, and if it shall comply with all the provisions of this article, and any other corporation entitled to the benefits and privileges of this article as hereinafter provided, shall have the power and the right to hold one or more running race meetings in each year, and to hold, maintain and conduct running races at such meetings. At such running race meetings the corporation, or the owners of horses engaged in such races, or others who are not participants in the race, may contribute purses, prizes, premiums or stakes to be contested for, but no person or persons other than the owner or owners of a horse or horses contesting in a race shall have any pecuniary interest in a purse, prize, premium or stake contested for in such race, or be entitled to or receive any portion thereof after such race is finished, and the whole of such purse, prize, premium or stake shall be allotted in accordance with the terms and conditions of such race. Races conducted by a franchised corporation shall be permitted only between sunrise and sunset.

2. Notwithstanding any other provision of law to the contrary, a franchised corporation shall be permitted to conduct races after sunset at the Belmont Park racetrack, only on the main track in its current configuration, only if such races conclude before half past ten o' clock post meridian, and only if such races occur on Thursdays, Fridays or Saturdays. The franchised corporation shall coordinate with a harness racing association or corporation authorized to operate in Westchester county to ensure that the starting times of all such races are staggered.

3. A track first licensed after January first, nineteen hundred ninety, shall not conduct the simulcasting of thoroughbred races within district one, in accordance with article ten of this chapter on days that a franchised corporation is not conducting a race meeting. In no event shall thoroughbred races conducted by a track first licensed after January first, nineteen hundred ninety be conducted after eight o'clock post meridian.

§ 3. An advisory committee shall be established by the governor comprised of individuals with demonstrated interest in the performance of thoroughbred and standardbred race horses to review the present structure, operations and funding of equine drug testing and research

conducted pursuant to article nine of the racing, pari-mutuel wagering and breeding law. Recommendations shall be delivered to the temporary president of the Senate, speaker of the Assembly and Governor by December 1, 2018 regarding the future of such research, testing and funding. Members of the board shall not be considered policymakers.

§ 4. This act shall take effect immediately; provided, however, that the amendments to section 203 of the racing, pari-mutuel wagering and breeding law made by section two of this act shall expire and be deemed repealed 4 years after the first night of racing conducted after sunset pursuant to this act; provided that the New York Racing Association shall notify the legislative bill drafting commission of the date of such night of racing 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.

PART FF

Section 1. Subdivision 2 of section 254 of the racing, pari-mutuel wagering and breeding law is amended by adding a new paragraph h to read as follows:

**h. An amount as shall be determined by the fund to support and promote the ongoing care of retired horses, provided, however, that the fund shall not be required to make any allocation for such purposes.**

§ 2. Subdivision 1 of section 332 of the racing, pari-mutuel wagering and breeding law is amended by adding a new paragraph j to read as follows:

**j. An amount as shall be determined by the fund to support and promote the ongoing care of retired horses, provided, however, that the fund shall not be required to make any allocation for such purposes.**

§ 3. This act shall take effect immediately.

PART GG

Section 1. Paragraph (a) of subdivision 1 of section 1003 of the racing, pari-mutuel wagering and breeding law, as amended by section 1 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

(a) Any racing association or corporation or regional off-track betting corporation, authorized to conduct pari-mutuel wagering under this chapter, desiring to display the simulcast of horse races on which pari-mutuel betting shall be permitted in the manner and subject to the conditions provided for in this article may apply to the commission for a license so to do. Applications for licenses shall be in such form as may be prescribed by the commission and shall contain such information or other material or evidence as the commission may require. No license shall be issued by the commission authorizing the simulcast transmission of thoroughbred races from a track located in Suffolk county. The fee for such licenses shall be five hundred dollars per simulcast facility and for account wagering licensees that do not operate either a simulcast facility that is open to the public within the state of New York or a licensed racetrack within the state, twenty thousand dollars per year payable by the licensee to the commission for deposit into the general fund. Except as provided in this section, the commission shall not approve any application to conduct simulcasting into individual or group

residences, homes or other areas for the purposes of or in connection with pari-mutuel wagering. The commission may approve simulcasting into residences, homes or other areas to be conducted jointly by one or more regional off-track betting corporations and one or more of the following: a franchised corporation, thoroughbred racing corporation or a harness racing corporation or association; provided (i) the simulcasting consists only of those races on which pari-mutuel betting is authorized by this chapter at one or more simulcast facilities for each of the contracting off-track betting corporations which shall include wagers made in accordance with section one thousand fifteen, one thousand sixteen and one thousand seventeen of this article; provided further that the contract provisions or other simulcast arrangements for such simulcast facility shall be no less favorable than those in effect on January first, two thousand five; (ii) that each off-track betting corporation having within its geographic boundaries such residences, homes or other areas technically capable of receiving the simulcast signal shall be a contracting party; (iii) the distribution of revenues shall be subject to contractual agreement of the parties except that statutory payments to non-contracting parties, if any, may not be reduced; provided, however, that nothing herein to the contrary shall prevent a track from televising its races on an irregular basis primarily for promotional or marketing purposes as found by the commission. For purposes of this paragraph, the provisions of section one thousand thirteen of this article shall not apply. Any agreement authorizing an in-home simulcasting experiment commencing prior to May fifteenth, nineteen hundred ninety-five, may, and all its terms, be extended until June thirtieth, two thousand [~~eighteen~~] **nineteen**; provided, however, that any party to such agreement may elect to terminate such agreement upon conveying written notice to all other parties of such agreement at least forty-five days prior to the effective date of the termination, via registered mail. Any party to an agreement receiving such notice of an intent to terminate, may request the commission to mediate between the parties new terms and conditions in a replacement agreement between the parties as will permit continuation of an in-home experiment until June thirtieth, two thousand [~~eighteen~~] **nineteen**; and (iv) no in-home simulcasting in the thoroughbred special betting district shall occur without the approval of the regional thoroughbred track.

§ 2. Subparagraph (iii) of paragraph d of subdivision 3 of section 1007 of the racing, pari-mutuel wagering and breeding law, as amended by section 2 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

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

§ 3. The opening paragraph of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by section 3

of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~eighteen~~] **nineteen** and on any day regardless of whether or not a franchised corporation is conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack after June thirtieth, two thousand [~~eighteen~~] **nineteen**. On any day on which a franchised corporation has not scheduled a racing program but a thoroughbred racing corporation located within the state is conducting racing, every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that have entered into a written agreement with such facility's representative horsemen's organization, as approved by the commission), one thousand eight, or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state or foreign country subject to the following provisions:

§ 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering and breeding law, as amended by section 4 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

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

§ 5. The opening paragraph of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by section 5 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

The provisions of this section shall govern the simulcasting of races conducted at thoroughbred tracks located in another state or country on any day during which a franchised corporation is not conducting a race meeting in Saratoga county at Saratoga thoroughbred racetrack until June thirtieth, two thousand [~~eighteen~~] **nineteen**. Every off-track betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven that have entered into a written agreement with such facility's representative horsemen's organization as approved by the commission, one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live full-card simulcast signal of thoroughbred tracks (which may include quarter horse or mixed meetings provided that all such wagering on such races shall be construed to be thoroughbred races) located in another state or foreign country, subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article:

§ 6. The opening paragraph of section 1018 of the racing, pari-mutuel wagering and breeding law, as amended by section 6 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

Notwithstanding any other provision of this chapter, for the period July twenty-fifth, two thousand one through September eighth, two thousand [~~seventeen~~] **eighteen**, when a franchised corporation is conducting a race meeting within the state at Saratoga Race Course, every off-track

betting corporation branch office and every simulcasting facility licensed in accordance with section one thousand seven (that has entered into a written agreement with such facility's representative horsemen's organization as approved by the commission), one thousand eight or one thousand nine of this article shall be authorized to accept wagers and display the live simulcast signal from thoroughbred tracks located in another state, provided that such facility shall accept wagers on races run at all in-state thoroughbred tracks which are conducting racing programs subject to the following provisions; provided, however, no such written agreement shall be required of a franchised corporation licensed in accordance with section one thousand seven of this article.

§ 7. Section 32 of chapter 281 of the laws of 1994, amending the racing, pari-mutuel wagering and breeding law and other laws relating to simulcasting, as amended by section 7 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

§ 32. This act shall take effect immediately and the pari-mutuel tax reductions in section six of this act shall expire and be deemed repealed on July 1, [~~2018~~] 2019; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration, or repeal of any provision of law amended by any section of this act, and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law; provided further, however, that sections twenty-three and twenty-five of this act shall remain in full force and effect only until May 1, 1997 and at such time shall be deemed to be repealed.

§ 8. Section 54 of 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, as amended by section 8 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

§ 54. This act shall take effect immediately; provided, however, sections three through twelve of this act shall take effect on January 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breeding law, as added by section thirty-eight of this act, shall expire and be deemed repealed on July 1, [~~2018~~] 2019; and section eighteen of this act shall take effect on July 1, 2008 and sections fifty-one and fifty-two of this act shall take effect as of the same date as chapter 772 of the laws of 1989 took effect.

§ 9. Paragraph (a) of subdivision 1 of section 238 of the racing, pari-mutuel wagering and breeding law, as amended by section 9 of part OO of chapter 59 of the laws of 2017, is amended to read as follows:

(a) The franchised corporation authorized under this chapter to conduct pari-mutuel betting at a race meeting or races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein, provided such tickets be presented for payment before April first of the year following the year of their purchase, less an amount which shall be established and retained by such franchised corporation of between twelve to seventeen per centum of the total deposits in pools resulting from on-track regular bets, and fourteen to twenty-one per centum of the total deposits in pools resulting from on-track multiple bets and fifteen to twenty-five per centum of the total deposits in pools resulting from on-track exotic bets and fifteen to thirty-six per centum of the total deposits in pools resulting from on-track super exotic bets, plus the breaks. The retention rate to be established is subject to the prior approval of the gaming commission.

Such rate may not be changed more than once per calendar quarter to be effective on the first day of the calendar quarter. "Exotic bets" and "multiple bets" shall have the meanings set forth in section five hundred nineteen of this chapter. "Super exotic bets" shall have the meaning set forth in section three hundred one of this chapter. For purposes of this section, a "pick six bet" shall mean a single bet or wager on the outcomes of six races. The breaks are hereby defined as the odd cents over any multiple of five for payoffs greater than one dollar five cents but less than five dollars, over any multiple of ten for payoffs greater than five dollars but less than twenty-five dollars, over any multiple of twenty-five for payoffs greater than twenty-five dollars but less than two hundred fifty dollars, or over any multiple of fifty for payoffs over two hundred fifty dollars. Out of the amount so retained there shall be paid by such franchised corporation to the commissioner of taxation and finance, as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the race meetings held by such franchised corporation, the following percentages of the total pool for regular and multiple bets five per centum of regular bets and four per centum of multiple bets plus twenty per centum of the breaks; for exotic wagers seven and one-half per centum plus twenty per centum of the breaks, and for super exotic bets seven and one-half per centum plus fifty per centum of the breaks. For the period June first, nineteen hundred ninety-five through September ninth, nineteen hundred ninety-nine, such tax on regular wagers shall be three per centum and such tax on multiple wagers shall be two and one-half per centum, plus twenty per centum of the breaks. For the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such tax on all wagers shall be two and six-tenths per centum and for the period April first, two thousand one through December thirty-first, two thousand [~~eighteen~~] **nineteen**, such tax on all wagers shall be one and six-tenths per centum, plus, in each such period, twenty per centum of the breaks. Payment to the New York state thoroughbred breeding and development fund by such franchised corporation shall be one-half of one per centum of total daily on-track pari-mutuel pools resulting from regular, multiple and exotic bets and three per centum of super exotic bets provided, however, that for the period September tenth, nineteen hundred ninety-nine through March thirty-first, two thousand one, such payment shall be six-tenths of one per centum of regular, multiple and exotic pools and for the period April first, two thousand one through December thirty-first, two thousand [~~eighteen~~] **nineteen**, such payment shall be seven-tenths of one per centum of such pools.

§ 10. This act shall take effect immediately.

## PART HH

Section 1. Subdivision 4 of section 97-nnnn of the state finance law is REPEALED.

§ 2. Subdivisions 5 and 6 of section 97-nnnn of the state finance law are renumbered subdivisions 4 and 5.

§ 3. This act shall take effect April 1, 2018.

## PART II

Section 1. Subparagraphs (ii) and (iii) of paragraph 1 of subdivision b of section 1612 of the tax law are REPEALED and a new subparagraph (ii) is added to read as follows:

(ii) less a vendor's fee the amount of which is to be paid for serving as a lottery agent to the track operator of a vendor track or the operator of any other video lottery gaming facility authorized pursuant to section sixteen hundred seventeen-a of this article:

(A) when a vendor track is located within development zone one as defined by section thirteen hundred ten of the racing, pari-mutuel wagering and breeding law, at a rate of thirty-nine and one-half percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

(B) when a vendor track is located within development zone two as defined by section thirteen hundred ten of the racing, pari-mutuel wagering and breeding law, at a rate of forty-three and one-half percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter; provided, however, at a vendor track located within fifteen miles of a destination resort gaming facility authorized pursuant to article thirteen of the racing, pari-mutuel wagering and breeding law or that is located more than fifteen miles but within fifty miles of a Native American class III gaming facility as defined in 25 U.S.C. § 2703 (8) shall receive a vendor fee at a rate of fifty-one percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter; and that at a vendor track located within fifteen miles of a Native American class III gaming facility as defined in 25 U.S.C. § 2703 (8) shall receive a vendor fee at a rate of fifty-six percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter;

(C) when a video lottery facility is operated at Aqueduct racetrack, at a rate of forty-seven percent of the total revenue wagered at the video lottery gaming facility after payout for prizes pursuant to this chapter; provided, however, upon the earlier of the designation of one thousand video lottery devices as hosted pursuant to paragraph four of subdivision a of section sixteen hundred seventeen-a of this article or April first, two thousand nineteen, such rate shall be fifty percent of the total revenue wagered at the video lottery gaming facility after payout for prizes pursuant to this chapter;

(D) when a video lottery gaming facility is located in either Nassau or Suffolk counties and is operated by a corporation established pursuant to section five hundred two of the racing, pari-mutuel wagering and breeding law, at a rate of forty-five percent of the total revenue wagered at the video lottery gaming facility after payout for prizes pursuant to this chapter;

(E) notwithstanding any provision of law to the contrary, when a vendor track is located within region one or two of development zone two, as such zone is defined in section thirteen hundred ten of the racing, pari-mutuel wagering and breeding law, or is located within region six of such development zone two and is located within Ontario county, such vendor track shall be entitled to receive an additional commission. The additional commission received by the vendor track shall be the adjusted commission calculated pursuant to subclause (II) of this clause; provided, however, the additional commission shall not exceed an amount calculated pursuant to subclause (I) of this clause.

(I) The maximum additional commission payable for any fiscal year shall be an amount equal to the base vendor fee less the adjusted current vendor fee. The adjusted current vendor fee is calculated as the

vendor fee that the facility would have received during the current fiscal year under the payment schedule established by this paragraph as it existed on March thirty-first, two thousand seventeen. The base vendor fee is calculated as the vendor fee that the facility received during the twelve-month period immediately preceding the opening of a gaming facility in the same region as the vendor track. For the purposes of this calculation, a vendor fee shall exclude any distributions required by paragraph two of this subdivision. For the purposes of this clause, Seneca and Wayne counties shall be deemed to be located within region six of development zone two.

(II) The adjusted commission is a percentage of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter. That percentage is calculated by subtracting the effective tax rate on all gross gaming revenue paid by a gaming facility within the same region as the vendor track from the education percentage. The education percentage is ninety percent less the percentage of the vendor track's vendor fee. For purposes of this clause, Seneca and Wayne counties shall be deemed to be located within region six of development zone two.

(III) The additional commission paid pursuant to this subparagraph shall commence with the state fiscal year ending on March thirty-first, two thousand eighteen and shall be paid to a vendor track no later than sixty days after the close of the fiscal year. The additional commission authorized by this clause shall only be applied to revenue wagered at a vendor track while a gaming facility in the same region as that vendor track is open and operating pursuant to an operation certificate issued pursuant to section thirteen hundred thirty-one of the racing, pari-mutuel wagering and breeding law.

(F) Notwithstanding any provision of law to the contrary, any operators of a vendor track or the operators of any other video lottery gaming facility eligible to receive a capital award as of December thirty-first, two thousand seventeen shall deposit from their vendor fee into a segregated account an amount equal to four percent of the first sixty-two million five hundred thousand dollars of revenue wagered at the vendor track after payout for prizes pursuant to this chapter to be used exclusively for capital investments, except for Aqueduct, which shall deposit into a segregated account an amount equal to one percent of all revenue wagered at the video lottery gaming facility after payout for prizes pursuant to this chapter until the earlier of the designation of one thousand video lottery devices as hosted pursuant to paragraph four of subdivision a of section sixteen hundred seventeen-a of this article or April first, two thousand nineteen, when at such time four percent of all revenue wagered at the video lottery gaming facility after payout for prizes pursuant to this chapter shall be deposited into a segregated account for capital investments. Vendor tracks and video lottery gaming facilities shall be permitted to withdraw funds for projects approved by the commission to improve the facilities of the vendor track or video lottery gaming facility which enhance or maintain 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 and amenities customary to a gaming facility, provided, however, the vendor tracks and video lottery gaming facilities shall be permitted to withdraw funds for unreimbursed capital awards approved prior to the effective date of this subparagraph. Any proceeds from the divestiture of any assets acquired through these capital funds or any prior capital

award must be deposited into this segregated account, provided that if the vendor track or video lottery gaming facility ceases use of such asset for gaming purposes or transfers the asset to a related party, such vendor track or video lottery gaming facility shall deposit an amount equal to the fair market value of that asset into the account. In the event a vendor track or video lottery gaming facility ceases gaming operations, any balance in the account along with an amount equal to the value of all remaining assets acquired through this fund or prior capital awards shall be returned to the state for deposit into the state lottery fund for education aid, except for Aqueduct, which shall return to the state for deposit into the state lottery fund for education aid all amounts in excess of the amount needed to fund a project pursuant to an agreement with the operator to construct an expansion of the facility, hotel, and convention and exhibition space requiring a minimum capital investment of three hundred million dollars and any subsequent amendments to such agreement. The comptroller or his legally authorized representative is authorized to audit any and all expenditures made out of these segregated capital accounts. Notwithstanding the preceding, a vendor track located in Ontario county may withdraw up to two million dollars from this account for the purpose of constructing a turf course at the vendor track.

(G) Notwithstanding any provision of law to the contrary, free play allowance credits authorized by the division pursuant to subdivision f of section sixteen hundred seventeen-a of this article shall not be included in the calculation of the total amount wagered on video lottery games, the total amount wagered after payout of prizes, the vendor fees payable to the operators of video lottery gaming facilities, fees payable to the division's video lottery gaming equipment contractors, or racing support payments.

(H) Notwithstanding any provision of law to the contrary, the operator of a vendor track or the operator of any other video lottery gaming facility shall fund a marketing and promotion program out of the vendor's fee. Each operator shall submit an annual marketing plan for the review and approval of the commission and any other required documents detailing promotional activities as prescribed by the commission. The commission shall have the right to reject any advertisement or promotion that does not properly represent the mission or interests of the lottery or its programs.

(I) Notwithstanding clause (F) of this subparagraph, the commission shall be able to authorize a vendor track located within Oneida county, within fifteen miles of a Native American class III gaming facility, and who has maintained at least ninety percent of full-time equivalent employees as they employed in the year two thousand sixteen, to withdraw funds from the segregated account established in clause (F) of this subparagraph up to an amount equal to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter each year, for operations.

§ 2. This act shall take effect immediately; provided, however, clause (I) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law as added by section one of this act shall expire and be deemed repealed June 29, 2019.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section

or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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