

# 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:

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

12 PART A

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

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

33 § 2. This act shall take effect immediately.

1

## PART B

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

5 (ii) The term "income" as used herein shall mean the "adjusted gross  
6 income" for federal income tax purposes as reported on the applicant's  
7 federal or state income tax return for the applicable income tax year,  
8 subject to any subsequent amendments or revisions, reduced by distrib-  
9 utions, to the extent included in federal adjusted gross income,  
10 received from an individual retirement account and an individual retire-  
11 ment annuity; provided that if no such return was filed for the applica-  
12 ble income tax year, "income" shall mean the adjusted gross income that  
13 would have been so reported if such a return had been filed. Provided  
14 further, that effective with exemption applications for final assessment  
15 rolls to be completed in two thousand nineteen, where an income-eli-  
16 gibility determination is wholly or partly based upon the income of one or  
17 more individuals who did not file a return for the applicable income tax  
18 year, then in order for the application to be considered complete, each  
19 such individual must file a statement with the department showing the  
20 source or sources of his or her income for that income tax year, and the  
21 amount or amounts thereof, that would have been reported on such a  
22 return if one had been filed. Such statement shall be filed at such  
23 time, and in such form and manner, as may be prescribed by the depart-  
24 ment, and shall be subject to the secrecy provisions of the tax law to  
25 the same extent that a personal income tax return would be. The depart-  
26 ment shall make such forms and instructions available for the filing of  
27 such statements.

28 § 2. Subparagraph (iv) of paragraph (b) of subdivision 4 of section  
29 425 of the real property tax law, as amended by chapter 451 of the laws  
30 of 2015, is amended to read as follows:

31 (iv) (A) Effective with applications for the enhanced exemption on  
32 final assessment rolls to be completed in two thousand ~~three~~ nineteen,  
33 the application form shall indicate that ~~the~~ all owners of the proper-  
34 ty and any owners' spouses residing on the premises ~~may authorize the~~  
35 ~~assessor to~~ must have their income eligibility verified annually ~~ther-~~  
36 ~~eafter~~ by the ~~state~~ department ~~[of taxation and finance, in lieu of~~  
37 ~~furnishing copies of the applicable income tax return or returns with~~  
38 ~~the application. If the owners of the property and any owners' spouses~~  
39 ~~residing on the premises elect to participate in this program, which~~  
40 ~~shall be known as the STAR income verification program, they]~~ and must  
41 furnish their taxpayer identification numbers in order to facilitate  
42 matching with records of the department. ~~Thereafter, their~~ The income  
43 eligibility of such persons shall be verified annually by the  
44 department, and the assessor shall not request income documentation from  
45 them~~[, unless such department advises the assessor that they do not~~  
46 ~~satisfy the applicable income eligibility requirements, or that it is~~  
47 ~~unable to determine whether they satisfy those requirements]~~. All appli-  
48 cants for the enhanced exemption and all assessing units shall be  
49 required to participate in this program, which shall be known as the  
50 STAR income verification program.

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

1 enhanced exemption should be removed or denied without being replaced  
2 with a basic exemption because the income limitation applicable to the  
3 basic exemption has also been exceeded, he or she shall provide the  
4 property owners with notice and an opportunity to submit to the commis-  
5 sioner evidence to the contrary. In either case, if the owners fail to  
6 respond to such notice within forty-five days from the mailing thereof,  
7 or if their response does not show to the commissioner's satisfaction  
8 that the property is eligible for the exemption claimed, the commis-  
9 sioner shall direct the assessor or other person having custody or control  
10 of the assessment roll or tax roll to either replace the enhanced  
11 exemption with a basic exemption, or to remove or deny the enhanced  
12 exemption without replacing it with a basic exemption, as appropriate.  
13 The commissioner shall further direct such person to correct the roll  
14 accordingly. Such a directive shall be binding upon the assessor or  
15 other person having custody or control of the assessment roll or tax  
16 roll, and shall be implemented by such person without the need for  
17 further documentation or approval.

18 (C) Notwithstanding any provision of law to the contrary, neither an  
19 assessor nor a board of assessment review has the authority to consider  
20 an objection to the replacement or removal or denial of an exemption  
21 pursuant to this subdivision, nor may such an action be reviewed in a  
22 proceeding to review an assessment pursuant to title one or one-A of  
23 article seven of this chapter. Such an action may only be challenged  
24 before the department. If a taxpayer is dissatisfied with the depart-  
25 ment's final determination, the taxpayer may appeal that determination  
26 to the state board of real property tax services in a form and manner to  
27 be prescribed by the commissioner. Such appeal shall be filed within  
28 forty-five days from the issuance of the department's final determi-  
29 nation. If dissatisfied with the state board's determination, the  
30 taxpayer may seek judicial review thereof pursuant to article seventy-  
31 eight of the civil practice law and rules. The taxpayer shall otherwise  
32 have no right to challenge such final determination in a court action,  
33 administrative proceeding or any other form of legal recourse against  
34 the commissioner, the department, the state board of real property tax  
35 services, the assessor or other person having custody or control of the  
36 assessment roll or tax roll regarding such action.

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

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

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

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

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

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

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

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

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

34     § 6. Paragraph (c) of subdivision 6 of section 425 of the real proper-  
35 ty tax law is REPEALED.

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

41     9-b. Duration of exemption; enhanced exemption. (a) [~~In the case of~~  
42 ~~persons who have elected to participate in the STAR income verification~~  
43 ~~program, the] The enhanced exemption, once granted, shall remain in  
44 effect until discontinued in the manner provided in this section.~~

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

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

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

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

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

10 14-a. Implementation of certain eligibility determinations. When a  
11 taxpayer's eligibility for exemption under this section for a school  
12 year is affected by a determination made in accordance with subparagraph  
13 (iv) of paragraph (b) of subdivision four of this section or paragraph  
14 (c) or (d) of subdivision fourteen of this section, and the determi-  
15 nation is made after the school district taxes for that school year have  
16 been levied, the provisions of this subdivision shall be applicable.

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

31 (b) If the determination removes, denies or decreases the taxpayer's  
32 exemption for that school year, the commissioner is authorized to  
33 collect the shortfall directly from the owners of the property, together  
34 with interest, by utilizing any of the procedures for collection, levy,  
35 and lien of personal income tax set forth in article twenty-two of the  
36 tax law, and any other relevant procedures referenced within the  
37 provisions of such article. When the commissioner implements the deter-  
38 mination in this manner, he or she shall so notify the assessor and  
39 county director of real property tax services, but no correction shall  
40 be made to the assessment roll or tax roll for that school year, and no  
41 corrected school tax bill shall be sent to the taxpayer for that school  
42 year.

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

44 § 10. Subparagraph (B) of paragraph 1 of subsection (eee) of section  
45 606 of the tax law, as amended by section 8 of part A of chapter 73 of  
46 the laws of 2016, is amended to read as follows:

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

1 adjusted gross income if a federal income tax return were required to be  
2 filed, reduced by distributions, to the extent included in federal  
3 adjusted gross income, received from an individual retirement account  
4 and an individual retirement annuity. For taxable years beginning on  
5 and after January first, two thousand nineteen, where an income-eli-  
6 gibility determination is wholly or partly based upon the income of one or  
7 more individuals who did not file a return pursuant to section six  
8 hundred fifty-one of this article for the applicable income tax year,  
9 then in order to be eligible for the credit authorized by this  
10 subsection, each such individual must file a statement with the depart-  
11 ment showing the source or sources of his or her income for that income  
12 tax year, and the amount or amounts thereof, that would have been  
13 reported on such a return if one had been filed. Such statement shall be  
14 filed at such time, and in such form and manner, as may be prescribed by  
15 the department, and shall be subject to the provisions of section six  
16 hundred ninety-seven of this article to the same extent that a return  
17 would be. The department shall make such forms and instructions avail-  
18 able for the filing of such statements. Provided further, that if the  
19 qualified taxpayer was an owner of the property during the taxable year  
20 but did not own it on December thirty-first of the taxable year, then  
21 the determination as to whether the income of an individual should be  
22 included in "affiliated income" shall be based upon the ownership and/or  
23 residency status of that individual as of the first day of the month  
24 during which the qualified taxpayer ceased to be an owner of the proper-  
25 ty, rather than as of December thirty-first of the taxable year.

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

37 § 12. This act shall take effect immediately.

38 PART C

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

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



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

5 x. Whenever there has been a transfer or acquisition of a controlling  
6 interest in an entity with an interest in real property, a transfer  
7 report must be filed by the transferee or transferees directly with the  
8 department of taxation and finance, regardless of whether a deed is  
9 prepared, delivered or recorded, as set forth in this paragraph. The fee  
10 imposed by subdivision three of this section shall not apply to transfer  
11 reports filed directly with the department of taxation and finance  
12 pursuant to this paragraph. Such report shall be in a form prescribed by  
13 the commissioner of taxation and finance, must contain the information  
14 required to be included by this subdivision, and in addition, must spec-  
15 ify the percentage of the ownership interest being transferred or  
16 acquired. The transfer report shall indicate the percentage of the tran-  
17 saction that is exempt from the real estate transfer tax as a mere  
18 change in identity or form of ownership or organization where there is  
19 no change in beneficial ownership pursuant to paragraph six of subdivi-  
20 sion (b) of section fourteen hundred five of the tax law, if any. When  
21 a real estate transfer tax return is filed with such commissioner pursu-  
22 ant to section fourteen hundred nine of the tax law in relation to such  
23 property, the report required by this paragraph shall be filed concu-  
24 rently therewith, but in no event shall the report required by this  
25 paragraph be deemed to be a part of such real estate transfer tax  
26 return. For purposes of this paragraph, the terms "controlling interest"  
27 and "interest in real property" shall have the same meaning as set forth  
28 in section fourteen hundred one of the tax law, provided, however, that  
29 the term "interest in real property" shall be limited to interests in  
30 real property subject to real property tax assessment such as lands,  
31 buildings, structures, and other improvements, and shall not include  
32 development rights, air space, or air rights.

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

35 PART D

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

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

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

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

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

33 § 2. This act shall take effect immediately.

34 PART E

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

36 § 1-a. Section 3-d of the general municipal law is REPEALED.

37 § 1-b. Section 2023-b of the education law is REPEALED.

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

40 § 3-d. Certification of compliance with tax levy limit. 1. Upon the  
41 adoption of the budget of a local government unit, the chief executive  
42 officer or budget officer of such local government unit shall certify to  
43 the state comptroller and the commissioner of taxation and finance that  
44 the budget so adopted does not exceed the tax levy limit prescribed in  
45 section three-c of this article and, if the governing body of the local  
46 government unit did enact a local law or approve a resolution to over-  
47 ride the tax levy limit, that such local law or resolution was subse-  
48 quently repealed. Such certification shall be made in a form and manner  
49 prescribed by the state comptroller in consultation with the commis-  
50 ioner of taxation and finance.

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

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

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

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

11 § 2023-b. Certification of compliance with tax levy limit. 1. Upon  
12 the adoption of the budget of an eligible school district, the chief  
13 executive officer of such school district shall certify to the state  
14 comptroller, the commissioner of taxation and finance and the commis-  
15 sioner that the budget so adopted does not exceed the tax levy limit  
16 prescribed by section two thousand twenty-three-a of this part. Such  
17 certification shall be made in a form and manner prescribed by the state  
18 comptroller in consultation with the commissioner of taxation and  
19 finance and the commissioner.

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

26 3. Notwithstanding any provision of law to the contrary, every school  
27 district that is subject to the provisions of section two thousand twen-  
28 ty-three-a of this part shall report both its proposed budget and its  
29 adopted budget to the office of the state comptroller and the commis-  
30 sioner at the time and in the manner as they may prescribe, whether or  
31 not such budget has been or will be certified as provided by this subdivi-  
32 vision.

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

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

41 § 5. Section 925-b of the real property tax law, as amended by chapter  
42 161 of the laws of 2006, is amended to read as follows:

43 § 925-b. Extension; certain persons sixty-five years of age or over.  
44 Notwithstanding any contrary provision of this chapter, or any general,  
45 special or local law, code or charter, the governing body of a municipal  
46 corporation other than a county may, by resolution adopted prior to the  
47 levy of any taxes on real property located within such municipal corpo-  
48 ration, authorize an extension of no more than five business days for  
49 the payment of taxes without interest or penalty to any resident of such  
50 municipal corporation who has received an exemption pursuant to subdivi-  
51 sion four of section four hundred twenty-five or four hundred sixty-sev-  
52 en of this chapter, or a credit pursuant to subsection (eee) of section  
53 six hundred six of the tax law, related to a principal residence located  
54 within such municipal corporation. If such an extension is granted, and  
55 any taxes are not paid by the final date so provided, those taxes shall

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

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

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

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

17 § 7. Subparagraph (B) of paragraph 7 of subsection (eee) of section  
18 606 of the tax law, as amended by section 1 of part G of chapter 59 of  
19 the laws of 2017, is amended to read as follows:

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

30 § 7-a. Paragraph (g) of subdivision 2 of section 425 of the real prop-  
31 erty tax law, as added by section 1 of part B of chapter 389 of the laws  
32 of 1997 and as further amended by subdivision (b) of section 1 of part W  
33 of chapter 56 of the laws of 2010, is amended to read as follows:

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

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

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

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

5 § 9. This act shall take effect immediately; provided, however, that  
6 section 3-d of the general municipal law, as added by section two of  
7 this act, shall expire and be deemed repealed on the same date and in  
8 the same manner as section 1 of part A of chapter 97 of the laws of  
9 2011, expires and is deemed repealed, and provided that section 2023-b  
10 of the education law, as added by section three of this act, shall  
11 expire and be deemed repealed on the same date and in the same manner as  
12 section 2 of part A of chapter 97 of the laws of 2011, expires and is  
13 deemed repealed, and provided further that the amendments to paragraph 6  
14 of subsection (eee) of section 606 of the tax law made by section eight  
15 of this act shall take effect immediately and shall apply to taxable  
16 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 collec-  
tively 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 Gener-  
al Municipal Law and section 2023-b of the Education Law.

17 PART F

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

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

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

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

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

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

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

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

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

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

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

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

42 (v) Such lands shall be disregarded when calculating state equaliza-  
43 tion rates and tax rates.

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

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

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

12 § 2. This act shall take effect immediately.

13 PART G

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

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

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

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

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

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

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

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

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

23 PART H

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

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

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

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

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

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



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

3 PART I

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

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

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

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

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

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

1 wage reporting and unemployment insurance return covering [~~the last~~  
2 each calendar quarter of a year, such employer shall, unless it is shown  
3 that such failure is due to reasonable cause and not due to willful  
4 neglect, pay a penalty equal to the product of fifty dollars multiplied  
5 by the number of employees for whom such information is incomplete or  
6 incorrect; provided, however, that if the number of such employees  
7 cannot be determined from the quarterly combined withholding, wage  
8 reporting and unemployment insurance return, the commissioner may  
9 utilize any information in the commissioner's possession in making such  
10 determination. The total amount of the penalty imposed pursuant to this  
11 paragraph on an employer for any such failure for [~~the last~~ each calen-  
12 dar quarter of a year shall not exceed ten thousand dollars.  
13 § 4. This act shall take effect immediately and shall apply to calen-  
14 dar quarters beginning on or after January 1, 2019.

15

## PART J

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

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

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

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

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

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

46

## PART K

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

49 § 171-z. Information sharing with the comptroller regarding unclaimed  
50 funds. 1. Notwithstanding any other law, the commissioner is authorized  
51 to release to the comptroller information regarding fixed and final  
52 unwarranted debts of taxpayers for purposes of collecting unclaimed

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

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

20 § 2. This act shall take effect immediately.

21

## PART L

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

25 2. All communications and information relating to a person receiving  
26 public assistance or care obtained by any social services official,  
27 service officer, or employee in the course of his or her work shall be  
28 considered confidential and, except as otherwise provided in this  
29 section, shall be disclosed only to the commissioner, or his or her  
30 authorized representative, the commissioner of labor, or his or her  
31 authorized representative, the commissioner of health, or his or her  
32 authorized representative, the commissioner of taxation and finance, or  
33 his or her authorized representative (other than the disclosure of  
34 information that has been prohibited by federal law), the welfare  
35 inspector general, or his or her authorized representative, the county  
36 board of supervisors, city council, town board or other board or body  
37 authorized and required to appropriate funds for public assistance and  
38 care in and for such county, city or town or its authorized represen-  
39 tative or, by authority of the county, city or town social services  
40 official, to a person or agency considered entitled to such information.  
41 Nothing herein shall preclude a social services official from report-  
42 ing to an appropriate agency or official, including law enforcement  
43 agencies or officials, known or suspected instances of physical or  
44 mental injury, sexual abuse or exploitation, sexual contact with a minor  
45 or negligent treatment or maltreatment of a child of which the official  
46 becomes aware in the administration of public assistance and care nor  
47 shall it preclude communication with the federal immigration and natur-  
48 alization service regarding the immigration status of any individual.

49 § 2. This act shall take effect immediately.

50

## PART M

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 § 7. This act shall take effect upon the enactment into law by the  
19 states of Connecticut, New Jersey, Massachusetts and Pennsylvania of  
20 legislation having substantially the same effect as this act and the  
21 enactments by such states have taken effect in each state and shall  
22 apply for taxable years beginning on or after such date; provided,  
23 however, if the states of Connecticut, New Jersey, Massachusetts and  
24 Pennsylvania have already enacted such legislation, this act shall take  
25 effect immediately and shall apply for taxable years beginning on or  
26 after January 1, 2018; provided further that the commissioner of taxa-  
27 tion and finance shall notify the legislative bill drafting commission  
28 upon the enactment of such legislation by the states of Connecticut, New  
29 Jersey, Massachusetts and Pennsylvania in order that such commission may  
30 maintain an accurate and timely effective data base of the official text  
31 of the laws of the state of New York in furtherance of effectuating the  
32 provisions of section 44 of the legislative law and section 70-b of the  
33 public officers law.

34

## PART N

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

37 § 2016. Judicial review. A decision of the tax appeals tribunal, which  
38 is not subject to any further administrative review, shall finally and  
39 irrevocably decide all the issues which were raised in proceedings  
40 before the division of tax appeals upon which such decision is based  
41 unless, within four months after notice of such decision is served by  
42 the tax appeals tribunal upon every party to the proceeding before such  
43 tribunal by certified mail or personal service, the petitioner who  
44 commenced the proceeding [~~petitions~~] or the commissioner, or both, peti-  
45 tion for judicial review in the manner provided by article seventy-eight  
46 of the civil practice law and rules, except as otherwise provided in  
47 this [~~section~~] chapter. Such service by certified mail shall be  
48 complete upon deposit of such notice, enclosed in a post-paid properly  
49 addressed wrapper, in a post office or official depository under the  
50 exclusive care and custody of the United States postal service. [~~The~~]  
51 Where the petitioner who commenced the proceeding before the division of  
52 tax appeals files a petition for judicial review, the petition shall  
53 designate the tax appeals tribunal and the commissioner [~~of taxation and~~  
54 ~~finance~~] as respondents in the proceeding for judicial review. Where

1 the commissioner files a petition for judicial review, the petition  
2 shall designate the tax appeals tribunal and the petitioner who  
3 commenced the proceeding before the division of tax appeals as respond-  
4 ents in the proceeding for judicial review. The tax appeals tribunal  
5 shall not participate in proceedings for judicial review of its deci-  
6 sions and such proceedings for judicial review shall be commenced in the  
7 appellate division of the supreme court, third department. In all other  
8 respects the provisions and standards of article seventy-eight of the  
9 civil practice law and rules shall apply. The record to be reviewed in  
10 such proceedings for judicial review shall include the determination of  
11 the administrative law judge, the decision of the tax appeals tribunal,  
12 the stenographic transcript of the hearing before the administrative law  
13 judge, the transcript of any oral proceedings before the tax appeals  
14 tribunal and any exhibit or document submitted into evidence at any  
15 proceeding in the division of tax appeals upon which such decision is  
16 based.

17 § 2. This act shall take effect immediately and shall apply to deci-  
18 sions and orders issued by the tax appeals tribunal on or after such  
19 date.

20 PART O

21 Section 1. Subparagraph (B) of paragraph 1 of subsection (b) of  
22 section 605 of the tax law, as amended by chapter 28 of the laws of  
23 1987, is amended to read as follows:

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

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

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

39 § 3. Subparagraph (B) of paragraph 1 of subdivision (b) of section  
40 11-1705 of the administrative code of the city of New York, as amended  
41 by chapter 333 of the laws of 1987, is amended to read as follows:

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

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

51 PART P

1 Section 1. Paragraph (1) of subsection (c-1) of section 606 of the tax  
2 law, as amended by section 1 of part L1 of chapter 109 of the laws of  
3 2006, is amended to read as follows:

4 (1) A resident taxpayer shall be allowed a credit as provided herein  
5 equal to the greater of one hundred dollars times the number of qualify-  
6 ing children of the taxpayer or the applicable percentage of the child  
7 tax credit allowed the taxpayer under section twenty-four of the inter-  
8 nal revenue code for the same taxable year for each qualifying child.  
9 Provided, however, in the case of a taxpayer whose federal adjusted  
10 gross income exceeds the applicable threshold amount set forth by  
11 section 24(b)(2) of the Internal Revenue Code, the credit shall only be  
12 equal to the applicable percentage of the child tax credit allowed the  
13 taxpayer under section 24 of the Internal Revenue Code for each qualify-  
14 ing child. For the purposes of this subsection, a qualifying child shall  
15 be a child who meets the definition of qualified child under section  
16 24(c) of the internal revenue code and is at least four years of age.  
17 The applicable percentage shall be thirty-three percent. For purposes  
18 of this subsection, any reference to section 24 of the Internal Revenue  
19 Code shall be a reference to such section as it existed immediately  
20 prior to the enactment of Public Law 115-97.

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

23

## PART Q

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

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

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

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

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

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



1 § 2. Paragraphs 1 and 2 of subsection (a-2) of section 606 of the tax  
2 law, as amended by section 2 of part I of chapter 60 of the laws of  
3 2016, are amended to read as follows:

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

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

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

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

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

30 § 3. Paragraphs 1 and 2 of subdivision (g-1) of section 1511 of the  
31 tax law, as amended by section 3 of part I of chapter 60 of the laws of  
32 2016, are amended to read as follows:

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

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

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

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

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

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

3 § 4. This act shall take effect immediately.

4 PART R

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

8 (c) A qualified employer shall be entitled to a tax credit equal to  
9 (1) [~~five~~ seven hundred fifty dollars per month for up to six months  
10 for each qualified employee the employer employs in a full-time job or  
11 [~~two~~ three hundred [~~fifty~~ seventy-five dollars per month for up to six  
12 months for each qualified employee the employer employs in a part-time  
13 job of at least twenty hours per week or ten hours per week when the  
14 qualified employee is enrolled in high school full-time, (2) [~~one-thou-~~  
15 ~~sand~~] fifteen hundred dollars for each qualified employee who is  
16 employed for at least an additional six consecutive months by the quali-  
17 fied employer in a full-time job or [~~five~~ seven hundred fifty dollars  
18 for each qualified employee who is employed for at least an additional  
19 six consecutive months by the qualified employer in a part-time job of  
20 at least twenty hours per week or ten hours per week when the qualified  
21 employee is enrolled in high school full-time, and (3) an additional  
22 [~~one-thousand~~] fifteen hundred dollars for each qualified employee who  
23 is employed for at least an additional year after the [~~first year of the~~  
24 ~~employee's employment~~] completion of the time periods and satisfaction  
25 of the conditions set forth in paragraphs one and two of this subdivi-  
26 sion by the qualified employer in a full-time job or [~~five~~ seven  
27 hundred fifty dollars for each qualified employee who is employed for at  
28 least an additional year after the [~~first year of the employee's employ-~~  
29 ~~ment~~] completion of the time periods and satisfaction of the conditions  
30 set forth in paragraphs one and two of this subdivision by the qualified  
31 employer in a part-time job of at least twenty hours per week or ten  
32 hours per week when the qualified employee is enrolled in high school  
33 full time. The tax credits shall be claimed by the qualified employer as  
34 specified in subdivision thirty-six of section two hundred ten-B and  
35 subsection (tt) of section six hundred six of the tax law.

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

41 (d) To participate in the program established under this section, an  
42 employer must submit an application (in a form prescribed by the commis-  
43 sioner) to the commissioner after January first, two thousand twelve but  
44 no later than November thirtieth, two thousand twelve for program one,  
45 after January first, two thousand fourteen but no later than November  
46 thirtieth, two thousand fourteen for program two, after January first,  
47 two thousand fifteen but no later than November thirtieth, two thousand  
48 fifteen for program three, after January first, two thousand sixteen but  
49 no later than November thirtieth, two thousand sixteen for program four,  
50 after January first, two thousand seventeen but no later than November  
51 thirtieth, two thousand seventeen for program five, after January first,  
52 two thousand eighteen but no later than November thirtieth, two thousand  
53 eighteen for program six, after January first, two thousand nineteen but  
54 no later than November thirtieth, two thousand nineteen for program

1 seven, after January first, two thousand twenty but no later than Novem-  
2 ber thirtieth, two thousand twenty for program eight, after January  
3 first, two thousand twenty-one but no later than November thirtieth, two  
4 thousand twenty-one for program nine, and after January first, two thou-  
5 sand twenty-two but no later than November thirtieth, two thousand twen-  
6 ty-two for program ten. The qualified employees must start their employ-  
7 ment on or after January first, two thousand twelve but no later than  
8 December thirty-first, two thousand twelve for program one, on or after  
9 January first, two thousand fourteen but no later than December thirty-  
10 first, two thousand fourteen for program two, on or after January first,  
11 two thousand fifteen but no later than December thirty-first, two thou-  
12 sand fifteen for program three, on or after January first, two thousand  
13 sixteen but no later than December thirty-first, two thousand sixteen  
14 for program four, on or after January first, two thousand seventeen but  
15 no later than December thirty-first, two thousand seventeen for program  
16 five, on or after January first, two thousand eighteen but no later than  
17 December thirty-first, two thousand eighteen for program six, on or  
18 after January first, two thousand nineteen but no later than December  
19 thirty-first, two thousand nineteen for program seven, on or after Janu-  
20 ary first, two thousand twenty but no later than December thirty-first,  
21 two thousand twenty for program eight, on or after January first, two  
22 thousand twenty-one but no later than December thirty-first, two thou-  
23 sand twenty-one for program nine, and on or after January first, two  
24 thousand twenty-two but no later than December thirty-first, two thou-  
25 sand twenty-two for program ten. [~~The commissioner shall establish  
26 guidelines and criteria that specify requirements for employers to  
27 participate in the program including criteria for certifying qualified  
28 employees, ensuring that the process established will minimize any undue  
29 delay in issuing the certificate of eligibility. Any regulations that  
30 the commissioner determines are necessary may be adopted on an emergency  
31 basis notwithstanding anything to the contrary in section two hundred  
32 two of the state administrative procedure act. Such requirements may  
33 include the types of industries that the employers are engaged in. The  
34 commissioner may give preference to employers that are engaged in demand  
35 occupations or industries, or in regional growth sectors, including but  
36 not limited to those identified by the regional economic development  
37 councils, such as clean energy, healthcare, advanced manufacturing and  
38 conservation. In addition, the commissioner shall give preference to  
39 employers who offer advancement and employee benefit packages to the  
40 qualified individuals.] As part of such application, an employer must:~~

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

45 (2) allow the commissioner and its agents and the department of taxa-  
46 tion and finance and its agents access to any and all books and records  
47 of employees the commissioner may require to monitor compliance.

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

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

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

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

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

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

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

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

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

32 (iv) A unique certificate number identifying the annual final certif-  
33 icate of tax credit.

34 (e-2) In determining the amount of credit for purposes of the annual  
35 final certificate of tax credit, the portion of the credit described in  
36 paragraph one of subdivision (c) of this section shall be allowed for  
37 the calendar year in which the wages are paid to the qualified employee,  
38 the portion of the credit described in paragraph two of subdivision (c)  
39 of this section shall be allowed for the calendar year in which the  
40 additional six consecutive month period ends, and the portion of the  
41 credit described in paragraph three of subdivision (c) of this section  
42 shall be allowed for the calendar year in which the additional year of  
43 consecutive employment ends after the completion of the time periods and  
44 satisfaction of the conditions set forth in paragraphs one and two of  
45 subdivision (c) of this section. If the qualified employer's taxable  
46 year is a calendar year, the employer shall be entitled to claim the  
47 credit as calculated on the annual final certificate of tax credit on  
48 the calendar year return for which the annual final certificate of tax  
49 credit was issued. If the qualified employer's taxable year is a fiscal  
50 year, the employer shall be entitled to claim the credit as calculated  
51 on the annual final certificate of tax credit on the return for the  
52 fiscal year that encompasses the date on which the annual final certif-  
53 icate of tax credit is issued.

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

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

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

16 (a) A taxpayer that has been certified by the commissioner of labor as  
17 a qualified employer pursuant to section twenty-five-a of the labor law  
18 shall be allowed a credit against the tax imposed by this article equal  
19 to (i) [~~five~~] seven hundred fifty dollars per month for up to six months  
20 for each qualified employee the employer employs in a full-time job or  
21 [~~two~~] three hundred [~~fifty~~] seventy-five dollars per month for up to six  
22 months for each qualified employee the employer employs in a part-time  
23 job of at least twenty hours per week or ten hours per week when the  
24 qualified employee is enrolled in high school full-time, (ii) [~~one thou-~~  
25 ~~sand~~] fifteen hundred dollars for each qualified employee who is  
26 employed for at least an additional six consecutive months by the quali-  
27 fied employer in a full-time job or [~~five~~] seven hundred fifty dollars  
28 for each qualified employee who is employed for at least an additional  
29 six consecutive months by the qualified employer in a part-time job of  
30 at least twenty hours per week or ten hours per week when the qualified  
31 employee is enrolled in high school full-time, and (iii) an additional  
32 [~~one thousand~~] fifteen hundred dollars for each qualified employee who  
33 is employed for at least an additional year after the [~~first year of the~~  
34 ~~employee's employment~~] completion of the time periods and satisfaction  
35 of the conditions set forth in subparagraphs (i) and (ii) of this para-  
36 graph by the qualified employer in a full-time job or [~~five~~] seven  
37 hundred fifty dollars for each qualified employee who is employed for at  
38 least an additional year after the [~~first year of the employee's employ-~~  
39 ~~ment~~] completion of the time periods and satisfaction of the conditions  
40 set forth in subparagraphs (i) and (ii) of this paragraph by the quali-  
41 fied employer in a part-time job of at least twenty hours per week or  
42 ten hours per week when the qualified employee is enrolled in high  
43 school full-time. For purposes of this subdivision, the term "qualified  
44 employee" shall have the same meaning as set forth in subdivision (b) of  
45 section twenty-five-a of the labor law. The portion of the credit  
46 described in subparagraph (i) of this paragraph shall be allowed for the  
47 taxable year in which the wages are paid to the qualified employee, the  
48 portion of the credit described in subparagraph (ii) of this paragraph  
49 shall be allowed in the taxable year in which the additional six month  
50 period ends, and the portion of the credit described in subparagraph  
51 (iii) of this paragraph shall be allowed in the taxable year in which  
52 the additional year after the first year of employment ends.

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

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

1 and received an annual final certificate of tax credit from such commis-  
2 sioner shall be allowed a credit against the tax imposed by this article  
3 equal to [~~(i) seven hundred fifty dollars per month for up to six months~~  
4 ~~for each qualified employee the employer employs in a full-time job or~~  
5 ~~three hundred seventy five dollars per month for up to six months for~~  
6 ~~each qualified employee the employer employs in a part-time job of at~~  
7 ~~least twenty hours per week or ten hours per week when the qualified~~  
8 ~~employee is enrolled in high school full-time, (ii) fifteen hundred~~  
9 ~~dollars for each qualified employee who is employed for at least an~~  
10 ~~additional six consecutive months by the qualified employer in a full-~~  
11 ~~time job or seven hundred fifty dollars for each qualified employee who~~  
12 ~~is employed for at least an additional six consecutive months by the~~  
13 ~~qualified employer in a part-time job of at least twenty hours per week~~  
14 ~~or ten hours per week when the qualified employee is enrolled in high~~  
15 ~~school full-time, and (iii) an additional fifteen hundred dollars for~~  
16 ~~each qualified employee who is employed for at least an additional year~~  
17 ~~after the completion of the time periods and satisfaction of the condi-~~  
18 ~~tions set forth in subparagraphs (i) and (ii) of this paragraph by the~~  
19 ~~qualified employer in a full-time job or seven hundred fifty dollars for~~  
20 ~~each qualified employee who is employed for at least an additional year~~  
21 ~~after the completion of the time periods and satisfaction of the condi-~~  
22 ~~tions set forth in subparagraphs (i) and (ii) of this paragraph by the~~  
23 ~~qualified employer in a part-time job of at least twenty hours per week~~  
24 ~~or ten hours per week when the qualified employee is enrolled in high~~  
25 ~~school full-time. For purposes of this subdivision, the term "qualified~~  
26 ~~employee" shall have the same meaning as set forth in subdivision (b) of~~  
27 ~~section twenty five a of the labor law. The portion of the credit~~  
28 ~~described in subparagraph (i) of this paragraph shall be allowed for the~~  
29 ~~taxable year in which the wages are paid to the qualified employee, the~~  
30 ~~portion of the credit described in subparagraph (ii) of this paragraph~~  
31 ~~shall be allowed in the taxable year in which the additional six month~~  
32 ~~period ends, and the portion of the credit described in subparagraph~~  
33 ~~(iii) of this paragraph shall be allowed in the taxable year in which~~  
34 ~~the additional year after the first year of employment ends] the amount  
35 listed on the annual final certificate of tax credit issued by the  
36 commissioner of labor pursuant to section twenty-five-a of the labor  
37 law. If the qualified employer's taxable year is a calendar year, the  
38 employer shall be entitled to claim the credit as calculated on the  
39 annual final certificate of tax credit on the calendar year return for  
40 which the annual final certificate of tax credit was issued. If the  
41 qualified employer's taxable year is a fiscal year, the employer shall  
42 be entitled to claim the credit as calculated on the annual final  
43 certificate of tax credit on the return for the fiscal year that encom-  
44 passes the date on which the annual final certificate of tax credit is  
45 issued. For the purposes of this subdivision, the term "qualified  
46 employee" shall have the same meaning as set forth in subdivision (b) of  
47 section twenty-five-a of the labor law.~~

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

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

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

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

11 (1) A taxpayer that has been certified by the commissioner of labor as  
12 a qualified employer pursuant to section twenty-five-a of the labor law  
13 shall be allowed a credit against the tax imposed by this article equal  
14 to (A) [~~five~~] seven hundred fifty dollars per month for up to six months  
15 for each qualified employee the employer employs in a full-time job or  
16 [~~two~~] three hundred [~~fifty~~] seventy-five dollars per month for up to six  
17 months for each qualified employee the employer employs in a part-time  
18 job of at least twenty hours per week or ten hours per week when the  
19 qualified employee is enrolled in high school full-time, and (B) [~~one~~  
20 ~~thousand~~] fifteen hundred dollars for each qualified employee who is  
21 employed for at least an additional six consecutive months by the quali-  
22 fied employer in a full-time job or [~~five~~] seven hundred fifty dollars  
23 for each qualified employee who is employed for at least an additional  
24 six consecutive months by the qualified employer in a part-time job of  
25 at least twenty hours per week or ten hours per week when the qualified  
26 employee is enrolled in high school full-time, and (C) an additional  
27 [~~one thousand~~] fifteen hundred dollars for each qualified employee who  
28 is employed for at least an additional year after the [~~first year of the~~  
29 ~~employee's employment~~] completion of the time periods and satisfaction  
30 of the conditions set forth in subparagraphs A and B of this subsection  
31 by the qualified employer in a full-time job or [~~five~~] seven hundred  
32 fifty dollars for each qualified employee who is employed for at least  
33 an additional year after the [~~first year of the employee's employment~~]  
34 completion of the time periods and satisfaction of the conditions set  
35 forth in subparagraphs A and B of this subsection by the qualified  
36 employer in a part-time job of at least twenty hours per week or ten  
37 hours per week when the qualified employee is enrolled in high school  
38 full-time. A taxpayer that is a partner in a partnership, member of a  
39 limited liability company or shareholder in an S corporation that has  
40 been certified by the commissioner of labor as a qualified employer  
41 pursuant to section twenty-five-a of the labor law shall be allowed its  
42 pro rata share of the credit earned by the partnership, limited liabil-  
43 ity company or S corporation. For purposes of this subsection, the term  
44 "qualified employee" shall have the same meaning as set forth in subdi-  
45 vision (b) of section twenty-five-a of the labor law. The portion of the  
46 credit described in subparagraph (A) of this paragraph shall be allowed  
47 for the taxable year in which the wages are paid to the qualified  
48 employee, the portion of the credit described in subparagraph (B) of  
49 this paragraph shall be allowed in the taxable year in which the addi-  
50 tional six month period ends, and the portion of the credit described in  
51 subparagraph (C) of this paragraph shall be allowed in the taxable year  
52 in which the additional year after the first year of employment ends.

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

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

1 and received an annual final certificate of tax credit from such commis-  
2 sioner shall be allowed a credit against the tax imposed by this article  
3 equal to [~~(A) seven hundred fifty dollars per month for up to six months~~  
4 ~~for each qualified employee the employer employs in a full-time job or~~  
5 ~~three hundred seventy five dollars per month for up to six months for~~  
6 ~~each qualified employee the employer employs in a part-time job of at~~  
7 ~~least twenty hours per week or ten hours per week when the qualified~~  
8 ~~employee is enrolled in high school full-time, and (B) fifteen hundred~~  
9 ~~dollars for each qualified employee who is employed for at least an~~  
10 ~~additional six consecutive months by the qualified employer in a full-~~  
11 ~~time job or seven hundred fifty dollars for each qualified employee who~~  
12 ~~is employed for at least an additional six consecutive months by the~~  
13 ~~qualified employer in a part-time job of at least twenty hours per week~~  
14 ~~or ten hours per week when the qualified employee is enrolled in high~~  
15 ~~school full-time, and (C) an additional fifteen hundred dollars for each~~  
16 ~~qualified employee who is employed for at least an additional year after~~  
17 ~~the completion of the time periods and satisfaction of the conditions~~  
18 ~~set forth in subparagraphs A and B of this subsection by the qualified~~  
19 ~~employer in a full-time job or seven hundred fifty dollars for each~~  
20 ~~qualified employee who is employed for at least an additional year after~~  
21 ~~the completion of the time periods and satisfaction of the conditions~~  
22 ~~set forth in subparagraphs A and B of this subsection by the qualified~~  
23 ~~employer in a part-time job of at least twenty hours per week or ten~~  
24 ~~hours per week when the qualified employee is enrolled in high school~~  
25 ~~full-time]~~ the amount listed on the annual final certificate of tax  
26 credit issued by the commissioner of labor pursuant to section twenty-  
27 five-a of the labor law. A taxpayer that is a partner in a partnership,  
28 member of a limited liability company or shareholder in an S corporation  
29 that has [~~been certified by~~] received its annual final certificate of  
30 tax credit from the commissioner of labor as a qualified employer pursu-  
31 ant to section twenty-five-a of the labor law shall be allowed its pro  
32 rata share of the credit earned by the partnership, limited liability  
33 company or S corporation. [~~For purposes of this subsection, the term~~  
34 ~~"qualified employee" shall have the same meaning as set forth in subdi-~~  
35 ~~vision (b) of section twenty-five a of the labor law. The portion of the~~  
36 ~~credit described in subparagraph (A) of this paragraph shall be allowed~~  
37 ~~for the taxable year in which the wages are paid to the qualified~~  
38 ~~employee, the portion of the credit described in subparagraph (B) of~~  
39 ~~this paragraph shall be allowed in the taxable year in which the addi-~~  
40 ~~tional six month period ends, and the portion of the credit described in~~  
41 ~~subparagraph (C) of this paragraph shall be allowed in the taxable year~~  
42 ~~in which the additional year after the first year of employment ends.]~~  
43 If the qualified employer's taxable year is a calendar year, the employ-  
44 er shall be entitled to claim the credit as calculated on the annual  
45 final certificate of tax credit on the calendar year return for which  
46 the annual final certificate of tax credit was issued. If the qualified  
47 employer's taxable year is a fiscal year, the employer shall be entitled  
48 to claim the credit as calculated on the annual final certificate of tax  
49 credit on the return for the fiscal year that encompasses the date on  
50 which the annual final certificate of tax credit is issued. For the  
51 purposes of this subsection, the term "qualified employee" shall have  
52 the same meaning as set forth in subdivision (b) of section  
53 twenty-five-a of the labor law.

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



1 (3) The taxpayer [~~may~~] shall be required to attach to its tax return  
2 its annual final certificate of [~~eligibility~~] tax credit issued by the  
3 commissioner of labor pursuant to section twenty-five-a of the labor  
4 law. In no event shall the taxpayer be allowed a credit greater than the  
5 amount of the credit listed on the annual final certificate of [~~eligi-~~  
6 ~~bility~~] tax credit. Notwithstanding any provision of this chapter to the  
7 contrary, the commissioner and the commissioner's designees may release  
8 the names and addresses of any taxpayer claiming this credit and the  
9 amount of the credit earned by the taxpayer. Provided, however, if a  
10 taxpayer claims this credit because it is a member of a limited liabil-  
11 ity company, a partner in a partnership, or a shareholder in a subchap-  
12 ter S corporation, only the amount of credit earned by the entity and  
13 not the amount of credit claimed by the taxpayer may be released.

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

21

## PART S

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

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

35 (b) To determine the amount of each tax credit allowed for the taxable  
36 year to be used, refunded or credited as an overpayment the taxpayer  
37 shall multiply the amount of each credit subject to deferral that would  
38 have been used, refunded or credited as an overpayment in the absence of  
39 this section by a fraction, the numerator of which is two million  
40 dollars, and the denominator of which is the total amount of the taxpay-  
41 er's credits subject to deferral pursuant to subdivision three of this  
42 section that would have been used, refunded or credited as an overpay-  
43 ment for the taxable year in the absence of this section. The product is  
44 the amount of such credit that is not subject to deferral and thus  
45 allowed to be used, refunded or credited as an overpayment for the taxa-  
46 ble year.

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

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

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

19 Section [~~210(12)~~] 210-B(1) investment tax credit  
 20 Section [~~210(12-B)~~] 210-B(3) empire zone investment tax credit  
 21 Section [~~210(12-C)~~] 210-B(4) empire zone employment incentive credit  
 22 Section [~~210(12-D)~~] 210-B(2) employment incentive credit  
 23 Section [~~210(12-E)~~] 210-B(7) QETC employment credit  
 24 Section [~~210(12-F)~~] 210-B(8) QETC capital tax credit  
 25 [~~Section 210(12-G) QETC facilities, operations, and training credit~~]  
 26 Section [~~210(17)~~] 210-B(9) special additional mortgage recording tax  
 27 credit  
 28 [~~Section 210(19) empire zone wage tax credit~~  
 29 ~~Section 210(20) empire zone capital tax credit~~]  
 30 Section [~~210(21-a)~~] 210-B(10) credit for servicing certain mortgages  
 31 Section [~~210(23)~~] 210-B(12) credit for employment of persons with  
 32 disabilities  
 33 Section [~~210(24)~~] 210-B(30) alternative fuels and electric vehicle  
 34 recharging property credit  
 35 Section [~~210(25)~~] 210-B(13) credit for purchase of an automated  
 36 external defibrillator  
 37 Section [~~210(27)~~] 210-B(5) QEZE credit for real property taxes  
 38 Section [~~210(28)~~] 210-B(6) QEZE tax reduction credit  
 39 Section [~~210(30)~~] 210-B(15) low income housing credit  
 40 Section [~~210(31)~~] 210-B(16) green building credit  
 41 Section [~~210(33)~~] 210-B(17) brownfield redevelopment tax credit  
 42 Section [~~210(34)~~] 210-B(18) remediated brownfield credit for real  
 43 property taxes for qualified sites  
 44 Section [~~210(35)~~] 210-B(19) environmental remediation insurance credit  
 45 Section [~~210(37)~~] 210-B(21) security training tax credit  
 46 [~~Section 210(37) credit for fuel cell electric generating equipment~~  
 47 ~~expenditures~~]  
 48 Section [~~210(38)~~] 210-B(22) conservation easement tax credit  
 49 [~~Section 210(38) empire state commercial production credit~~]  
 50 Section [~~210(38)~~] 210-B(24) biofuel production credit  
 51 Section [~~210(39)~~] 210-B(25) clean heating fuel credit  
 52 Section [~~210(40)~~] 210-B(26) credit for rehabilitation of historic  
 53 properties  
 54 Section [~~210(40)~~] 210-B(38) credit for companies who provide transpor-  
 55 tation to individuals with disabilities  
 56 Section 210-B(11) agricultural property tax credit

1 Section 210-B(35) economic transformation and facility redevelopment  
2 credit

3 Section 210-B(39) alcoholic beverage production credit

4 Section 210-B(40) minimum wage reimbursement credit

5 Section 210-B(41) the tax-free NY area tax elimination credit

6 Section 210-B(43) real property tax credit for manufacturers

7 Section 210-B(44) the tax-free NY area excise tax on telecommunication  
8 services credit

9 Section 210-B(47) musical and theatrical production credit

10 Section 210-B(48) workers with disabilities tax credit

11 Section 210-B(51) farm workforce retention credit

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

14 [~~Section 186-a(9) power for jobs credit~~]

15 Section 606(g-1) solar energy system equipment credit

16 Section 606(pp) historic homeownership rehabilitation credit

17 Section 1511(k) credit for certain investments in certified capital  
18 companies

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

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

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

53 § 3. This act shall take effect immediately.

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

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

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

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

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

24 PART U

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

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

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

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

42 PART V

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

46 (A) gas, electricity, refrigeration and steam, and gas, electric,  
47 refrigeration and steam service of whatever nature, including the trans-  
48 portation, transmission or distribution of gas or electricity, even if  
49 sold separately;

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

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

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

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

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

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

23 PART W

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

26 (f) (1) Services rendered by a veterinarian licensed and registered as  
27 required by the education law which constitute the practice of veteri-  
28 nary medicine as defined in said law, including hospitalization for  
29 which no separate boarding charge is made, shall not be subject to tax  
30 under paragraph (3) of subdivision (c) of section eleven hundred five,  
31 but the exemption allowed by this subdivision shall not apply to other  
32 services provided by a veterinarian to pets and other animals, includ-  
33 ing, but not limited to, boarding, grooming and clipping. Articles of  
34 tangible personal property designed for use in some manner relating to  
35 domestic animals or poultry, when sold by such a veterinarian, shall not  
36 be subject to tax under subdivision (a) of section eleven hundred five  
37 or under section eleven hundred ten. However, the sale of any such arti-  
38 cles of tangible personal property to a veterinarian shall not be deemed  
39 a sale for resale within the meaning of [~~paragraph~~] paragraph (4) of  
40 subdivision (b) of section eleven hundred one and shall not be exempt  
41 from retail sales tax.

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

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

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

1 the sale or use of tangible personal property if the purchaser or user,  
2 in the performance of a contract, later incorporates that tangible  
3 personal property into real property located outside this state, (2) on  
4 the sale or use of tangible personal property purchased in bulk, or any  
5 portion thereof, which is stored and not used by the purchaser or user  
6 within this state if that property is subsequently reshipped by such  
7 purchaser or user to a point outside this state for use outside this  
8 state, (3) on the sale to or use by a contractor or subcontractor of  
9 tangible personal property if that property is used by him solely in the  
10 performance of a pre-existing lump sum or unit price construction  
11 contract, (4) on the sale or use within this state of tangible personal  
12 property, not purchased for resale, if the use of such property in this  
13 state is restricted to fabricating such property (including incorporat-  
14 ing it into or assembling it with other tangible personal property),  
15 processing, printing or imprinting such property and such property is  
16 then shipped to a point outside this state for use outside this state,  
17 [~~(5) on the sale to or use by a veterinarian of drugs or medicine if~~  
18 ~~such drugs or medicine are used by such veterinarian in rendering~~  
19 ~~services, which are exempt pursuant to subdivision (f) of section eleven~~  
20 ~~hundred fifteen of this chapter, to livestock or poultry used in the~~  
21 ~~production for sale of tangible personal property by farming or if such~~  
22 ~~drugs or medicine are sold to a person qualifying for the exemption~~  
23 ~~provided for in paragraph (6) of subdivision (a) of section eleven~~  
24 ~~hundred fifteen of this chapter for use by such person on such livestock~~  
25 ~~or poultry,~~] or (6) on the sale of tangible personal property purchased  
26 for use in constructing, expanding or rehabilitating industrial or  
27 commercial real property (other than property used or to be used exclu-  
28 sively by one or more registered vendors primarily engaged in the retail  
29 sale of tangible personal property) located in an area designated as an  
30 empire zone pursuant to article eighteen-B of the general municipal law,  
31 but only to the extent that such property becomes an integral component  
32 part of the real property. (For the purpose of clause (3) of the preced-  
33 ing sentence, the term "pre-existing lump sum or unit price construction  
34 contract" shall mean a contract for the construction of improvements to  
35 real property under which the amount payable to the contractor or  
36 subcontractor is fixed without regard to the costs incurred by him in  
37 the performance thereof, and which (i) was irrevocably entered into  
38 prior to the date of the enactment of this article or the enactment of a  
39 law increasing the rate of tax imposed under this article, or (ii)  
40 resulted from the acceptance by a governmental agency of a bid accompa-  
41 nied by a bond or other performance guaranty which was irrevocably  
42 submitted prior to such date.) Where the tax on the sale or use of such  
43 tangible personal property has been paid to the vendor, to qualify for  
44 such refund or credit, such tangible personal property must be incorpo-  
45 rated into real property as required in clause (1) above, reshipped as  
46 required in clause (2) above, used in the manner described in clauses  
47 (3), (4)[~~7-(5)~~] and (6) above within three years after the date such tax  
48 was payable to the tax commission by the vendor pursuant to section  
49 eleven hundred thirty-seven. Where the tax on the sale or use of such  
50 tangible personal property was paid by the applicant for the credit or  
51 refund directly to the tax commission, to qualify for such refund or  
52 credit, such tangible personal property must be incorporated into real  
53 property as required in clause (1) above, reshipped as required in  
54 clause (2) above, used in the manner described in clauses (3), (4)[~~7~~  
55 ~~(5)~~] and (6) above within three years after the date such tax was paya-  
56 ble to the tax commission by such applicant pursuant to this article. An

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

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

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

31 PART X

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

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

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

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

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

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

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



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

12 § 3. This act shall take effect immediately.

13 PART Y

14 Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax  
 15 law, as amended by section 1 of part II of chapter 59 of the laws of  
 16 2014, is amended to read as follows:

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

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

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

44 PART Z

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

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

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

5 § 2. Section 2 of subpart Z of part A of chapter 61 of the laws of  
6 2017, amending the tax law relating to the imposition of sales and  
7 compensating use taxes by the county of Monroe, is amended to read as  
8 follows:

9 § 2. Notwithstanding the provisions of subdivisions (b) and (c) of  
10 section 1262 and section 1262-g of the tax law, net collections, as such  
11 term is defined in section 1262 of the tax law, derived from the imposi-  
12 tion of sales and compensating use taxes by the county of Monroe at the  
13 additional rate of one percent as authorized pursuant to clause (25) of  
14 subparagraph (i) of the opening paragraph of section 1210 of the tax  
15 law, as amended by section one of this act, which are in addition to the  
16 current net collections derived from the imposition of such taxes at the  
17 three percent rate authorized by the opening paragraph of section 1210  
18 of the tax law, shall be distributed and allocated as follows: for the  
19 period of December 1, 2017 through November 30, [~~2019~~ 2020 in cash,  
20 five percent to the school districts in the area of the county outside  
21 the city of Rochester, three percent to the towns located within the  
22 county, one and one-quarter percent to the villages located within the  
23 county, and ninety and three-quarters percent to the city of Rochester  
24 and county of Monroe. The amount of the ninety and three-quarters  
25 percent to be distributed and allocated to the city of Rochester and  
26 county of Monroe shall be distributed and allocated to each so that the  
27 combined total distribution and allocation to each from the sales tax  
28 revenues pursuant to sections 1262 and 1262-g of the tax law and this  
29 section shall result in the same total amount being distributed and  
30 allocated to the city of Rochester and county of Monroe. The amount so  
31 distributed and allocated to the county shall be used for county  
32 purposes. The foregoing cash payments to the school districts shall be  
33 allocated on the basis of the enrolled public school pupils, thereof, as  
34 such term is used in subdivision (b) of section 1262 of the tax law,  
35 residing in the county of Monroe. The cash payments to the towns located  
36 within the county of Monroe shall be allocated on the basis of the ratio  
37 which the population of each town, exclusive of the population of any  
38 village or portion thereof located within a town, bears to the total  
39 population of the towns, exclusive of the population of the villages  
40 located within such towns. The cash payments to the villages located  
41 within the county shall be allocated on the basis of the ratio which the  
42 population of each village bears to the total population of the villages  
43 located within the county. The term population as used in this section  
44 shall have the same meaning as used in subdivision (b) of section 1262  
45 of the tax law.

46 § 3. Section 3 of subpart EE of part A of chapter 61 of the laws of  
47 2017, amending the tax law relating to extending the authorization of  
48 the county of Onondaga to impose an additional rate of sales and compen-  
49 sating use taxes, is amended to read as follows:

50 § 3. Notwithstanding any contrary provision of law, net collections  
51 from the additional one percent rate of sales and compensating use taxes  
52 which may be imposed by the county of Onondaga during the period  
53 commencing December 1, 2018 and ending November 30, [~~2019~~ 2020, pursu-  
54 ant to the authority of section 1210 of the tax law, shall not be  
55 subject to any revenue distribution agreement entered into under subdivi-  
56 sion (c) of section 1262 of the tax law, but shall be allocated and

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

5 § 4. Section 2 of subpart GG of part A of chapter 61 of the laws of  
6 2017, amending the tax law relating to extending the authority of the  
7 county of Orange to impose an additional rate of sales and compensating  
8 use taxes, is amended to read as follows:

9 § 2. Notwithstanding subdivision (c) of section 1262 of the tax law,  
10 net collections from any additional rate of sales and compensating use  
11 taxes which may be imposed by the county of Orange during the period  
12 commencing December 1, 2017, and ending November 30, [~~2019~~ 2020, pursu-  
13 ant to the authority of section 1210 of the tax law, shall be paid to  
14 the county of Orange and shall be used by such county solely for county  
15 purposes and shall not be subject to any revenue distribution agreement  
16 entered into pursuant to the authority of subdivision (c) of section  
17 1262 of the tax law.

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

20 PART AA

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

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

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

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

53 § 2. Subdivision 1 of section 1131 of the tax law, as amended by chap-  
54 ter 576 of the laws of 1994, is amended to read as follows:

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

21 § 3. Section 1132 of the tax law is amended by adding a new subdivi-  
22 sion (1) to read as follows:

23 (1)(1) A marketplace provider with respect to a sale of tangible  
24 personal property it facilitates: (i) shall have all the obligations and  
25 rights of a vendor under this article and article twenty-nine of this  
26 chapter and under any regulations adopted pursuant thereto, including,  
27 but not limited to, the duty to obtain a certificate of authority, to  
28 collect tax, file returns, remit tax, and the right to accept a certifi-  
29 cate or other documentation from a customer substantiating an exemption  
30 or exclusion from tax, the right to receive the refund authorized by  
31 subdivision (e) of this section and the credit allowed by subdivision  
32 (f) of section eleven hundred thirty-seven of this part subject to the  
33 provisions of such subdivisions; and (ii) shall keep such records and  
34 information and cooperate with the commissioner to ensure the proper  
35 collection and remittance of tax imposed, collected or required to be  
36 collected under this article and article twenty-nine of this chapter.

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

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

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

22 § 4. Section 1133 of the tax law is amended by adding a new subdivi-  
23 sion (f) to read as follows:

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

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

35 (4) The return of a vendor of tangible personal property or services  
36 shall show such vendor's receipts from sales and the number of gallons  
37 of any motor fuel or diesel motor fuel sold and also the aggregate value  
38 of tangible personal property and services and number of gallons of such  
39 fuels sold by the vendor, the use of which is subject to tax under this  
40 article, and the amount of tax payable thereon pursuant to the  
41 provisions of section eleven hundred thirty-seven of this part. The  
42 return of a recipient of amusement charges shall show all such charges  
43 and the amount of tax thereon, and the return of an operator required to  
44 collect tax on rents shall show all rents received or charged and the  
45 amount of tax thereon. The return of a marketplace seller shall exclude  
46 the receipts from a sale of tangible personal property facilitated by a  
47 marketplace provider if, in regard to such sale: (A) the marketplace  
48 seller has timely received in good faith a properly completed certifi-  
49 cate of collection from the marketplace provider or the marketplace  
50 provider has included a provision approved by the commissioner in the  
51 publicly-available agreement between themselves and such marketplace  
52 seller as described in subdivision (1) of section eleven hundred thir-  
53 ty-two of this part, and (B) the information provided by the marketplace  
54 seller to the marketplace provider about such tangible personal property  
55 is accurate.

1 § 6. Section 1142 of the tax law is amended by adding two new subdivi-  
2 sions 15 and 16 to read as follows:

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

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

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

21 § 1135-a. Reporting requirements. (a) (1) The following definitions  
22 apply to the taxes imposed by this article and pursuant to the authority  
23 of article twenty-nine of this chapter:

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

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

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

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

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

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

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

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

5 (C) Except as provided in paragraphs four and five of this subdivi-  
6 sion, a non-collecting seller shall provide an annual statement of  
7 purchases to each New York purchaser for purchases of tangible personal  
8 property delivered to a location in this state from such seller during  
9 the calendar year covered by the statement. Such annual statement shall  
10 include: (i) a statement that sales or use tax was not collected on the  
11 purchaser's transactions in the prior calendar year and that the  
12 purchaser may be required to remit such tax directly to the commis-  
13 sioner; (ii) a list of transactions entered into during the prior calendar  
14 year by such purchaser for delivery to a location into this state show-  
15 ing, the date of each purchase, a general description of each item  
16 purchased, and the amount paid for each item, including any shipping or  
17 delivery charges; (iii) instructions for obtaining additional informa-  
18 tion regarding whether and how to remit the sales or use tax to the  
19 commissioner; and (iv) a statement that such sellers may be required to  
20 annually report the aggregate dollar value of the purchaser's purchases  
21 to the commissioner. Such statement shall be sent to each New York  
22 purchaser on or before January thirty-first of each year, starting in  
23 the year two thousand twenty, covering sales made in the prior calendar  
24 year. Such statement shall be sent by mail in an envelope bearing the  
25 statement "important tax information" to the New York purchaser's last  
26 known address as defined by subparagraph (D) of paragraph one of this  
27 subdivision, unless the purchaser's last known address is an e-mail  
28 address, in which case the statement is to be sent by e-mail, the  
29 subject line of which shall state "important tax information".

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

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

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

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

1 regard to a particular sale of tangible personal property subject to tax  
2 under subdivision (a) of section eleven hundred five of this article if,  
3 the non-collecting seller can show that such sale was facilitated by:  
4 (A) a marketplace provider from whom such non-collecting seller has  
5 received in good faith a properly completed certificate of collection as  
6 described in paragraph two of subdivision (1) of section eleven hundred  
7 thirty-two of this part; or (B) a non-collecting marketplace provider  
8 who fulfilled the requirements of subparagraphs (B), (C) and (D) of  
9 paragraph two of this subdivision on its behalf.

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

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

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

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

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

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

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

40 (i)(1) Every person required to file an information return by section  
41 eleven hundred thirty-five-a or subdivision (i) of section eleven  
42 hundred thirty-six of this part, or an annual statement or notice  
43 required by section eleven hundred thirty-five-a of this part who [~~(A)~~]  
44 fails to provide any of the information required [~~by paragraph one or~~  
45 ~~two of subdivision (i) of section eleven hundred thirty-six of this part~~  
46 ~~for a vendor, operator, or recipient~~] to be provided in such information  
47 return or notice, or who fails to perform the requirements of paragraph  
48 two of subdivision (b) of section eleven hundred thirty-five-a of this  
49 part, or who fails to include any such information that is true and  
50 correct [~~(whether or not such a report is filed) for a vendor, operator,~~  
51 ~~or recipient, or (B) fails to provide the information required by para-~~  
52 ~~graph four of subdivision (i) of section eleven hundred thirty-six of~~  
53 ~~this part to a vendor, operator, or recipient specified in paragraph~~  
54 ~~four of subdivision (i) of section eleven hundred thirty-six of this~~  
55 ~~part~~], will, in addition to any other penalty provided in this article  
56 or otherwise imposed by law, be subject to a penalty of five hundred



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

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

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

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

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

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

40 PART BB

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

44 2. "Tobacco products." Any cigar, including [~~a~~] little [~~cigar~~] cigars,  
45 vapor products, or tobacco, other than cigarettes, intended for consump-  
46 tion by smoking, chewing, inhaling vapors or as snuff.

47 § 2. Subdivision 12 of section 470 of the tax law, as added by chapter  
48 61 of the laws of 1989, is amended to read as follows:

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

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

3 § 3. Section 470 of the tax law is amended by adding a new subdivision  
4 20 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

17 § 8. Subdivision 3 of section 474 of the tax law, as added by chapter  
18 61 of the laws of 1989, is amended to read as follows:

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

33 § 9. Subparagraph (i) of paragraph (b) of subdivision 1 of section 481  
34 of the tax law, as amended by section 1 of part 0 of chapter 59 of the  
35 laws of 2013, is amended to read as follows:

36 (i) In addition to any other penalty imposed by this article, the  
37 commissioner may (A) impose a penalty of not more than six hundred  
38 dollars for each two hundred cigarettes, or fraction thereof, in excess  
39 of one thousand cigarettes in unstamped or unlawfully stamped packages  
40 in the possession or under the control of any person or (B) impose a  
41 penalty of not more than two hundred dollars for each ten unaffixed  
42 false, altered or counterfeit cigarette tax stamps, imprints or  
43 impressions, or fraction thereof, in the possession or under the control  
44 of any person. In addition, the commissioner may impose a penalty of not  
45 more than seventy-five dollars for each fifty cigars [~~or~~] one pound of  
46 tobacco[~~7~~] or one hundred milliliters of vapor product, or fraction  
47 thereof, in excess of two hundred fifty cigars [~~or~~], five pounds of  
48 tobacco or five hundred milliliters of vapor product in the possession  
49 or under the control of any person and a penalty of not more than one  
50 hundred fifty dollars for each fifty cigars [~~or~~], pound of tobacco or  
51 one hundred milliliters of vapor product, or fraction thereof, in excess  
52 of five hundred cigars [~~or~~], ten pounds of tobacco or one thousand  
53 milliliters of vapor product in the possession or under the control of  
54 any person, with respect to which the tobacco products tax has not been  
55 paid or assumed by a distributor or tobacco products dealer; provided,  
56 however, that any such penalty imposed shall not exceed seven thousand

1 five hundred dollars in the aggregate. The commissioner may impose a  
2 penalty of not more than seventy-five dollars for each fifty cigars  
3 [~~or~~], one pound of tobacco or one hundred milliliters of vapor product,  
4 or fraction thereof, in excess of fifty cigars [~~or~~], one pound of tobac-  
5 co or one hundred milliliters of vapor product in the possession or  
6 under the control of any tobacco products dealer or distributor  
7 appointed by the commissioner, and a penalty of not more than one  
8 hundred fifty dollars for each fifty cigars [~~or~~], pound of tobacco, or  
9 one hundred milliliters of vapor product, or fraction thereof, in excess  
10 of two hundred fifty cigars [~~or~~], five pounds of tobacco or five hundred  
11 milliliters of vapor product in the possession or under the control of  
12 any such dealer or distributor, with respect to which the tobacco  
13 products tax has not been paid or assumed by a distributor or a tobacco  
14 products dealer; provided, however, that any such penalty imposed shall  
15 not exceed fifteen thousand dollars in the aggregate.

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

20 (I) not less than twenty-five dollars but not more than one hundred  
21 dollars for each fifty cigars [~~or~~], one pound of tobacco or one hundred  
22 milliliters of vapor product, or fraction thereof, in excess of two  
23 hundred fifty cigars [~~or~~], five pounds of tobacco or five hundred milli-  
24 liters of vapor product knowingly in the possession or knowingly under  
25 the control of any person, with respect to which the tobacco products  
26 tax has not been paid or assumed by a distributor or tobacco products  
27 dealer; and (II) not less than fifty dollars but not more than two  
28 hundred dollars for each fifty cigars [~~or~~], pound of tobacco or one  
29 hundred milliliters of vapor product, or fraction thereof, in excess of  
30 five hundred cigars [~~or~~], ten pounds of tobacco or one thousand millili-  
31 ters of vapor product knowingly in the possession or knowingly under the  
32 control of any person, with respect to which the tobacco products tax  
33 has not been paid or assumed by a distributor or tobacco products deal-  
34 er; provided, however, that any such penalty imposed under this clause  
35 shall not exceed ten thousand dollars in the aggregate.

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

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

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

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

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

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

17 (h) (1) Any dealer, other than a distributor appointed by the commis-  
18 sioner ~~[of taxation and finance]~~ under article twenty of this chapter,  
19 who shall knowingly transport or have in his custody, possession or  
20 under his control more than ten pounds of tobacco ~~[or]~~, more than five  
21 hundred cigars or more than one thousand milliliters of vapor product  
22 upon which the taxes imposed by article twenty of this chapter have not  
23 been assumed or paid by a distributor appointed by the commissioner ~~[of~~  
24 ~~taxation and finance]~~ under article twenty of this chapter, or other  
25 person treated as a distributor pursuant to section four hundred seven-  
26 ty-one-d of this chapter, shall be guilty of a misdemeanor punishable by  
27 a fine of not more than five thousand dollars or by a term of imprison-  
28 ment not to exceed thirty days.

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

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

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

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

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

8 (a) Any person who, while not appointed as a distributor of tobacco  
9 products pursuant to the provisions of article twenty of this chapter,  
10 imports or causes to be imported into the state more than fifty cigars  
11 [~~or~~], more than one pound of tobacco[~~7~~] or more than one hundred milli-  
12 liters of vapor product for sale within the state, or produces, manufac-  
13 tures or compounds tobacco products within the state shall be guilty of  
14 a misdemeanor punishable by a fine of not more than five thousand  
15 dollars or by a term of imprisonment not to exceed thirty days. If,  
16 within any ninety day period, one thousand or more cigars [~~or five~~  
17 ~~hundred~~], twenty pounds or more of tobacco or two thousand milliliters  
18 or more of vapor product are imported or caused to be imported into the  
19 state for sale within the state or are produced, manufactured or  
20 compounded within the state by any person while not appointed as a  
21 distributor of tobacco products, such person shall be guilty of a misde-  
22 meanor. Provided further, that any person who has twice been convicted  
23 under this section shall be guilty of a class E felony for any subse-  
24 quent violation of this section, regardless of the amount of tobacco  
25 products involved in such violation.

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

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

39 (a) Whenever a police officer designated in section 1.20 of the crimi-  
40 nal procedure law or a peace officer designated in subdivision four of  
41 section 2.10 of such law, acting pursuant to his special duties, shall  
42 discover any tobacco products in excess of five hundred cigars [~~or~~], ten  
43 pounds of tobacco or one thousand milliliters of vapor product which are  
44 being imported for sale in the state where the person importing or caus-  
45 ing such tobacco products to be imported has not been appointed as a  
46 distributor pursuant to section four hundred seventy-two of this chap-  
47 ter, such police officer or peace officer is hereby authorized and  
48 empowered forthwith to seize and take possession of such tobacco  
49 products. Such tobacco products seized by a police officer or peace  
50 officer shall be turned over to the commissioner. Such seized tobacco  
51 products shall be forfeited to the state. All tobacco products forfeited  
52 to the state shall be destroyed or used for law enforcement purposes,  
53 except that tobacco products that violate, or are suspected of violat-  
54 ing, federal trademark laws or import laws shall not be used for law  
55 enforcement purposes. If the commissioner determines the tobacco  
56 products may not be used for law enforcement purposes, the commissioner

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

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

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

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

27 PART CC

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

30 ARTICLE 20-C

31 OPIOID EPIDEMIC SURCHARGE

32 Section 492. Definitions.

33 493. Imposition of surcharge.

34 494. Returns to be secret.

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

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

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

49 3. "Unit strength" shall mean the amount of opioid in a unit, as meas-  
50 ured by weight, volume, concentration or other metric.

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

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

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

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

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

29 2. Every establishment liable for the surcharge imposed by this arti-  
30 cle shall file with the commissioner a return, on forms prescribed by  
31 the commissioner, indicating the total morphine milligram equivalent of  
32 opioids it sold in the state, the total morphine milligram equivalent of  
33 such opioids that are subject to the surcharge imposed by this article,  
34 the amount of surcharge due thereon, and such further information as the  
35 commissioner may require. Such returns shall be due on or before the  
36 twentieth day of each month, and shall cover all opioid sales in the  
37 state made in the month prior, except that the first return required to  
38 be filed pursuant to this section shall be due on or before January  
39 twentieth, two thousand nineteen and shall cover all opioid sales occur-  
40 ring in the period between the effective date of this article and Decem-  
41 ber thirty-first, two thousand eighteen. Every establishment required  
42 to file a return under this section shall, at the time of filing such  
43 return, pay to the commissioner the total amount of surcharge due for  
44 the period covered by such return. If a return is not filed when due,  
45 the surcharge shall be due on the day on which the return is required to  
46 be filed. The commissioner may require that the returns and payments  
47 required by this article be filed or paid electronically.

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

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



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

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

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

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

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

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

1 ment, or any officer or person who, pursuant to this section, is permit-  
2 ted to inspect any return or report or to whom a copy, an abstract or a  
3 portion of any return or report is furnished, or to whom any information  
4 contained in any return or report is furnished, or any person engaged or  
5 retained by such department on an independent contract basis or any  
6 person who in any manner may acquire knowledge of the contents of a  
7 return or report filed pursuant to this article to divulge or make known  
8 in any manner the contents or any other information relating to the  
9 business of an establishment contained in any return or report required  
10 under this article. The officers charged with the custody of such  
11 returns or reports shall not be required to produce any of them or  
12 evidence of anything contained in them in any action or proceeding in  
13 any court, except on behalf of the state, the state department of  
14 health, the state department of education or the commissioner in an  
15 action or proceeding under the provisions of this chapter or on behalf  
16 of the state or the commissioner in any other action or proceeding  
17 involving the collection of a tax due under this chapter to which the  
18 state or the commissioner is a party or a claimant or on behalf of any  
19 party to any action or proceeding under the provisions of this article,  
20 when the returns or the reports or the facts shown thereby are directly  
21 involved in such action or proceeding, in any of which events the court  
22 may require the production of, and may admit in evidence so much of said  
23 returns or reports or of the facts shown thereby as are pertinent to the  
24 action or proceeding and no more. Nothing herein shall be construed to  
25 prohibit the commissioner, in his or her discretion, from allowing the  
26 inspection or delivery of a certified copy of any return or report filed  
27 under this article, or from providing any information contained in any  
28 such return or report, by or to a duly authorized officer or employee of  
29 the state department of health or the state department of education; nor  
30 to prohibit the inspection or delivery of a certified copy of any return  
31 or report filed under this article, or the provision of any information  
32 contained therein, by or to the attorney general or other legal repre-  
33 sentatives of the state when an action shall have been recommended or  
34 commenced pursuant to this chapter in which such returns or reports or  
35 the facts shown thereby are directly involved; nor to prohibit the  
36 commissioner from providing or certifying to the division of budget or  
37 the comptroller the total number of returns or reports filed under this  
38 article in any reporting period and the total collections received ther-  
39 efrom; nor to prohibit the inspection of the returns or reports required  
40 under this article by the comptroller or duly designated officer or  
41 employee of the state department of audit and control, for purposes of  
42 the audit of a refund of any surcharge paid by an establishment or other  
43 person under this article; nor to prohibit the delivery to an establish-  
44 ment, or a duly authorized representative of such establishment, a  
45 certified copy of any return or report filed by such establishment  
46 pursuant to this article, nor to prohibit the publication of statistics  
47 so classified as to prevent the identification of particular returns or  
48 reports and the items thereof.

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

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

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

1 § 1825. Violation of secrecy provisions of the tax law.--Any person  
2 who violates the provisions of [~~subdivision (b) of section twenty-one,~~  
3 subdivision one of section two hundred two, subdivision eight of section  
4 two hundred eleven, subdivision (a) of section three hundred fourteen,  
5 subdivision one or two of section four hundred thirty-seven, section  
6 four hundred eighty-seven, section four hundred ninety-four, subdivision  
7 one or two of section five hundred fourteen, subsection (e) of section  
8 six hundred ninety-seven, subsection (a) of section nine hundred nine-  
9 ty-four, subdivision (a) of section eleven hundred forty-six, section  
10 twelve hundred eighty-seven, section twelve hundred ninety-six, subdivi-  
11 sion (a) of section fourteen hundred eighteen, subdivision (a) of  
12 section fifteen hundred eighteen, subdivision (a) of section fifteen  
13 hundred fifty-five of this chapter, and subdivision (e) of section  
14 11-1797 of the administrative code of the city of New York shall be  
15 guilty of a misdemeanor.

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

18 § 97-aaaaa. Opioid prevention, treatment and recovery account. 1.  
19 There is hereby established in the joint custody of the state comp-  
20 troller and the commissioner of taxation and finance an account of the  
21 miscellaneous special revenue account to be known as the "opioid  
22 prevention, treatment and recovery account".

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

27 3. The opioid prevention, treatment and recovery account shall consist  
28 of moneys appropriated for the purpose of such account, moneys trans-  
29 ferred to such account pursuant to law, contributions consisting of  
30 promises or grants of any money or property of any kind or value, or any  
31 other thing of value, including grants or other financial assistance  
32 from any agency of government and moneys required by the provisions of  
33 this section or any other law to be paid into or credited to this  
34 account. The account shall also consist of moneys received from any  
35 litigation or enforcement actions initiated against opioid pharmaceu-  
36 tical manufacturers, distributors and wholesalers.

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

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

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

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

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

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

16 PART DD

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

19 § 1521. Healthcare insurance windfall profit fee. (a) In addition to  
20 all taxes, surcharges, and fees imposed under this chapter, the insur-  
21 ance law, the financial services law, and the public health law, there  
22 is hereby imposed for each taxable year beginning after December thir-  
23 ty-first, two thousand seventeen, a fourteen percent surcharge on the  
24 net underwriting gain from the sale of health insurance written on risks  
25 located or resident within this state of every corporation (1) author-  
26 ized to transact an insurance business in this state, or (2) that is a  
27 health maintenance organization required to obtain a certificate of  
28 authority under article forty-four of the public health law.

29 (b) For purposes of this section, the term "health insurance" shall  
30 mean comprehensive hospital and medical expense insurance including,  
31 without limitation, comprehensive coverage issued by a health mainte-  
32 nance organization, disability income insurance, accident insurance,  
33 medicare supplement insurance, specified disease insurance, dental  
34 insurance, vision insurance, stop-loss insurance, fixed indemnity insur-  
35 ance, and hospital indemnity insurance.

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

46 (2) For each taxable year, the "net underwriting gain from the opera-  
47 tion of a managed care organization business regulated by the department  
48 of health" shall equal a corporation's gross receipts from the operation  
49 of a managed care organization business regulated by the department of  
50 health less the corporation's claims and administrative expenses related  
51 to such gross receipts. The computation of "gross receipts from the  
52 operation of a managed care organization business regulated by the  
53 department of health" and "claims and administrative expenses related to

1 gross receipts" shall be made pursuant to the rules set forth in regu-  
2 lations to be promulgated by the superintendent of financial services.

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

6 (e) Notwithstanding any law to the contrary, the surcharge imposed by  
7 this section shall not be considered by any corporation, and shall not  
8 be deemed to be an expense, cost, or liability, for purposes of estab-  
9 lishing or setting the rate to be charged for any health insurance poli-  
10 cy.

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

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

27 (2) If the superintendent of financial services ascertains that the  
28 amount of surcharge imposed under this section as shown on the return of  
29 any corporation is less than the amount of surcharge disclosed by his or  
30 her examination, he or she shall propose, in writing, to the commission-  
31 er the issuance of a notice of deficiency for the amount due. If a  
32 corporation fails to file a return with the superintendent of financial  
33 services within the time required for the filing of such return (with  
34 regard to any extension of time for the filing thereof), the superinten-  
35 dent of financial services shall make an estimate of the amount of  
36 surcharge due for the period in respect to which such corporation failed  
37 to file the return. The estimate shall be made from any available infor-  
38 mation which is in the possession or may come into the possession of the  
39 superintendent of financial services and he or she shall propose, in  
40 writing, to the commissioner the issuance of a notice of deficiency for  
41 the amount of such estimated surcharge. Any proposal pursuant to this  
42 paragraph shall set forth the basis thereof and the details of its  
43 computation.

44 (3) The commissioner shall, on receipt of a proposal from the super-  
45 intendent of financial services pursuant to paragraph two of this subdi-  
46 vision, take appropriate action under this chapter for the assessment  
47 and collection of the amount of surcharge, together with interest and  
48 penalties, shown by such proposal to be due. The superintendent of  
49 financial services shall be required to assist the commissioner in  
50 defending the correctness of the amount assessed at any conference at  
51 the bureau of conciliation and mediation services and at the division of  
52 tax appeals.

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

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

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

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

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

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

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

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

41 (6) In case it shall appear to the superintendent of financial  
42 services that any agreement, understanding or arrangement exists between  
43 the corporation and any other entity, person or firm whereby the activ-  
44 ity, business, income or capital of the corporation is improperly or  
45 inaccurately reflected, the superintendent of financial services is  
46 authorized and empowered in his or her discretion and in such manner as  
47 he or she may determine, to adjust items of income, deductions and capi-  
48 tal so as equitably to determine the surcharge. Where (A) any corpo-  
49 ration conducts its activity or business under any agreement, arrange-  
50 ment or understanding in such manner as either directly or indirectly to  
51 benefit its members or stockholders, or any of them, or any person or  
52 persons directly or indirectly interested in such activity or business,  
53 by entering into any transaction at more or less than a fair price  
54 which, but for such agreement, arrangement or understanding, might have  
55 been paid or received therefor, or (B) any corporation, a substantial  
56 portion of whose capital stock is owned either directly or indirectly by

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

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

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

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

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

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

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

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

46 § 2. This act shall take effect immediately.

47 PART EE

48 Section 1. Subdivision 1 of Section 208 of the racing, pari-mutuel  
49 wagering and breeding law, as amended by chapter 140 of the laws of  
50 2008, is amended to read as follows:

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

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

16 § 2. Section 203 of the racing, pari-mutuel wagering and breeding law,  
17 as amended by chapter 18 of the laws of 2008, is amended to read as  
18 follows:

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

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

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

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



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

6 § 4. This act shall take effect immediately; provided, however, that  
7 the amendments to section 203 of the racing, pari-mutuel wagering and  
8 breeding law made by section two of this act shall expire and be deemed  
9 repealed 4 years after the first night of racing conducted after sunset  
10 pursuant to this act; provided that the New York Racing Association  
11 shall notify the legislative bill drafting commission of the date of  
12 such night of racing in order that the commission may maintain an accu-  
13 rate and timely effective data base of the official text of the laws of  
14 the state of New York in furtherance of effectuating the provisions of  
15 section 44 of the legislative law and section 70-b of the public offi-  
16 cers law.

17 PART FF

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

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

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

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

30 § 3. This act shall take effect immediately.

31 PART GG

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

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

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

38 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
39 1007 of the racing, pari-mutuel wagering and breeding law, as amended by  
40 section 2 of part 00 of chapter 59 of the laws of 2017, is amended to  
41 read as follows:

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

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

1 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
2 follows:

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

21 § 4. Subdivision 1 of section 1015 of the racing, pari-mutuel wagering  
22 and breeding law, as amended by section 4 of part 00 of chapter 59 of  
23 the laws of 2017, is amended to read as follows:

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

29 § 5. The opening paragraph of subdivision 1 of section 1016 of the  
30 racing, pari-mutuel wagering and breeding law, as amended by section 5  
31 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
32 follows:

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

50 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
51 wagering and breeding law, as amended by section 6 of part 00 of chapter  
52 59 of the laws of 2017, is amended to read as follows:

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

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

12 § 7. Section 32 of chapter 281 of the laws of 1994, amending the  
13 racing, pari-mutuel wagering and breeding law and other laws relating to  
14 simulcasting, as amended by section 7 of part 00 of chapter 59 of the  
15 laws of 2017, is amended to read as follows:

16 § 32. This act shall take effect immediately and the pari-mutuel tax  
17 reductions in section six of this act shall expire and be deemed  
18 repealed on July 1, [~~2018~~ 2019]; provided, however, that nothing  
19 contained herein shall be deemed to affect the application, qualifica-  
20 tion, expiration, or repeal of any provision of law amended by any  
21 section of this act, and such provisions shall be applied or qualified  
22 or shall expire or be deemed repealed in the same manner, to the same  
23 extent and on the same date as the case may be as otherwise provided by  
24 law; provided further, however, that sections twenty-three and twenty-  
25 five of this act shall remain in full force and effect only until May 1,  
26 1997 and at such time shall be deemed to be repealed.

27 § 8. Section 54 of chapter 346 of the laws of 1990, amending the  
28 racing, pari-mutuel wagering and breeding law and other laws relating to  
29 simulcasting and the imposition of certain taxes, as amended by section  
30 8 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
31 follows:

32 § 54. This act shall take effect immediately; provided, however,  
33 sections three through twelve of this act shall take effect on January  
34 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
35 ing law, as added by section thirty-eight of this act, shall expire and  
36 be deemed repealed on July 1, [~~2018~~ 2019]; and section eighteen of this  
37 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
38 two of this act shall take effect as of the same date as chapter 772 of  
39 the laws of 1989 took effect.

40 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
41 pari-mutuel wagering and breeding law, as amended by section 9 of part  
42 00 of chapter 59 of the laws of 2017, is amended to read as follows:

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

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

43 § 10. This act shall take effect immediately.

44 PART HH

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

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

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

50 PART II

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

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

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

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

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

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

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

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

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

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

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

29 (F) Notwithstanding any provision of law to the contrary, any opera-  
30 tors of a vendor track or the operators of any other video lottery  
31 gaming facility eligible to receive a capital award as of December thir-  
32 ty-first, two thousand seventeen shall deposit from their vendor fee  
33 into a segregated account an amount equal to four percent of the first  
34 sixty-two million five hundred thousand dollars of revenue wagered at  
35 the vendor track after payout for prizes pursuant to this chapter to be  
36 used exclusively for capital investments, except for Aqueduct, which  
37 shall deposit into a segregated account an amount equal to one percent  
38 of all revenue wagered at the video lottery gaming facility after payout  
39 for prizes pursuant to this chapter until the earlier of the designation  
40 of one thousand video lottery devices as hosted pursuant to paragraph  
41 four of subdivision a of section sixteen hundred seventeen-a of this  
42 article or April first, two thousand nineteen, when at such time four  
43 percent of all revenue wagered at the video lottery gaming facility  
44 after payout for prizes pursuant to this chapter shall be deposited into  
45 a segregated account for capital investments. Vendor tracks and video  
46 lottery gaming facilities shall be permitted to withdraw funds for  
47 projects approved by the commission to improve the facilities of the  
48 vendor track or video lottery gaming facility which enhance or maintain  
49 the video lottery gaming facility including, but not limited to hotels,  
50 other lodging facilities, entertainment facilities, retail facilities,  
51 dining facilities, events arenas, parking garages and other improvements  
52 and amenities customary to a gaming facility, provided, however, the  
53 vendor tracks and video lottery gaming facilities shall be permitted to  
54 withdraw funds for unreimbursed capital awards approved prior to the  
55 effective date of this subparagraph. Any proceeds from the divestiture  
56 of any assets acquired through these capital funds or any prior capital

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

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

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

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

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

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



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

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