

# STATE OF NEW YORK

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S. 7509--A

A. 9509--A

## SENATE - ASSEMBLY

January 18, 2018

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IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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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 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; providing for the repeal of certain provisions upon expiration thereof (Part II); to amend the tax law and the administrative code of the city of New York, in relation to addressing changes made to the internal revenue code by Public Law 115-97 (Part JJ); to amend the tax law, in relation to federal gross income and federal deductions allowed pursuant to the internal revenue code (Part KK); to amend the state finance law, in relation to establishing the charitable gifts trust fund and the health charitable account, and the elementary and secondary education charitable account; to amend the tax law, in relation to credits for contributions to accounts in the charitable gifts trust fund; to amend the education law and the general municipal law, in relation to authorizing school districts, counties and New York city to establish charitable funds; and to amend the real property tax law, in relation to authorizing such localities to provide a credit against real property taxes for such contributions (Part LL); and to amend the tax law and state finance law, in relation to the imposition of an employer compensation expense tax (Part MM)

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 MM. 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:

1 (i) The tax savings for each parcel receiving the exemption authorized  
2 by section four hundred twenty-five of this chapter shall be computed by  
3 subtracting the amount actually levied against the parcel from the  
4 amount that would have been levied if not for the exemption, provided  
5 however, that ~~[beginning with]~~ for the two thousand eleven-two thousand  
6 twelve through two thousand seventeen-two thousand eighteen school  
7 ~~[year]~~ years, the tax savings applicable to any "portion" (which as used  
8 herein shall mean that part of an assessing unit located within a school  
9 district) shall not exceed the tax savings applicable to that portion in  
10 the prior school year multiplied by one hundred two percent, with the  
11 result rounded to the nearest dollar; and provided further that begin-  
12 ning with the two thousand eighteen-two thousand nineteen school year,  
13 the tax savings applicable to any portion shall not exceed the tax  
14 savings for the prior year. The tax savings attributable to the basic  
15 and enhanced exemptions shall be calculated separately. It shall be the  
16 responsibility of the commissioner to calculate tax savings limitations  
17 for purposes of this subdivision.  
18 § 2. This act shall take effect immediately.

19

## PART B

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

23 (ii) The term "income" as used herein shall mean the "adjusted gross  
24 income" for federal income tax purposes as reported on the applicant's  
25 federal or state income tax return for the applicable income tax year,  
26 subject to any subsequent amendments or revisions, reduced by distrib-  
27 utions, to the extent included in federal adjusted gross income,  
28 received from an individual retirement account and an individual retire-  
29 ment annuity; provided that if no such return was filed for the applica-  
30 ble income tax year, "income" shall mean the adjusted gross income that  
31 would have been so reported if such a return had been filed. Provided  
32 further, that effective with exemption applications for final assessment  
33 rolls to be completed in two thousand nineteen, where an income-eli-  
34 bility determination is wholly or partly based upon the income of one or  
35 more individuals who did not file a return for the applicable income tax  
36 year, then in order for the application to be considered complete, each  
37 such individual must file a statement with the department showing the  
38 source or sources of his or her income for that income tax year, and the  
39 amount or amounts thereof, that would have been reported on such a  
40 return if one had been filed. Such statement shall be filed at such  
41 time, and in such form and manner, as may be prescribed by the depart-  
42 ment, and shall be subject to the secrecy provisions of the tax law to  
43 the same extent that a personal income tax return would be. The depart-  
44 ment shall make such forms and instructions available for the filing of  
45 such statements.

46 § 2. Subparagraph (iv) of paragraph (b) of subdivision 4 of section  
47 425 of the real property tax law, as amended by chapter 451 of the laws  
48 of 2015, is amended to read as follows:

49 (iv) (A) Effective with applications for the enhanced exemption on  
50 final assessment rolls to be completed in two thousand ~~[three]~~ nineteen,  
51 the application form shall indicate that ~~[the]~~ all owners of the proper-  
52 ty and any owners' spouses residing on the premises ~~[may authorize the~~  
53 ~~assessor to]~~ must have their income eligibility verified annually ~~[ther-~~  
54 ~~eafter]~~ by the ~~[state]~~ department ~~[of taxation and finance, in lieu of~~

1 ~~furnishing copies of the applicable income tax return or returns with~~  
2 ~~the application. If the owners of the property and any owners' spouses~~  
3 ~~residing on the premises elect to participate in this program, which~~  
4 ~~shall be known as the STAR income verification program, they] and must~~  
5 furnish their taxpayer identification numbers in order to facilitate  
6 matching with records of the department. [~~Thereafter, their] The income~~  
7 eligibility of such persons shall be verified annually by the  
8 department, and the assessor shall not request income documentation from  
9 them[, ~~unless such department advises the assessor that they do not~~  
10 ~~satisfy the applicable income eligibility requirements, or that it is~~  
11 ~~unable to determine whether they satisfy those requirements]. All appli-  
12 cants for the enhanced exemption and all assessing units shall be  
13 required to participate in this program, which shall be known as the  
14 STAR income verification program.~~

15 (B) Where the commissioner finds that the enhanced exemption should be  
16 replaced with a basic exemption because the income limitation applicable  
17 to the enhanced exemption has been exceeded, he or she shall provide the  
18 property owners with notice and an opportunity to submit to the commis-  
19 sioner evidence to the contrary. Where the commissioner finds that the  
20 enhanced exemption should be removed or denied without being replaced  
21 with a basic exemption because the income limitation applicable to the  
22 basic exemption has also been exceeded, he or she shall provide the  
23 property owners with notice and an opportunity to submit to the commis-  
24 sioner evidence to the contrary. In either case, if the owners fail to  
25 respond to such notice within forty-five days from the mailing thereof,  
26 or if their response does not show to the commissioner's satisfaction  
27 that the property is eligible for the exemption claimed, the commis-  
28 ioner shall direct the assessor or other person having custody or control  
29 of the assessment roll or tax roll to either replace the enhanced  
30 exemption with a basic exemption, or to remove or deny the enhanced  
31 exemption without replacing it with a basic exemption, as appropriate.  
32 The commissioner shall further direct such person to correct the roll  
33 accordingly. Such a directive shall be binding upon the assessor or  
34 other person having custody or control of the assessment roll or tax  
35 roll, and shall be implemented by such person without the need for  
36 further documentation or approval.

37 (C) Notwithstanding any provision of law to the contrary, neither an  
38 assessor nor a board of assessment review has the authority to consider  
39 an objection to the replacement or removal or denial of an exemption  
40 pursuant to this subdivision, nor may such an action be reviewed in a  
41 proceeding to review an assessment pursuant to title one or one-A of  
42 article seven of this chapter. Such an action may only be challenged  
43 before the department. If a taxpayer is dissatisfied with the depart-  
44 ment's final determination, the taxpayer may appeal that determination  
45 to the state board of real property tax services in a form and manner to  
46 be prescribed by the commissioner. Such appeal shall be filed within  
47 forty-five days from the issuance of the department's final determi-  
48 nation. If dissatisfied with the state board's determination, the  
49 taxpayer may seek judicial review thereof pursuant to article seventy-  
50 eight of the civil practice law and rules. The taxpayer shall otherwise  
51 have no right to challenge such final determination in a court action,  
52 administrative proceeding or any other form of legal recourse against  
53 the commissioner, the department, the state board of real property tax  
54 services, the assessor or other person having custody or control of the  
55 assessment roll or tax roll regarding such action.

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

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

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

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

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

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

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

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

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

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

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

6 9-b. Duration of exemption; enhanced exemption. (a) [~~In the case of~~  
7 ~~persons who have elected to participate in the STAR income verification~~  
8 ~~program, the~~] The enhanced exemption, once granted, shall remain in  
9 effect until discontinued in the manner provided in this section.

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

19 (~~e~~) ~~Whether or not the recipients of an enhanced STAR exemption have~~  
20 ~~elected to participate in the STAR income verification program, the~~] The  
21 assessor [~~may review their~~] shall review the continued compliance of  
22 recipients of the enhanced exemption with the applicable ownership and  
23 residency requirements to the same extent as if they were receiving a  
24 basic STAR exemption.

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

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

31 14-a. Implementation of certain eligibility determinations. When a  
32 taxpayer's eligibility for exemption under this section for a school  
33 year is affected by a determination made in accordance with subparagraph  
34 (iv) of paragraph (b) of subdivision four of this section or paragraph  
35 (c) or (d) of subdivision fourteen of this section, and the determi-  
36 nation is made after the school district taxes for that school year have  
37 been levied, the provisions of this subdivision shall be applicable.

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

52 (b) If the determination removes, denies or decreases the taxpayer's  
53 exemption for that school year, the commissioner is authorized to  
54 collect the shortfall directly from the owners of the property, together  
55 with interest, by utilizing any of the procedures for collection, levy,  
56 and lien of personal income tax set forth in article twenty-two of the

1 tax law, and any other relevant procedures referenced within the  
2 provisions of such article. When the commissioner implements the deter-  
3 mination in this manner, he or she shall so notify the assessor and  
4 county director of real property tax services, but no correction shall  
5 be made to the assessment roll or tax roll for that school year, and no  
6 corrected school tax bill shall be sent to the taxpayer for that school  
7 year.

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

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

12 (B) "Affiliated income" shall mean for purposes of the basic STAR  
13 credit, the combined income of all of the owners of the parcel who  
14 resided primarily thereon as of December thirty-first of the taxable  
15 year, and of any owners' spouses residing primarily thereon as of such  
16 date, and for purposes of the enhanced STAR credit, the combined income  
17 of all of the owners of the parcel as of December thirty-first of the  
18 taxable year, and of any owners' spouses residing primarily thereon as  
19 of such date; provided that for both purposes the income to be so  
20 combined shall be the "adjusted gross income" for the taxable year as  
21 reported for federal income tax purposes, or that would be reported as  
22 adjusted gross income if a federal income tax return were required to be  
23 filed, reduced by distributions, to the extent included in federal  
24 adjusted gross income, received from an individual retirement account  
25 and an individual retirement annuity. For taxable years beginning on  
26 and after January first, two thousand nineteen, where an income-eli-  
27 bility determination is wholly or partly based upon the income of one or  
28 more individuals who did not file a return pursuant to section six  
29 hundred fifty-one of this article for the applicable income tax year,  
30 then in order to be eligible for the credit authorized by this  
31 subsection, each such individual must file a statement with the depart-  
32 ment showing the source or sources of his or her income for that income  
33 tax year, and the amount or amounts thereof, that would have been  
34 reported on such a return if one had been filed. Such statement shall be  
35 filed at such time, and in such form and manner, as may be prescribed by  
36 the department, and shall be subject to the provisions of section six  
37 hundred ninety-seven of this article to the same extent that a return  
38 would be. The department shall make such forms and instructions avail-  
39 able for the filing of such statements. Provided further, that if the  
40 qualified taxpayer was an owner of the property during the taxable year  
41 but did not own it on December thirty-first of the taxable year, then  
42 the determination as to whether the income of an individual should be  
43 included in "affiliated income" shall be based upon the ownership and/or  
44 residency status of that individual as of the first day of the month  
45 during which the qualified taxpayer ceased to be an owner of the proper-  
46 ty, rather than as of December thirty-first of the taxable year.

47 § 11. No application for an enhanced exemption on a final assessment  
48 roll to be completed in 2019 may be approved if the applicants have not  
49 enrolled in the STAR income verification program established by subpara-  
50 graph (iv) of paragraph (b) of subdivision 4 of section 425 of the real  
51 property tax law as amended by section two of this act, regardless of  
52 when the application was filed. The assessor shall notify such appli-  
53 cants that participation in that program has become mandatory for all  
54 applicants and that their applications cannot be approved unless they  
55 enroll therein. The commissioner of taxation and finance shall provide



1 a form for assessors to use, at their option, when making this notifica-  
2 tion.

3 § 12. This act shall take effect immediately.

4 PART C

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

7 ix. Whenever there has been a transfer or acquisition of a share or  
8 shares in a cooperative housing corporation, and such share or shares  
9 come with a right to occupy a unit or apartment located in property  
10 owned by such corporation, a transfer report must be filed by the trans-  
11 ferree or transferees directly with the department of taxation and  
12 finance, regardless of whether a deed is prepared, delivered or  
13 recorded, as set forth in this paragraph. The fee imposed by subdivision  
14 three of this section shall not apply to transfer reports filed directly  
15 with the department of taxation and finance pursuant to this paragraph.  
16 Such report shall be in a form prescribed by the commissioner of taxa-  
17 tion and finance, must contain the information required to be included  
18 by this subdivision, and in addition, must specify the number of shares  
19 being transferred or acquired. When a real estate transfer tax return is  
20 filed with such commissioner pursuant to section fourteen hundred nine  
21 of the tax law in relation to such property, the report required by this  
22 paragraph shall be filed concurrently therewith, but in no event shall  
23 the report required by this paragraph be deemed to be a part of such  
24 real estate transfer tax return.

25 x. Whenever there has been a transfer or acquisition of a controlling  
26 interest in an entity with an interest in real property, a transfer  
27 report must be filed by the transferee or transferees directly with the  
28 department of taxation and finance, regardless of whether a deed is  
29 prepared, delivered or recorded, as set forth in this paragraph. The fee  
30 imposed by subdivision three of this section shall not apply to transfer  
31 reports filed directly with the department of taxation and finance  
32 pursuant to this paragraph. Such report shall be in a form prescribed by  
33 the commissioner of taxation and finance, must contain the information  
34 required to be included by this subdivision, and in addition, must spec-  
35 ify the percentage of the ownership interest being transferred or  
36 acquired. The transfer report shall indicate the percentage of the tran-  
37 saction that is exempt from the real estate transfer tax as a mere  
38 change in identity or form of ownership or organization where there is  
39 no change in beneficial ownership pursuant to paragraph six of subdivi-  
40 sion (b) of section fourteen hundred five of the tax law, if any. When  
41 a real estate transfer tax return is filed with such commissioner pursu-  
42 ant to section fourteen hundred nine of the tax law in relation to such  
43 property, the report required by this paragraph shall be filed concu-  
44 rently therewith, but in no event shall the report required by this  
45 paragraph be deemed to be a part of such real estate transfer tax  
46 return. For purposes of this paragraph, the terms "controlling interest"  
47 and "interest in real property" shall have the same meaning as set forth  
48 in section fourteen hundred one of the tax law, provided, however, that  
49 the term "interest in real property" shall be limited to interests in  
50 real property subject to real property tax assessment such as lands,  
51 buildings, structures, and other improvements, and shall not include  
52 development rights, air space, or air rights.

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

1

## PART D

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

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

11 2. On or before January first, nineteen hundred eighty-nine, each  
12 manufactured home park owner or operator shall file a registration  
13 statement with the commissioner and shall thereafter file an annual  
14 registration statement on or before January first of each succeeding  
15 year, up to and including two thousand eighteen. Thereafter, each manu-  
16 factured home park owner or operator shall file quarterly registration  
17 statements with the commissioner no later than twenty-one days after the  
18 end of each calendar quarter. The commissioner, by regulation, shall  
19 provide that such registration statement shall include [~~only~~] the names  
20 of all persons owning an interest in the park, the names of all tenants  
21 of the park, all services provided by the park owner to the tenants, and  
22 such other information as the commissioner shall prescribe by regulation  
23 after consultation with the commissioner of taxation and finance;  
24 provided that in the case of a registration statement for the first  
25 calendar quarter of a year, such statement shall also include a copy of  
26 all current manufactured home park rules and regulations. The commis-  
27 sioner shall provide the commissioner of taxation and finance with a  
28 complete copy of each quarterly report no later than fifteen days after  
29 the receipt thereof.

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

53 § 2. This act shall take effect immediately.

54

## PART E

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

2 § 1-a. Section 3-d of the general municipal law is REPEALED.

3 § 1-b. Section 2023-b of the education law is REPEALED.

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

6 § 3-d. Certification of compliance with tax levy limit. 1. Upon the  
7 adoption of the budget of a local government unit, the chief executive  
8 officer or budget officer of such local government unit shall certify to  
9 the state comptroller and the commissioner of taxation and finance that  
10 the budget so adopted does not exceed the tax levy limit prescribed in  
11 section three-c of this article and, if the governing body of the local  
12 government unit did enact a local law or approve a resolution to over-  
13 ride the tax levy limit, that such local law or resolution was subse-  
14 quently repealed. Such certification shall be made in a form and manner  
15 prescribed by the state comptroller in consultation with the commis-  
16 ioner of taxation and finance.

17 2. Notwithstanding any other law to the contrary, if such a certifi-  
18 cation has been made and the actual tax levy of the local government  
19 unit exceeds the applicable tax levy limit, the excess amount shall be  
20 placed in reserve and used in the manner prescribed by subdivision six  
21 of section three-c of this article, even if a tax levy in excess of the  
22 tax levy limit had been authorized for the applicable fiscal year by a  
23 duly adopted local law or resolution.

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

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

31 § 2023-b. Certification of compliance with tax levy limit. 1. Upon  
32 the adoption of the budget of an eligible school district, the chief  
33 executive officer of such school district shall certify to the state  
34 comptroller, the commissioner of taxation and finance and the commis-  
35 sioner that the budget so adopted does not exceed the tax levy limit  
36 prescribed by section two thousand twenty-three-a of this part. Such  
37 certification shall be made in a form and manner prescribed by the state  
38 comptroller in consultation with the commissioner of taxation and  
39 finance and the commissioner.

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

46 3. Notwithstanding any provision of law to the contrary, every school  
47 district that is subject to the provisions of section two thousand twen-  
48 ty-three-a of this part shall report both its proposed budget and its  
49 adopted budget to the office of the state comptroller and the commis-  
50 sioner at the time and in the manner as they may prescribe, whether or  
51 not such budget has been or will be certified as provided by this subdi-  
52 vision.

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

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

6 § 5. Section 925-b of the real property tax law, as amended by chapter  
 7 161 of the laws of 2006, is amended to read as follows:

8 § 925-b. Extension; certain persons sixty-five years of age or over.  
 9 Notwithstanding any contrary provision of this chapter, or any general,  
 10 special or local law, code or charter, the governing body of a municipal  
 11 corporation other than a county may, by resolution adopted prior to the  
 12 levy of any taxes on real property located within such municipal corpo-  
 13 ration, authorize an extension of no more than five business days for  
 14 the payment of taxes without interest or penalty to any resident of such  
 15 municipal corporation who has received an exemption pursuant to subdivi-  
 16 sion four of section four hundred twenty-five or four hundred sixty-sev-  
 17 en of this chapter, or a credit pursuant to subsection (eee) of section  
 18 six hundred six of the tax law, related to a principal residence located  
 19 within such municipal corporation. If such an extension is granted, and  
 20 any taxes are not paid by the final date so provided, those taxes shall  
 21 be subject to the same interest and penalties that would have applied if  
 22 no extension had been granted.

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

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

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

37 § 7. Subparagraph (B) of paragraph 7 of subsection (eee) of section  
 38 606 of the tax law, as amended by section 1 of part G of chapter 59 of  
 39 the laws of 2017, is amended to read as follows:

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

50 § 7-a. Paragraph (g) of subdivision 2 of section 425 of the real prop-  
 51 erty tax law, as added by section 1 of part B of chapter 389 of the laws  
 52 of 1997 and as further amended by subdivision (b) of section 1 of part W  
 53 of chapter 56 of the laws of 2010, is amended to read as follows:

54 (g) Computation and certification by commissioner. It shall be the  
 55 responsibility of the commissioner to compute the exempt amount for each  
 56 assessing unit in each county in the manner provided herein, and to

1 certify the same to the assessor of each assessing unit and to the coun-  
2 ty director of real property tax services of each county. Such certif-  
3 ication shall be made at least twenty days before the last date  
4 prescribed by law for the filing of the tentative assessment roll.  
5 Provided, however, that where school taxes are levied on a prior year  
6 assessment roll, or on a final assessment roll that was filed more than  
7 one year after the tentative roll was filed, such certification shall be  
8 made no later than fifteen days after the publication of the data needed  
9 to compute the base figure for the enhanced STAR exemption pursuant to  
10 clause (A) of subparagraph (vi) of paragraph (b) of this subdivision,  
11 and provided further, that upon receipt of such certification, the  
12 assessor shall thereupon be authorized and directed to correct the  
13 assessment roll to reflect the exempt amount so certified, or, if anoth-  
14 er person has custody or control of the assessment roll, to direct that  
15 person to make the appropriate corrections.

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

18 (A) A married couple may not receive a credit pursuant to this  
19 subsection on more than one residence during any given taxable year,  
20 unless living apart due to legal separation. Nor may a married couple  
21 receive a credit pursuant to this subsection on one residence while  
22 receiving an exemption pursuant to section four hundred twenty-five of  
23 the real property tax law on another residence, unless living apart due  
24 to legal separation.

25 § 9. This act shall take effect immediately; provided, however, that  
26 section 3-d of the general municipal law, as added by section two of  
27 this act, shall expire and be deemed repealed on the same date and in  
28 the same manner as section 1 of part A of chapter 97 of the laws of  
29 2011, expires and is deemed repealed, and provided that section 2023-b  
30 of the education law, as added by section three of this act, shall  
31 expire and be deemed repealed on the same date and in the same manner as  
32 section 2 of part A of chapter 97 of the laws of 2011, expires and is  
33 deemed repealed, and provided further that the amendments to paragraph 6  
34 of subsection (eee) of section 606 of the tax law made by section eight  
35 of this act shall take effect immediately and shall apply to taxable  
36 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.

37

## PART F

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

41 1. The comptroller shall pay taxes levied on lands of the state in  
42 each county pursuant to the foregoing sections of this title, out of  
43 moneys appropriated by the legislature therefor, to the county treasurer  
44 for appropriate distribution upon submission of a statement of such  
45 taxes by him or her in such form and executed in such manner by the

1 county treasurer as may be required by the comptroller. Provided, howev-  
2 er, that in the case of lands which are taxable pursuant to subdivision  
3 (j) of section five hundred thirty-two of this title, the comptroller  
4 shall pay such taxes. Such payment shall be requested, processed and  
5 paid separately from all other taxes that are payable to the county  
6 treasurer pursuant to this section. Provided further, that on and after  
7 April first, two thousand eighteen, once taxes have been paid on a taxa-  
8 ble parcel of state land pursuant to this subdivision, the amount of  
9 taxes due and payable on that parcel thereafter shall be calculated by  
10 the comptroller in accordance with the provisions of subdivision three  
11 of this section.

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

17 (a) In the case of a local government, the taxes so payable shall  
18 equal the taxes that were payable on that parcel in the prior fiscal  
19 year of the local government multiplied by the allowable levy growth  
20 factor. As used in this paragraph, the terms "local government," "prior  
21 fiscal year" and "allowable levy growth factor" shall have the same  
22 meanings as set forth in section three-c of the general municipal law,  
23 provided that if such section is no longer in effect on the date such  
24 taxes are paid, such terms shall be deemed to have the meanings set  
25 forth in such section as it read on the last date on which it was in  
26 effect.

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

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

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

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

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

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

54 (iv) Such lands shall be entered on the exempt portion of the assess-  
55 ment roll, notwithstanding the fact that they are taxable pursuant to  
56 this title. Provided, that no such entry shall be made in the case of an

1 assessment adjustment made by the commissioner pursuant to paragraph (c)  
2 of subdivision three of section five hundred forty-two of this title or  
3 section 15-2115 of the environmental conservation law, or in the case of  
4 state aid payable pursuant to section five hundred forty-five of this  
5 title due to a reduction in the assessment of taxable state land.

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

8 (vi) When a school district receives payments of taxes on state lands  
9 pursuant to this subdivision, any actual valuation computed for such  
10 school district pursuant to paragraph c of subdivision one of section  
11 thirty-six hundred two of the education law shall include the actual  
12 valuation equivalent of those payments. The commissioner shall determine  
13 such actual valuation equivalent by dividing the payment made, as  
14 reported to such commissioner by the comptroller, by the school tax rate  
15 that was applied to real property on that year's assessment roll or, if  
16 applicable, the special apportionment rate determined pursuant to  
17 section twelve hundred twenty-seven of this chapter and dividing such  
18 result by the final state equalization rate for that roll. The actual  
19 valuation equivalent shall be reported to the state comptroller and the  
20 commissioner of education, and shall be used by the commissioner of  
21 education in the determination of any state average that uses real prop-  
22 erty taxes levied against and/or actual valuation based upon the corre-  
23 sponding assessment roll. Each school district receiving payments of  
24 taxes on state lands pursuant to this subdivision shall annually report  
25 those payments to the commissioner of education, with a copy to the  
26 commissioner, as a condition to receiving any aid pursuant to section  
27 thirty-six hundred two of the education law.

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

32 § 2. This act shall take effect immediately.

33 PART G

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

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

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

51 3. **(a)** For assessment rolls with taxable status dates in each of the  
52 three calendar years including and following the year in which this  
53 section shall take effect, the commissioner shall establish no assess-  
54 ment ceiling that is less than ninety percent or more than one hundred

1 ten percent of the assessment of such local public utility mass real  
2 property appearing on the municipal assessment roll with a taxable  
3 status date occurring in the second preceding calendar year from when  
4 this section shall take effect, except that the commissioner may estab-  
5 lish assessment ceilings below the ninety percent level or above the one  
6 hundred ten percent level to take into account any change in level of  
7 assessment and/or to take into account any additions or retirements to  
8 public utility mass real property or litigation affecting the value or  
9 taxable status of the local public utility mass real property initiated  
10 prior to the effective date of this section.

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

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

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

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

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

43 PART H

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

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



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

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

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

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

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

23 PART I

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

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

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

49 (A) All employers described in paragraph one of subsection (a) of  
50 section six hundred seventy-one of this part, including those whose  
51 wages paid are not sufficient to require the withholding of tax from the  
52 wages of any of their employees, all employers required to provide the  
53 wage reporting information for the employees described in subdivision  
54 one of section one hundred seventy-one-a of this chapter, and all

1 employers liable for unemployment insurance contributions or for  
2 payments in lieu of such contributions pursuant to article eighteen of  
3 the labor law, shall file a quarterly combined withholding, wage report-  
4 ing and unemployment insurance return detailing the preceding calendar  
5 quarter's withholding tax transactions, such quarter's wage reporting  
6 information, such quarter's withholding reconciliation information, such  
7 quarter's unemployment insurance contributions, and such other related  
8 information as the commissioner of taxation and finance or the commis-  
9 sioner of labor, as applicable, may prescribe. [~~In addition, the return  
10 covering the last calendar quarter of each year shall also include with-  
11 holding reconciliation information for such calendar year.~~] Such returns  
12 shall be filed no later than the last day of the month following the  
13 last day of each calendar quarter.

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

17 (3) Failure to provide complete and correct employee withholding  
18 reconciliation information. In the case of a failure by an employer to  
19 provide complete and correct [~~annual~~] quarterly withholding information  
20 relating to individual employees on a quarterly combined withholding,  
21 wage reporting and unemployment insurance return covering [~~the last~~]  
22 each calendar quarter of a year, such employer shall, unless it is shown  
23 that such failure is due to reasonable cause and not due to willful  
24 neglect, pay a penalty equal to the product of fifty dollars multiplied  
25 by the number of employees for whom such information is incomplete or  
26 incorrect; provided, however, that if the number of such employees  
27 cannot be determined from the quarterly combined withholding, wage  
28 reporting and unemployment insurance return, the commissioner may  
29 utilize any information in the commissioner's possession in making such  
30 determination. The total amount of the penalty imposed pursuant to this  
31 paragraph on an employer for any such failure for [~~the last~~] each calen-  
32 dar quarter of a year shall not exceed ten thousand dollars.

33 § 4. This act shall take effect immediately and shall apply to calen-  
34 dar quarters beginning on or after January 1, 2019.

35 PART J

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

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

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

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

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

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

12 PART K

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

15 § 171-z. Information sharing with the comptroller regarding unclaimed  
 16 funds. 1. Notwithstanding any other law, the commissioner is authorized  
 17 to release to the comptroller information regarding fixed and final  
 18 unwarranted debts of taxpayers for purposes of collecting unclaimed  
 19 funds from the comptroller to satisfy fixed and final unwarranted debts  
 20 owed by taxpayers. For purposes of this section, the term "unwarranted  
 21 debt" shall mean past-due tax liabilities, including unpaid tax, inter-  
 22 est and penalty, that the commissioner is required by law to collect and  
 23 that have become fixed and final such that the taxpayer no longer has  
 24 any right to administrative or judicial review and a warrant has not  
 25 been filed; and the term "taxpayer" shall mean any individual, corpo-  
 26 ration, partnership, limited liability partnership or company, partner,  
 27 member, manager, sole proprietorship, estate, trust, fiduciary or enti-  
 28 ty, who or which has been identified as owing taxes to the state. This  
 29 section shall not be deemed to abrogate or limit in any way the powers  
 30 and authority of the comptroller to set off debts owed the state from  
 31 unclaimed funds, under the constitution of the state or any other law.

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

38 § 2. This act shall take effect immediately.

39 PART L

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

43 2. All communications and information relating to a person receiving  
 44 public assistance or care obtained by any social services official,  
 45 service officer, or employee in the course of his or her work shall be  
 46 considered confidential and, except as otherwise provided in this  
 47 section, shall be disclosed only to the commissioner, or his or her  
 48 authorized representative, the commissioner of labor, or his or her  
 49 authorized representative, the commissioner of health, or his or her  
 50 authorized representative, the commissioner of taxation and finance, or  
 51 his or her authorized representative (other than the disclosure of  
 52 information that has been prohibited by federal law), the welfare

1 inspector general, or his or her authorized representative, the county  
2 board of supervisors, city council, town board or other board or body  
3 authorized and required to appropriate funds for public assistance and  
4 care in and for such county, city or town or its authorized represen-  
5 tative or, by authority of the county, city or town social services  
6 official, to a person or agency considered entitled to such information.  
7 Nothing herein shall preclude a social services official from report-  
8 ing to an appropriate agency or official, including law enforcement  
9 agencies or officials, known or suspected instances of physical or  
10 mental injury, sexual abuse or exploitation, sexual contact with a minor  
11 or negligent treatment or maltreatment of a child of which the official  
12 becomes aware in the administration of public assistance and care nor  
13 shall it preclude communication with the federal immigration and natur-  
14 alization service regarding the immigration status of any individual.  
15 § 2. This act shall take effect immediately.

16

## PART M

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

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

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

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

48 (2) where a shareholder performs investment management services for  
49 the S corporation, the shareholder will not be treated as a shareholder  
50 for purposes of this chapter with respect to the amount of the share-  
51 holder's pro rata share of income, gain, loss and deduction that is in  
52 excess of the amount such pro rata share would have been if the share-  
53 holder had performed no investment management services. Instead, such  
54 excess amount shall be treated for purposes of article twenty-two of

1 this chapter as income attributable to a trade, business, profession or  
2 occupation. Provided, however, the amount of the pro rata share that  
3 would have been determined if the shareholder performed no services  
4 shall not be less than zero.

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

10 (c) In addition to any other taxes or surcharges imposed pursuant to  
11 article nine-A or twenty-two of this chapter, any corporation, partner  
12 or shareholder providing investment management services shall be subject  
13 to an additional tax, referred to as the "carried interest fairness  
14 fee". Such carried interest fairness fee shall be equal to seventeen  
15 percent of the excess amount determined pursuant to subdivision (b) of  
16 this section; provided, however, (i) in the case of a corporation or  
17 shareholder of an S corporation providing such investment management  
18 services, such fee shall be equal to seventeen percent of the excess  
19 amount apportioned to the state by applying the corporation's or S  
20 corporation's apportionment factor determined under section two hundred  
21 ten-A of this chapter; (ii) in the case of a nonresident partner provid-  
22 ing such investment management services, such fee shall be equal to  
23 seventeen percent of the excess amount derived from New York sources as  
24 determined under section six hundred thirty-two of this chapter. Such  
25 carried interest fairness fee shall be administered in accordance with  
26 article nine-A or twenty-two of this chapter, as applicable, until such  
27 time as the commissioner of taxation and finance has notified the legis-  
28 lative bill drafting commission that federal legislation has been  
29 enacted that treats the provision of investment management services for  
30 federal tax purposes substantially the same as provided in this section.

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

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

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

54 (b) Character of items. [~~Each~~] Except as provided in section forty-  
55 four of this chapter, each item of partnership and S corporation income,  
56 gain, loss, or deduction shall have the same character for a partner or

1 shareholder under this article as for federal income tax purposes. Where  
2 an item is not characterized for federal income tax purposes, it shall  
3 have the same character for a partner or shareholder as if realized  
4 directly from the source from which realized by the partnership or S  
5 corporation or incurred in the same manner as incurred by the partner-  
6 ship or S corporation.

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

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

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

20 [~~It~~] Except as otherwise provided in section forty-four of this chap-  
21 ter, in determining the sources of a nonresident partner's income, no  
22 effect shall be given to a provision in the partnership agreement  
23 which--

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

37 § 7. This act shall take effect upon the enactment into law by the  
38 states of Connecticut, New Jersey, Massachusetts and Pennsylvania of  
39 legislation having substantially the same effect as this act and the  
40 enactments by such states have taken effect in each state and shall  
41 apply for taxable years beginning on or after such date; provided,  
42 however, if the states of Connecticut, New Jersey, Massachusetts and  
43 Pennsylvania have already enacted such legislation, this act shall take  
44 effect immediately and shall apply for taxable years beginning on or  
45 after January 1, 2018; provided further that the commissioner of taxa-  
46 tion and finance shall notify the legislative bill drafting commission  
47 upon the enactment of such legislation by the states of Connecticut, New  
48 Jersey, Massachusetts and Pennsylvania in order that such commission may  
49 maintain an accurate and timely effective data base of the official text  
50 of the laws of the state of New York in furtherance of effectuating the  
51 provisions of section 44 of the legislative law and section 70-b of the  
52 public officers law.

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

3 § 2016. Judicial review. A decision of the tax appeals tribunal, which  
4 is not subject to any further administrative review, shall finally and  
5 irrevocably decide all the issues which were raised in proceedings  
6 before the division of tax appeals upon which such decision is based  
7 unless, within four months after notice of such decision is served by  
8 the tax appeals tribunal upon every party to the proceeding before such  
9 tribunal by certified mail or personal service, the petitioner who  
10 commenced the proceeding [~~petitions~~] or the commissioner, or both, peti-  
11 tion for judicial review in the manner provided by article seventy-eight  
12 of the civil practice law and rules, except as otherwise provided in  
13 this [~~section~~] chapter. Such service by certified mail shall be  
14 complete upon deposit of such notice, enclosed in a post-paid properly  
15 addressed wrapper, in a post office or official depository under the  
16 exclusive care and custody of the United States postal service. [~~The~~]  
17 Where the petitioner who commenced the proceeding before the division of  
18 tax appeals files a petition for judicial review, the petition shall  
19 designate the tax appeals tribunal and the commissioner [~~of taxation and~~  
20 ~~finance~~] as respondents in the proceeding for judicial review. Where  
21 the commissioner files a petition for judicial review, the petition  
22 shall designate the tax appeals tribunal and the petitioner who  
23 commenced the proceeding before the division of tax appeals as respond-  
24 ents in the proceeding for judicial review. The tax appeals tribunal  
25 shall not participate in proceedings for judicial review of its deci-  
26 sions and such proceedings for judicial review shall be commenced in the  
27 appellate division of the supreme court, third department. In all other  
28 respects the provisions and standards of article seventy-eight of the  
29 civil practice law and rules shall apply. The record to be reviewed in  
30 such proceedings for judicial review shall include the determination of  
31 the administrative law judge, the decision of the tax appeals tribunal,  
32 the stenographic transcript of the hearing before the administrative law  
33 judge, the transcript of any oral proceedings before the tax appeals  
34 tribunal and any exhibit or document submitted into evidence at any  
35 proceeding in the division of tax appeals upon which such decision is  
36 based.

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

40 PART 0

41 Section 1. Subparagraph (B) of paragraph 1 of subsection (b) of  
42 section 605 of the tax law, as amended by chapter 28 of the laws of  
43 1987, is amended to read as follows:

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

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

53 (2) who [~~is not domiciled in such city but~~] maintains a permanent  
54 place of abode in such city and spends in the aggregate more than one

1 hundred eighty-three days of the taxable year in such city, whether or  
2 not domiciled in this city for any portion of the taxable year, unless  
3 such individual is in active service in the armed forces of the United  
4 States.

5 § 3. Subparagraph (B) of paragraph 1 of subdivision (b) of section  
6 11-1705 of the administrative code of the city of New York, as amended  
7 by chapter 333 of the laws of 1987, is amended to read as follows:

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

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

17 PART P

18 Section 1. Paragraph (1) of subsection (c-1) of section 606 of the tax  
19 law, as amended by section 1 of part L1 of chapter 109 of the laws of  
20 2006, is amended to read as follows:

21 (1) A resident taxpayer shall be allowed a credit as provided herein  
22 equal to the greater of one hundred dollars times the number of qualify-  
23 ing children of the taxpayer or the applicable percentage of the child  
24 tax credit allowed the taxpayer under section twenty-four of the inter-  
25 nal revenue code for the same taxable year for each qualifying child.  
26 Provided, however, in the case of a taxpayer whose federal adjusted  
27 gross income exceeds the applicable threshold amount set forth by  
28 section 24(b)(2) of the Internal Revenue Code, the credit shall only be  
29 equal to the applicable percentage of the child tax credit allowed the  
30 taxpayer under section 24 of the Internal Revenue Code for each qualify-  
31 ing child. For the purposes of this subsection, a qualifying child shall  
32 be a child who meets the definition of qualified child under section  
33 24(c) of the internal revenue code and is at least four years of age.  
34 The applicable percentage shall be thirty-three percent. For purposes  
35 of this subsection, any reference to section 24 of the Internal Revenue  
36 Code shall be a reference to such section as it existed immediately  
37 prior to the enactment of Public Law 115-97.

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

40 PART Q

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

44 (a) Allowance of credit. For taxable years beginning on or after Janu-  
45 ary first, two thousand fifteen and before January first, two thousand  
46 [~~nineteen~~] twenty-one, a taxpayer shall be allowed a credit, to be  
47 computed as provided in this subdivision, against the tax imposed by  
48 this article, for hiring and employing, for not less than one year and  
49 for not less than thirty-five hours each week, a qualified veteran with-  
50 in the state. The taxpayer may claim the credit in the year in which  
51 the qualified veteran completes one year of employment by the taxpayer.  
52 If the taxpayer claims the credit allowed under this subdivision, the



1 taxpayer may not use the hiring of a qualified veteran that is the basis  
2 for this credit in the basis of any other credit allowed under this  
3 article.

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

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

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

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

18 § 2. Paragraphs 1 and 2 of subsection (a-2) of section 606 of the tax  
19 law, as amended by section 2 of part I of chapter 60 of the laws of  
20 2016, are amended to read as follows:

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

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

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

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

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

47 § 3. Paragraphs 1 and 2 of subdivision (g-1) of section 1511 of the  
48 tax law, as amended by section 3 of part I of chapter 60 of the laws of  
49 2016, are amended to read as follows:

50 (1) Allowance of credit. For taxable years beginning on or after Janu-  
51 ary first, two thousand fifteen and before January first, two thousand  
52 [~~nineteen~~] twenty-one, a taxpayer shall be allowed a credit, to be  
53 computed as provided in this subdivision, against the tax imposed by  
54 this article, for hiring and employing, for not less than one year and  
55 for not less than thirty-five hours each week, a qualified veteran with-  
56 in the state. The taxpayer may claim the credit in the year in which

1 the qualified veteran completes one year of employment by the taxpayer.  
2 If the taxpayer claims the credit allowed under this subdivision, the  
3 taxpayer may not use the hiring of a qualified veteran that is the basis  
4 for this credit in the basis of any other credit allowed under this  
5 article.

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

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

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

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

20 § 4. This act shall take effect immediately.

21

## PART R

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

25 (c) A qualified employer shall be entitled to a tax credit equal to

26 (1) ~~five~~ seven hundred fifty dollars per month for up to six months  
27 for each qualified employee the employer employs in a full-time job or  
28 ~~two~~ three hundred ~~fifty~~ seventy-five dollars per month for up to six  
29 months for each qualified employee the employer employs in a part-time  
30 job of at least twenty hours per week or ten hours per week when the  
31 qualified employee is enrolled in high school full-time, (2) ~~one thou-~~  
32 ~~sand~~ fifteen hundred dollars for each qualified employee who is  
33 employed for at least an additional six consecutive months by the quali-  
34 fied employer in a full-time job or ~~five~~ seven hundred fifty dollars  
35 for each qualified employee who is employed for at least an additional  
36 six consecutive months by the qualified employer in a part-time job of  
37 at least twenty hours per week or ten hours per week when the qualified  
38 employee is enrolled in high school full-time, and (3) an additional  
39 ~~one thousand~~ fifteen hundred dollars for each qualified employee who  
40 is employed for at least an additional year after the ~~[first year of the~~  
41 ~~employee's employment]~~ completion of the time periods and satisfaction  
42 of the conditions set forth in paragraphs one and two of this subdivi-  
43 sion by the qualified employer in a full-time job or ~~five~~ seven  
44 hundred fifty dollars for each qualified employee who is employed for at  
45 least an additional year after the ~~[first year of the employee's employ-~~  
46 ~~ment]~~ completion of the time periods and satisfaction of the conditions  
47 set forth in paragraphs one and two of this subdivision by the qualified  
48 employer in a part-time job of at least twenty hours per week or ten  
49 hours per week when the qualified employee is enrolled in high school  
50 full time. The tax credits shall be claimed by the qualified employer as  
51 specified in subdivision thirty-six of section two hundred ten-B and  
52 subsection (tt) of section six hundred six of the tax law.

53 § 2. Subdivisions (d), (e) and (f) of section 25-a of the labor law,  
54 subdivisions (d) and (e) as amended by section 1 of subpart A of part N

1 of chapter 59 of the laws of 2017 and subdivision (f) as amended by  
2 section 1 of part AA of chapter 56 of the laws of 2015, are amended to  
3 read as follows:

4 (d) To participate in the program established under this section, an  
5 employer must submit an application (in a form prescribed by the commis-  
6 sioner) to the commissioner after January first, two thousand twelve but  
7 no later than November thirtieth, two thousand twelve for program one,  
8 after January first, two thousand fourteen but no later than November  
9 thirtieth, two thousand fourteen for program two, after January first,  
10 two thousand fifteen but no later than November thirtieth, two thousand  
11 fifteen for program three, after January first, two thousand sixteen but  
12 no later than November thirtieth, two thousand sixteen for program four,  
13 after January first, two thousand seventeen but no later than November  
14 thirtieth, two thousand seventeen for program five, after January first,  
15 two thousand eighteen but no later than November thirtieth, two thousand  
16 eighteen for program six, after January first, two thousand nineteen but  
17 no later than November thirtieth, two thousand nineteen for program  
18 seven, after January first, two thousand twenty but no later than Novem-  
19 ber thirtieth, two thousand twenty for program eight, after January  
20 first, two thousand twenty-one but no later than November thirtieth, two  
21 thousand twenty-one for program nine, and after January first, two thou-  
22 sand twenty-two but no later than November thirtieth, two thousand twen-  
23 ty-two for program ten. The qualified employees must start their employ-  
24 ment on or after January first, two thousand twelve but no later than  
25 December thirty-first, two thousand twelve for program one, on or after  
26 January first, two thousand fourteen but no later than December thirty-  
27 first, two thousand fourteen for program two, on or after January first,  
28 two thousand fifteen but no later than December thirty-first, two thou-  
29 sand fifteen for program three, on or after January first, two thousand  
30 sixteen but no later than December thirty-first, two thousand sixteen  
31 for program four, on or after January first, two thousand seventeen but  
32 no later than December thirty-first, two thousand seventeen for program  
33 five, on or after January first, two thousand eighteen but no later than  
34 December thirty-first, two thousand eighteen for program six, on or  
35 after January first, two thousand nineteen but no later than December  
36 thirty-first, two thousand nineteen for program seven, on or after Janu-  
37 ary first, two thousand twenty but no later than December thirty-first,  
38 two thousand twenty for program eight, on or after January first, two  
39 thousand twenty-one but no later than December thirty-first, two thou-  
40 sand twenty-one for program nine, and on or after January first, two  
41 thousand twenty-two but no later than December thirty-first, two thou-  
42 sand twenty-two for program ten. [~~The commissioner shall establish~~

43 ~~guidelines and criteria that specify requirements for employers to~~  
44 ~~participate in the program including criteria for certifying qualified~~  
45 ~~employees, ensuring that the process established will minimize any undue~~  
46 ~~delay in issuing the certificate of eligibility. Any regulations that~~  
47 ~~the commissioner determines are necessary may be adopted on an emergency~~  
48 ~~basis notwithstanding anything to the contrary in section two hundred~~  
49 ~~two of the state administrative procedure act. Such requirements may~~  
50 ~~include the types of industries that the employers are engaged in. The~~  
51 ~~commissioner may give preference to employers that are engaged in demand~~  
52 ~~occupations or industries, or in regional growth sectors, including but~~  
53 ~~not limited to those identified by the regional economic development~~  
54 ~~councils, such as clean energy, healthcare, advanced manufacturing and~~  
55 ~~conservation. In addition, the commissioner shall give preference to~~

1 ~~employers who offer advancement and employee benefit packages to the~~  
2 ~~qualified individuals.]~~ As part of such application, an employer must:

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

7 (2) allow the commissioner and its agents and the department of taxa-  
8 tion and finance and its agents access to any and all books and records  
9 of employers the commissioner may require to monitor compliance.

10 (e) If, after reviewing the application submitted by an employer, the  
11 commissioner determines that such employer is eligible to participate in  
12 the program established under this section, the commissioner shall issue  
13 the employer a preliminary certificate of eligibility that establishes  
14 the employer as a qualified employer. The preliminary certificate of  
15 eligibility shall specify the maximum amount of tax credit that the  
16 employer [~~will~~] may be allowed to claim and the program year under which  
17 it [~~can~~] may be claimed. The maximum amount of tax credit the employer  
18 is allowed to claim shall be computed as prescribed in subdivision (c)  
19 of this section.

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

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

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

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

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

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

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

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

51 (e-2) In determining the amount of credit for purposes of the annual  
52 final certificate of tax credit, the portion of the credit described in  
53 paragraph one of subdivision (c) of this section shall be allowed for  
54 the calendar year in which the wages are paid to the qualified employee,  
55 the portion of the credit described in paragraph two of subdivision (c)  
56 of this section shall be allowed for the calendar year in which the

1 additional six consecutive month period ends, and the portion of the  
2 credit described in paragraph three of subdivision (c) of this section  
3 shall be allowed for the calendar year in which the additional year of  
4 consecutive employment ends after the completion of the time periods and  
5 satisfaction of the conditions set forth in paragraphs one and two of  
6 subdivision (c) of this section. If the qualified employer's taxable  
7 year is a calendar year, the employer shall be entitled to claim the  
8 credit as calculated on the annual final certificate of tax credit on  
9 the calendar year return for which the annual final certificate of tax  
10 credit was issued. If the qualified employer's taxable year is a fiscal  
11 year, the employer shall be entitled to claim the credit as calculated  
12 on the annual final certificate of tax credit on the return for the  
13 fiscal year that encompasses the date on which the annual final certifi-  
14 cate of tax credit is issued.

15 (e-3) The commissioner shall establish guidelines and criteria that  
16 specify requirements for employers to participate in the program includ-  
17 ing criteria for certifying qualified employees, and issuing the prelim-  
18 inary certificate of eligibility and annual final certificate of tax  
19 credit. Any regulations that the commissioner determines are necessary  
20 may be adopted on an emergency basis notwithstanding anything to the  
21 contrary in section two hundred two of the state administrative proce-  
22 dure act. Such requirements may include the types of industries that the  
23 employers are engaged in. The commissioner may give preference to  
24 employers that are engaged in demand occupations or industries, or in  
25 regional growth sectors, including but not limited to those identified  
26 by the regional economic development councils, such as clean energy,  
27 healthcare, advanced manufacturing and conservation. In addition, the  
28 commissioner shall give preference to employers who offer advancement  
29 and employee benefit packages to the qualified individuals.

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

33 (a) A taxpayer that has been certified by the commissioner of labor as  
34 a qualified employer pursuant to section twenty-five-a of the labor law  
35 shall be allowed a credit against the tax imposed by this article equal  
36 to (i) [~~five~~] seven hundred fifty dollars per month for up to six months  
37 for each qualified employee the employer employs in a full-time job or  
38 [~~two~~] three hundred [~~fifty~~] seventy-five dollars per month for up to six  
39 months for each qualified employee the employer employs in a part-time  
40 job of at least twenty hours per week or ten hours per week when the  
41 qualified employee is enrolled in high school full-time, (ii) [~~one thou-~~  
42 ~~sand~~] fifteen hundred dollars for each qualified employee who is  
43 employed for at least an additional six consecutive months by the quali-  
44 fied employer in a full-time job or [~~five~~] seven hundred fifty dollars  
45 for each qualified employee who is employed for at least an additional  
46 six consecutive months by the qualified employer in a part-time job of  
47 at least twenty hours per week or ten hours per week when the qualified  
48 employee is enrolled in high school full-time, and (iii) an additional  
49 [~~one thousand~~] fifteen hundred dollars for each qualified employee who  
50 is employed for at least an additional year after the [~~first year of the~~  
51 ~~employee's employment~~] completion of the time periods and satisfaction  
52 of the conditions set forth in subparagraphs (i) and (ii) of this para-  
53 graph by the qualified employer in a full-time job or [~~five~~] seven  
54 hundred fifty dollars for each qualified employee who is employed for at  
55 least an additional year after the [~~first year of the employee's employ-~~  
56 ~~ment~~] completion of the time periods and satisfaction of the conditions

1 set forth in subparagraphs (i) and (ii) of this paragraph by the quali-  
2 fied employer in a part-time job of at least twenty hours per week or  
3 ten hours per week when the qualified employee is enrolled in high  
4 school full-time. For purposes of this subdivision, the term "qualified  
5 employee" shall have the same meaning as set forth in subdivision (b) of  
6 section twenty-five-a of the labor law. The portion of the credit  
7 described in subparagraph (i) of this paragraph shall be allowed for the  
8 taxable year in which the wages are paid to the qualified employee, the  
9 portion of the credit described in subparagraph (ii) of this paragraph  
10 shall be allowed in the taxable year in which the additional six month  
11 period ends, and the portion of the credit described in subparagraph  
12 (iii) of this paragraph shall be allowed in the taxable year in which  
13 the additional year after the first year of employment ends.

14 § 5. Paragraph (a) of subdivision 36 of section 210-B of the tax law,  
15 as amended by section 4 of this act, is 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 and received an annual final certificate of tax credit from such commis-  
19 sioner shall be allowed a credit against the tax imposed by this article  
20 equal to [~~(i) seven hundred fifty dollars per month for up to six months~~  
21 ~~for each qualified employee the employer employs in a full-time job or~~  
22 ~~three hundred seventy five dollars per month for up to six months for~~  
23 ~~each qualified employee the employer employs in a part-time job of at~~  
24 ~~least twenty hours per week or ten hours per week when the qualified~~  
25 ~~employee is enrolled in high school full-time, (ii) fifteen hundred~~  
26 ~~dollars for each qualified employee who is employed for at least an~~  
27 ~~additional six consecutive months by the qualified employer in a full-~~  
28 ~~time job or seven hundred fifty dollars for each qualified employee who~~  
29 ~~is employed for at least an additional six consecutive months by the~~  
30 ~~qualified employer in a part-time job of at least twenty hours per week~~  
31 ~~or ten hours per week when the qualified employee is enrolled in high~~  
32 ~~school full-time, and (iii) an additional fifteen hundred dollars for~~  
33 ~~each qualified employee who is employed for at least an additional year~~  
34 ~~after the completion of the time periods and satisfaction of the condi-~~  
35 ~~tions set forth in subparagraphs (i) and (ii) of this paragraph by the~~  
36 ~~qualified employer in a full-time job or seven hundred fifty dollars for~~  
37 ~~each qualified employee who is employed for at least an additional year~~  
38 ~~after the completion of the time periods and satisfaction of the condi-~~  
39 ~~tions set forth in subparagraphs (i) and (ii) of this paragraph by the~~  
40 ~~qualified employer in a part-time job of at least twenty hours per week~~  
41 ~~or ten hours per week when the qualified employee is enrolled in high~~  
42 ~~school full-time. For purposes of this subdivision, the term "qualified~~  
43 ~~employee" shall have the same meaning as set forth in subdivision (b) of~~  
44 ~~section twenty-five-a of the labor law. The portion of the credit~~  
45 ~~described in subparagraph (i) of this paragraph shall be allowed for the~~  
46 ~~taxable year in which the wages are paid to the qualified employee, the~~  
47 ~~portion of the credit described in subparagraph (ii) of this paragraph~~  
48 ~~shall be allowed in the taxable year in which the additional six month~~  
49 ~~period ends, and the portion of the credit described in subparagraph~~  
50 ~~(iii) of this paragraph shall be allowed in the taxable year in which~~  
51 ~~the additional year after the first year of employment ends] the amount  
52 listed on the annual final certificate of tax credit issued by the  
53 commissioner of labor pursuant to section twenty-five-a of the labor  
54 law. If the qualified employer's taxable year is a calendar year, the  
55 employer shall be entitled to claim the credit as calculated on the  
56 annual final certificate of tax credit on the calendar year return for~~

1 which the annual final certificate of tax credit was issued. If the  
2 qualified employer's taxable year is a fiscal year, the employer shall  
3 be entitled to claim the credit as calculated on the annual final  
4 certificate of tax credit on the return for the fiscal year that encom-  
5 passes the date on which the annual final certificate of tax credit is  
6 issued. For the purposes of this subdivision, the term "qualified  
7 employee" shall have the same meaning as set forth in subdivision (b) of  
8 section twenty-five-a of the labor law.

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

12 (c) The taxpayer [~~may~~] shall be required to attach to its tax return  
13 its annual final certificate of [~~eligibility~~] tax credit issued by the  
14 commissioner of labor pursuant to section twenty-five-a of the labor  
15 law. In no event shall the taxpayer be allowed a credit greater than the  
16 amount of the credit listed on the annual final certificate of [~~eligi-~~  
17 ~~bility~~] tax credit. Notwithstanding any provision of this chapter to  
18 the contrary, the commissioner and the commissioner's designees may  
19 release the names and addresses of any taxpayer claiming this credit and  
20 the amount of the credit earned by the taxpayer. Provided, however, if  
21 a taxpayer claims this credit because it is a member of a limited  
22 liability company or a partner in a partnership, only the amount of  
23 credit earned by the entity and not the amount of credit claimed by the  
24 taxpayer may be released.

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

28 (1) A taxpayer that has been certified by the commissioner of labor as  
29 a qualified employer pursuant to section twenty-five-a of the labor law  
30 shall be allowed a credit against the tax imposed by this article equal  
31 to (A) [~~five~~] seven hundred fifty dollars per month for up to six months  
32 for each qualified employee the employer employs in a full-time job or  
33 [~~two~~] three hundred [~~fifty~~] seventy-five dollars per month for up to six  
34 months for each qualified employee the employer employs in a part-time  
35 job of at least twenty hours per week or ten hours per week when the  
36 qualified employee is enrolled in high school full-time, and (B) [~~one~~  
37 ~~thousand~~] fifteen hundred dollars for each qualified employee who is  
38 employed for at least an additional six consecutive months by the quali-  
39 fied employer in a full-time job or [~~five~~] seven hundred fifty dollars  
40 for each qualified employee who is employed for at least an additional  
41 six consecutive months by the qualified employer in a part-time job of  
42 at least twenty hours per week or ten hours per week when the qualified  
43 employee is enrolled in high school full-time, and (C) an additional  
44 [~~one thousand~~] fifteen hundred dollars for each qualified employee who  
45 is employed for at least an additional year after the [~~first year of the~~  
46 ~~employee's employment~~] completion of the time periods and satisfaction  
47 of the conditions set forth in subparagraphs A and B of this subsection  
48 by the qualified employer in a full-time job or [~~five~~] seven hundred  
49 fifty dollars for each qualified employee who is employed for at least  
50 an additional year after the [~~first year of the employee's employment~~]  
51 completion of the time periods and satisfaction of the conditions set  
52 forth in subparagraphs A and B of this subsection by the qualified  
53 employer in a part-time job of at least twenty hours per week or ten  
54 hours per week when the qualified employee is enrolled in high school  
55 full-time. A taxpayer that is a partner in a partnership, member of a  
56 limited liability company or shareholder in an S corporation that has

1 been certified by the commissioner of labor as a qualified employer  
2 pursuant to section twenty-five-a of the labor law shall be allowed its  
3 pro rata share of the credit earned by the partnership, limited liability  
4 company or S corporation. For purposes of this subsection, the term  
5 "qualified employee" shall have the same meaning as set forth in subdi-  
6 vision (b) of section twenty-five-a of the labor law. The portion of the  
7 credit described in subparagraph (A) of this paragraph shall be allowed  
8 for the taxable year in which the wages are paid to the qualified  
9 employee, the portion of the credit described in subparagraph (B) of  
10 this paragraph shall be allowed in the taxable year in which the addi-  
11 tional six month period ends, and the portion of the credit described in  
12 subparagraph (C) of this paragraph shall be allowed in the taxable year  
13 in which the additional year after the first year of employment ends.

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

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



~~tional six month period ends, and the portion of the credit described in subparagraph (C) of this paragraph shall be allowed in the taxable year in which the additional year after the first year of employment ends.]~~  
If the qualified employer's taxable year is a calendar year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the calendar year return for which the annual final certificate of tax credit was issued. If the qualified employer's taxable year is a fiscal year, the employer shall be entitled to claim the credit as calculated on the annual final certificate of tax credit on the return for the fiscal year that encompasses the date on which the annual final certificate of tax credit is issued. For the purposes of this subsection, the term "qualified employee" shall have the same meaning as set forth in subdivision (b) of section twenty-five-a of the labor law.

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

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

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

PART S

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

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

(b) To determine the amount of each tax credit allowed for the taxable year to be used, refunded or credited as an overpayment the taxpayer shall multiply the amount of each credit subject to deferral that would

1 have been used, refunded or credited as an overpayment in the absence of  
 2 this section by a fraction, the numerator of which is two million  
 3 dollars, and the denominator of which is the total amount of the taxpay-  
 4 er's credits subject to deferral pursuant to subdivision three of this  
 5 section that would have been used, refunded or credited as an overpay-  
 6 ment for the taxable year in the absence of this section. The product is  
 7 the amount of such credit that is not subject to deferral and thus  
 8 allowed to be used, refunded or credited as an overpayment for the taxa-  
 9 ble year.

10 2. Taxpayers shall calculate and make any estimated tax payments  
 11 required to be made by taking into account the deferral of credits  
 12 required by this section. Taxpayers shall calculate any mandatory first  
 13 installment payments made on or after the effective date of this section  
 14 as if the deferral of credits required by this section had been in  
 15 effect for the taxable year upon which that installment is based. In  
 16 addition, for taxable years beginning on or after January first, two  
 17 thousand ~~[ten]~~ eighteen and before January first, two thousand ~~[eleven]~~  
 18 nineteen, (a) no addition to tax under subsection (c) of section six  
 19 hundred eighty-five of this chapter or subsection (c) of section one  
 20 thousand eighty-five of this chapter shall be imposed with respect to  
 21 any underpayment attributable to the deferral required by this section  
 22 of any estimated taxes that are required to be paid prior to the enact-  
 23 ment of this section, provided that the taxpayer timely made those  
 24 payments; and (b) the required installment of estimated tax described in  
 25 clause (ii) of subparagraph (B) of paragraph three of subsection (c) of  
 26 section six hundred eighty-five of this chapter, and the exception to  
 27 addition for underpayment of estimated tax described in paragraph one or  
 28 two of subsection (d) of section one thousand eighty-five of this chap-  
 29 ter, in relation to the preceding year's return, shall be calculated as  
 30 if the deferral required by this section had been in effect for that  
 31 entire preceding year.

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

36 Section ~~[210(12)]~~ 210-B(1) investment tax credit  
 37 Section ~~[210(12-B)]~~ 210-B(3) empire zone investment tax credit  
 38 Section ~~[210(12-C)]~~ 210-B(4) empire zone employment incentive credit  
 39 Section ~~[210(12-D)]~~ 210-B(2) employment incentive credit  
 40 Section ~~[210(12-E)]~~ 210-B(7) QETC employment credit  
 41 Section ~~[210(12-F)]~~ 210-B(8) QETC capital tax credit  
 42 ~~[Section 210(12-G) QETC facilities, operations, and training credit]~~  
 43 Section ~~[210(17)]~~ 210-B(9) special additional mortgage recording tax  
 44 credit  
 45 ~~[Section 210(19) empire zone wage tax credit~~  
 46 ~~Section 210(20) empire zone capital tax credit]~~  
 47 Section ~~[210(21-a)]~~ 210-B(10) credit for servicing certain mortgages  
 48 Section ~~[210(23)]~~ 210-B(12) credit for employment of persons with  
 49 disabilities  
 50 Section ~~[210(24)]~~ 210-B(30) alternative fuels and electric vehicle  
 51 recharging property credit  
 52 Section ~~[210(25)]~~ 210-B(13) credit for purchase of an automated  
 53 external defibrillator  
 54 Section ~~[210(27)]~~ 210-B(5) QEZE credit for real property taxes  
 55 Section ~~[210(28)]~~ 210-B(6) QEZE tax reduction credit  
 56 Section ~~[210(30)]~~ 210-B(15) low income housing credit

1 Section [~~210(31)~~] 210-B(16) green building credit  
 2 Section [~~210(33)~~] 210-B(17) brownfield redevelopment tax credit  
 3 Section [~~210(34)~~] 210-B(18) remediated brownfield credit for real  
 4 property taxes for qualified sites  
 5 Section [~~210(35)~~] 210-B(19) environmental remediation insurance credit  
 6 Section [~~210(37)~~] 210-B(21) security training tax credit  
 7 [~~Section 210(37) credit for fuel cell electric generating equipment~~  
 8 ~~expenditures~~]  
 9 Section [~~210(38)~~] 210-B(22) conservation easement tax credit  
 10 [~~Section 210(38) empire state commercial production credit~~]  
 11 Section [~~210(38)~~] 210-B(24) biofuel production credit  
 12 Section [~~210(39)~~] 210-B(25) clean heating fuel credit  
 13 Section [~~210(40)~~] 210-B(26) credit for rehabilitation of historic  
 14 properties  
 15 Section [~~210(40)~~] 210-B(38) credit for companies who provide transpor-  
 16 tation to individuals with disabilities  
 17 Section 210-B(11) agricultural property tax credit  
 18 Section 210-B(35) economic transformation and facility redevelopment  
 19 credit  
 20 Section 210-B(39) alcoholic beverage production credit  
 21 Section 210-B(40) minimum wage reimbursement credit  
 22 Section 210-B(41) the tax-free NY area tax elimination credit  
 23 Section 210-B(43) real property tax credit for manufacturers  
 24 Section 210-B(44) the tax-free NY area excise tax on telecommunication  
 25 services credit  
 26 Section 210-B(47) musical and theatrical production credit  
 27 Section 210-B(48) workers with disabilities tax credit  
 28 Section 210-B(51) farm workforce retention credit

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

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

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

33 Section 606(pp) historic homeownership rehabilitation credit

34 Section 1511(k) credit for certain investments in certified capital  
 35 companies

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

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

51 2. The amounts of refundable credits that are deferred pursuant to  
 52 section thirty-three of this article in taxable years beginning on or  
 53 after January first, two thousand [~~ten~~] eighteen and before January  
 54 first, two thousand [~~thirteen~~] twenty-one shall be accumulated and  
 55 constitute the taxpayer's temporary deferral refundable payout credit.  
 56 In the taxable year beginning on or after January first, two thousand

1 [~~thirteen~~] twenty-one and before January first, two thousand [~~fourteen~~]  
2 twenty-two, the taxpayer shall be allowed to claim a credit equal to  
3 fifty percent of the amount accumulated. In the taxable year beginning  
4 on or after January first, two thousand [~~fourteen~~] twenty-two and before  
5 January first, two thousand [~~fifteen~~] twenty-three, the taxpayer shall  
6 be allowed to claim a credit equal to seventy-five percent of the  
7 balance of the amount accumulated. In the taxable year beginning on or  
8 after January first, two thousand [~~fifteen~~] twenty-three and before  
9 January first, two thousand [~~sixteen~~] twenty-four, the taxpayer shall be  
10 allowed to claim a credit equal to the remaining balance of the amount  
11 accumulated. The credit shall be allowed against the taxpayer's tax as  
12 provided in the provisions referenced in paragraph (b) of subdivision  
13 three of this section.

14 § 3. This act shall take effect immediately.

15

## PART T

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

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

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

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

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

39

## PART U

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

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

47 [~~In the absence of such an established price, a manufacturer's invoice~~  
48 ~~price of any tobacco product shall be presumptive evidence of the whole-~~  
49 ~~sale price of such tobacco product, and in its absence the price at~~  
50 ~~which such tobacco products were purchased shall be presumed to be the~~  
51 ~~wholesale price, unless evidence of a lower wholesale price shall be~~

~~1 established or any industry standard of markups relating to the purchase  
2 price in relation to the wholesale price shall be established.]~~

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

6 PART V

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

10 (A) gas, electricity, refrigeration and steam, and gas, electric,  
11 refrigeration and steam service of whatever nature, including the trans-  
12 portation, transmission or distribution of gas or electricity, even if  
13 sold separately;

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

15 § 3. Subparagraph (xi) of paragraph 4 of subdivision (a) of section  
16 1210 of the tax law, as amended by section 2 of part WW of chapter 60 of  
17 the laws of 2016, is amended to read as follows:

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

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

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

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

37 PART W

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

40 (f) (1) Services rendered by a veterinarian licensed and registered as  
41 required by the education law which constitute the practice of veteri-  
42 nary medicine as defined in said law, including hospitalization for  
43 which no separate boarding charge is made, shall not be subject to tax  
44 under paragraph (3) of subdivision (c) of section eleven hundred five,  
45 but the exemption allowed by this subdivision shall not apply to other  
46 services provided by a veterinarian to pets and other animals, includ-  
47 ing, but not limited to, boarding, grooming and clipping. Articles of  
48 tangible personal property designed for use in some manner relating to  
49 domestic animals or poultry, when sold by such a veterinarian, shall not  
50 be subject to tax under subdivision (a) of section eleven hundred five  
51 or under section eleven hundred ten. However, the sale of any such arti-  
52 cles of tangible personal property to a veterinarian shall not be deemed

1 a sale for resale within the meaning of [~~pargraph~~] paragraph (4) of  
2 subdivision (b) of section eleven hundred one and shall not be exempt  
3 from retail sales tax.

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

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

14 (a) Subject to the conditions and limitations provided for herein, a  
15 refund or credit shall be allowed for a tax paid pursuant to subdivision  
16 (a) of section eleven hundred five or section eleven hundred ten (1) on  
17 the sale or use of tangible personal property if the purchaser or user,  
18 in the performance of a contract, later incorporates that tangible  
19 personal property into real property located outside this state, (2) on  
20 the sale or use of tangible personal property purchased in bulk, or any  
21 portion thereof, which is stored and not used by the purchaser or user  
22 within this state if that property is subsequently reshipped by such  
23 purchaser or user to a point outside this state for use outside this  
24 state, (3) on the sale to or use by a contractor or subcontractor of  
25 tangible personal property if that property is used by him solely in the  
26 performance of a pre-existing lump sum or unit price construction  
27 contract, (4) on the sale or use within this state of tangible personal  
28 property, not purchased for resale, if the use of such property in this  
29 state is restricted to fabricating such property (including incorporat-  
30 ing it into or assembling it with other tangible personal property),  
31 processing, printing or imprinting such property and such property is  
32 then shipped to a point outside this state for use outside this state,

33 [~~(5) on the sale to or use by a veterinarian of drugs or medicine if~~  
34 ~~such drugs or medicine are used by such veterinarian in rendering~~  
35 ~~services, which are exempt pursuant to subdivision (f) of section eleven~~  
36 ~~hundred fifteen of this chapter, to livestock or poultry used in the~~  
37 ~~production for sale of tangible personal property by farming or if such~~  
38 ~~drugs or medicine are sold to a person qualifying for the exemption~~  
39 ~~provided for in paragraph (6) of subdivision (a) of section eleven~~  
40 ~~hundred fifteen of this chapter for use by such person on such livestock~~  
41 ~~or poultry,]~~ or (6) on the sale of tangible personal property purchased

42 for use in constructing, expanding or rehabilitating industrial or  
43 commercial real property (other than property used or to be used exclu-  
44 sively by one or more registered vendors primarily engaged in the retail  
45 sale of tangible personal property) located in an area designated as an  
46 empire zone pursuant to article eighteen-B of the general municipal law,  
47 but only to the extent that such property becomes an integral component  
48 part of the real property. (For the purpose of clause (3) of the preced-  
49 ing sentence, the term "pre-existing lump sum or unit price construction  
50 contract" shall mean a contract for the construction of improvements to  
51 real property under which the amount payable to the contractor or  
52 subcontractor is fixed without regard to the costs incurred by him in  
53 the performance thereof, and which (i) was irrevocably entered into  
54 prior to the date of the enactment of this article or the enactment of a  
55 law increasing the rate of tax imposed under this article, or (ii)  
56 resulted from the acceptance by a governmental agency of a bid accompa-

1 nied by a bond or other performance guaranty which was irrevocably  
2 submitted prior to such date.) Where the tax on the sale or use of such  
3 tangible personal property has been paid to the vendor, to qualify for  
4 such refund or credit, such tangible personal property must be incorpo-  
5 rated into real property as required in clause (1) above, reshipped as  
6 required in clause (2) above, used in the manner described in clauses  
7 (3), (4)[~~7~~(5)] and (6) above within three years after the date such tax  
8 was payable to the tax commission by the vendor pursuant to section  
9 eleven hundred thirty-seven. Where the tax on the sale or use of such  
10 tangible personal property was paid by the applicant for the credit or  
11 refund directly to the tax commission, to qualify for such refund or  
12 credit, such tangible personal property must be incorporated into real  
13 property as required in clause (1) above, reshipped as required in  
14 clause (2) above, used in the manner described in clauses (3), (4)[~~7~~  
15 ~~(5)~~] and (6) above within three years after the date such tax was paya-  
16 ble to the tax commission by such applicant pursuant to this article. An  
17 application for a refund or credit pursuant to this section must be  
18 filed with such commission within the time provided by subdivision (a)  
19 of section eleven hundred thirty-nine. Such application shall be in such  
20 form as the tax commission may prescribe. Where an application for cred-  
21 it has been filed, the applicant may immediately take such credit on the  
22 return which is due coincident with or immediately subsequent to the  
23 time that he files his application for credit. However, the taking of  
24 the credit on the return shall be deemed to be part of the application  
25 for credit and shall be subject to the provisions in respect to applica-  
26 tions for credit in section eleven hundred thirty-nine as provided in  
27 subdivision (e) of such section. With respect to a sale or use described  
28 in clause (3) above where a pre-existing lump sum or unit price  
29 construction contract was irrevocably entered into prior to the date of  
30 the enactment of this article or the bid accompanied by the performance  
31 guaranty was irrevocably submitted to the governmental agency prior to  
32 such date, the purchaser or user shall be entitled to a refund or credit  
33 only of the amount by which the tax on such sale or use imposed under  
34 this article plus any tax imposed under the authority of article twen-  
35 ty-nine exceeds the amount computed by applying against such sale or use  
36 the local rate of tax, if any, in effect at the time such contract was  
37 entered into or such bid was submitted.

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

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

47

## PART X

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

50 (1) "Persons required to collect tax" or "person required to collect  
51 any tax imposed by this article" shall include: every vendor of tangible  
52 personal property or services; every recipient of amusement charges; and  
53 every operator of a hotel. Said terms shall also include any officer,  
54 director or employee of a corporation or of a dissolved corporation, any

1 employee of a partnership, any employee or manager of a limited liability  
2 company, or any employee of an individual proprietorship who as such  
3 officer, director, employee or manager is under a duty to act for such  
4 corporation, partnership, limited liability company or individual  
5 proprietorship in complying with any requirement of this article, or has  
6 so acted; and any member of a partnership or limited liability company.  
7 Provided, however, that any person who is a vendor solely by reason of  
8 clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision  
9 (b) of section eleven hundred one of this article shall not be a "person  
10 required to collect any tax imposed by this article" until twenty days  
11 after the date by which such person is required to file a certificate of  
12 registration pursuant to section eleven hundred thirty-four of this  
13 part.

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

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

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

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



1 (iii) A limited partner of a limited partnership or member of a limited  
2 liability company, who meets the requirements set forth in this para-  
3 graph and whose application for relief is approved by the commissioner,  
4 shall be liable for the percentage of the original sales and use tax  
5 liability of their respective limited partnership or limited liability  
6 company that reflects such limited partner's or member's ownership  
7 interest of distributive share of the profits and losses of such limited  
8 partnership or limited liability company, whichever is higher. Such  
9 original liability shall include any interest accrued thereon up to and  
10 including the date of payment by such limited partner or member at the  
11 underpayment rate set by the commissioner pursuant to section eleven  
12 hundred forty-two of this part, and shall be reduced by the sum of any  
13 payments made by (A) the limited partnership or limited liability compa-  
14 ny; (B) any person required to collect tax not eligible for relief; and  
15 (C) any person required to collect tax who was eligible for relief but  
16 had not been approved for relief by the commissioner at the time such  
17 payment was made. Provided, however, such limited partner or member  
18 shall not be liable for any penalty owed by such limited partnership or  
19 limited liability company or any other partner or member of such limited  
20 partnership or limited liability company. Any payment made by a limited  
21 partner or member pursuant to the provisions of this paragraph shall not  
22 be credited against the liability of other limited partners or members  
23 of their respective limited partnership or limited liability company who  
24 are eligible for the same relief; provided, however that the sum of the  
25 amounts owed by all of the persons required to collect tax of a limited  
26 partnership or limited liability company shall not exceed the total  
27 liability of such limited partnership or limited liability company.

28 § 3. This act shall take effect immediately.

29 PART Y

30 Section 1. Paragraph 1 of subdivision (a) of section 1115 of the tax  
31 law, as amended by section 1 of part II of chapter 59 of the laws of  
32 2014, is amended to read as follows:

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

44 ~~[The]~~ (B) Until May thirty first, two thousand twenty, the food and  
45 drink excluded from the exemption provided by ~~[this paragraph under~~  
46 ~~subparagraphs]~~ clauses (i), (ii) and (iii) of subparagraph (A) of this  
47 paragraph, and bottled water, shall be exempt under this ~~[paragraph]~~  
48 subparagraph when sold for one dollar and fifty cents or less through  
49 any vending machine ~~[activated by the use of] that accepts~~ coin~~[,]~~ or  
50 currency~~[, credit card or debit card]~~ only or when sold for two dollars  
51 or less through any vending machine that accepts any form of payment  
52 other than coin or currency, whether or not it also accepts coin or  
53 currency. ~~[With the exception of the provision in this paragraph provid-~~  
54 ~~ing for an exemption for certain food or drink sold for one dollar and~~

~~fifty cents or less through vending machines, nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five of this article.]~~

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

PART Z

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

§ 2. Notwithstanding any other provision of law to the contrary, the one percent increase in sales and compensating use taxes authorized for the county of Genesee until November 30, [2019] 2020 pursuant to clause (20) of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section one of this act, shall be divided in the same manner and proportion as the existing three percent sales and compensating use taxes in such county are divided.

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

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

1 within the county shall be allocated on the basis of the ratio which the  
2 population of each village bears to the total population of the villages  
3 located within the county. The term population as used in this section  
4 shall have the same meaning as used in subdivision (b) of section 1262  
5 of the tax law.

6 § 3. Section 3 of subpart EE of part A of chapter 61 of the laws of  
7 2017, amending the tax law relating to extending the authorization of  
8 the county of Onondaga to impose an additional rate of sales and compen-  
9 sating use taxes, is amended to read as follows:

10 § 3. Notwithstanding any contrary provision of law, net collections  
11 from the additional one percent rate of sales and compensating use taxes  
12 which may be imposed by the county of Onondaga during the period  
13 commencing December 1, 2018 and ending November 30, [~~2019~~ 2020, pursu-  
14 ant to the authority of section 1210 of the tax law, shall not be  
15 subject to any revenue distribution agreement entered into under subdivi-  
16 sion (c) of section 1262 of the tax law, but shall be allocated and  
17 distributed or paid, at least quarterly, as follows: (i) 1.58% to the  
18 county of Onondaga for any county purpose; (ii) 97.79% to the city of  
19 Syracuse; and (iii) .63% to the school districts in accordance with  
20 subdivision (a) of section 1262 of the tax law.

21 § 4. Section 2 of subpart GG of part A of chapter 61 of the laws of  
22 2017, amending the tax law relating to extending the authority of the  
23 county of Orange to impose an additional rate of sales and compensating  
24 use taxes, is amended to read as follows:

25 § 2. Notwithstanding subdivision (c) of section 1262 of the tax law,  
26 net collections from any additional rate of sales and compensating use  
27 taxes which may be imposed by the county of Orange during the period  
28 commencing December 1, 2017, and ending November 30, [~~2019~~ 2020, pursu-  
29 ant to the authority of section 1210 of the tax law, shall be paid to  
30 the county of Orange and shall be used by such county solely for county  
31 purposes and shall not be subject to any revenue distribution agreement  
32 entered into pursuant to the authority of subdivision (c) of section  
33 1262 of the tax law.

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

36 PART AA

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

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

42 (1) Marketplace provider. A person who, pursuant to an agreement with  
43 a marketplace seller, facilitates sales of tangible personal property by  
44 such marketplace seller or sellers. A person "facilitates a sale of  
45 tangible personal property" for purposes of this paragraph when the  
46 person meets both of the following conditions: (i) such person provides  
47 the forum in which, or by means of which, the sale takes place or the  
48 offer of sale is accepted, including a shop, store, booth, catalog, an  
49 internet website, or similar forum; and (ii) such person or an affiliate  
50 of such person collects the receipts paid by a customer to a marketplace  
51 seller for a sale of tangible personal property, or contracts with a  
52 third party to collect such receipts. For purposes of this paragraph,  
53 two persons are affiliated if one person has an ownership interest of  
54 more than five percent, whether direct or indirect, in the other, or

1 where an ownership interest of more than five percent, whether direct or  
2 indirect, is held in each of such persons by another person or by a  
3 group of other persons that are affiliated persons with respect to each  
4 other. Notwithstanding anything in this paragraph, a person who facili-  
5 tates sales exclusively by means of the internet is not a marketplace  
6 provider for a sales tax quarter when such person can show that it has  
7 facilitated less than one hundred million dollars of sales annually for  
8 every calendar year after two thousand sixteen.

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

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

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

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

39 (1)(1) A marketplace provider with respect to a sale of tangible  
40 personal property it facilitates: (i) shall have all the obligations and  
41 rights of a vendor under this article and article twenty-nine of this  
42 chapter and under any regulations adopted pursuant thereto, including,  
43 but not limited to, the duty to obtain a certificate of authority, to  
44 collect tax, file returns, remit tax, and the right to accept a certif-  
45 icate or other documentation from a customer substantiating an exemption  
46 or exclusion from tax, the right to receive the refund authorized by  
47 subdivision (e) of this section and the credit allowed by subdivision  
48 (f) of section eleven hundred thirty-seven of this part subject to the  
49 provisions of such subdivisions; and (ii) shall keep such records and  
50 information and cooperate with the commissioner to ensure the proper  
51 collection and remittance of tax imposed, collected or required to be  
52 collected under this article and article twenty-nine of this chapter.

53 (2) A marketplace seller who is a vendor is relieved from the duty to  
54 collect tax in regard to a particular sale of tangible personal property  
55 subject to tax under subdivision (a) of section eleven hundred five of  
56 this article and shall not include the receipts from such sale in its

1 taxable receipts for purposes of section eleven hundred thirty-six of  
2 this part if, in regard to such sale: (i) the marketplace seller can  
3 show that such sale was facilitated by a marketplace provider from whom  
4 such seller has received in good faith a properly completed certificate  
5 of collection in a form prescribed by the commissioner, certifying that  
6 the marketplace provider is registered to collect sales tax and will  
7 collect sales tax on all taxable sales of tangible personal property by  
8 the marketplace seller facilitated by such marketplace provider, and  
9 with such other information as the commissioner may prescribe; and (ii)  
10 any failure of the marketplace provider to collect the proper amount of  
11 tax in regard to such sale was not the result of such marketplace seller  
12 providing the marketplace provider with incorrect information. This  
13 provision shall be administered in a manner consistent with subparagraph  
14 (i) of paragraph one of subdivision (c) of this section as if a certif-  
15 icate of collection were a resale or exemption certificate for purposes  
16 of such subparagraph, including with regard to the completeness of such  
17 certificate of collection and the timing of its acceptance by the  
18 marketplace seller. Provided that, with regard to any sales of tangible  
19 personal property by a marketplace seller that are facilitated by a  
20 marketplace provider who is affiliated with such marketplace seller  
21 within the meaning of paragraph one of subdivision (e) of section eleven  
22 hundred one of this article, the marketplace seller shall be deemed  
23 liable as a person under a duty to act for such marketplace provider for  
24 purposes of subdivision one of section eleven hundred thirty-one of this  
25 part.

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

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

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

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

51 (4) The return of a vendor of tangible personal property or services  
52 shall show such vendor's receipts from sales and the number of gallons  
53 of any motor fuel or diesel motor fuel sold and also the aggregate value  
54 of tangible personal property and services and number of gallons of such  
55 fuels sold by the vendor, the use of which is subject to tax under this  
56 article, and the amount of tax payable thereon pursuant to the

1 provisions of section eleven hundred thirty-seven of this part. The  
2 return of a recipient of amusement charges shall show all such charges  
3 and the amount of tax thereon, and the return of an operator required to  
4 collect tax on rents shall show all rents received or charged and the  
5 amount of tax thereon. The return of a marketplace seller shall exclude  
6 the receipts from a sale of tangible personal property facilitated by a  
7 marketplace provider if, in regard to such sale: (A) the marketplace  
8 seller has timely received in good faith a properly completed certif-  
9 icate of collection from the marketplace provider or the marketplace  
10 provider has included a provision approved by the commissioner in the  
11 publicly-available agreement between themselves and such marketplace  
12 seller as described in subdivision (1) of section eleven hundred thir-  
13 ty-two of this part, and (B) the information provided by the marketplace  
14 seller to the marketplace provider about such tangible personal property  
15 is accurate.

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

18 15. To publish a list on the department's website of marketplace  
19 providers whose certificates of authority has been revoked and, if  
20 necessary to protect sales tax revenue, provide by regulation or other-  
21 wise that a marketplace seller who is a vendor will be relieved of the  
22 duty to collect tax for sales of tangible personal property facilitated  
23 by a marketplace provider only if, in addition to the conditions  
24 prescribed by paragraph two of subdivision (1) of section eleven hundred  
25 thirty-two of this part being met, such marketplace provider is not on  
26 such list at the commencement of the quarterly period covered thereby.

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

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

36 § 1135-a. Reporting requirements. (a) (1) The following definitions  
37 apply to the taxes imposed by this article and pursuant to the authority  
38 of article twenty-nine of this chapter:

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

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

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

53 (D) Last known address of a New York purchaser means, for purposes of  
54 this subdivision, subdivision sixteen of section eleven hundred forty-  
55 two, and subdivision (i) of section eleven hundred forty-five of this  
56 part, the purchaser's billing address or, if unknown, the purchaser's

1 shipping address. If no billing or shipping address is known, this term  
2 shall mean the purchaser's last known e-mail address.

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

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

10 (B) Except as provided in paragraphs four and five of this subdivi-  
11 sion, a non-collecting seller shall file an annual information return  
12 with the commissioner. Such return shall include the total of the non-  
13 collecting seller's receipts from purchases of tangible personal proper-  
14 ty that was delivered to a location in this state for the calendar year  
15 covered by the return, together with such other information the commis-  
16 sioner may prescribe. Such return shall be filed on or before January  
17 thirty-first of each year and shall cover the prior calendar year, with  
18 the first such return due on January thirty-first, two thousand twenty  
19 for the calendar year two thousand nineteen.

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

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

55 (3) A non-collecting seller shall keep records of the information  
56 described in subparagraphs (A), (B) and (C) of paragraph two of this

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

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

14 (5) The requirements in subparagraphs (B), (C) and (D) of paragraph  
15 two of this subdivision do not apply to a non-collecting seller in  
16 regard to a particular sale of tangible personal property subject to tax  
17 under subdivision (a) of section eleven hundred five of this article if,  
18 the non-collecting seller can show that such sale was facilitated by:  
19 (A) a marketplace provider from whom such non-collecting seller has  
20 received in good faith a properly completed certificate of collection as  
21 described in paragraph two of subdivision (l) of section eleven hundred  
22 thirty-two of this part; or (B) a non-collecting marketplace provider  
23 who fulfilled the requirements of subparagraphs (B), (C) and (D) of  
24 paragraph two of this subdivision on its behalf.

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

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

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

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

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

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

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

55 (i)(1) Every person required to file an information return by section  
56 eleven hundred thirty-five-a or subdivision (i) of section eleven



1 hundred thirty-six of this part, or an annual statement or notice  
2 required by section eleven hundred thirty-five-a of this part who [~~(A)~~]  
3 fails to provide any of the information required [~~by paragraph one or~~  
4 ~~two of subdivision (i) of section eleven hundred thirty-six of this part~~  
5 ~~for a vendor, operator, or recipient~~] to be provided in such information  
6 return or notice, or who fails to perform the requirements of paragraph  
7 two of subdivision (b) of section eleven hundred thirty-five-a of this  
8 part, or who fails to include any such information that is true and  
9 correct [~~(whether or not such a report is filed) for a vendor, operator,~~  
10 ~~or recipient, or (B) fails to provide the information required by para-~~  
11 ~~graph four of subdivision (i) of section eleven hundred thirty-six of~~  
12 ~~this part to a vendor, operator, or recipient specified in paragraph~~  
13 ~~four of subdivision (i) of section eleven hundred thirty-six of this~~  
14 ~~part~~], will, in addition to any other penalty provided in this article  
15 or otherwise imposed by law, be subject to a penalty of five hundred  
16 dollars for ten or fewer failures, and up to fifty dollars for each  
17 additional failure.

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

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

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

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

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

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

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

7 § 2. Subdivision 12 of section 470 of the tax law, as added by chapter  
8 61 of the laws of 1989, is amended to read as follows:

9 12. "Distributor." Any person who imports or causes to be imported  
10 into this state any tobacco product (in excess of fifty cigars [~~or~~], one  
11 pound of tobacco or one hundred milliliters of vapor product) for sale,  
12 or who manufactures any tobacco product in this state, and any person  
13 within or without the state who is authorized by the commissioner of  
14 taxation and finance to make returns and pay the tax on tobacco products  
15 sold, shipped or delivered by him to any person in the state.

16 § 3. Section 470 of the tax law is amended by adding a new subdivision  
17 20 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 § 8. Subdivision 3 of section 474 of the tax law, as added by chapter  
31 61 of the laws of 1989, is amended to read as follows:

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

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

49 (i) In addition to any other penalty imposed by this article, the  
50 commissioner may (A) impose a penalty of not more than six hundred  
51 dollars for each two hundred cigarettes, or fraction thereof, in excess  
52 of one thousand cigarettes in unstamped or unlawfully stamped packages  
53 in the possession or under the control of any person or (B) impose a  
54 penalty of not more than two hundred dollars for each ten unaffixed  
55 false, altered or counterfeit cigarette tax stamps, imprints or  
56 impressions, or fraction thereof, in the possession or under the control

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

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

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

49 (I) not less than twenty-five dollars but not more than one hundred  
50 dollars for each fifty cigars [e#], one pound of tobacco or one hundred  
51 milliliters of vapor product, or fraction thereof, in excess of fifty  
52 cigars [e#], one pound of tobacco or one hundred milliliters of vapor  
53 product knowingly in the possession or knowingly 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; and (II)  
56 not less than fifty dollars but not more than two hundred dollars for

1 each fifty cigars [~~or~~], pound of tobacco or one hundred milliliters of  
2 vapor product, or fraction thereof, in excess of two hundred fifty  
3 cigars [~~or~~], five pounds of tobacco or five hundred milliliters of vapor  
4 product knowingly in the possession or knowingly under the control of  
5 any person, with respect to which the tobacco products tax has not been  
6 paid or assumed by a distributor or a tobacco products dealer; provided,  
7 however, that any such penalty imposed under this clause shall not  
8 exceed twenty thousand dollars in the aggregate.

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

12 (a) The possession within this state of more than four hundred ciga-  
13 rettes in unstamped or unlawfully stamped packages [~~or~~], more than two  
14 hundred fifty cigars, [~~or~~] more than five pounds of tobacco other than  
15 roll-your-own tobacco, [~~or~~] more than thirty-six ounces of roll-your-own  
16 tobacco by any person other than an agent or distributor, as the case  
17 may be, or five hundred milliliters or more of vapor product at any one  
18 time shall be presumptive evidence that such cigarettes or tobacco  
19 products are subject to tax as provided by this article.

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

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

30 (h) (1) Any dealer, other than a distributor appointed by the commis-  
31 sioner [~~of taxation and finance~~] under article twenty of this chapter,  
32 who shall knowingly transport or have in his custody, possession or  
33 under his control more than ten pounds of tobacco [~~or~~], more than five  
34 hundred cigars or more than one thousand milliliters of vapor product  
35 upon which the taxes imposed by article twenty of this chapter have not  
36 been assumed or paid by a distributor appointed by the commissioner [~~of~~  
37 ~~taxation and finance~~] under article twenty of this chapter, or other  
38 person treated as a distributor pursuant to section four hundred seven-  
39 ty-one-d of this chapter, shall be guilty of a misdemeanor punishable by  
40 a fine of not more than five thousand dollars or by a term of imprison-  
41 ment not to exceed thirty days.

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

54 (3) Any person, other than a distributor appointed by the commissioner  
55 under article twenty of this chapter, who shall knowingly transport or  
56 have in his custody, possession or under his control twenty-five hundred

1 or more cigars [~~or~~], fifty or more pounds of tobacco or five thousand  
2 milliliters or more of vapor product upon which the taxes imposed by  
3 article twenty of this chapter have not been assumed or paid by a  
4 distributor appointed by the commissioner under article twenty of this  
5 chapter, or other person treated as a distributor pursuant to section  
6 four hundred seventy-one-d of this chapter shall be guilty of a misde-  
7 meanor. Provided further, that any person who has twice been convicted  
8 under this subdivision shall be guilty of a class E felony for any  
9 subsequent violation of this section, regardless of the amount of tobac-  
10 co products involved in such violation.

11 (4) For purposes of this subdivision, such person shall knowingly  
12 transport or have in his custody, possession or under his control tobac-  
13 co [~~or~~], cigars or vapor products on which such taxes have not been  
14 assumed paid by a distributor appointed by the commissioner where such  
15 person has knowledge of the requirement of the tax on tobacco products  
16 and, where to his knowledge, such taxes have not been assumed or paid on  
17 such tobacco products by a distributor appointed by the commissioner of  
18 taxation and finance.

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

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

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

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

52 (a) Whenever a police officer designated in section 1.20 of the crimi-  
53 nal procedure law or a peace officer designated in subdivision four of  
54 section 2.10 of such law, acting pursuant to his special duties, shall  
55 discover any tobacco products in excess of five hundred cigars [~~or~~], ten  
56 pounds of tobacco or one thousand milliliters of vapor product which are

1 being imported for sale in the state where the person importing or caus-  
 2 ing such tobacco products to be imported has not been appointed as a  
 3 distributor pursuant to section four hundred seventy-two of this chap-  
 4 ter, such police officer or peace officer is hereby authorized and  
 5 empowered forthwith to seize and take possession of such tobacco  
 6 products. Such tobacco products seized by a police officer or peace  
 7 officer shall be turned over to the commissioner. Such seized tobacco  
 8 products shall be forfeited to the state. All tobacco products forfeited  
 9 to the state shall be destroyed or used for law enforcement purposes,  
 10 except that tobacco products that violate, or are suspected of violat-  
 11 ing, federal trademark laws or import laws shall not be used for law  
 12 enforcement purposes. If the commissioner determines the tobacco  
 13 products may not be used for law enforcement purposes, the commissioner  
 14 must, within a reasonable time thereafter, upon publication in the state  
 15 registry of a notice to such effect before the day of destruction,  
 16 destroy such forfeited tobacco products. The commissioner may, prior to  
 17 any destruction of tobacco products, permit the true holder of the  
 18 trademark rights in the tobacco products to inspect such forfeited  
 19 products in order to assist in any investigation regarding such tobacco  
 20 products.

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

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

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

40 PART CC

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

43 ARTICLE 20-C

44 OPIOID EPIDEMIC SURCHARGE

45 Section 492. Definitions.

46 493. Imposition of surcharge.

47 494. Returns to be secret.

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

50 1. "Opioid" shall mean an "opiate" as defined by subdivision twenty-  
 51 three of section thirty-three hundred two of the public health law, and  
 52 any natural, synthetic, or semisynthetic "narcotic drug" as defined by  
 53 subdivision twenty-two of such section, that has agonist, partial agon-  
 54 ist, or agonist/antagonist morphine-like activities or effects similar

1 to natural opium alkaloids and any derivative, congener, or combination  
2 thereof, listed in schedules II-IV of section thirty-three hundred six  
3 of the public health law.

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

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

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

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

16 6. "Establishment" shall mean any person, firm, corporation or associ-  
17 ation required to be registered with the education department pursuant  
18 to section sixty-eight hundred eight or section sixty-eight hundred  
19 eight-b of the education law, as well as any person, firm, corporation  
20 or association that would be required to be registered with the educa-  
21 tion department pursuant to such section sixty-eight hundred eight-b but  
22 for the exception in subdivision two of such section.

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

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

41 2. Every establishment liable for the surcharge imposed by this arti-  
42 cle shall file with the commissioner a return, on forms prescribed by  
43 the commissioner, indicating the total morphine milligram equivalent of  
44 opioids it sold in the state, the total morphine milligram equivalent of  
45 such opioids that are subject to the surcharge imposed by this article,  
46 the amount of surcharge due thereon, and such further information as the  
47 commissioner may require. Such returns shall be due on or before the  
48 twentieth day of each month, and shall cover all opioid sales in the  
49 state made in the month prior, except that the first return required to  
50 be filed pursuant to this section shall be due on or before January  
51 twentieth, two thousand nineteen and shall cover all opioid sales occur-  
52 ring in the period between the effective date of this article and Decem-  
53 ber thirty-first, two thousand eighteen. Every establishment required  
54 to file a return under this section shall, at the time of filing such  
55 return, pay to the commissioner the total amount of surcharge due for  
56 the period covered by such return. If a return is not filed when due,



1 the surcharge shall be due on the day on which the return is required to  
2 be filed. The commissioner may require that the returns and payments  
3 required by this article be filed or paid electronically.

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

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

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

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

52 (b) On or before the twelfth and twenty-sixth day of each succeeding  
53 month, after reserving such amount for such refunds and deducting such  
54 amounts for such costs, as provided for in paragraph (a) of this subdi-  
55 vision, the commissioner shall certify to the state comptroller the  
56 amount of all revenues so received during the prior month because of the

1 surcharges, interest and penalties so imposed. The amount of revenues so  
2 certified shall be paid over by the fifteenth and the final business day  
3 of each succeeding month from such account into the opioid prevention,  
4 treatment and recovery account established pursuant to section ninety-  
5 seven-aaaa of the state finance law.

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

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

1 certified copy of any return or report filed by such establishment  
2 pursuant to this article, nor to prohibit the publication of statistics  
3 so classified as to prevent the identification of particular returns or  
4 reports and the items thereof.

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

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

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

13 § 1825. Violation of secrecy provisions of the tax law.--Any person  
14 who violates the provisions of [~~subdivision (b) of section twenty-one,~~  
15 subdivision one of section two hundred two, subdivision eight of section  
16 two hundred eleven, subdivision (a) of section three hundred fourteen,  
17 subdivision one or two of section four hundred thirty-seven, section  
18 four hundred eighty-seven, section four hundred ninety-four, subdivision  
19 one or two of section five hundred fourteen, subsection (e) of section  
20 six hundred ninety-seven, subsection (a) of section nine hundred nine-  
21 ty-four, subdivision (a) of section eleven hundred forty-six, section  
22 twelve hundred eighty-seven, section twelve hundred ninety-six, subdivi-  
23 sion (a) of section fourteen hundred eighteen, subdivision (a) of  
24 section fifteen hundred eighteen, subdivision (a) of section fifteen  
25 hundred fifty-five of this chapter, and subdivision (e) of section  
26 11-1797 of the administrative code of the city of New York shall be  
27 guilty of a misdemeanor.

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

30 § 97-aaaaa. Opioid prevention, treatment and recovery account. 1.  
31 There is hereby established in the joint custody of the state comp-  
32 troller and the commissioner of taxation and finance an account of the  
33 miscellaneous special revenue account to be known as the "opioid  
34 prevention, treatment and recovery account".

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

39 3. The opioid prevention, treatment and recovery account shall consist  
40 of moneys appropriated for the purpose of such account, moneys trans-  
41 ferred to such account pursuant to law, contributions consisting of  
42 promises or grants of any money or property of any kind or value, or any  
43 other thing of value, including grants or other financial assistance  
44 from any agency of government and moneys required by the provisions of  
45 this section or any other law to be paid into or credited to this  
46 account. The account shall also consist of moneys received from any  
47 litigation or enforcement actions initiated against opioid pharmaceu-  
48 tical manufacturers, distributors and wholesalers.

49 4. Moneys of the opioid prevention, treatment and recovery account,  
50 when allocated, shall be available, subject to the approval of the  
51 director of the budget, to support programs operated by the New York  
52 state office of alcoholism and substance abuse services or agencies  
53 certified, authorized, approved or otherwise funded by the New York  
54 state office of alcoholism and substance abuse services to provide  
55 opioid treatment, recovery and prevention and education services; and to

1 provide support for the prescription monitoring program registry if  
2 established.

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

8 6. Notwithstanding the provisions of any general or special law, no  
9 moneys shall be available from the opioid prevention, treatment and  
10 recovery account until a certificate of allocation and a schedule of  
11 amounts to be available therefor shall have been issued by the director  
12 of the budget, upon the recommendation of the commissioner of the office  
13 of alcoholism and substance abuse services, and a copy of such certif-  
14 icate filed with the comptroller, the chairman of the senate finance  
15 committee and the chairman of the assembly ways and means committee.  
16 Such certificate may be amended from time to time by the director of the  
17 budget, upon the recommendation of the commissioner of the office of  
18 alcoholism and substance abuse services, and a copy of such amendment  
19 shall be filed with the comptroller, the chairman of the senate finance  
20 committee and the chairman of the assembly ways and means committee.

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

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

29 PART DD

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

32 § 1521. Healthcare insurance windfall profit fee. (a) In addition to  
33 all taxes, surcharges, and fees imposed under this chapter, the insur-  
34 ance law, the financial services law, and the public health law, there  
35 is hereby imposed for each taxable year beginning after December thir-  
36 ty-first, two thousand seventeen, a fourteen percent surcharge on the  
37 net underwriting gain from the sale of health insurance written on risks  
38 located or resident within this state and the net underwriting gain from  
39 the operation of a Medicaid managed care organization business regulated  
40 by the department of health of every corporation (1) authorized to tran-  
41 sact an insurance business in this state, or (2) that is a health main-  
42 tenance organization required to obtain a certificate of authority under  
43 article forty-four of the public health law.

44 (b) For purposes of this section, the term "health insurance" shall  
45 mean comprehensive hospital and medical expense insurance including,  
46 without limitation, comprehensive coverage issued by a health mainte-  
47 nance organization, disability income insurance, accident insurance,  
48 medicare supplement insurance, specified disease insurance, dental  
49 insurance, vision insurance, stop-loss insurance, fixed indemnity insur-  
50 ance, and hospital indemnity insurance.

51 (c)(1) For each taxable year, the "net underwriting gain from the sale  
52 of health insurance written on risks located or resident within this  
53 state" shall equal a corporation's gross receipts from the sale of  
54 health insurance written on risks located or resident within New York

1 less the corporation's claims and administrative expenses related to the  
2 gross receipts. The computation of "gross receipts from the sale of  
3 health insurance written on risks located or resident within New York"  
4 and "claims and administrative expenses related to gross receipts" shall  
5 be made pursuant to the rules set forth in regulations to be promulgated  
6 by the superintendent of financial services.

7 (2) For each taxable year, the "net underwriting gain from the opera-  
8 tion of a managed care organization business regulated by the department  
9 of health" shall equal a corporation's gross receipts from the operation  
10 of a managed care organization business regulated by the department of  
11 health less the corporation's claims and administrative expenses related  
12 to such gross receipts. The computation of "gross receipts from the  
13 operation of a managed care organization business regulated by the  
14 department of health" and "claims and administrative expenses related to  
15 gross receipts" shall be made pursuant to the rules set forth in regu-  
16 lations to be promulgated by the superintendent of financial services.

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

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

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

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

41 (2) If the superintendent of financial services ascertains that the  
42 amount of surcharge imposed under this section as shown on the return of  
43 any corporation is less than the amount of surcharge disclosed by his or  
44 her examination, he or she shall propose, in writing, to the commission-  
45 er the issuance of a notice of deficiency for the amount due. If a  
46 corporation fails to file a return with the superintendent of financial  
47 services within the time required for the filing of such return (with  
48 regard to any extension of time for the filing thereof), the superinten-  
49 dent of financial services shall make an estimate of the amount of  
50 surcharge due for the period in respect to which such corporation failed  
51 to file the return. The estimate shall be made from any available infor-  
52 mation which is in the possession or may come into the possession of the  
53 superintendent of financial services and he or she shall propose, in  
54 writing, to the commissioner the issuance of a notice of deficiency for  
55 the amount of such estimated surcharge. Any proposal pursuant to this

1 paragraph shall set forth the basis thereof and the details of its  
2 computation.

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

12 (4) Subject to the consent of the superintendent of financial services  
13 and notwithstanding any other provisions of law to the contrary, the  
14 commissioner may delegate such other of his or her powers and duties  
15 with respect to the administration and collection of the surcharge  
16 imposed under this section to the superintendent of financial services,  
17 as the commissioner finds necessary in order to facilitate such adminis-  
18 tration and collection.

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

22 (6) The provisions of this subdivision shall not in any way be deemed  
23 to limit the power of the commissioner to conduct an examination or  
24 investigation as he or she deems necessary in order to carry out his or  
25 her duties with respect to the surcharge imposed under this section.

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

38 (2) Every corporation shall also transmit such other returns and such  
39 facts and information as the commissioner may require in the adminis-  
40 tration of this section.

41 (3) The commissioner may grant a reasonable extension of time for  
42 filing returns whenever good cause exists. An automatic extension of  
43 four months for the filing of its return shall be allowed any corpo-  
44 ration, if within the time prescribed by paragraph one of this subdivi-  
45 sion, such corporation files with the commissioner an application for  
46 extension in such form as the commissioner may prescribe and pays on or  
47 before the date of such filing the amount properly estimated as its  
48 surcharge.

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

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

4 (6) In case it shall appear to the commissioner that any agreement,  
5 understanding or arrangement exists between the corporation and any  
6 other entity, person or firm whereby the activity, business, income or  
7 capital of the corporation is improperly or inaccurately reflected, the  
8 commissioner is authorized and empowered in his or her discretion and in  
9 such manner as he or she may determine, to adjust items of income,  
10 deductions and capital so as equitably to determine the surcharge. Where  
11 (A) any corporation conducts its activity or business under any agree-  
12 ment, arrangement or understanding in such manner as either directly or  
13 indirectly to benefit its members or stockholders, or any of them, or  
14 any person or persons directly or indirectly interested in such activity  
15 or business, by entering into any transaction at more or less than a  
16 fair price which, but for such agreement, arrangement or understanding,  
17 might have been paid or received therefor, or (B) any corporation, a  
18 substantial portion of whose capital stock is owned either directly or  
19 indirectly by another corporation, enters into any transaction with such  
20 other corporation on such terms as to create an improper gain or loss  
21 amount, the commissioner may include in the corporation's gain subject  
22 to the surcharge the fair amounts, which, but for such agreement,  
23 arrangement or understanding, the corporation might have derived from  
24 such transaction.

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

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

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

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

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

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

55 (k) The provisions of article twenty-seven of this chapter shall apply  
56 to the provisions of this section in the same manner and with the same

1 force and effect as if the language of such article twenty-seven had  
2 been incorporated in full into this article and had expressly referred  
3 to the surcharge under this section, except to the extent that any such  
4 provision is either inconsistent with a provision of this section or is  
5 not relevant to this section.

6 § 2. This act shall take effect immediately.

7 PART EE

8 Section 1. Subdivision 1 of Section 208 of the racing, pari-mutuel  
9 wagering and breeding law, as amended by chapter 140 of the laws of  
10 2008, is amended to read as follows:

11 1. In consideration of the franchise and in accordance with its fran-  
12 chise agreement, the franchised corporation shall remit to the state,  
13 each year, no later than April fifth, a franchise fee payment. The fran-  
14 chise fee shall be calculated and equal to the lesser of paragraph (a)  
15 or (b) of this subdivision as follows: (a) adjusted net income, includ-  
16 ing all sources of audited generally accepted accounting principles net  
17 income as of December thirty-first (i) plus the amount of depreciation  
18 and amortization for such year as set forth on the statement of cash  
19 flows (ii) less the amount received by the franchised corporation for  
20 capital expenditures and (iii) less principal payments made for the  
21 repayment of debt; or (b) operating cash which is defined as cash avail-  
22 able on December thirty-first (i) which excludes all restricted cash  
23 accounts, segregated accounts as per audited financial statements and  
24 cash on hand needed to fund the on-track pari-mutuel operations through  
25 the vault, (ii) less [~~forty-five~~ ninety days of operating expenses  
26 pursuant to generally accepted accounting principles which shall be an  
27 average calculated by dividing the current year's annual budget by the  
28 number of days in such year and multiplying that number by [~~forty-five~~  
29 ninety.

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

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

51 2. Notwithstanding any other provision of law to the contrary, a fran-  
52 chised corporation shall be permitted to conduct races after sunset at  
53 the Belmont Park racetrack, only on the main track in its current  
54 configuration, only if such races conclude before half past ten o' clock



1 post meridian, and only if such races occur on Thursdays, Fridays or  
2 Saturdays. The franchised corporation shall coordinate with a harness  
3 racing association or corporation authorized to operate in Westchester  
4 county to ensure that the starting times of all such races are stag-  
5 gered.

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

13 § 3. An advisory committee shall be established by the governor  
14 comprised of individuals with demonstrated interest in the performance  
15 of thoroughbred and standardbred race horses to review the present  
16 structure, operations and funding of equine drug testing and research  
17 conducted pursuant to article nine of the racing, pari-mutuel wagering  
18 and breeding law. Recommendations shall be delivered to the temporary  
19 president of the Senate, speaker of the Assembly and Governor by Decem-  
20 ber 1, 2018 regarding the future of such research, testing and funding.  
21 Members of the board shall not be considered policymakers.

22 § 4. This act shall take effect immediately; provided, however, that  
23 the amendments to section 203 of the racing, pari-mutuel wagering and  
24 breeding law made by section two of this act shall expire and be deemed  
25 repealed 4 years after the first night of racing conducted after sunset  
26 pursuant to this act; provided that the New York Racing Association  
27 shall notify the legislative bill drafting commission of the date of  
28 such night of racing in order that the commission may maintain an accu-  
29 rate and timely effective data base of the official text of the laws of  
30 the state of New York in furtherance of effectuating the provisions of  
31 section 44 of the legislative law and section 70-b of the public offi-  
32 cers law.

33 PART FF

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

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

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

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

46 § 3. This act shall take effect immediately.

47 PART GG

48 Section 1. Paragraph (a) of subdivision 1 of section 1003 of the  
49 racing, pari-mutuel wagering and breeding law, as amended by section 1  
50 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
51 follows:

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

55 § 2. Subparagraph (iii) of paragraph d of subdivision 3 of section  
56 1007 of the racing, pari-mutuel wagering and breeding law, as amended by

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

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

15 § 3. The opening paragraph of subdivision 1 of section 1014 of the  
16 racing, pari-mutuel wagering and breeding law, as amended by section 3  
17 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
18 follows:

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

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

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

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

49 The provisions of this section shall govern the simulcasting of races  
50 conducted at thoroughbred tracks located in another state or country on  
51 any day during which a franchised corporation is not conducting a race  
52 meeting in Saratoga county at Saratoga thoroughbred racetrack until June  
53 thirtieth, two thousand [~~eighteen~~] nineteen. Every off-track betting  
54 corporation branch office and every simulcasting facility licensed in  
55 accordance with section one thousand seven that have entered into a  
56 written agreement with such facility's representative horsemen's organ-

1 ization as approved by the commission, one thousand eight or one thou-  
2 sand nine of this article shall be authorized to accept wagers and  
3 display the live full-card simulcast signal of thoroughbred tracks  
4 (which may include quarter horse or mixed meetings provided that all  
5 such wagering on such races shall be construed to be thoroughbred races)  
6 located in another state or foreign country, subject to the following  
7 provisions; provided, however, no such written agreement shall be  
8 required of a franchised corporation licensed in accordance with section  
9 one thousand seven of this article:

10 § 6. The opening paragraph of section 1018 of the racing, pari-mutuel  
11 wagering and breeding law, as amended by section 6 of part 00 of chapter  
12 59 of the laws of 2017, is amended to read as follows:

13 Notwithstanding any other provision of this chapter, for the period  
14 July twenty-fifth, two thousand one through September eighth, two thou-  
15 sand [~~seventeen~~ **eighteen**], when a franchised corporation is conducting a  
16 race meeting within the state at Saratoga Race Course, every off-track  
17 betting corporation branch office and every simulcasting facility  
18 licensed in accordance with section one thousand seven (that has entered  
19 into a written agreement with such facility's representative horsemen's  
20 organization as approved by the commission), one thousand eight or one  
21 thousand nine of this article shall be authorized to accept wagers and  
22 display the live simulcast signal from thoroughbred tracks located in  
23 another state, provided that such facility shall accept wagers on races  
24 run at all in-state thoroughbred tracks which are conducting racing  
25 programs subject to the following provisions; provided, however, no such  
26 written agreement shall be required of a franchised corporation licensed  
27 in accordance with section one thousand seven of this article.

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

32 § 32. This act shall take effect immediately and the pari-mutuel tax  
33 reductions in section six of this act shall expire and be deemed  
34 repealed on July 1, [~~2018~~ **2019**]; provided, however, that nothing  
35 contained herein shall be deemed to affect the application, qualifica-  
36 tion, expiration, or repeal of any provision of law amended by any  
37 section of this act, and such provisions shall be applied or qualified  
38 or shall expire or be deemed repealed in the same manner, to the same  
39 extent and on the same date as the case may be as otherwise provided by  
40 law; provided further, however, that sections twenty-three and twenty-  
41 five of this act shall remain in full force and effect only until May 1,  
42 1997 and at such time shall be deemed to be repealed.

43 § 8. Section 54 of chapter 346 of the laws of 1990, amending the  
44 racing, pari-mutuel wagering and breeding law and other laws relating to  
45 simulcasting and the imposition of certain taxes, as amended by section  
46 8 of part 00 of chapter 59 of the laws of 2017, is amended to read as  
47 follows:

48 § 54. This act shall take effect immediately; provided, however,  
49 sections three through twelve of this act shall take effect on January  
50 1, 1991, and section 1013 of the racing, pari-mutuel wagering and breed-  
51 ing law, as added by section thirty-eight of this act, shall expire and  
52 be deemed repealed on July 1, [~~2018~~ **2019**]; and section eighteen of this  
53 act shall take effect on July 1, 2008 and sections fifty-one and fifty-  
54 two of this act shall take effect as of the same date as chapter 772 of  
55 the laws of 1989 took effect.

1 § 9. Paragraph (a) of subdivision 1 of section 238 of the racing,  
2 pari-mutuel wagering and breeding law, as amended by section 9 of part  
3 00 of chapter 59 of the laws of 2017, is amended to read as follows:

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

1 first, two thousand one through December thirty-first, two thousand  
2 [~~eighteen~~] ~~nineteen~~, such payment shall be seven-tenths of one per  
3 centum of such pools.

4 § 10. This act shall take effect immediately.

5 PART HH

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

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

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

11 PART II

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

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

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

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

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

49 (D) when a video lottery gaming facility is located in either Nassau  
50 or Suffolk counties and is operated by a corporation established pursu-  
51 ant to section five hundred two of the racing, pari-mutuel wagering and  
52 breeding law, at a rate of forty-five percent of the total revenue

1 wagered at the video lottery gaming facility after payout for prizes  
2 pursuant to this chapter;

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

13 (I) The maximum additional commission payable for any fiscal year  
14 shall be an amount equal to the base vendor fee less the adjusted  
15 current vendor fee. The adjusted current vendor fee is calculated as the  
16 vendor fee that the facility would have received during the current  
17 fiscal year under the payment schedule established by this paragraph as  
18 it existed on March thirty-first, two thousand seventeen. The base  
19 vendor fee is calculated as the vendor fee that the facility received  
20 during the twelve-month period immediately preceding the opening of a  
21 gaming facility in the same region as the vendor track. For the purposes  
22 of this calculation, a vendor fee shall exclude any distributions  
23 required by paragraph two of this subdivision. For the purposes of this  
24 clause, Seneca and Wayne counties shall be deemed to be located within  
25 region six of development zone two.

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

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

44 (F) Notwithstanding any provision of law to the contrary, any opera-  
45 tors of a vendor track or the operators of any other video lottery  
46 gaming facility eligible to receive a capital award as of December thir-  
47 ty-first, two thousand seventeen shall deposit from their vendor fee  
48 into a segregated account an amount equal to four percent of the first  
49 sixty-two million five hundred thousand dollars of revenue wagered at  
50 the vendor track after payout for prizes pursuant to this chapter to be  
51 used exclusively for capital investments, except for Aqueduct, which  
52 shall deposit into a segregated account an amount equal to one percent  
53 of all revenue wagered at the video lottery gaming facility after payout  
54 for prizes pursuant to this chapter until the earlier of the designation  
55 of one thousand video lottery devices as hosted pursuant to paragraph  
56 four of subdivision a of section sixteen hundred seventeen-a of this

1 article or April first, two thousand nineteen, when at such time four  
2 percent of all revenue wagered at the video lottery gaming facility  
3 after payout for prizes pursuant to this chapter shall be deposited into  
4 a segregated account for capital investments. Vendor tracks and video  
5 lottery gaming facilities shall be permitted to withdraw funds for  
6 projects approved by the commission to improve the facilities of the  
7 vendor track or video lottery gaming facility which enhance or maintain  
8 the video lottery gaming facility including, but not limited to hotels,  
9 other lodging facilities, entertainment facilities, retail facilities,  
10 dining facilities, events arenas, parking garages and other improvements  
11 and amenities customary to a gaming facility, provided, however, the  
12 vendor tracks and video lottery gaming facilities shall be permitted to  
13 withdraw funds for unreimbursed capital awards approved prior to the  
14 effective date of this subparagraph. Any proceeds from the divestiture  
15 of any assets acquired through these capital funds or any prior capital  
16 award must be deposited into this segregated account, provided that if  
17 the vendor track or video lottery gaming facility ceases use of such  
18 asset for gaming purposes or transfers the asset to a related party,  
19 such vendor track or video lottery gaming facility shall deposit an  
20 amount equal to the fair market value of that asset into the account. In  
21 the event a vendor track or video lottery gaming facility ceases gaming  
22 operations, any balance in the account along with an amount equal to the  
23 value of all remaining assets acquired through this fund or prior capi-  
24 tal awards shall be returned to the state for deposit into the state  
25 lottery fund for education aid, except for Aqueduct, which shall return  
26 to the state for deposit into the state lottery fund for education aid  
27 all amounts in excess of the amount needed to fund a project pursuant to  
28 an agreement with the operator to construct an expansion of the facili-  
29 ty, hotel, and convention and exhibition space requiring a minimum capi-  
30 tal investment of three hundred million dollars and any subsequent  
31 amendments to such agreement. The comptroller or his legally authorized  
32 representative is authorized to audit any and all expenditures made out  
33 of these segregated capital accounts. Notwithstanding the preceding, a  
34 vendor track located in Ontario county may withdraw up to two million  
35 dollars from this account for the purpose of constructing a turf course  
36 at the vendor track.

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

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

54 (I) Notwithstanding clause (F) of this subparagraph, the commission  
55 shall be able to authorize a vendor track located within Oneida county,  
56 within fifteen miles of a Native American class III gaming facility, and



1 who has maintained at least ninety percent of full-time equivalent  
2 employees as they employed in the year two thousand sixteen, to withdraw  
3 funds from the segregated account established in clause (F) of this  
4 subparagraph up to an amount equal to four percent of the total revenue  
5 wagered at the vendor track after payout for prizes pursuant to this  
6 chapter each year, for operations.

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

11 PART JJ

12 Section 1. Subsection (a) of section 614 of the tax law, as amended by  
13 chapter 170 of the laws of 1994, is amended to read as follows:

14 (a) Unmarried individual. For taxable years beginning after nineteen  
15 hundred ninety-six, the New York standard deduction of a resident indi-  
16 vidual who is not married nor the head of a household nor a surviving  
17 spouse nor an individual [~~whose federal exemption amount is zero~~] who is  
18 claimed as a dependent by another New York state taxpayer shall be seven  
19 thousand five hundred dollars; for taxable years beginning in nineteen  
20 hundred ninety-six, such standard deduction shall be seven thousand four  
21 hundred dollars; for taxable years beginning in nineteen hundred nine-  
22 ty-five, such standard deduction shall be six thousand six hundred  
23 dollars; and for taxable years beginning after nineteen hundred eighty-  
24 nine and before nineteen hundred ninety-five, such standard deduction  
25 shall be six thousand dollars.

26 § 2. Section 612 of the tax law is amended by adding two new  
27 subsections (w) and (x) to read as follows:

28 (w) Alimony modifications. (1) In the case of applicable alimony or  
29 separate maintenance payments, the following modifications shall apply:

30 (A) There shall be subtracted from federal adjusted gross income any  
31 applicable alimony or separate maintenance payments made by the taxpayer  
32 during the taxable year.

33 (B) There shall be added to federal adjusted gross income any applica-  
34 ble alimony or separate maintenance payments received by the taxpayer  
35 during the taxable year.

36 (2) (A) The term "alimony or separate maintenance payments" means  
37 payments as defined under section seventy-one of the internal revenue  
38 code in effect immediately prior to the enactment of Public Law 115-97.

39 (B) The term "applicable alimony or separate maintenance payments"  
40 means payments made under an alimony or separation instrument (as  
41 defined in section seventy-one of the internal revenue code in effect  
42 immediately prior to the enactment of Public Law 115-97) that was  
43 executed after December thirty-first, two thousand eighteen, and any  
44 divorce or separation instrument executed on or before such date and  
45 modified after such date if the modification expressly provides that the  
46 amendments made by this section apply to such modification.

47 (x) Qualified moving expense reimbursement and moving expenses. (1) In  
48 the case of applicable qualified moving expense reimbursement and moving  
49 expenses, the following modifications shall apply:

50 (A) There shall be subtracted from federal adjusted gross income any  
51 applicable qualified moving expense reimbursement received by the  
52 taxpayer during the taxable year.

53 (B) There shall be subtracted from federal adjusted gross income any  
54 applicable moving expenses paid by the taxpayer during the taxable year.

1 (2) Applicable qualified moving expense reimbursement and moving  
2 expenses are those deductions as allowed by paragraph (g) of sections  
3 one hundred thirty-two and section two hundred seventeen, respectfully,  
4 of the internal revenue code immediately prior to the enactment of  
5 Public Law 115-97.

6 § 3. Subsection (a) of section 615 of the tax law, as amended by  
7 section 1 of part HH of chapter 57 of the laws of 2010, is amended to  
8 read as follows:

9 (a) General. If federal taxable income of a resident individual is  
10 determined by itemizing deductions or claiming the federal standard  
11 deduction from his or her federal adjusted gross income, he or she may  
12 elect to deduct his or her New York itemized deduction [~~in lieu of~~] or  
13 claim his or her New York standard deduction. The New York itemized  
14 deduction of a resident individual means the total amount of his or her  
15 deductions from federal adjusted gross income allowed, other than feder-  
16 al deductions for personal exemptions, as provided in the laws of the  
17 United States for the taxable year, as such deductions existed imme-  
18 diately prior to the enactment of Public Law 115-97 with the modifica-  
19 tions specified in this section, except as provided for under  
20 subsections (f) and (g) of this section.

21 § 4. Subdivision (a) of section 11-1714 of the administrative code of  
22 the city of New York, as amended by chapter 170 of the laws of 1994, is  
23 amended to read as follows:

24 (a) Unmarried individual. For taxable years beginning after nineteen  
25 hundred ninety-six, the city standard deduction of a city resident indi-  
26 vidual who is not married nor the head of a household nor a surviving  
27 spouse nor an individual [~~whose federal exemption amount is zero~~] who is  
28 claimed as a dependent by another New York state taxpayer shall be seven  
29 thousand five hundred dollars; for taxable years beginning in nineteen  
30 hundred ninety-six, such standard deduction shall be seven thousand four  
31 hundred dollars; for taxable years beginning in nineteen hundred nine-  
32 ty-five, such standard deduction shall be six thousand six hundred  
33 dollars; and for taxable years beginning after nineteen hundred eighty-  
34 nine and before nineteen hundred ninety-five, such standard deduction  
35 shall be six thousand dollars.

36 § 5. Section 11-1712 of the administrative code of the city of New  
37 York is amended by adding two new subdivisions (u) and (v) to read as  
38 follows:

39 (u) Alimony modifications. (1) In the case of applicable alimony or  
40 separate maintenance payments, the following modifications shall apply:

41 (A) There shall be subtracted from federal adjusted gross income any  
42 applicable alimony or separate maintenance payments made by the taxpayer  
43 during the taxable year.

44 (B) There shall be added to federal adjusted gross income any applica-  
45 ble alimony or separate maintenance payments received by the taxpayer  
46 during the taxable year.

47 (2) (A) The term "alimony or separate maintenance payments" means  
48 payments as defined under section seventy-one of the internal revenue  
49 code in effect immediately prior to the enactment of Public Law 115-97.

50 (B) The term "applicable alimony or separate maintenance payments"  
51 means payments made under an alimony or separation instrument (as  
52 defined in section seventy-one of the internal revenue code in effect  
53 immediately prior to the enactment of Public Law 115-97) that was  
54 executed after December thirty-first, two thousand eighteen, and any  
55 divorce or separation instrument executed on or before such date and

1 modified after such date if the modification expressly provides that the  
2 amendments made by this section apply to such modification.

3 (v) Qualified moving expense reimbursement and moving expenses. (1) In  
4 the case of applicable qualified moving expense reimbursement and moving  
5 expenses, the following modifications shall apply:

6 (A) There shall be subtracted from federal adjusted gross income any  
7 applicable qualified moving expense reimbursement received by the  
8 taxpayer during the taxable year.

9 (B) There shall be subtracted from federal adjusted gross income any  
10 applicable moving expenses paid by the taxpayer during the taxable year.

11 (2) Applicable qualified moving expense reimbursement and moving  
12 expenses are those deductions as allowed by paragraph (g) of section one  
13 hundred thirty-two and section two hundred seventeen, respectfully, of  
14 the internal revenue code immediately prior to the enactment of Public  
15 Law 115-97.

16 § 6. Subdivision (a) of section 11-1715 of the administrative code of  
17 the city of New York, as amended by section 5 of part HH of chapter 57  
18 of the laws of 2010, is amended to read as follows:

19 (a) General. If federal taxable income of a city resident individual  
20 is determined by itemizing deductions or claiming the federal standard  
21 deduction from his or her federal adjusted gross income, such resident  
22 individual may elect to deduct his or her city itemized deduction [~~in~~  
23 ~~lieu of~~] or claim his or her city standard deduction. The city itemized  
24 deduction of a city resident individual means the total amount of his or  
25 her deductions from federal adjusted gross income allowed, other than  
26 federal deductions for personal exemptions, as provided in the laws of  
27 the United States for the taxable year, as such deductions existed imme-  
28 diately prior to the enactment of Public Law 115-97 with the modifica-  
29 tions specified in this section, except as provided for under subdivi-  
30 sions (f) and (g) of this section.

31 § 7. This act shall take effect immediately and shall apply to taxable  
32 years beginning on or after January 1, 2018.

33 PART KK

34 Section 1. Paragraph (b) of subdivision 6-a of section 208 of the tax  
35 law, as amended by section 5-a of part T of chapter 59 of the laws of  
36 2015, is amended to read as follows:

37 (b) "Exempt CFC income" means (i) the income required to be included  
38 in the taxpayer's federal gross income pursuant to subsection (a) of  
39 section 951 of the internal revenue code, received from a corporation  
40 that is conducting a unitary business with the taxpayer but is not  
41 included in a combined report with the taxpayer, and (ii) to the extent  
42 not included in subparagraph (i) of this paragraph, such income required  
43 to be included in the taxpayer's federal gross income pursuant to  
44 subsection (a) of such section 951 of the internal revenue code by  
45 reason of subsection (a) of section 965 of the internal revenue code, as  
46 adjusted by subsection (b) of section 965 of the internal revenue code,  
47 and without regard to subsection (c) of such section, received from a  
48 corporation that is not included in a combined report with the taxpayer,  
49 less, (iii) in the discretion of the commissioner, any interest  
50 deductions directly or indirectly attributable to that income. In lieu  
51 of subtracting from its exempt CFC income the amount of those interest  
52 deductions, the taxpayer may make a revocable election to reduce its  
53 total exempt CFC income by forty percent. If the taxpayer makes this  
54 election, the taxpayer must also make the elections provided for in

1 paragraph (b) of subdivision six of this section and paragraph (c) of  
2 this subdivision. If the taxpayer subsequently revokes this election,  
3 the taxpayer must revoke the elections provided for in paragraph (b) of  
4 subdivision six of this section and paragraph (c) of this subdivision. A  
5 taxpayer which does not make this election because it has no exempt CFC  
6 income will not be precluded from making those other elections.

7 § 2. Subparagraph 6 of paragraph (a) of subdivision 9 of section 208  
8 of the tax law, as amended by section 4 of part A of chapter 59 of the  
9 laws of 2014, is amended to read as follows:

10 (6) any amount treated as dividends pursuant to section seventy-eight  
11 of the internal revenue code to the extent that such dividends are not  
12 included in the computation of the deduction allowed under section two  
13 hundred fifty of such code;

14 § 3. Paragraph (b) of subdivision 9 of section 208 of the tax law is  
15 amended by adding a new subparagraph 23 to read as follow:

16 (23) The amount of any federal deduction allowed pursuant to  
17 subsection (c) of section 965 of the internal revenue code.

18 § 4. Paragraph 1 of subsection (c) of section 1085 of the tax law, as  
19 amended by section 13-a of part Q of chapter 60 of the laws of 2016, is  
20 amended to read as follows:

21 (1) If any taxpayer fails to file a declaration of estimated tax under  
22 article nine-A of this chapter, or fails to pay all or any part of an  
23 amount which is applied as an installment against such estimated tax, it  
24 shall be deemed to have made an underpayment of estimated tax. There  
25 shall be added to the tax for the taxable year an amount at the under-  
26 payment rate set by the commissioner pursuant to section one thousand  
27 ninety-six of this article, or if no rate is set, at the rate of seven  
28 and one-half percent per annum upon the amount of the underpayment for  
29 the period of the underpayment but not beyond the fifteenth day of the  
30 [~~third~~ fourth month following the close of the taxable year. Provided,  
31 however, that, for taxable years beginning on or after January first,  
32 two thousand seventeen and before January first, two thousand eighteen,  
33 no amount shall be added to the tax with respect to the portion of such  
34 tax related to the amount of any interest deductions directly or indi-  
35 rectly attributable to the amount included in exempt CFC income pursuant  
36 to subparagraph (ii) of paragraph (b) of subdivision six-a of section  
37 two hundred eight of this chapter or the forty percent reduction of such  
38 exempt CFC income in lieu of interest attribution if the election  
39 described in paragraph (b) of subdivision six-a of such section is made.

40 The amount of the underpayment shall be, with respect to any installment  
41 of estimated tax computed on the basis of either the preceding year's  
42 tax or the second preceding year's tax, the excess of the amount  
43 required to be paid over the amount, if any, paid on or before the last  
44 day prescribed for such payment or, with respect to any other install-  
45 ment of estimated tax, the excess of the amount of the installment which  
46 would be required to be paid if the estimated tax were equal to ninety-  
47 one percent of the tax shown on the return for the taxable year (or if  
48 no return was filed, ninety-one percent of the tax for such year) over  
49 the amount, if any, of the installment paid on or before the last day  
50 prescribed for such payment. In any case in which there would be no  
51 underpayment if "eighty percent" were substituted for "ninety-one  
52 percent" each place it appears in this subsection, the addition to the  
53 tax shall be equal to seventy-five percent of the amount otherwise  
54 determined. No underpayment shall be deemed to exist with respect to a  
55 declaration or installment otherwise due on or after the termination of  
56 existence of the taxpayer.

1 § 5. This act shall take effect immediately and shall apply to taxable  
2 years beginning on or after January 1, 2017.

3 PART LL

4 Section 1. The state finance law is amended by adding a new section  
5 92-gg to read as follows:

6 § 92-gg. Charitable gifts trust fund. 1. There is hereby established  
7 in the joint custody of the commissioner of taxation and finance and the  
8 state comptroller a special fund pursuant to section eleven of this  
9 chapter to be known as the "charitable gifts trust fund".

10 2. Moneys in the charitable gifts trust fund shall be kept separate  
11 from and shall not be commingled with any other moneys in the custody of  
12 the comptroller or the commissioner of taxation and finance. Provided,  
13 however that any moneys of the fund not required for immediate use may,  
14 at the discretion of the comptroller, in consultation with the director  
15 of the budget, be invested by the comptroller in obligations of the  
16 United States or the state. The proceeds of any such investment shall be  
17 retained by the fund as assets to be used for purposes of the fund.

18 3. Except as set forth in subdivisions two and four of this section,  
19 no moneys from the charitable gifts trust fund shall be transferred to  
20 any other fund, nor shall moneys from the fund be used to make payments  
21 for any purpose other than the purposes set forth in subdivisions two  
22 and four of this section.

23 4. The charitable gifts trust fund shall have two separate and  
24 distinct accounts, as set forth in paragraphs a and b of this subdivi-  
25 sion. Moneys in each of the accounts shall be kept separate from and  
26 shall not be commingled with any other moneys of any other account with-  
27 in the fund.

28 a. The "health charitable account" shall consist of grants, gifts or  
29 bequests received by the state, and all other moneys credited or trans-  
30 ferred thereto from any other fund or source. Moneys of such account  
31 shall only be expended for the support of services relating to primary,  
32 preventive, and inpatient health care, routine dental and vision care,  
33 hunger prevention and nutritional assistance, and other services  
34 provided to New York state residents with the overall goal of ensuring  
35 that New York state residents have access to quality health care and  
36 other related services.

37 b. The "elementary and secondary education charitable account" shall  
38 consist of grants, gifts or bequests received by the state for the  
39 support of elementary and secondary education for children in the state  
40 and all other moneys credited or transferred thereto from any other fund  
41 or source. Moneys of such account shall only be expended for the  
42 provision of elementary and secondary education for children in the  
43 state.

44 § 2. Section 606 of the tax law is amended by adding a new subsection  
45 (iii) to read as follows:

46 (iii) Credit for contributions to certain funds. For taxable years  
47 beginning on or after January first, two thousand nineteen, an individ-  
48 ual taxpayer shall be allowed a credit against the tax imposed under  
49 this article for an amount equal to eighty-five percent of the amount  
50 contributed by the taxpayer during the immediately preceding taxable  
51 year to any or all of the following accounts within the charitable gifts  
52 trust fund set forth in section ninety-two-gg of the state finance law:  
53 the health charitable account established by paragraph a of subdivision  
54 four of section ninety-two-gg of the state finance law, or the elementa-

1 ry and secondary education charitable account established by paragraph b  
2 of subdivision four of section ninety-two-qq of the state finance law.

3 § 3. Section 1604 of the education law is amended by adding a new  
4 subdivision 44 to read as follows:

5 44. To establish a charitable fund, by resolution of the trustees, to  
6 receive charitable monetary donations made to such fund for use by the  
7 district for general educational purposes. The monies of such charitable  
8 fund shall be deposited and secured in the manner provided by section  
9 ten of the general municipal law. The monies of such charitable fund may  
10 be invested in the manner provided by section eleven of the general  
11 municipal law. Any interest earned or capital gain realized on the  
12 money so invested shall accrue to and become part of such fund. At such  
13 time and in such amounts as determined by the trustees, the monies of  
14 such charitable fund shall be transferred to the school district's  
15 general fund for expenditure consistent with the charitable purposes of  
16 the fund, provided that the amount of taxes to be levied by the school  
17 district for any school year shall be determined without regard to any  
18 such transfer. The school district shall maintain an accounting of all  
19 such deposits, interest or capital gain, transfers, and expenditures.

20 § 4. Section 1709 of the education law is amended by adding a new  
21 subdivision 12-b to read as follows:

22 12-b. To establish a charitable fund, by resolution of the board, to  
23 receive charitable monetary donations made to such fund for use by the  
24 district for general educational purposes. The monies of such charitable  
25 fund shall be deposited and secured in the manner provided by section  
26 ten of the general municipal law. The monies of such charitable fund may  
27 be invested in the manner provided by section eleven of the general  
28 municipal law. Any interest earned or capital gain realized on the  
29 money so invested shall accrue to and become part of such fund. At such  
30 time and in such amounts as determined by the board, the monies of such  
31 charitable fund shall be transferred to the school district's general  
32 fund for expenditure consistent with the charitable purposes of the  
33 fund, provided that the amount of taxes to be levied by the school  
34 district for any school year shall be determined without regard to any  
35 such transfer. The school district shall maintain an accounting of all  
36 such deposits, interest or capital gain, transfers, and expenditures.

37 § 5. Section 2590-h of the education law is amended by adding a new  
38 subdivision 54 to read as follows:

39 54. To establish a charitable fund to receive charitable monetary  
40 donations made to such fund for use by the city school district for  
41 general educational purposes. The monies of such charitable fund shall  
42 be deposited and secured in the manner provided by section ten of the  
43 general municipal law. The monies of such charitable fund may be  
44 invested in the manner provided by section eleven of the general munici-  
45 pal law. Any interest earned or capital gain realized on the money so  
46 invested shall accrue to and become part of such fund. At such time and  
47 in such amounts as determined by the chancellor, the monies of such  
48 charitable fund shall be transferred to the city school district's  
49 general fund for expenditure consistent with the charitable purposes of  
50 the fund, provided that the amount of taxes to be levied by the city for  
51 any school year shall be determined without regard to any such transfer.  
52 The city school district shall maintain an accounting of all such depos-  
53 its, interest or capital gain, transfers, and expenditures.

54 § 6. The general municipal law is amended by adding two new sections  
55 6-t and 6-u to read as follows:

1 § 6-t. Charitable gifts reserve fund. 1. The governing board of any  
2 county or New York city may establish a reserve fund to be known as a  
3 charitable gifts reserve fund, the moneys of which are to be used for  
4 the payment of health care expenses and may be used to defray the local  
5 social services district's yearly net share of medical assistance  
6 expenditures.

7 2. Such fund may receive charitable contributions from property owners  
8 of the county or New York city.

9 3. The moneys in such fund shall be deposited and secured in the  
10 manner provided by section ten of this article. The governing board, or  
11 the chief fiscal officer of such county, or New York city, if the  
12 governing board shall delegate such duty to him or her, may invest the  
13 moneys in such fund in the manner provided by section eleven of this  
14 article. Any interest earned or capital gain realized on the money so  
15 deposited or invested shall accrue to and become part of such fund. The  
16 separate identity of such fund shall be maintained whether its assets  
17 consist of cash or investments or both.

18 4. At the end of the fiscal year, the governing board of the county or  
19 New York city, within sixty days of the close of the fiscal year, shall  
20 transfer the funds to the general fund or other fund of the municipal  
21 corporation for the purpose of paying health care expenses, including  
22 the local social services district's yearly net share of medical assist-  
23 ance expenditures.

24 5. The governing board shall establish a procedure for property owners  
25 of the county or New York city to make contributions to the charitable  
26 gifts reserve fund, which shall include the provision of a written  
27 acknowledgment of the gift to the contributor.

28 6. Nothing in this section shall relieve the local social services  
29 district of its ongoing obligation to pay the yearly net share of  
30 medical assistance expenditures, nor relieve a local district of social  
31 services of its statutory and regulatory functions in the adminis-  
32 tration, supervision and operation of the medical assistance program in  
33 its locality.

34 § 6-u. Charitable gifts reserve fund. 1. The governing board of any  
35 city with a population less than one million, town or village may estab-  
36 lish a reserve fund to be known as a charitable gifts reserve fund.

37 2. Such fund may receive charitable contributions from property owners  
38 of the town, village or city.

39 3. The moneys in such fund shall be deposited and secured in the  
40 manner provided by section ten of this article. The governing board, or  
41 the chief fiscal officer of such town, village or city, if the governing  
42 board shall delegate such duty to him or her, may invest the moneys in  
43 such fund in the manner provided by section eleven of this article. Any  
44 interest earned or capital gain realized on the money so deposited or  
45 invested shall accrue to and become part of such fund. The separate  
46 identity of such fund shall be maintained whether its assets consist of  
47 cash or investments or both.

48 4. At the end of the fiscal year, the governing board of the town,  
49 village or city, within sixty days of the close of the fiscal year, may  
50 transfer the funds to the general fund or other fund of the municipal  
51 corporation, so that the funds may be used for charitable purposes.

52 5. The governing board shall establish a procedure for property owners  
53 of the town, village or city to make contributions to the charitable  
54 gifts reserve fund, which shall include the provision of a written  
55 acknowledgment of the gift to the contributor.

1 § 7. The real property tax law is amended by adding a new section  
2 980-a to read as follows:

3 § 980-a. Tax credits for contributions to certain funds. 1. (a) A  
4 municipal corporation that has established a fund pursuant to subdivi-  
5 sion forty-four of section sixteen hundred four of the education law,  
6 subdivision twelve-b of section seventeen hundred nine of the education  
7 law, subdivision fifty-four of section twenty-five hundred ninety-h of  
8 the education law, or section six-t or six-u of the general municipal  
9 law, may adopt a local law, or in the case of a school district, a  
10 resolution, authorizing a tax credit to be provided pursuant to this  
11 section for contributions to such fund. For purposes of this section, a  
12 municipal corporation that has established such a fund and authorized  
13 such a credit shall be referred to as a "participating" municipal corpo-  
14 ration.

15 (b) On and after December first, two thousand eighteen, the owner or  
16 owners of real property shall be allowed a credit against the real prop-  
17 erty taxes of a participating municipal corporation that have been  
18 imposed upon such property. The amount of such credit shall equal nine-  
19 ty-five percent of the amount contributed by one or more of the owners  
20 of such property during the "associated credit year" as defined in this  
21 section, to any or all of the funds established by such municipal corpo-  
22 ration, subject to the limit established pursuant to paragraph (c) of  
23 this subdivision, if any.

24 (c) The participating municipal corporation may establish a limit upon  
25 the amount of such credit to be allowed in any given fiscal year, in  
26 which case the amount of such credit shall not exceed the limit so  
27 established. Any such limit shall be adopted by local law, or in the  
28 case of a school district, by resolution, which local law or resolution  
29 may either be the same as or separate from the local law or resolution  
30 that initially authorized the credit. Once such a limit has been  
31 adopted, it may be amended or repealed thereafter by local law, or in  
32 the case of a school district, by resolution, provided that any such  
33 amendment or repeal shall only apply to taxes of the participating  
34 municipal corporation for fiscal years commencing after the adoption of  
35 such local law or resolution. A copy of any local law or resolution  
36 establishing, amending or repealing such a limit shall be provided to  
37 the collecting officer who collects the taxes of the participating  
38 municipal corporation.

39 2. For purposes of this section, the "associated credit year" shall be  
40 the twelve-month period during which the owner of the property has made  
41 a contribution described in subdivision one of this section that ends on  
42 the last day prescribed by law on which the taxes of the participating  
43 municipal corporation may be paid without interest or penalties, subject  
44 to the following:

45 (a) Where such taxes are payable in installments, such twelve-month  
46 period shall end on the last day prescribed by law on which the first  
47 installment of such taxes may be paid without interest or penalties.

48 (b) Where a participating municipal corporation is a city school  
49 district that is subject to article fifty-two of the education law, such  
50 twelve-month period shall end on the last day prescribed by law on which  
51 city taxes may be paid without interest or penalties, or if applicable,  
52 on the last day prescribed by law on which the first installment of such  
53 taxes may be paid without interest or penalties.

54 (c) Each such twelve-month period shall be determined without regard  
55 to the possibility that the period prescribed by law for paying such  
56 taxes without interest or penalties may be extended due to a delay in



1 the first publication of the collecting officer's notice as provided by  
2 sections thirteen hundred twenty-two or thirteen hundred twenty-four of  
3 this chapter or a comparable law, or due to an executive order issued in  
4 connection with a state disaster emergency as provided by subdivision  
5 two of section nine hundred twenty-five-a of this chapter.

6 3. The credit authorized by this section shall be administered as  
7 follows:

8 (a) The administrator of the account or its designated agent shall,  
9 upon receiving a contribution to an account specified in subdivision one  
10 of this section during a credit year, furnish the property owner with an  
11 acknowledgement in duplicate. Such acknowledgement shall be provided on  
12 a form prescribed by the commissioner and shall specify the amount of  
13 the contribution, the name and address of the donor, the date the  
14 contribution was received, the authorized signature of the administrator  
15 or agent, and such other information as the commissioner shall require.

16 (b) After receiving such an acknowledgement, the property owner may  
17 present it to the appropriate collecting officer on or before the last  
18 day prescribed by law on which taxes may be paid without interest or  
19 penalty, together with a credit claim on a form prescribed by the  
20 commissioner. Such credit claim form shall contain the name of the  
21 property owner or owners, the date and amount of the contributions made  
22 to the account during the associated credit year, the address of the  
23 property to which the credit claim relates, and such other information  
24 as the commissioner shall require. Notwithstanding any provision of law  
25 to the contrary, the collecting officer shall thereupon be authorized  
26 and directed to grant the property owner a tax credit equal to ninety-  
27 five percent of the amount of the contributions made during the associ-  
28 ated credit year as specified on the acknowledgement, and to reduce the  
29 tax liability on the parcel accordingly, provided that such credit may  
30 not exceed the limit established by the participating municipal corpo-  
31 ration pursuant to paragraph (c) of subdivision one of this section, if  
32 such a limit has been established. Where taxes are payable in install-  
33 ments, if the credit exceeds the amount of the first installment, the  
34 excess shall be applied to future installments until exhausted.

35 (c) If the property owner fails to present the acknowledgment and  
36 credit claim form to the collecting officer on or before the last day  
37 prescribed by law on which taxes may be paid without interest or penal-  
38 ty, he or she may present the same to the chief fiscal officer or chief  
39 financial officer of the participating municipal corporation, or to a  
40 member of his or her staff. Such officer shall thereupon be authorized  
41 and directed to grant the property owner a refund of school district  
42 taxes in the amount of the credit, which amount shall be equal to nine-  
43 ty-five percent of the total contributions made during the associated  
44 credit year, provided that such refund shall not exceed the school  
45 district taxes that have been paid on the property or the limit estab-  
46 lished pursuant to paragraph (c) of subdivision one of this section, if  
47 any. Provided further, that no interest shall be payable on such refund  
48 if paid within forty-five days of the receipt of the acknowledgment and  
49 credit claim form. The owner of the property may file such refund claim  
50 with the authorized officer at any time during the three year period  
51 beginning immediately after the last day such taxes were payable without  
52 interest or penalty.

53 4. The amount of the itemized deduction that may be claimed by a  
54 taxpayer under section six hundred fifteen of the tax law with respect  
55 to the taxes paid on such property may not exceed the amount of the  
56 taxes of a participating municipal corporation that have been imposed

upon such property minus the amount of the credit provided pursuant to this section.

§ 8. This act shall take effect immediately; provided, however, that the amendments to section 2590-h of the education law made by section five of this act shall not affect the expiration and reversion of such section and shall expire and be deemed repealed therewith; and provided further that if section 2590-h of the education law expires or is repealed and is reverted prior to the effective date of this act, section five of this act shall not take effect.

PART MM

Section 1. The tax law is amended by adding a new article 24 to read as follows:

ARTICLE 24

EMPLOYER COMPENSATION EXPENSE TAX

Section 850. Definitions.

851. Employer election.

852. Imposition and rate of tax.

853. Pass through of tax.

854. Payment of tax.

855. Employee credit.

856. Deposit and disposition of revenue.

857. Procedural provisions.

§ 850. Definitions. For purposes of this article:

(a) Employer. Employer means an employer that is required by section six hundred seventy-one of this chapter to deduct and withhold tax from wages.

(b) Electing employer. Electing employer is an employer that has made the election provided for in section eight hundred fifty-one of this article.

(c) Payroll expense. Payroll expense means wages and compensation as defined in sections 3121 and 3231 of the internal revenue code (without regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all covered employees.

(d) Covered employee. Covered employee means an employee of an electing employer who is required to have amounts withheld under section six hundred seventy-one of this chapter and receives annual wages and compensation from his or her employer of more than forty thousand dollars annually.

§ 851. Employer election. (a) Any employer who employs covered employees in the state shall be allowed to make an election to be taxed under this article.

(b) In order to be effective, the election must be made by (1) unanimous consent of all owners of the employer at the time the election is made if the employer is not a corporation; or (2) if the employer is a for-profit or not-for-profit corporation, by any officer or manager of the employer who is authorized under the law of the state where the corporation is incorporated or under the employer's organizational documents to make the election and who represents to having such authorization under penalty of perjury; or (3) if the employer is a trust, by the unanimous consent of all trustees; or (4) if the employer is a governmental entity, by the chief executive officer of such governmental entity.

(c) The election must be made by October first of a calendar year and will take effect for the immediately succeeding calendar year. If an

1 election is made after October first of a calendar year, it will first  
2 take effect in the second succeeding calendar year.

3 § 852. Imposition and rate of tax. A tax is hereby imposed on the  
4 payroll expense paid by electing employers to covered employees. For two  
5 thousand nineteen, the tax shall be equal to one and one-half percent of  
6 the payroll expense paid by electing employers to covered employees  
7 during the calendar quarter. For two thousand twenty, the tax shall be  
8 equal to three percent of the payroll expense paid by electing employers  
9 to covered employees during the calendar quarter. For two thousand twen-  
10 ty-one and thereafter, the tax shall be equal to five percent of the  
11 payroll expense paid by electing employers to covered employees during  
12 the calendar quarter. An electing employer shall only be subject to the  
13 tax imposed under this article on the payroll expense paid to any  
14 covered employee during the calendar year in excess of forty thousand  
15 dollars.

16 § 853. Pass through of tax. An employer cannot deduct from the wages  
17 or compensation of an employee any amount that represents all or any  
18 portion of the tax imposed on the employer under this article.

19 § 854. Payment of tax. (a) Employers with payroll expense. The tax  
20 imposed on the payroll expense of electing employers under section eight  
21 hundred fifty-two of this article must be paid at the same time the  
22 electing employer is required to remit payments under section six  
23 hundred seventy-four of this chapter; provided however, that electing  
24 employers subject to the provisions in section nine of this chapter must  
25 pay the tax on the payroll expense at the same time as the withholding  
26 tax remitted under the electronic payment reporting system and the elec-  
27 tronic funds transfer system authorized by section nine of this chapter.

28 (b) Responsible person liability. Any officer, director or employee of  
29 a corporation or of a dissolved corporation, any employee of a partner-  
30 ship, any employee or manager of a limited liability company, any trus-  
31 tee of a trust, or any employee of an individual proprietorship, any  
32 partner of a partnership or any member of a limited liability company,  
33 who as such officer, director, employee, manager, partner or member is  
34 under a duty to act for such corporation, partnership, limited liability  
35 company or individual proprietorship in complying with any requirement  
36 of this article, shall be jointly and severally liable with the electing  
37 employer for any tax, penalty or interest owed under this article.

38 § 855. Employee credit. A covered employee shall be allowed a credit  
39 against the tax imposed under article twenty-two of this chapter,  
40 computed pursuant to the provisions of subsection (aaaa) of section six  
41 hundred six of this chapter.

42 § 856. Deposit and disposition of revenue. All taxes, interest, penal-  
43 ties, and fees collected or received by the commissioner under this  
44 article shall be deposited and disposed of pursuant to the provisions of  
45 section one hundred seventy-one-a of this chapter.

46 § 857. Procedural provisions. (a) General. All provisions of article  
47 twenty-two of this chapter will apply to the provisions of this article  
48 in the same manner and with the same force and effect as if the language  
49 of article twenty-two of this chapter had been incorporated in full into  
50 this article and had been specifically adjusted for and expressly  
51 referred to the tax imposed by this article, except to the extent that  
52 any provision is either inconsistent with a provision of this article or  
53 is not relevant to this article. Notwithstanding the preceding  
54 sentence, no credit against tax in article twenty-two of this chapter  
55 can be used to offset the tax due under this article.

1 (b) Notwithstanding the provisions of section six hundred ninety-seven  
2 of this chapter, if the commissioner determines that a person is liable  
3 for any tax, penalty or interest under this article pursuant to  
4 subsection (b) of section eight hundred fifty-four of this article, upon  
5 request in writing of such person, the commissioner shall disclose in  
6 writing to such person (1) the name of any other person the commissioner  
7 has determined to be liable for such tax, penalty or interest under this  
8 article for the electing employer, and (2) whether the commissioner has  
9 attempted to collect such tax, penalty or interest from such other  
10 person or electing employer, the general nature of such collection  
11 activities, and the amount collected.

12 (c) Notwithstanding any other law to the contrary, the commissioner  
13 may require that all filings of forms or returns under this article must  
14 be filed electronically and all payments of tax must be paid electron-  
15 ically. The commissioner may prescribe the methods for quarterly  
16 filings by electing employers, including but not limited to, the inclu-  
17 sion of specific employee-level detail.

18 § 2. Section 606 of the tax law is amended by adding a new subsection  
19 (aaaa) to read as follows:

20 (aaaa) Article twenty-four employee credit. A covered employee of an  
21 electing employer shall be entitled to a credit against the tax imposed  
22 by this article as provided in this subsection. For purposes of this  
23 subsection the terms "covered employee" and "electing employer" shall  
24 have the same meanings as under section eight hundred fifty of this  
25 chapter. (1) For two thousand nineteen, the credit shall be equal to  
26 the product of (i) the covered employee's wages and compensation in  
27 excess of forty thousand dollars received during the tax year from the  
28 covered employer that are subject to tax under this article and (ii) one  
29 and one-half percent and (iii) the result of one minus a fraction, the  
30 numerator of which shall be the tax imposed on the covered employee as  
31 determined pursuant to section six hundred one of this article before  
32 the application of any credits for the applicable tax year and the  
33 denominator of which shall be the covered employee's taxable income as  
34 determined pursuant to this article for the applicable tax year. (2) For  
35 two thousand twenty, the credit shall be equal to the product of (i) the  
36 covered employee's wages and compensation in excess of forty thousand  
37 dollars received during the tax year from the covered employer that are  
38 subject to tax under this article and (ii) three percent and (iii) the  
39 result of one minus a fraction, the numerator of which shall be the tax  
40 imposed on the covered employee as determined pursuant to section six  
41 hundred one of this article before the application of any credits for  
42 the applicable tax year and the denominator of which shall be the  
43 covered employee's taxable income as determined pursuant to this article  
44 for the applicable tax year. (3) For two thousand twenty-one and there-  
45 after, the credit shall be equal to the product of (i) the covered  
46 employee's wages and compensation in excess of forty thousand dollars  
47 received during the tax year from the covered employer that are subject  
48 to tax under this article and (ii) five percent and (iii) the result of  
49 one minus a fraction, the numerator of which shall be the tax imposed on  
50 the covered employee as determined pursuant to section six hundred one  
51 of this article before the application of any credits for the applicable  
52 tax year and the denominator of which shall be the covered employee's  
53 taxable income as determined pursuant to this article for the applicable  
54 tax year. If the amount of the credit allowable under this subsection  
55 for any taxable year shall exceed the taxpayer's tax for such year, the  
56 excess allowed for a taxable year may be carried over to the following

1 year or years and may be deducted from the taxpayer's tax for such year  
2 or years.

3 § 3. Subdivision 1 of section 171-a of the tax law, as amended by  
4 section 15 of part AAA of chapter 59 of the laws of 2017, is amended to  
5 read as follows:

6 1. All taxes, interest, penalties and fees collected or received by  
7 the commissioner or the commissioner's duly authorized agent under arti-  
8 cles nine (except section one hundred eighty-two-a thereof and except as  
9 otherwise provided in section two hundred five thereof), nine-A,  
10 twelve-A (except as otherwise provided in section two hundred eighty-  
11 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
12 section three hundred twelve thereof), eighteen, nineteen, twenty  
13 (except as otherwise provided in section four hundred eighty-two there-  
14 of), twenty-B, twenty-one, twenty-two, twenty-four, twenty-six, twenty-  
15 eight (except as otherwise provided in section eleven hundred two or  
16 eleven hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one  
17 (except as otherwise provided in section fourteen hundred twenty-one  
18 thereof), thirty-three and thirty-three-A of this chapter shall be  
19 deposited daily in one account with such responsible banks, banking  
20 houses or trust companies as may be designated by the comptroller, to  
21 the credit of the comptroller. Such an account may be established in one  
22 or more of such depositories. Such deposits shall be kept separate and  
23 apart from all other money in the possession of the comptroller. The  
24 comptroller shall require adequate security from all such depositories.  
25 Of the total revenue collected or received under such articles of this  
26 chapter, the comptroller shall retain in the comptroller's hands such  
27 amount as the commissioner may determine to be necessary for refunds or  
28 reimbursements under such articles of this chapter out of which amount  
29 the comptroller shall pay any refunds or reimbursements to which taxpay-  
30 ers shall be entitled under the provisions of such articles of this  
31 chapter. The commissioner and the comptroller shall maintain a system of  
32 accounts showing the amount of revenue collected or received from each  
33 of the taxes imposed by such articles. The comptroller, after reserving  
34 the amount to pay such refunds or reimbursements, shall, on or before  
35 the tenth day of each month, pay into the state treasury to the credit  
36 of the general fund all revenue deposited under this section during the  
37 preceding calendar month and remaining to the comptroller's credit on  
38 the last day of such preceding month, (i) except that the comptroller  
39 shall pay to the state department of social services that amount of  
40 overpayments of tax imposed by article twenty-two of this chapter and  
41 the interest on such amount which is certified to the comptroller by the  
42 commissioner as the amount to be credited against past-due support  
43 pursuant to subdivision six of section one hundred seventy-one-c of this  
44 article, (ii) and except that the comptroller shall pay to the New York  
45 state higher education services corporation and the state university of  
46 New York or the city university of New York respectively that amount of  
47 overpayments of tax imposed by article twenty-two of this chapter and  
48 the interest on such amount which is certified to the comptroller by the  
49 commissioner as the amount to be credited against the amount of defaults  
50 in repayment of guaranteed student loans and state university loans or  
51 city university loans pursuant to subdivision five of section one  
52 hundred seventy-one-d and subdivision six of section one hundred seven-  
53 ty-one-e of this article, (iii) and except further that, notwithstanding  
54 any law, the comptroller shall credit to the revenue arrearage account,  
55 pursuant to section ninety-one-a of the state finance law, that amount  
56 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-

1 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest  
2 thereon, which is certified to the comptroller by the commissioner as  
3 the amount to be credited against a past-due legally enforceable debt  
4 owed to a state agency pursuant to paragraph (a) of subdivision six of  
5 section one hundred seventy-one-f of this article, provided, however, he  
6 shall credit to the special offset fiduciary account, pursuant to  
7 section ninety-one-c of the state finance law, any such amount credita-  
8 ble as a liability as set forth in paragraph (b) of subdivision six of  
9 section one hundred seventy-one-f of this article, (iv) and except  
10 further that the comptroller shall pay to the city of New York that  
11 amount of overpayment of tax imposed by article nine, nine-A, twenty-  
12 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any  
13 interest thereon that is certified to the comptroller by the commission-  
14 er as the amount to be credited against city of New York tax warrant  
15 judgment debt pursuant to section one hundred seventy-one-l of this  
16 article, (v) and except further that the comptroller shall pay to a  
17 non-obligated spouse that amount of overpayment of tax imposed by arti-  
18 cle twenty-two of this chapter and the interest on such amount which has  
19 been credited pursuant to section one hundred seventy-one-c, one hundred  
20 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or  
21 one hundred seventy-one-l of this article and which is certified to the  
22 comptroller by the commissioner as the amount due such non-obligated  
23 spouse pursuant to paragraph six of subsection (b) of section six  
24 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct  
25 a like amount which the comptroller shall pay into the treasury to the  
26 credit of the general fund from amounts subsequently payable to the  
27 department of social services, the state university of New York, the  
28 city university of New York, or the higher education services corpo-  
29 ration, or the revenue arrearage account or special offset fiduciary  
30 account pursuant to section ninety-one-a or ninety-one-c of the state  
31 finance law, as the case may be, whichever had been credited the amount  
32 originally withheld from such overpayment, and (vii) with respect to  
33 amounts originally withheld from such overpayment pursuant to section  
34 one hundred seventy-one-l of this article and paid to the city of New  
35 York, the comptroller shall collect a like amount from the city of New  
36 York.

37 § 4. Subdivision 1 of section 171-a of the tax law, as amended by  
38 section 16 of part AAA of chapter 59 of the laws of 2017, is amended to  
39 read as follows:

40 1. All taxes, interest, penalties and fees collected or received by  
41 the commissioner or the commissioner's duly authorized agent under arti-  
42 cles nine (except section one hundred eighty-two-a thereof and except as  
43 otherwise provided in section two hundred five thereof), nine-A,  
44 twelve-A (except as otherwise provided in section two hundred eighty-  
45 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
46 section three hundred twelve thereof), eighteen, nineteen, twenty  
47 (except as otherwise provided in section four hundred eighty-two there-  
48 of), twenty-one, twenty-two, twenty-four, twenty-six, twenty-eight  
49 (except as otherwise provided in section eleven hundred two or eleven  
50 hundred three thereof), twenty-eight-A, twenty-nine-B, thirty-one  
51 (except as otherwise provided in section fourteen hundred twenty-one  
52 thereof), thirty-three and thirty-three-A of this chapter shall be  
53 deposited daily in one account with such responsible banks, banking  
54 houses or trust companies as may be designated by the comptroller, to  
55 the credit of the comptroller. Such an account may be established in one  
56 or more of such depositories. Such deposits shall be kept separate and

1 apart from all other money in the possession of the comptroller. The  
2 comptroller shall require adequate security from all such depositories.  
3 Of the total revenue collected or received under such articles of this  
4 chapter, the comptroller shall retain in the comptroller's hands such  
5 amount as the commissioner may determine to be necessary for refunds or  
6 reimbursements under such articles of this chapter out of which amount  
7 the comptroller shall pay any refunds or reimbursements to which taxpay-  
8 ers shall be entitled under the provisions of such articles of this  
9 chapter. The commissioner and the comptroller shall maintain a system of  
10 accounts showing the amount of revenue collected or received from each  
11 of the taxes imposed by such articles. The comptroller, after reserving  
12 the amount to pay such refunds or reimbursements, shall, on or before  
13 the tenth day of each month, pay into the state treasury to the credit  
14 of the general fund all revenue deposited under this section during the  
15 preceding calendar month and remaining to the comptroller's credit on  
16 the last day of such preceding month, (i) except that the comptroller  
17 shall pay to the state department of social services that amount of  
18 overpayments of tax imposed by article twenty-two of this chapter and  
19 the interest on such amount which is certified to the comptroller by the  
20 commissioner as the amount to be credited against past-due support  
21 pursuant to subdivision six of section one hundred seventy-one-c of this  
22 article, (ii) and except that the comptroller shall pay to the New York  
23 state higher education services corporation and the state university of  
24 New York or the city university of New York respectively that amount of  
25 overpayments of tax imposed by article twenty-two of this chapter and  
26 the interest on such amount which is certified to the comptroller by the  
27 commissioner as the amount to be credited against the amount of defaults  
28 in repayment of guaranteed student loans and state university loans or  
29 city university loans pursuant to subdivision five of section one  
30 hundred seventy-one-d and subdivision six of section one hundred seven-  
31 ty-one-e of this article, (iii) and except further that, notwithstanding  
32 any law, the comptroller shall credit to the revenue arrearage account,  
33 pursuant to section ninety-one-a of the state finance law, that amount  
34 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-  
35 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest  
36 thereon, which is certified to the comptroller by the commissioner as  
37 the amount to be credited against a past-due legally enforceable debt  
38 owed to a state agency pursuant to paragraph (a) of subdivision six of  
39 section one hundred seventy-one-f of this article, provided, however, he  
40 shall credit to the special offset fiduciary account, pursuant to  
41 section ninety-one-c of the state finance law, any such amount credita-  
42 ble as a liability as set forth in paragraph (b) of subdivision six of  
43 section one hundred seventy-one-f of this article, (iv) and except  
44 further that the comptroller shall pay to the city of New York that  
45 amount of overpayment of tax imposed by article nine, nine-A, twenty-  
46 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any  
47 interest thereon that is certified to the comptroller by the commission-  
48 er as the amount to be credited against city of New York tax warrant  
49 judgment debt pursuant to section one hundred seventy-one-l of this  
50 article, (v) and except further that the comptroller shall pay to a  
51 non-obligated spouse that amount of overpayment of tax imposed by arti-  
52 cle twenty-two of this chapter and the interest on such amount which has  
53 been credited pursuant to section one hundred seventy-one-c, one hundred  
54 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or  
55 one hundred seventy-one-l of this article and which is certified to the  
56 comptroller by the commissioner as the amount due such non-obligated

1 spouse pursuant to paragraph six of subsection (b) of section six  
2 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct  
3 a like amount which the comptroller shall pay into the treasury to the  
4 credit of the general fund from amounts subsequently payable to the  
5 department of social services, the state university of New York, the  
6 city university of New York, or the higher education services corpo-  
7 ration, or the revenue arrearage account or special offset fiduciary  
8 account pursuant to section ninety-one-a or ninety-one-c of the state  
9 finance law, as the case may be, whichever had been credited the amount  
10 originally withheld from such overpayment, and (vii) with respect to  
11 amounts originally withheld from such overpayment pursuant to section  
12 one hundred seventy-one-1 of this article and paid to the city of New  
13 York, the comptroller shall collect a like amount from the city of New  
14 York.

15 § 5. Subdivisions 2, 3 and paragraph (a) of subdivision 5 of section  
16 92-z of the state finance law, subdivision 2 as amended by section 30 of  
17 part T of chapter 57 of the laws of 2007, and subdivision 3 and para-  
18 graph (a) of subdivision 5 as added by section 1 of part I of chapter  
19 383 of the laws of 2001, are amended to read as follows:

20 2. Such fund shall consist of [~~twenty-five~~] (a) fifty percent of  
21 receipts from the imposition of personal income taxes pursuant to arti-  
22 cle twenty-two of the tax law, less such amounts as the commissioner of  
23 taxation and finance may determine to be necessary for refunds, and (b)  
24 fifty percent of receipts from the imposition of employer compensation  
25 expense taxes pursuant to article twenty-four of the tax law, less such  
26 amounts as the commissioner of taxation and finance may determine to be  
27 necessary for refunds.

28 3. (a) Beginning on the first day of each month, the comptroller shall  
29 deposit all of the receipts collected pursuant to section six hundred  
30 seventy-one of the tax law in the revenue bond tax fund until the amount  
31 of monthly receipts anticipated to be deposited pursuant to the certifi-  
32 cate required in paragraph (b) of subdivision five of this section are  
33 met. On or before the twelfth day of each month, the commissioner of  
34 taxation and finance shall certify to the state comptroller the amounts  
35 specified in paragraph (a) of subdivision two of this section relating  
36 to the preceding month and, in addition, no later than March thirty-  
37 first of each fiscal year the commissioner of taxation and finance shall  
38 certify such amounts relating to the last month of such fiscal year. The  
39 amounts so certified shall be deposited by the state comptroller in the  
40 revenue bond tax fund.

41 (b) Beginning on the first day of each month, the comptroller shall  
42 deposit all of the receipts collected pursuant to section eight hundred  
43 fifty-four of the tax law in the revenue bond tax fund until the amount  
44 of monthly receipts anticipated to be deposited pursuant to the certifi-  
45 cate required in paragraph (b) of subdivision five of this section are  
46 met. On or before the twelfth day of each month, the commissioner of  
47 taxation and finance shall certify to the state comptroller the amounts  
48 specified in paragraph (b) of subdivision two of this section relating  
49 to the preceding month and, in addition, no later than March thirty-  
50 first of each fiscal year the commissioner of taxation and finance shall  
51 certify such amounts relating to the last month of such fiscal year. The  
52 amounts so certified shall be deposited by the state comptroller in the  
53 revenue bond tax fund.

54 (a) The state comptroller shall from time to time, but in no event  
55 later than the fifteenth day of each month (other than the last month of  
56 the fiscal year) and no later than the thirty-first day of the last



1 month of each fiscal year, pay over and distribute to the credit of the  
2 general fund of the state treasury all moneys in the revenue bond tax  
3 fund, if any, in excess of the aggregate amount required to be set aside  
4 for the payment of cash requirements pursuant to paragraph (b) of this  
5 subdivision, provided that an appropriation has been made to pay all  
6 amounts specified in any certificate or certificates delivered by the  
7 director of the budget pursuant to paragraph (b) of this subdivision as  
8 being required by each authorized issuer as such term is defined in  
9 section sixty-eight-a of this chapter for the payment of cash require-  
10 ments of such issuers for such fiscal year. Subject to the rights of  
11 holders of debt of the state, in no event shall the state comptroller  
12 pay over and distribute any moneys on deposit in the revenue bond tax  
13 fund to any person other than an authorized issuer pursuant to such  
14 certificate or certificates (i) unless and until the aggregate of all  
15 cash requirements certified to the state comptroller as required by such  
16 authorized issuers to be set aside pursuant to paragraph (b) of this  
17 subdivision for such fiscal year shall have been appropriated to such  
18 authorized issuers in accordance with the schedule specified in the  
19 certificate or certificates filed by the director of the budget or (ii)  
20 if, after having been so certified and appropriated, any payment  
21 required to be made pursuant to paragraph (b) of this subdivision has  
22 not been made to the authorized issuers which was required to have been  
23 made pursuant to such certificate or certificates; provided, however,  
24 that no person, including such authorized issuers or the holders of  
25 revenue bonds, shall have any lien on moneys on deposit in the revenue  
26 bond tax fund. Any agreement entered into pursuant to section sixty-  
27 eight-c of this chapter related to any payment authorized by this  
28 section shall be executory only to the extent of such revenues available  
29 to the state in such fund. Notwithstanding subdivisions two and three of  
30 this section, in the event the aggregate of all cash requirements certi-  
31 fied to the state comptroller as required by such authorized issuers to  
32 be set aside pursuant to paragraph (b) of this subdivision for the  
33 fiscal year beginning on April first shall not have been appropriated to  
34 such authorized issuers in accordance with the schedule specified in the  
35 certificate or certificates filed by the director of the budget or, (ii)  
36 if, having been so certified and appropriated, any payment required to  
37 be made pursuant to paragraph (b) of this subdivision has not been made  
38 pursuant to such certificate or certificates, all receipts collected  
39 pursuant to section six hundred seventy-one of the tax law and section  
40 eight hundred fifty-four of the tax law shall be deposited in the reven-  
41 ue bond tax fund until the greater of [~~twenty-five~~] forty percent of the  
42 aggregate of the receipts from the imposition of (A) the personal income  
43 tax imposed by article twenty-two of the tax law and (B) the employer  
44 compensation expense tax imposed by article twenty-four of the tax law  
45 for the fiscal year beginning on April first and as specified in the  
46 certificate or certificates filed by the director of the budget pursuant  
47 to this paragraph or [~~six~~] a total of twelve billion dollars has been  
48 deposited in the revenue bond tax fund. Notwithstanding any other  
49 provision of law, if the state has appropriated and paid to the author-  
50 ized issuers the amounts necessary for the authorized issuers to meet  
51 their requirements for the current fiscal year pursuant to the certif-  
52 icate or certificates submitted by the director of the budget pursuant  
53 to paragraph (b) of this section, the state comptroller shall, on the  
54 last day of each fiscal year, pay to the general fund of the state all  
55 sums remaining in the revenue bond tax fund on such date except such  
56 amounts as the director of the budget may certify are needed to meet the

1 cash requirements of authorized issuers during the subsequent fiscal  
2 year.

3 § 6. Subdivision 5 of section 68-c of the state finance law, as added  
4 by section 2 of part I of chapter 383 of the laws of 2001, is amended to  
5 read as follows:

6 5. Nothing contained in this article shall be deemed to restrict the  
7 right of the state to amend, repeal, modify or otherwise alter statutes  
8 imposing or relating to the taxes imposed pursuant to article twenty-two  
9 and article twenty-four of the tax law. The authorized issuers shall not  
10 include within any resolution, contract or agreement with holders of the  
11 revenue bonds issued under this article any provision which provides  
12 that a default occurs as a result of the state exercising its right to  
13 amend, repeal, modify or otherwise alter the taxes imposed pursuant to  
14 article twenty-two and article twenty-four of the tax law.

15 § 7. This act shall take effect immediately; provided, however, that  
16 the amendments to subdivision 1 of section 171-a of the tax law made by  
17 section three of this act shall not affect the expiration of such subdivi-  
18 sion and shall expire therewith, when upon such date the provisions of  
19 section four of this act shall take effect.

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

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